

LE SUEUR COUNTY PLANNING AND ZONING COMMISSION
88 SOUTH PARK AVE.
LE CENTER, MINNESOTA 56057
April 9, 2020

MEMBERS PRESENT: Don Reak, Doug Krenik, Jeanne Doheny, Shirley Katzenmeyer, Al Gehrke, Pam Tietz, Scott Vonlehe, Commissioner O'Keefe

MEMBERS ABSENT: None

OTHERS PRESENT: Joshua Mankowski, Michelle Mettler

1. The meeting was called to order at 7:05 by Chairperson Jeanne Doheny. The public hearing was held remotely due to the COVID-19 Pandemic State of Emergency Declaration.
2. Agenda. Motion to approve agenda was made by Doug Krenik. Second by Don Reak. Approved unanimously by roll call vote.
3. Minutes from March 12, 2020 Meeting. Jeanne Doheny-correction to spelling of Linda Good's name in Item #2. Motion to approve minutes with correction was made by Don Reak. Second by Scott Vonlehe. Approved with correction unanimously by roll call vote.
4. Applications

ITEM #1: LINSEY SCHMAHL, ELYSIAN, MN, (APPLICANT); HARRY J CLARK, ELYSIAN, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to transfer the development right from the NE/SE to the SW/SE in an Agriculture "A" District. Property is located in Government Lot 4 and the SW 1/4 SE 1/4, Section 34, Elysian Township.

Joshua Mankowski presented power point presentation.

Linsey Schmahl was present for application.

TOWNSHIP Notified. Response: None.

LETTERS: None.

PUBLIC COMMENT: None.

Discussion was held regarding: None.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals*

and objectives in the Ordinance.

7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Doug Krenkik to approve application. Conditions: None.

Seconded by Scott Vonlehe. Motion approved unanimously by roll call vote. Motion carried.

ITEM #2: JEFF ANDERSON, MADISON LAKE, MN, (APPLICANT) RANDY JOHNSON, CLEVELAND, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of 111.5 total cubic yards on a lot, of which 105.5 cubic yards in the bluff, 6 cubic yards in the bluff impact zone, 70.5 cubic yards in the shore impact zone for the construction of retaining walls, stairs, and shoreline rip rap in a Recreational Residential "RR" District, and a Flood Fringe "FF" Floodplain District on Lake Jefferson, a Recreational Development "RD" lake. Property is located at Lots 9 & 10, Jefferson Highlands, Section 2, Cleveland Township.

Joshua Mankowski presented power point presentation.

Jeff Anderson was present for application.

TOWNSHIP Notified. Response: None.

DNR Notified. Response: None.

LETTERS: Holly Kalbus, Environmental Resource Specialist, recommend approval with the following conditions:

The rip rap project must be installed according to the Le Sueur County Ordinance, Section 13, Subdivision 5, Part B, 5c-5h, 5j, and 5m:

1. Installation shall meet all grading, filling, and excavating standards as regulated by this Ordinance.
2. Only natural rock, excluding limestone and similar erosive materials, shall be used that is free of debris that may cause pollution or siltation.
3. Rock rip rap cannot average less than 6 inches or more than 30 inches in diameter.
4. A filter of crushed rock, gravel, excluding limestone or other erosive materials, or filter fabric material shall be placed underneath the rock rip rap.
5. The minimum finished slope above the OHWL shall not be steeper than 3 to 1, as measured horizontal to vertical.
6. The rip rap shall conform to the natural alignment of the shore.
7. For lakes, the riprapped area shall be 200 feet or less along lakes and wetlands.
8. Any activity below the OHWL shall meet all DNR standards.

PUBLIC COMMENT: None.

Discussion was held regarding:

Jeff Anderson: Shoreline protection long-needed continues to erode and will be a steeper drop off into the water. Retaining wall and steps have failure, need to be repaired.

Timeframe-Once permit approved within the next couple of weeks. Application stated over the ice and land depending winter and summer.

Get equipment down to project area since ice is gone already, use barge? Roll boulders downhill and collect at bottom and move across shoreline, described in description. Backfill sand will help create the 3 to 1 slope and will come down hillside on tarps. Retaining walls currently concrete and stairs crumbling. New boulder retaining walls terraced less than 4 feet tall. Construction of boulder walls no footing, install first boulder roughly 6 inches below final grade so buried gravity holds on the way up. Back with fabric like on the shoreline to allow water to escape through and keeps dirt and material on back, compact back fill as build up for settling.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Don Reak to approve application with conditions. Conditions: As listed in Holly Kalbus letter.

Seconded by Al Gehrke. Motion approved with conditions unanimously by roll call vote. Motion carried.

ITEM #3: LINDA HILLIGOSS, ST PETER, MN, (APPLICANT); DANIEL & LINDA HILLIGOSS, ST PETER, MN, (OWNER): Request that the County grant an After-The-Fact Conditional Use Permit to allow the applicant to operate a riding academy and boarding stable in an Agriculture "A" District. Property is located in the SW 1/4, Section 27, Kasota Township.

Joshua Mankowski presented power point presentation.

Linda Hilligoss was present for application.

TOWNSHIP Notified. Response: None.

LETTERS: Amy Beatty, Le Sueur County Environmental Program Specialist (Feedlot Officer), if application is approved recommends the following conditions:

1. To operate and maintain the facility such that there is no discharge to surface and ground waters.
2. To apply the manure at agronomic rates and if needed, acquire additional acreage for land application.
3. To adhere to County and state setbacks to sensitive features during the land application of manure.
4. To work with the Department to find stockpile locations that will meet the requirements of Minnesota Administrative Rules, Chapter 7020 and Le Sueur County Zoning Ordinance.
5. To adhere to the Minnesota Board of Animal Health's animal mortality requirements.

PUBLIC COMMENT: None.

Discussion was held regarding: Applicant apologized, did not realized needed a CUP for teaching kids to ride horse, understand reasoning. Teach mostly kids to ride horse and has a friend that boards 2 horses, wants to continue. No complaints on record. Application for riding academy/stable-not for general purpose of entertainment, application specific for boarding,

teaching. Have 3 ponies, a donkey and the rest are horses, total of 16. Each property has suitable area acreage for 20 horses. Stable/barn on northern parcel where the house is, proposed riding arena on southerly property. Access approval from Dave Tiegs, Highway Engineer (for change in use), is existing access on the southerly parcel. Both parcels included in application. Boarding on the parcel with the house, riding academy and everything will be on the southerly property. Each parcel can sustain 20 horses CUP application is for 20 total. No water supply for arena parcel, just the barn (and house) property. Port-a-potty sufficient don't have many students at site at one time.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Doug Krenik to approve application with conditions. Conditions: As listed in Amy Beatty's letter.

Seconded by Scott Vonlehe. Motion approved unanimously by roll call vote. Motion carried.

ITEM #4: JACOB JAMES, ELYSIAN, MN, (APPLICANT\OWNER): Request that the County grant a Conditional Use Permit to allow grading, excavating, and filling of approximately 25,389 cubic yards for mineral extraction reclamation in an Agriculture "A" District, and a Mineral Resources "MR" Overlay District. Property is located in the NW 1/4 SE 1/4, Section 36, Elysian Township.

Joshua Mankowski presented power point presentation.

Jacob James was present for application.

TOWNSHIP Notified. Response: None.

DNR Notified. Response: DNR email from **Stein Innvaer**, area wildlife supervisor Nicollet office, he and Joe Stengel have talking about potential encroachment of the pit on the East boundary of wildlife management area. May have been some minor trespass on the WMA by the operator of the pit. Ask that the debris be removed from DNR property and restore to original grade as much as possible. Will not be able to visit the site damages due to current (COVID-19) restrictions. Property line has been re-surveyed.

LETTERS: **Dan Splett:** Was at the Planning & Zoning meeting held in 1995 discussing mining operations of Wesley's mine, there was an agreement of 10 feet off the line was discussed. A survey was never brought up Dan Splett, Wesley Corp, or James Const. In January 1996 Splett property surveyed by Sibley Surveyors, enclosed a copy of survey. Gave survey to John Wesley. In June 1996 the surveyor set 3 iron pins, 6 wooden lath and plastic tape marking survey line. Survey that James did matches the survey done January 1996. In 1987 survey was done of state

management area, a survey monument marking the NW corner of the Wesley property was set in place shown on Splett land survey. Along the South property line, of the 1,322 feet only 360 feet was not disturbed by James Brothers Construction mining operation. In some places they dug 5 feet into Splett property line. If Jacob James is getting County gravel tax money to fix the problem caused by Wesley Corp and James Brothers mining operation, then my property line should be given consideration for making my property line right. Copy of survey submitted.

PUBLIC COMMENT:

Stein Innaever – Reiterate what was stated in email. Have not had a chance to get to site to look at new stakes put up following the survey. Didn't know had happened. Not accusing neighboring property of having done anything, want to go on record if any damage done to property that it would be cleaned up and pulled back.

Dan Splett - Property owner to the north, previously James Brothers Construction took out 5 feet of dirt off of the lath. New survey and 1996 survey match up, in some places it is 5 feet. Jacob James-Willing to fix whatever is needed to be fixed. Dan Splett-Then no problem with reclamation.

Discussion was held regarding: Previously mined area, proposed to level out and farm. Original reclamation plan included a pond. All grown over with brush and trees can hardly walk through it, want to clean up reclaim and farm it. Mine has been idle for 4 to 6 years, since purchased at least. Splett referenced survey done in 1996, is the property owner to the north, concern that there was digging and piling up on northern property line. DNR some intrusion over the property line but not exactly sure where-have not been able to get to the site under current conditions (state of emergency) to survey it themselves. James had property surveyed in January. Doug Krenik-Does the survey show that the neighboring properties were mined upon? Jacob James-no it does not. Certified survey done by Bolton & Menk. Doug Krenik-Are the neighboring property owners incorrect in assumptions that their property was mined upon? Jacob James-The northern property owner in incorrect-it was not mined upon, but was before purchased. Doug Krenik-Restoration going to be having to restore on other property owner's property? Jacob James-happy to do whatever needs to be done, have not visited regarding this situation, would like to work with them. Number of acres were mined would have to be reclaimed on neighbor's side-a couple of feet at the most, fence goes along the whole north property that has not been touched still intact. Parcel is almost 17 acres, top northwest. 10-12 acres gained that is not tillable. Going to try to get gravel tax to reclaim. 1987 survey was done in management area marking the northwest property new survey lines up with it. DNR property located to the West of this parcel. Jacob James-willing to work with DNR. Application states keeping a berm around the property, a grass buffer that is there and planned to stay, the center of ditch is property line. Will need property surveyed again to resolve the conflict with the survey? No conflict I with the survey. Can meet onsite with DNR when allowed. Survey stakes still in place, certified survey from Bolton & Menk, DNR would like to meet landowner at site and take a look, landowner agreeable to meeting. James Brothers Construction doing the work. Water flow-drainage runs to the northeast, will stay the same.

Findings by majority roll call vote:

- 1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
- 2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
- 3. Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
- 4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
- 5. Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in*

such a manner that no disturbance to neighboring properties will result.

6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Don Reak to approve application with conditions. Conditions: All three parties work together.

Seconded by Doug Krenik. Motion approved with conditions unanimously by roll call vote. Motion carried.

ITEM #5: VETTER STONE COMPANY, MANKATO, MN, (APPLICANT); COVIA CORPORATION, KASOTA, MN, (OWNER): Request that the County grant a Conditional Use Permit to allow the applicant to amend hours of operation of an existing Conditional Use Permit # 10044 in a Conservancy "C" District, and a Mineral Resources "MR" Overlay District. Property is located in the SW 1/4, Section 17, Kasota Township.

Joshua Mankowski presented power point presentation.

Donn Vetter, Vetter Stone Company co-owner and quarry manager, was present for application.

TOWNSHIP Notified. Response: None.

LETTERS: None.

PUBLIC COMMENT: None.

Discussion was held regarding: Requesting to amend hours earlier and later from standard hours listed in Section 20 for Le Sueur County (Ordinance). Page 2 of performance standards in Section 20 states Monday-Saturday 6 am 7pm. Would like to amend to Monday-Friday 5 am to 9 pm, Saturday 5 am to 7 pm may work occasionally to keep up with overtime. To accommodate the higher demand for the stone product and start earlier in morning and quit earlier in afternoon better for the laborers and more flexible work schedule. No complaints. Request is only for this 30-acre parcel. Artificial light used and year round mining? Quarry from early April to around November 1st. Light tower when needed. Do not quarry during winter. Depth of excavation 20 feet overburden and another 7 feet of stone. Other parcels grandfathered in have been there since the 50's, normal standard hours of 6 am to 7pm. CUP for this parcel for some reason was stated 7 am to 7pm Monday-Friday. Would like to get earlier start to beat the heat of the day. Not a problem starting earlier, but working until 9 pm is a little late. Not a lot of housing in the area. Discussion regarding shift work. Rare to work past 6 pm because of heat, if have to cut back on hours would rather cut back on the night-time hours. Rather start early and quit early. Blasting done normally mid-day, not in the morning or past early afternoon. Other properties mining normal workday is 6 am to 4:30 pm. CUP limits stop time at 7pm. Would rather cut back the night hours. 5 am start 8 stop, or 7 pm. Monday through Saturday 5 am to 7 pm. Activity after 5, not much for truck activity. Cut stone with rotating wires, generator running a stone cutting saw that cuts with a wire which is pretty quiet. Number of people there about 2 to 4. No trucks coming and going, worker's personal vehicles and cutting equipment. Truck traffic-limited all day, not truck traffic like a gravel pit, occasionally take big cut stone blocks from the pit to the plant during the day, is not like a crushing operation where trucks coming in all day long. Noise levels portable generator is noisiest piece of equipment that runs the saw, which doesn't make much noise, other than a back-up alarm on a loader. Can only hear about 200 yards away. Noise and truck noise clarified. 7 pm for consistency and there isn't really a need. Discussion regarding shifts.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*

2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Don Reak to approve application with conditions. Conditions: Hours of operation 5 a.m. to 7 p.m. Monday through Saturday.

Seconded by Al Gehrke. Motion approved with conditions unanimously by roll call vote. Motion carried.

ITEM #6: LE SUEUR COUNTY ZONING ORDINANCE AMENDMENTS: Changes regarding Solar Energy Systems. Amendments to affect Section 4 Definitions, Section 6 Overlay Districts (Mineral Resources, Flood Plain, & Airport Zoning), Section 7 Conservancy District, Section 8 Agriculture District, Section 9 Urban/Rural Residential District, Section 10 General Business District, Section 11 General Industry District, Section 13 Shoreland Management, and Section 19 Land Use Performance Standards.

Joshua Mankowski presented power point presentation.

DNR Notified. Response-None.

PUBLIC COMMENT: Marta Jensen-Geronimo Energy-750 feet setback for WEC is a safety 1.1 x the height of the wind turbine, solar is not a safety issue. 750 feet is quite restrictive, Waseca County to the South has adopted 500-foot setback from a non-participating dwelling. Have seen 500 feet in many other counties as well to address some of the aesthetic concerns from neighboring landowners and citizens.

Discussion was held regarding: If Planning Commission recommends approval the County Board will hold another public hearing. Outside public comment and input will be taken at both public hearings. Fencing type was discussed at work session, most of the members were in agreement for proposed chain link 7' and another foot of 3 strands of barbed. Discussion regarding setback of 750 feet from a dwelling, can always make it less but is harder to increase it later more than 750 feet, reciprocity of new house to existing solar, consistent with wind towers, middle ground, previous applications were 50 feet from property lines, excludes landowner. If split off house from same parcel as solar and didn't meet 750' setback would create a non-conformity. Non-participating language. All new dwellings need to meet the 750-foot setback excluding the landowner. At work sessions had list of standards from surrounding counties that narrowed down to work for this county, lot of discussion regarding the dwelling setback. County Board will hold another public hearing, may need to be another virtual-type meeting due to current (COVID-19) conditions. Virtual meetings have been determined to be a legal public hearing. People have the option to write in, call in, or connect online. meets all requirements for public comment. Discussion can be limited, writing in is always an option. Can the County Board implement the 6-foot distance? County is closed to public at this time. Concerned regarding the input but also important to move it along. Public has the opportunity for public input yet at the County Board public hearing. Discussion regarding definition of Non-Concentrating Thermal Collector, left as-is. Discussion regarding definition of SES Off-grid and definition of Grid. Discussed grammar and typos. Discussion invasive vs noxious weeds, discussion regarding adequate screening. Is determined by the planning commission at the time if proposal is adequate for the site. Important to get to the Board of Commissioners. Moratorium expires in July.

Changes:

Solar Energy System, Off-grid: A stand-alone power system not connected to the grid.

Grid: An inter-connected network for delivering electricity from producers to consumers.

Performance Standards: Vegetation. Control invasive plants and noxious weeds.

Motion was made by Doug Krenik to approve ordinance revisions with changes.

Changes:

Solar Energy System, Off-grid: A stand-alone power system not connected to the grid.

Grid: An inter-connected network for delivering electricity from producers to consumers.

Performance Standards: Vegetation. Control invasive plants and noxious weeds.

Seconded by Pam Tietz. Motion approved with changes unanimously by roll call vote. Motion carried.

5. Discussion Items: Special Meeting on April 16, 2020 at 7 pm, that will also be conducted remotely. There will be a regularly scheduled Planning Commission Public Hearing in May.

Pam Tietz: Got a notice for a Variance on April 16, 2020. Notice was for a neighboring property requesting a Variance from the Board of Adjustment.

Application Items 1-5 will go before the County Board on April 28, 2020 at approximately 9 a.m.

The County Board will hold a separate public hearing for Item #6 Ordinance Revision as published.

6. Warrants/Claim-signatures.

7. Motion to adjourn meeting by Scott Vonlehe. Second by Don Reak. Motion approved unanimously by roll call vote. Motion carried. Meeting adjourned at 9:18 p.m.

Respectfully submitted,

Michelle R. Mettler

Approved May 14, 2020

*Tape of meeting is on file in the
Le Sueur County Environmental Services Office*