

Stutsman County Planning & Zoning Commission Minutes – June 7, 2019

Meeting was called to order at 9:00 AM by Vice-Chairman Dave Schwartz. Roll call taken. Present were Duane Anderson, Dave Schwartz, David Steele, Dan Buchanan, Steve Cichos, and Tyler Perleberg, Zoning Administrator. Absent was Brian Amundson, Paul Bensch, and Thomas Schultz.

Others in attendance: Barbara Schempp, Steff Basgaard, & Nicole Meland.

Tyler introduced the conditional use permit application for operation of a temporary hot mix asphalt plant and aggregate mining and washing. The location of the project is in the NW1/4 of Section 5 of Severn Township. The haul route that will be used is four (4) miles west of Hwy 281 on 49th St SE, then one (1) mile north on 79th Ave SE to the site of the project. Tyler had a discussion with Steff Basgaard about road haul agreements and Steff claimed that it is common practice for them to put those road haul agreements in place. Barbara Schempp asked if dust control measures would be in place to protect their residence. Mr. Basgaard explained that they do spray roads, most commonly with water to minimize the extent of the dust. Sometimes they do put down magnesium down to be more effective. He explained that he foresees the project only lasting around 2 ½ weeks for the asphalt hauling for their current job. Ms. Schempp asked about maintenance on the road over a five year span and Mr. Basgaard explained that their road haul agreements are term limits, and typically are done separately for each job Knife River gets. Ms. Schempp said that RTS Shearing/County has a pit on the west side of the road beside Knife River's project location and that they'll maintain the road by her residence while they utilize that pit. Additional discussion took place about dust control. Mr. Steele asked Ms. Schempp if she's ok with the project as long as there is good cooperation with the project operator and she said yes. Mr. Steele made a motion to approve the conditional use permit, Mr. Cichos seconded. Mr. Buchanan asked about the past record with Knife River Materials and how they've been. No issues or complaints have been brought up to the county that we're aware of. Motion approved.

Tyler discussed some options about amending or getting rid of our Animal Feeding Operations ordinance. He stated, based on his interpretations, that a lot of the requirements and/or regulations in our current zoning policy are not able to be required anymore. He read a couple sentences in the legislative language that limit the possibility of imposing additional requirements or regulations within our ordinance. He explained some of the changes that would have to be made within our ordinance and also asked the committee to think about whether or not we need to keep our ordinance active because he believes the requirements are going to be redundant with the State Health Department's requirements. He explained that the Department of Health will be issuing the final permits. The options that are county is allowed to vary on is with setback limitations, however if setbacks are different from the ND Century Code, our proposed setbacks have to go to the Agricultural Commissioner, and then go to the Attorney General for a determination if our setbacks would be lawful or not. Mr. Andersen asked the difficulty of getting our ordinance implemented in the future if we get rid of it now. Tyler explained that we can make changes at any time and get it approved thru the Department of Health. Mr. Andersen asked about the advantages of eliminating the ordinance. It was explained that the timeframe for the applicants would be quicker. Discussion about keeping it active with the amendments wouldn't be a bad thing for public awareness. It was clarified that the Department of Health will still have to approved any amendments we make. Mr. Andersen motioned, Mr. Cichos seconded to approve the amendments that Tyler presented for the animal feeding operations ordinance. Motion approved.

Tyler discussed clearing up some language within the permitted and conditional uses within our Agricultural District regarding commercial surface and subsurface mineral extraction, including sand, gravel, fill, and preparation activities. Tyler discussed that our current ordinance isn't clear and is open to interpretation in that it states a permitted use includes "County road maintenance operations, including sand, gravel, and fill, excavation and preparation activities." To clear up the language, Tyler suggests amending it to state, "Commercial surface and subsurface mineral extraction, including sand, gravel, and fill, and preparation activities used in the construction or maintenance of public roads." Also, as a conditional use it is amended to include "Commercial surface and subsurface mineral extraction not used for public road projects." It was discussed to add some regulations to the permitted use of these uses. It was recommended to have road haul agreements in place, dust control measures, and having a setback without a waiver of one half mile (1/2). Options for a waiver for anyone within the 1/2 mile setback would be accepted. Mr. Buchanan made a motion to approve the amendment with the added regulations of road haul agreements, dust control, and setback of 1/2 mile, seconded by Mr. Steele. All in favor. Motion accepted.

Mr. Steele made a motion to adjourn the meeting, seconded by Mr. Andersen. Meeting adjourned.