

Polk County
Planning Commission
May 26, 2023

Call to Order: 9:04 A.M.

Members in Attendance - Mike Powers, Paul Jore, Mike Schulz, Richard Kuzel, Warren Strandell, Don Cavalier, Len Vonasek, Tom Noah, Rolland Gagner and Arlet Phillips

Members Absent: Kristie Jerde

Also Present: Polk County Environmental Services' staff: Jacob Snyder and Michelle Erdmann.

Minutes: A motion was made to approve the Planning Commission minutes from April 28, 2023 meeting by Cavalier. Second by Vonasek. All in favor.

Public Hearing: CUP – CHS Northern Grain- Erskine Site Parcel #03.00181.00

Powers read the notice of the hearing, waiving the reading of the full legal and turned the meeting over to Snyder.

Snyder then stated the applicant is requesting a Conditional Use Permit (CUP) to construct a grain elevator with a maximum height of 204 feet in the Agricultural District in Badger Township, section 32.

Ordinance requirements for this request are found in PCZO Section 12.4120.

Snyder said the Erskine Grain Terminal has been in operation since a conditional use permit was granted in 2005 for the grain terminal and to exceed the 100 foot height limitations for a grain bin/grain leg. Since then another conditional use permit was granted in 2013 for the site use as a dry fertilizer facility. The applicant has acted in good faith about obtaining the necessary permits in the past but failed to obtain the necessary permit prior to construction of the grain elevator so the project is considered after the fact.

Snyder stated that parcel #03.00181.00 is 151.94 acres in size and is located in section 32 of Badger Township. The facility would be 154' x 218' in size and is proposed to be 204' tall. The facility would expand the current facility to process grain and ship materials via truck traffic and by utilizing the railroad spur that exists on the north and east side of the site. If all permits are approved, CHS will be applying for a septic permit to connect a septic system to the facility as well.

Snyder said the following comments were received:

1. Rich Sanders, Polk County Highway Engineer, contacted our office to state that there are no concerns with access off Co Road 210 as his department already permitted another access into the location for the grain elevator.
2. FAA submitted a letter to the applicants stating that marking and lighting were not necessary for aviation safety. However, if marking/lighting are accomplished on a voluntary basis they recommend it be installed in accordance with FAA Advisory circular 70-7460-1 M.
3. Travis Nikolayson, neighboring landowner, contacted our office to state that he could not believe that they did not obtain the necessary permits prior to construction and that he is not opposed to anything but would like things to be fair with the permitting requirements.

Snyder then went over slides showing: application, site location maps, sketch of elevator, and photos of site. Snyder said staff recommends approval of the CUP with the following conditions:

1. The applicant shall pay the after the fact permit fees of \$1,000 for an ATF conditional use permit since the project was started prior to obtaining the necessary permits.
2. Lighting shall be erected at the elevator peak to mitigate the potential hazard for crop spraying and other aircraft navigation near the site.
3. That 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 diminish or impair property values within the immediate vicinity.
4. That 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.
5. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.
6. That adequate measures have been or will be taken to prevent sufficient off-street parking and loading space to serve the proposed use.
7. That adequate measures have been or will be taken to prevent or 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.
8. That the use of the property shall at all times be in compliance with all Federal, State of Minnesota, and County of Polk rules and regulations.

Powers opened the meeting for questions.

Powers asked about the pond in the pictures and if lights are planned? James Hardy, CHS said it is a retention pond required by MPCA. Lighting will be placed on the top, both beacon and work lights. Schulz asked why they didn't get a permit? Hardy said it was an omission – they did get the FAA, MPCA and DOT permits, but missed the County one.

A motion was made by Schulz to recommend approval of the CUP request with staff conditions to the County Board. Second by Vonasek.

Ayes: all

Nays: none

Motion carries.

Snyder stated that they will go before the County Board for final approval on Tuesday, June 6, 2023.

Public Hearing: CUP – Brian Gullickson

Parcel #12.00213.00

Powers read the notice of the hearing, waiving the reading of the full legal and turned the meeting over to Snyder.

Snyder then stated the applicant is requesting a Conditional Use Permit (CUP) to build multiple self-storage unit buildings that would be 50' x 252' (12,600 sq ft) in size. Each unit would contain 20 self-storage units within the building on a 68.54-acre parcel of land located in the agricultural zoning district of Columbia Township, section 28.

Ordinance requirements for this request are found in PCZO Sections 13.7025, 12.4100, 12.1037 and 3.0451.

Snyder said the applicant proposes to construct multiple self-storage unit buildings that would be 50' x 252' (12,600 sq ft) in size. Each structure would contain 20 self-storage units within the building on a 68.54-acre parcel of land located in the agricultural zoning district of Columbia Township, section 28. The applicant has verbally stated that there is a purchase agreement in place with the legal landowner and they intend to close on the property sometime in June.

Snyder stated that the original application stated that the request was to construct metal storage units – “shop condo units”. Staff contacted the applicant to clarify that his intent was not to have water or sewer within the structures. The term condo is usually used in conjunction with living quarters and habitable space. The Polk County Ordinance would require the applicant to process a planned unit development for such uses. The applicant submitted a draft lease agreement that specifies that the units are for personal storage purposes only and not for the operation of businesses on the premises. There is no strict language in the draft rental agreement that specifies the renter cannot have habitable space within the unit, that language must be added to avoid the owner or any person from creating habitable space or living quarters within the facilities. This will be addressed conditionally if approved.

Snyder said the applicants planned road access is from County Highway 4 via an existing field access approach. The ROW of Co Hwy 4 was originally purchased in 1926 and was established on the east side of a tract of land that lined up with the ¼ section line of the NW¼ and SW¼ section of section 28, Columbia Township. The ROW was expanded further to develop Co Hwy 4 as it exists today in 1955 and 1979. Highway plan documents reference this field access which indicated this field access was the legal access into this hay field for the past 50 plus years. Rich Sanders, the County Highway Engineer, has confirmed that there is no gap from the ROW into

this parcel as the west line of parcel #12.00213.00 is on the ¼ section line and the ROW establishes from the ¼ section line to the west. And that this access is a legal access off County Highway 4.

Snyder stated the proposal will require a roadway to be established into the site and around each storage building. The proposal has the potential disturbance that would require a SWPPP/NPDES permit from the MPCA, which would be required if more than 1 acre of property is disturbed for development of the property for all aspects of the ground disturbance. This will be addressed conditionally if approved. The applicant plans to provide electricity, but no water or sewer will be connected to the building as the use is for personal storage. Yet in the construction drawings the applicant noted that HVAC, plumbing and electricity may be provided, hence the confusion on “shop condos” and the possibility of these being added in the future. There should be discussion on possible outside lighting as the CUP requirements in section 7.5106 states to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. The applicant needs to specify if there is outdoor lighting planned or not.

Snyder said the proposed plan of operations is needed to address outdoor storage of personal belongings which should not be allowed, how screening will be accomplished to satisfy the ordinance criteria to screen the view from neighboring properties and address how the property will be developed, maintained, and managed. The plan is to construct a storage building per year but how many structures would be allowed on this site before a CUP amendment would be required? The buildings proposed must meet the ordinance setback requirements of greater than 180 feet off the centerline of Co Hwy 4, 100 feet from any lot line, over 300 plus feet from the Lengby Creek as this is the shoreland overlay district defined by the Polk County Zoning Ordinance as other ordinance criteria would be required to develop in the shoreland overlay district. The applicant submitted a sketch plan with setbacks that were proposed 50 feet from the ROW off N Main Avenue? As well as 50 feet off the property lines which seem to be a site sketch from a different property. The aerial image submitted with the application showed the structures vaguely depicted with no details of the road or of how much road construction would occur on the site.

Snyder stated that the following comments were received:

1. Rachel Klein, District Manager with East Polk SWCD, commented that her office sent the National Wetland Inventory map over for the CUP request. The SWCD did not see any issue with the proposed building locations but that the applicant must avoid all wetlands on the property with buildings and access roads.
2. Darrell Darnell, a neighboring landowner, contacted our office to inquire about access into this property and where the applicant was planning to provide access. He states that he owns the property on the east side of County Highway 4 and that he will not be providing them access to the site via the existing field access. He stated that they could access the site in another manner as they would need to obtain an easement from him to cross the property into the site.
3. Rich Sanders, Polk County Highway Engineer, had no issues with the request and access via the existing field approach which is within the ROW easement shown in documents from construction of County Highway 4. The easements are consistent with the ¼

section line and were obtained for highway purposes in file number 221496 which was obtained on Aug 6, 1926 on the east half of the tract of property in the SW ¼; NW ¼ and the SW¼; NW¼ of said tract which proves there is no gap in the County Highway 4 ROW and Mr. Kauffman's property to the east of said tract. The field access approach into this property was present in 1955 when the roadway was expanded and reconstructed with additional ROW easements at that time. This field access is also a dry crossing which means no culvert or drainage issues would occur should it be expanded to access the property.

4. City of Lengby, Rosanne Erickson, contacted our office to discuss the CUP request and any additional documentation about the request as residents were seeking information from them. I responded to Rosanne that the residents were to contact the zoning office to seek any additional information, but that attendance at the public hearing or sending a letter is critical to see how this site would affect their property. Rosanne contacted our office to inquire about moving the meeting to the City of Lengby community center, which I explained is not possible with our notification requirements already posted in the official county paper and landowner notifications sent to area landowners.
5. Tim Johnson, Columbia Township, contacted our office to inquire about Township roles regarding land use permitting. I responded to the Township via email about the roles Counties and Townships have with land use controls. Officially the Township does not have a zoning ordinance, so the rules divert back to the County Zoning Ordinance. Columbia Township submitted a resolution #001-2023 that stated the Township Board opposes the conditional use request for multiple storage units unless the following conditions are met. 1.) The property line issue (Kauffman and Donnell lines) as shown on the Polk County Environmental Services notice needs to be resolved for the sake of access to the property. 2.) There can be no future use of the proposed storage facilities for housing, either permanent or temporary. 3.) The application needs to be submitted with all required information including an operational plan, insurance certificate, and screening plan enumerated in Polk County ordinance 13.7025 and 7.2020. They add that in the event that this permit application is denied or tabled and is resubmitted in the future, The Township hereby makes known its desire to establish its own zoning plan, which may include township approval of any discretionary decisions by Polk County.
6. Rosanne Erickson, Clerk for the City of Lengby, contacted our office several times regarding this request. She stated that the City of Lengby has the same concerns and ideals as Columbia Township with the CUP proposal being turned into housing in the future, property lot line concerns on the ¼ section line of section 28 and an operational plan, certificate of insurance and screening plan should be submitted for review.
7. Edward Sletten, area landowner wrote a letter to our office stating that he would be unable to attend the meeting and that he was opposed to the proposed storage unit – shop condos requested but did not provide a reason for the opposition.
8. A petition was signed by 115 area residents opposing the CUP request for the metal storage unit condos citing this project could have significant alterations and impacts within the community and surrounding land uses. The impacts were noted including traffic safety, crime, illegal dumping, erosion, water quality and adjacent wetlands/habitat. The traffic concerns on County Highway 4 involve high volumes of traffic and presents blind spots due to topography, lack of passing lanes, turn lanes, and narrow road shoulders in the immediate access area. The proposal requires a large

amount of earthen material movement for roads and building development to create a suitable approach to access the site. Furthermore, the proposal fails to identify how many buildings would or could be erected on the site which hides the true impacts that this project could have on the immediate vicinity. The absence of city water and sewer also contribute to the sanitary issues. The last concern was regarding effective management of the concentration of valuable items stored on the site in the rural setting it may increase the risk of vandalism and crime activity in the immediate area. Being located so far from law enforcement prohibits the small community of Lengby lacks the capacity to effectively manage criminal activity. In their opinion construction of this project will not enhance community safety or improve the overall quality of life for the area residents. Projects of this nature are better suited for industrial parks, where the aforementioned concerns can be mitigated rather than on the fringes of a small agricultural community.

9. Bill Brown, neighboring landowner, emailed our office to oppose the construction of “condo storage units” but was unable to attend the meeting.
10. Dave Buehler, neighboring landowner, sent a letter, that his son Robert Buehler read at the public hearing, that highlighted that shop condo units are not expressly noted in the Zoning Ordinance, he feels the conditional use will be injurious to the use and enjoyment of neighboring properties in the area.

He stated this area is a peaceful farming and residential area not a commercial one that would increase traffic and crime in the area, and undoubtedly diminish and or impair property values of the neighboring property for current and future uses. There may be issues with access into the property and ownership of property on the east side of County Road 4 and the tenants or occupants would be disposing of gasoline/ automotive fluids in a unreasonable manner. Most facilities of what the proposal seems to suggest would need bright lights to minimize theft/crime and would likely be a nuisance to nearby residences. The application appears to be insufficient in that it does not provide an adequate description of the proposed use, lacks a detailed narrative and also does not include an operational plan required by the ordinance. The applicant does not own the property in question and is currently in a lawsuit filed by Mahnomen County regarding violations to the shoreland zoning ordinance. This further concerns him that the applicant does not intend to enforce any operational plan requirements as this would be problematic. The application should be denied based on all the ordinance language for granting a use as this, conditional use procedures that must be determined by the commission and that the application does not appear to correctly depict the true scope of the project. In his opinion the intended use would be determinantal to the community and their property values and his application is insufficient. The entirety of the letter will be read at the public hearing.

Snyder then went over slides showing:

1. Application – Snyder said he spoke with Gullickson re: “shop condo unit”. Gullickson stated it was a poor choice of words, it should have read cold storage units that would each be about 25 x 25.
 - Schulz asked if these units would be sold or rented out? Gullickson said rented out. He has some in West Fargo and Lake Park also. A variety of names are associated with these types of units and that is where the condo word came into play.

- Gagner asked if businesses would be allowed in the units? Gullickson said no business would be allowed. They would be for storage of recreational vehicles, cars, etc. They would have 12' sidewalls and 10' overhead doors. It is a metal building with a metal roof. Each unit has a window and service door.
- 2. Location map
- 3. Property photos
- 4. Operational plan – received Thursday evening.
- 5. Sketch rendering
- 6. Sketch – Snyder questioned one of the sketches, as it appears to be for a different location. Gullickson said he had no clue.
- 7. Aerial sketch – very little detail
- 8. Certificate of survey – shows section 28 and reference points used to find monuments. This was done by Widseth, Smith and Nolting – a re monumentation of known reference points.
- 9. ROW document
- 10. Copy of draft lease agreement – care of leased space and need clarification on “improvements”
 - Gullickson said there is zero plans for plumbing. Snyder said that general notes on the project and the construction drawings confuse the issue.
- 11. Photos of parcel

Powers opened the meeting to questions or comments.

John Sather – chairman of Columbia Township. Asks that this issue be tabled till things are clarified – housing issue, multiple buildings, air conditioning and other issues/concerns.

Schulz asked if Gullickson will have free reign or are we limiting the number of buildings. Snyder said the drawing shows 2, but he has had discussions with Gullickson. Gullickson said he spoke with Snyder and they talked about a max of 3 rental only buildings. Realistically only 18 of the 68 acres are usable. They are set to close before the end of June.

Roseanne Erickson, Clerk of Lengby and neighbor. The city has the same concerns as the township. The property lines need to be cleared up, the number of buildings, the type of unit – “shop condo”. She said they feel the terms of the ordinance are not met, certificate of insurance, screening plan. Request the CUP be tabled or denied.

Ben Walker, Lengby City Council and resident. Requests that the CUP be denied as it is an incomplete application. Feels 3 buildings would be too great of an impact on the wetlands as this parcel is not flat land, there will be lots of dirt moved to create an area for the buildings. He feels this site is not suitable and that this is a moving target. He feels that the residents did not get a complete application/information as items were submitted late.

Darrell Darnell – neighbor. One of his concerns is with lighting and having to also deal with car lights shining onto his property at all times of the day. Property lines are an issue. He stated it is hard to have a rebuttal to information that was not submitted in a timely manner and not shared

with the neighbors. Schulz asked about the property legal description issue? Snyder explained the information he received after a meeting with the highway department. Darnell said his property line on GIS has moved and that is his concern/argument. The easement/legal doesn't match. Schulz questioned whether this should be addressed before the CUP is decided on? Snyder said the easement matches the ¼ section line, per the highway department, so there is no gap in referencing a line. Powers asked if any survey was done? Darnell said only on highway 2 during construction. Powers said he feels this needs to be surveyed. Snyder said this issue came up 3 years ago and information was given to Darnell on how to address it. Gullickson asked about Snyder having a meeting with others about this CUP? Snyder said he met with Sanders at the Highway Department. Gullickson clarified that he has clear access to his property. He stated he would like to table this CUP application to get issues cleaned up/clarified and that he wants to present a clear picture for all before a vote happens. He stated he feels that he should have been more detailed and this has caused a lot of concerns.

Noah asked, so he clearly has access to his property? Snyder said there is zero gap between the property line and ROW, the quarter one is not on the Co Hwy 4 centerline but according to Rich Sanders, there is ROW that extends to the parcel. Powers clarified that the applicant wished to postpone the hearing? Gullickson said yes to the next available date. Snyder said June 23 would be the next meeting, however he feels that we need to listen to those that took the time to come to the meeting today so we know about all the concerns.

Alan Olson – neighbor. He stated that the Lengby Creek flows into a federal waterfowl protected lake. Olson then shared information about this property and the movement of the property lines between him and Darnell. There is also an area that GIS says he owns, but had no knowledge of it, but would like that information. He said the 2010 GIS shows he owns property as he knows it to be, but since then it has changed.

Ron Fairbanks – his concern is with expansion of the current plans and adding plumbing and air conditioning, etc.

Pastor Mark Erickson – feels this plan is a moving target with the incomplete application that was submitted. Columbia Township has requested tabling it and he also feels that needs to be done so the township can get their ducks in a row. Powers asked how long? Sather said their attorney is not present, so he is unsure. Snyder said we have a timeframe for processing an application.

Ben Walker – Lengby resident. Request the applicant be resubmitted and therefore reset the timeframe.

Alexandra Wardwell - Lengby resident. Asked what that time frame is? Snyder talked about the 60 days and the ability to extend it out to 120 days. Snyder stressed the applicant wait to buy this property till this process is finalized.

Diane Gunderson -Lengby resident. Has concerns with the swamp on the property and that should they dig down to level the ground out they will end up hitting the swamp level and that by doing that they will harm the swamp and there has been no environmental review. The

Kauffman are Amish and they won't come to this meeting. They have it for sale and she feels the property line should be fixed first. Snyder said no environmental review is required but they could list no ATV, etc operation on the property. Gullickson said he is not touching the homestead property. He plans to keep that as is.

Alexandra Wardwell requests the application be denied. Her concerns are lack of detail – there is no map to scale. Traffic, Co Hwy 4 is a busy road and there are a couple of hills between Hwy 2 and Lengby and that causes a lack of visibility, especially when entering this parcel. The water quality and erosion impacts with land clearing. They live here for the picturesque view of the hills and character of the area. Water drainage is also a concern as the ground water is very shallow. Lighting pollution will affect many when up on top of the hill. Lack of nearby law enforcement is also a concern. Polk County is the only law enforcement agency nearby. She feels there is a better location with better infrastructure and commercial or industrial areas.

Steve Green, State Senator – owns land in Mahanomen County. Has been contacted regarding property line issues in the area. We need to get monuments put in or reestablished. He has been working on this issue as it is a state wide problem.

Adam Bingham – Lengy resident. He is a homeowner and a rental owner so he sees both sides of this issue. His concerns are with the incomplete application and the property line issue that is not resolved. He asked Gullickson if he intends to purchase this parcel even if this is denied or tabled? Gullickson said yes, he is, they are set to close on June 15th. Bingham said he agrees with Gullickson that this application should be tabled or withdrawn, and a new complete application submitted.

Schulz said that he feels a site plan, to scale, would alleviate many of the issues/concerns. Gullickson agreed.

Snyder asked Gullickson if he is wishing to withdraw his application and resubmit it when he has more detailed information? Gullickson said he will withdraw this application and resubmit.

Cavalier made a motion to accept the applicant's withdrawal of his application. Second by Vonasek.

Ayes: All

Nays: None

Motion carried, application withdrawn by applicant during public hearing.

Meeting adjourned at 11:15 a.m..