

**Planning Commission
MINUTES
June 25th, 2020**

PRESENT: Gerry Feld, Al Brenny, Art Buhs, Mary Jo Holewa, Scott Johnson, Jerry Lang, Dan Gottwalt, Warren Peschl

Staff: Roxanne Achman, Karen Loehrer

1. Scott called the meeting to order followed by the Pledge of Allegiance.
2. Warren moved to approve the agenda. Jerry seconded and the motion carried.
3. Art moved to approve the minutes from the May 14th and May 28th meetings. Gerry seconded and the motion carried.
4. File #20-271, Trilogy Properties of MN LLC requesting approval of a four lot preliminary plat entitled "Benton Bluff" in the Rural Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: NW1/4 SW1/4, Section 1, Granite Ledge Township.

Roxanne stated that the parcel being platted is along 185th Ave NE (CR 72). The parcel is considered a short quarter quarter section, in that it is not a full 40 acres. The parcel is 39.86 acres. This property is zoned Rural Agricultural, Granite Ledge is the only township with this zoning district. The minimum lot size is 5 acres with a density of 8 per 40 acres. The property is located in the far northeast part of Granite Ledge off of CR 72, north of CR 22. The property owner is proposing to split the property into four residential lots; approximately 9.7 acres each lot. There is a home on one of the proposed lots. There will be shared access points. The property has a significant amount of wetlands and is along an unnamed stream which is identified as a public water. Portions of the property are within a shoreland district, but not in the floodplain. The access to lots 1 & 2 will need to address the wetlands. Staff review comments will need to be addressed prior to final plat approval. Granite Ledge Township will need to take action on the preliminary plat.

Craig Wensmann, BPA, 13076 1st St, Becker stated that he is the surveyor representing the applicants. They are requesting to split 40 acres into 4 lots, not maximizing the density which would be 8 lots. He stated that they will work with the county on access to lot 1 through the wetland.

Roxanne stated that she received comments from Josh Murschel, Cathy & Julian Conley and Mark Deters. The overall concern is the increase in development in the area. She stated that the requested density is half of the allowed density for this area. The County Engineer has no problems with the request.

No one was on the phone. Gerry moved to close the public hearing. Jerry seconded and the motion carried.

Art moved to approve this preliminary plat. Dan seconded and the motion carried.

5. File #19-502, Kenneth Freese requesting to amend conditional use permit 18-339 to construct a building for storage of equipment in the Agricultural District. Pursuant to Sections 7.1.23 and 11.6. The affected property is described as follows: E677.95 ft. of S412.18 ft. of NE1/4 SE1/4, Section 36, Watab Township.

Roxanne stated that this is a request to amend a CUP granted in 2018 by adding a 60ft x157ft storage structure for equipment. She showed an aerial of the property pointing out the screening from neighboring properties.

Ken Freese 5767 Mayhew Lake Rd stated he is requesting to add a storage shed to his business.

No one spoke in favor, opposition or with general comments. Dan moved to close the public hearing. Art seconded and the motion carried.

Gerry moved that the request meets Section 7.1.23 from the old Code which is Section 9.9 pages 25-26 of the New Code and Section 11.6 pages 9-12. Warren seconded and the motion carried.

In reviewing Section 11.6 the vote was as follow:

- 1) Jerry stated that the addition of a storage structure is not expected to generate an excessive burden on public facilities or utilities. The vote was unanimous that the use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 2) Dan stated that the property is mostly screened. A berm and pine trees screen the property from Mayhew Lake Road. Trees and scrub brush screen the other three sides of the property. The vote was unanimous that the use is

- sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- 3) Gerry stated that this is an agricultural area and storage structures are common. Scott stated that the structure will be used to store equipment. The vote was unanimous that the structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
 - 4) Warren stated that a contractor shop is allowed in the agricultural district as long as it meets the criteria. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.
 - 5) Art moved that the request meets Section 2.1.1 C and added the development conditions to File #19-502. Jerry seconded and the motion carried. The vote was unanimous that the use is consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - 6) Jerry stated that the site is planned agricultural for low density non-farm housing. The proposed use of a contractor's shop for a landscaping business is allowed in the agricultural district. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
 - 7) Al stated that the addition of a storage structure is not anticipated to have an impact on traffic. The vote was unanimous that the use will not cause traffic hazards or congestion.
 - 8) Mary Jo stated that the property does contain a significant amount of wetlands. The proposed storage structure will not be placed in the wetlands. The property owner must take care in not pushing material into the wetlands when it is moved or when the lot is plowed, which would be considered fill. The vote was unanimous that the use will not violate the wetland provisions of Minnesota Statutes Chapter 103G.

Roxanne read the findings and conditions.

Findings

- (1) Will the use create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area?

The addition of a storage structure is not expected to generate an excessive burden on public facilities or utilities.

- (2) Is the use sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes

will not be depreciated in value and there will be no deterrence to development of vacant land?

The site is mostly screened. A berm and pine trees screen the property from Mayhew Lake Road. Trees and scrub brush screen the other three sides of the property.

- (3) Does the structure and site have an appearance that will not have an adverse effect upon adjacent properties?

The new storage structure will be similar to those on the site and on other agriculturally zoned properties. Storage structures are common in this district. The structure will help screen the equipment.

- (4) Is the use, in the opinion of the Planning Commission, reasonably related to the existing land use?

A contractor's shop is allowed by conditional use in the agricultural district as long as it meets the criteria.

- (5) Is the use consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use?

The application is in accordance with the following sections of the Development Code.

In accordance with the following Sections:

(C) To promote the orderly development of residential, business, industrial, recreational and public areas.

Development conditions for File No. 19-502 are adopted.

- (6) Is the use in conflict with the Land Use Plan of the county?

The site is planned agricultural for low density non-farm housing. The proposed use of a contractor's shop for a landscaping business is allowed in the agricultural district.

- (7) Will the use cause traffic hazards or congestion?

The addition of a storage structure is not anticipated to have an impact on traffic.

- (8) Will the use violate the wetland provisions of Minnesota Statutes Chapter 103G?

The property contains a significant amount of wetlands. The proposed storage structure will not be placed in the wetlands. The property owner must take care in not pushing material into the wetlands when it is moved or when the lot is plowed, which would be considered fill.

Conditions:

1. This Conditional Use Permit is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Conditional Use Permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the parcel approved with the application, as qualified by these development conditions. The applicant shall undertake the project according to the plans and specifications submitted to the County with the application.
3. Pursuant to Section 11.6.1 of the Development Code, this conditional use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work. To proceed substantially means to make visible improvements to the property and to have had applied to the property at least 40% of the man hours which it is reasonably estimated will be necessary for completion of the project. The Planning Commission may grant an extension of one year to complete the project if a written request for additional time is filed with the Planning Commission prior to the date of expiration of the conditional use permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
4. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to ensure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
5. The applicant shall obtain proper permits necessary to operate said business at the property including but not limited to land use and building permits. Building permits shall be obtained from Watab Township.
6. All signage shall meet the requirements of the zoning district.
7. Bring the property into compliance with the Restoration Order and maintain compliance with the wetland provision of MN Statutes Chapter 103G at all times.
8. There shall be no retail sales on site without an amendment to this Conditional Use Permit.
9. Hours of operation shall be: 7am – 5pm, Monday through Friday, April through November. Hours will vary in the winter depending on weather.

Warren moved to accept the findings and conditions and grant File #19-502. Art seconded and the motion carried. The applicant was given a copy of the findings and decision.

6. File #20-266, Joe and Marie Ratka requesting an interim use permit to operate a mining operation in the Agricultural District. Pursuant to Sections 7.2.5(C), 9.16 and 11.7.1. The affected property is described as follows: NE1/4 NE1/4, Section 6, Gilmanton Township.

Jerry excused himself from the hearing for potential conflict.

Roxanne stated that the existing mine is on 165 acres in Gilmanton Township. She showed an aerial photo of the property. The Ratkas house is south of the mine across the road. The nearest homes not on the Ratka property are approximately 1,500 ft away. The conditional use permit for the mine expired in 2012. The applicant was notified that the permit expired. He applied for an Interim Use Permit. Staff visited the site and found it neat and clean. The mine is far enough away from the Elk River. When mining is complete the site will be filled and returned to farming. She showed pictures from the site visit.

Joe Ratka, (via phone) 8152 110th St NW, stated that they are requesting an interim use permit for a gravel mine. He stated that he will be subcontracting the site out and he will oversee operations.

Travis Scott, (via phone) TS Dirkworks LLC, stated that he is the contractor who will be mining and restoring the pit.

Dan moved to close the public hearing. Gerry seconded and the motion carried.

Gerry moved that the request meets Section 9.1.6 pages 38-51, Section 7.2.5(C) mining. Warren seconded and the motion carried.

In reviewing Section 11.7.1 the vote was as follows:

- 1) Gerry stated that there are 8 pages of criteria to comply with which both the applicant and contractor agree with. The vote was unanimous that the interim use conforms to the zoning regulations of the County.
- 2) Dan stated that there are no additional costs that are anticipated to be imposed on the public. The vote was unanimous that there will not be any additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.
- 3) Art stated that the extractive use will not create any new residential dwellings and site traffic is minimal. Thus, it is unlikely that it will have an impact on the demand for parks, schools, streets and other public

- facilities. The vote was unanimous that the interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 4) Mary Jo stated that there is no specific development pressure that exists in or near this site. It is not anticipated that these sites will be developed. Site restoration following completion of the mining operation will be farmland. The vote was unanimous that the interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
 - 5) Warren stated that the site has been used as a mine before. The site is screened from the road by distance and existing vegetation. The vote was unanimous that the interim use, including any structures utilized for the use, is sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
 - 6) Art moved that the request meets C & L under Section 2.1.1. and included the development conditions to File #20-266. Dan seconded and the motion carried. The vote was unanimous that the interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.
 - 7) Mary Jo stated that the use is consistent with the Comprehensive Plan. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
 - 8) Gerry stated that the mining operation will have access from 110th St NE. There will not be a lot of traffic. Traffic should not be an issue. The vote was unanimous that the interim use will provide adequate access to a public road, not cause traffic hazards or congestion on the adjacent public roads and there is sufficient off-street parking and loading space to serve the proposed use.
 - 9) Al stated that a mining operation is temporary. The Elk River is nearby however, mining activities are not expected to occur within 300ft of the river. The vote was unanimous that the interim use will not create a negative impact.

Roxanne read the findings and conditions.

Findings

1. Does the interim use conform to the zoning regulations of the County?

There are 8 pages of conditions to comply with for a mining operation. The owner agrees to all of them.

2. Will there be any additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future?

There are no additional costs that are anticipated to be imposed on the public.

3. Will the interim use create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area?

The extractive use will not create any new residential dwellings and site traffic is minimal. Thus, it is unlikely that it will have an impact on the demand for parks, schools, streets and other public facilities.

4. Will the interim use impede the normal and orderly development and/or improvement of surrounding vacant property?

There is no specific development pressure that exists in or near this site. It is not anticipated that these sites will be developed. Site restoration following completion of the mining operation will be farmland.

5. Is the interim use, including any structures utilized for the use, sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land?

The site has been used for mining operations. The site is relatively screened from the road by distance and existing vegetation.

6. Is the interim use consistent with the purpose and intent of the Development Code and purposes of the zoning district?

The proposed use is allowed by Interim Use Permit in the Agricultural District.

In accordance with the following items in Section 2.1.1:

(C) To promote the orderly development of residential, business, industrial, recreational and public areas.

(L) To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

The development conditions for file no. 20-266 are adopted.

7. Is the interim use consistent with the Comprehensive Plan of the County?

It is consistent with the Comprehensive Plan.

8. Will the interim use provide adequate access to a public road, not cause traffic hazards or congestion on the adjacent public roads and is there sufficient off-street parking and loading space to serve the proposed use?

The mining operation is proposed to have access from 110th St NE. There will not be a lot of traffic. Traffic should not be an issue.

9. Will the interim use create a negative environmental impact, including but not limited to impacts on wetlands and water bodies? Including 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.

The mining operation is a temporary use. The Elk River is nearby, however, mining activities are not expected to occur within 300ft of the river.

Conditions:

1. This Interim Use Permit is granted only for the purpose(s) and use(s) indicated on the parcel approved with the application, as qualified by these development conditions. The applicant shall undertake the project according to the plans and specifications submitted to the County with the application.
2. Weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a reasonably neat appearance, to prevent seeding on adjoining property.
3. All equipment used for mining operation(s) shall be kept operational and shall be maintained and operated in such a manner as to minimize as far as is practicable noises and vibrations. The mining operation shall conform to all noise standards contained in Minnesota Rules, Chapter 7030.
4. Abandoned machinery and rubbish shall be removed from the mining operation(s) site and shall not be allowed to accumulate.
5. All mining access roads shall be gated or cabled and closed when not in operation.
6. Trucks shall not queue on public roads while waiting to load or unload. Ingress and egress points from or onto any public road shall be clearly signed "Trucks Hauling" advising traffic in both directions of this activity with temporary signs during heavy hauling (average of fifteen or more trucks per

hour).

7. Intersections of public roads with the access road shall be maintained by the mine operator and shall be kept free from excessive mud, debris or asphalt tract out of the mining site.
8. All mining operations shall be conducted within the confines of the site described in the permit.
9. There shall be no mining activities or storage of materials within ten feet of a property line without the approval of the Planning Commission and written consent of all owners. The area within thirty feet of the property line may only be excavated if the permittee restores the area within ninety days of excavation to meet a 4:1 slope.
10. Mining operations shall not be conducted closer than thirty feet to the right-of-way line of any existing or platted street, road or highway, or any other right-of-way.
11. All buildings, structures, and plants used for mining operation(s) shall be maintained in such a manner as is practicable, and according to acceptable and industrial practice, so as to assure that such buildings, structures, and plants will not become dangerously dilapidated.
12. All practical means shall be used to reduce the amount of fugitive dust generated by mining operation(s). In any event, the amount of dust or other particulate matter generated by the mining operation(s) shall not exceed air pollution control standards established by the Minnesota Pollution Control Agency, including those set forth in Minnesota Rules, Chapters 7005, 7009, 7011, 7017 and 7023.
13. All access roads from mining operation(s) to public highways, roads, or streets, or to adjoining property shall be maintained to minimize dust conditions.
14. Maximum noise level at the site shall comply with the limits or standards established by the Minnesota Pollution Control Agency, including those set forth in Minnesota Rules, Chapter 7030.
15. Hours of operation for mining activities shall be Monday through Friday 7 a.m. to 7 p.m. No work occurring on federal holidays.

16. All applicable Minnesota Pollution Control Agency regulations, including those set forth in Minnesota Rules, Chapters 7001, 7050, and 7060; Department of Natural Resources regulations, and all applicable United States Environmental Protection Agency Regulations for the protection of water quality, shall be complied with. In addition, no waste products or processed residue shall be deposited in any public (i.e. protected) waters or wetlands in Benton County (as designated by the Minnesota Department of Natural Resources).
17. Sufficient topsoil shall be retained at the excavation site to ensure completion of rehabilitation in accordance with the rehabilitation plan. Mining operators/owners are prohibited from removing topsoil from the mining site unless sufficient topsoil is retained to cover the entire site to a minimum depth of three inches.
18. During the entire period of operation(s), all excavation other than the working face shall be sloped on all sides to a maximum ratio of one foot horizontal to one foot vertical, unless a steeper slope is approved by the Planning Commission; or, in the alternative, the permittee shall install an effective barrier enclosing the site, the barrier to be no less than a four strand wire fence four feet in height with support posts spaced no farther apart than ten feet. In any event, where excavations are adjacent to a public roadway or other right-of-way, the terrain shall have a maximum slope of four feet horizontal to one foot vertical. Slopes adjacent to waterways shall not exceed four feet horizontal to one foot vertical.
19. All reporting requirements, where applicable, mandated in Minnesota Statutes Section 298.75, Subd. 3, Aggregate Material Removal Tax as the statute shall prescribe at the time of reporting, shall be complied with. Failure to submit the reports to the County shall be considered grounds to revoke the interim use permit.
20. When requested by the Planning Commission, in response to an alleged violation of this permit, the property owner shall complete such investigations, surveys and tests as may be required to show adherence to the permit and other applicable standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the Planning Commission. Costs for said testing shall be the responsibility of the property owner.
21. A surety bond shall be provided within 30 days of this approval. The surety

bond must be executed by a corporate surety company acceptable to the county and authorized to do business in the State of Minnesota, or be a cash escrow. The bond shall run in favor of the county, and said bond shall remain in full force and effect for a minimum period of one year after expiration, termination or revocation of the permit. The bond shall guarantee the required rehabilitation as well as all other requirements of this permit and pay, up to its face value, all expense the county may incur for non-compliance.

22. Additional costs and obligations incurred by Benton County in administering or ensuring compliance with this permit shall be the responsibility of the property owner.
23. Only TS Dirtworks LLC., and other subcontractors working under the supervision and guidance TS Dirtworks LLC, shall be allowed to conduct mining operations on the site.
24. Rehabilitation operations shall run concurrent with the mining operation and no more 40% of the total proposed excavation area shall be open to excavation at any one time.
25. Within 30 days of this approval, the property owner will provide proof of \$1,000,000 in bodily injury, property damage and public liability insurance.
26. Blasting at this site is prohibited.
27. Within a period of three months after the termination of mining operation(s), or immediately after abandonment of such operation(s) for a period of twelve months, or within three months after termination or revocation of a permit:
 - a) All buildings, structures, and plants incidental to such mining operation(s) shall be dismantled and removed by and at the expense of the permittee last utilizing such buildings, structures and plants, and
 - b) The peaks and depressions of the site shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding and which will minimize erosion due to rainfall. Overall, the finished grade shall be such that it will not adversely affect the adjacent land and shall have slopes that do not exceed four feet horizontal to one foot vertical, and
 - c) Reclaimed areas shall be surfaced with soil of quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three inches; provided, however, that the permittee need not import topsoil

to supplement the topsoil existing at the site prior to the commencement of the excavation. The finished reclaimed areas shall be planted with legumes and grassed upon all parts where revegetation is possible. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such ground cover shall be sufficient to hold the topsoil in place and shall be tended by the permittee as necessary until ground cover is self-sustaining, and

- d) Excavations completed to a water producing depth need not be backfilled; however, banks shall be sloped to a grade no steeper than four feet horizontal to one foot vertical.

28. This permit shall automatically expire, without notice, five years after the date of approval (June 25, 2025) or upon termination of mining operation and restoration of the site, whichever comes first.

29. The permit is non-transferrable except with the approval of the Planning Commission.

Warren moved to accept the findings and conditions and grant File #20-266. Dan seconded and the motion carried.

- 8. Roxanne stated the City of Foley is working with Gilmanton Township on an Orderly Annexation Agreement.
- 9. Art moved to adjourn at 7:57 p.m. Jerry seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary