

**Becker County Planning Commission
November 9th, 2022**

Members Present: Chairman Dave Blomseth, Kohl Skalin, Jeff Moritz, Tommy Ailie, Craig Hall, County Commissioner Larry Knutson, Harvey Aho, and Zoning Director Kyle Vareberg. **Members Absent:** Tom Disse and Mary Seaberg

Chairman Dave Blomseth called the Planning Commission meeting to order at 6:00 pm. Introductions were given. Becker County Zoning Technician Nicole Hultin recorded the minutes.

Craig Hall made a motion to approve the minutes from the October 12th, 2022, meeting. Aho second. All members in favor. Motion carried.

Chairman Dave Blomseth explained the protocol for the meeting and stated that the recommendations of the Planning Commission would be forwarded to the County Board of Commissioners for final action.

New Business:

- 1. APPLICANT: Dana Holland & Shirlee A Holland** 1828 Co Hwy 52 Rothsay, MN 56579 **Project Location:** TBD Thunderbolt Ranch Rd Lake Park, MN 56554 **LEGAL LAND DESCRIPTION:** Tax ID number: **06.0422.007** Section 33 Township 138 Range 043; 33-138-43 PT SW1/4 NE1/4, PT NW1/4 SE1/4, PT NE1/4 SE1/4: COMM NW COR SW1/4 NE1/4, S 225.74', SE 1172.6', SW 198', SWLY 430.19' TO POB; ELY 826.9', SLY 540.05', W 676.45', N 704.29' TO POB. TRACT I. Tax ID Number: **06.0422.005** Section 33 Township 138 Range 043; 33-138-43 PT N1/2 SE1/4: COMM NW COR SW1/4 NE1/4, S 225.74', SE 1172.6', SW 198', SE 782.13' TO RD, SLY AL RD 741.73' TO POB; W 676.45', S 701.48', E 410.76', NE 388.72' TO RD, NLY AL RD 450.79' TO POB AKA TRACT C. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Final Plat for phase one (1) of a Common Interest Community consisting of twenty-eight (28) units to be known as THUNDERBOLT RANCH STORAGE.

Dana Holland presented the application and explained that nothing has changed since the preliminary plat, but that they are just asking to do a first phase at this time.

One letter was received and read by the Planning Commission members before the hearing and is entered into record below:

47 November 9, 2022

48

49 Dear Becker County Planning & Zoning Board,

50 This letter is regarding the Thunderbolt Ranch Storage Unit project by Dana & Shirlee
51 Holland.

52 I am Tony Scheving and I live right across the road from the project on environmental
53 Lake 610. I would have been at the meeting tonight but I am overseeing a Fall Bible
54 conference and the midweek service at our church.

55

56 My wife and I looked for a long time before we found our lake lot on Lake 610. I bought
57 the lot eighteen years ago with the dream of saving money and building my final home
58 there when I reached my retirement years. I am currently 62, and two years ago I began
59 construction on this home, building it myself along with my wife.

60

61 I was disappointed when I learned that Dana and Shirlee Holland were planning on
62 developing a storage unit project with 67 large units and 67 different owners
63 somewhere along our quiet township road. The letter from the county I received in
64 June was very vague about the location. I assumed with all the farmland they own, that
65 the Hollands might put it somewhere near the cottage they own nearby, or along a road
66 where there are no houses in the vicinity at all. Regardless, I wrote a letter to the board
67 expressing my concerns because I was unable to attend the scheduled meeting.

68

69 Several weeks ago I was surprised to see bulldozers tearing out the grove of trees
70 directly across the road from my driveway, including 100 year old oak trees. Upon
71 enquiring with the excavator Don Schroeder, I learned that Dana and Shirlee were
72 putting the project directly across from my new home. In checking with the county I
73 found out there was a Preliminary Plat revealing this, prepared June 13, that I never
74 received. The driveway to the 67 storage units would line up with my own driveway and
75 the project would start right next to the township road instead of back off the road like
76 J&K Marine who built storage units further to the north on Thunderbolt Ranch Road.

77

78 If Dana had just moved his entrance 75 yards to the south, he could have put it near the
79 corner of my lot instead of right by my house and they wouldn't have needed to remove
80 any trees at all. The excavator mentioned suggesting to Dana to start his project after
81 the tree line to avoid removing so many mature oak trees, but Dana wanted to put the
82 driveway in line with my driveway to gain two more storage units. In other words, this
83 would enable him to have 67 units instead of 65. This was so unnecessary with no
84 regard to the property and feelings of others. It only made a bad situation much worse.

85

86 I guess I would hope that folks would be more thoughtful than this, and maybe put
87 themselves in the place of others and consider how they would feel '*if it were the other*
88 *way around*'.

89 I think it's a simple matter of the *golden rule* and doing unto others as you'd want them

90 to do unto you. I'm fine with Dana and Shirlee realizing their dream with these storage
91 units located somewhere in a remote area of the 135 acres they own, but I wonder how
92 Shirlee would feel if she was now in the place of my wife. This was unconscionable and
93 so unnecessary.
94

95 As the board votes on this project tonight, I know it's easy to disregard something that
96 doesn't affect us, but I would ask you to put yourself in my place as if this happened to
97 you. I am not opposed to a developer using his land to make a profit, but I did not
98 imagine that with all the land Dana owns in the area, he would bypass putting this
99 project anywhere near his own seasonal cottage, and put the driveway for 67 units right
100 across from my newly constructed final home in order **to gain two more units.** He owns
101 nearly a ½ mile of road access along 100th St. which is very close to this vicinity and
102 doesn't have a house or a tree nearby. It wouldn't have bothered anyone and its closer
103 to Pelican Lake where most of his potential clients live.
104

105 Thank you for your patience in listening to this letter. I just wanted to add some
106 perspective to the matter. The notice for this meeting tonight states that this hearing is
107 to consider the '*suitability of the location of the project, allowing appropriate changes*
108 *believed to be desirable*'. I would like to suggest the following: That the Hollands should
109 be made to move their entrance to the south side of the woods at the very least, where
110 it should have been in the first place before Dana tore out the woodland.
111

112 Furthermore, with the large altering of the terrain, I am going to have ongoing problems
113 with drifting snow in my driveway due to prevailing westerly winds. An agent from the
114 State of Minnesota referred to it as a 'snow trap'. The Hollands should repair the 250
115 foot gaping hole left in the patch of woods by installing an earthen berm and have
116 numerous large evergreen trees big-spaded in. The agent Matt from the State suggested
117 Black Hills Spruce and Jack Pines. That would also be more in line with the mission of
118 Becker Planning and Zoning to '*promote the judicious use of our vast resources while*
119 *protecting and preserving our environment.*'
120

121 The Hollands should now forfeit the two units along the township road and slide the
122 project further west from the township road where it should have been, to allow them
123 to retain the 67 units they evidently feel they need to have. It would still not be nearly
124 as far from the road as J&K Marine is located. The only thing better would be to
125 relocate the storage unit project either nearby the Holland's own seasonal cottage
126 (*since they're the ones who make a profit from it*) or along the open area of 100th St.
127

128 Perhaps the Cormorant Township should be included in this matter to provide more
129 local input and because they will be the ones maintaining the township road. They
130 already have an issue with keeping Thunderbolt Ranch Road open during the winter
131 from a wall of snow that drifts in from snow traps. Unfortunately, much damage has
132 been done by starting the project before the developers received full approval.
133

134 Sincerely,
135 Tony & Lori Scheving, 13403 Thunderbolt Ranch Road, Lake Park, MN 56554
136 Cc'd; Cormorant Township, Commissioner Richard Vareberg, Becker County Zoning &
137 Planning
138
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140 As there was no other correspondence and no one else to speak to this application,
141 testimony was closed.
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144 **MOTION: Skalin motioned to approve the application; Aho second. Roll**
145 **Call; All in favor. Motion carried.**
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149 **2. APPLICANT: Erica L & Eric Zurn** 18633 Co Hwy 14 Callaway, MN 56521
150 **Project Location:** TBD 350th St Ogema, MN 56569 **LEGAL LAND**
151 **DESCRIPTION:** Tax ID number: **30.0142.000** Section 33 Township 142 Range
152 042; NW1/4 OF NW1/4 **APPLICATION AND DESCRIPTION OF**
153 **PROJECT:** Request an amendment to the Conditional Use Permit approved at
154 the September 6th, 2022, Board of County Commissioners meeting for revisions to
155 the required stipulations.
156
157

158 Eric Zurn presented the application and shared that his permit is being held up by the
159 road agreement stipulation.
160

161 Knutson said it sounded like they were close to an agreement and asked with what they
162 don't agree.
163

164 Zurn said yes there has been communications, but he feels very uncertain that the
165 township will actually sign off on an agreement.
166

167 Knutson asked if he was asking for the road stipulation to be completely removed with no
168 road agreement at all.
169

170 Zurn said yes, because under Minnesota law the township is already protected in such a
171 way that if Zurn were to destroy the road they can send him a bill or attached the fees to
172 his taxes, so he thinks the road agreement is unnecessary.
173

174 Skalin asked about an agreement for the construction phase of the project.
175

176 Zurn stated that initially he had submitted a document with the Planning and Zoning
177 office that basically stated, if he broke it, he would fix it, and he would agree to that.
178

179 Hall asked for confirmation that during the construction phase Zurn would be willing to
180 pay for any damages to the road.
181
182 Zurn said yes, he would take personal responsibility.
183
184 General counsel for the White Earth Band of Ojibwe spoke and asked that they leave the
185 road agreement stipulation in place.
186
187 Vance Jirava with Spring Creek Township stated that it seemed like they were close to an
188 agreement.
189
190 Skalin asked if Zurn fixed the road during the construction phase would the township be
191 in agreement with that.
192
193 Ryan Groth with Spring Creek Township spoke and said they would be willing to sign
194 the most recent agreement that they had received from their attorney.
195
196 Knutson asked Zurn if he'd seen the revised agreement and if he had discussed it with his
197 attorney.
198
199 Zurn stated that he doesn't know which one the township members are referring to
200 because he can't see which one the township members are holding in their hands. He
201 stated there has been correspondence back and forth. He said his attorney has sent an
202 agreement to theirs, but he's not sure if their attorney has signed off on it, and that even if
203 he had it would still have to go through the township board at a scheduled meeting which
204 has not happened yet. He said if it were the last agreement he saw, he would be willing to
205 sign, but he can't say for sure that he would in regard to the one they are holding as he
206 doesn't know what it says.
207
208 Mortiz asked if this matter was time sensitive and would tabling it cause any issues.
209
210 Zurn said yes, because he has been trying to get this project going since July and that the
211 township keeps delaying this. That once it is approved, he still needs to go through all the
212 required steps through the MPCA which takes time, and he would like to begin building
213 first thing in the spring.
214
215 One letter had been received and read by the Planning Commission members before the
216 hearing and is entered below:
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Offices in 150 South Fifth Street
Suite 700
Minneapolis, MN 55402
(612) 337-9300 telephone
(612) 337-9310 fax
www.kennedy-graven.com
St. Cloud Affirmative Action, Equal Opportunity Employer

TROY J. GILCHRIST
Attorney at Law
Direct Dial (612) 337-9214
Email: tgilchrist@kennedy-graven.com

Also: St. Cloud Office
501 W. Germain Street, Suite 304
St. Cloud, MN 56301
(320) 240-8200

November 8, 2022

Becker County Planning Commission

VIA EMAIL ONLY

Re: Oposing Attempt to Modify or Remove the Road Agreement Condition on the Zurn
Feedlot Conditional Use Permit

Dear Planning Commissioners:

I am writing on behalf of Spring Creek Township ("Town") regarding the conditional use permit ("CUP") issued to Erica & Eric Zurn ("Owners") for a feedlot to be constructed on 350th Street within the Town. The agenda item indicates the Zurn's are seeking an amendment to the CUP. Presumably the request is to amend or remove the condition requiring the Owners to enter into a road agreement with the Town. For the reasons set out below, the Town strongly objects to any such amendment of the CUP and requests the Planning Commission recommend denial of any such proposed amendment.

Violation of County Moratorium

On September 20, 2022 the County Board adopted a moratorium on feedlots containing more than 200 animal units. Amending a CUP opens the entire permit to further changes and, if approved, constitutes the issuance of a new permit. Issuing an amended permit to the Owners would violate the moratorium on feedlots and needs to be denied. If this sort of amendment can be approved, then why not an amendment to increase the number of animal units. Amending the terms of the CUP is contrary to the purpose of a moratorium to study the County's feedlot regulations and to consider amending them to better protect those living within the County.

Road Agreement

The Town's attempts to negotiate a road agreement with the Owners were initially rejected and then were responded to with proposed agreements that either imposed no obligations on the Owners or was clearly not enforceable. The Owners recently had their attorney work on the agreement and finally progress is being made. The agreement cannot be finalized until the next

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town board meeting, but I communicated with the attorney today that in my view we are close to an agreement based on the revisions we have exchanged.

The Owners' attorney told me the Owners are not seeking an amendment to the CUP, but that appears contrary to how this is being presented to the Planning Commission. Unfortunately, it does raise questions regarding how serious the Owners are in entering into a road agreement when, despite having their attorney working on the language, they appear to be trying to avoid having to enter into one. The best way to ensure the Owners continue to work in good faith to reach a road agreement with the Town is to deny a request to modify or remove the road agreement condition.

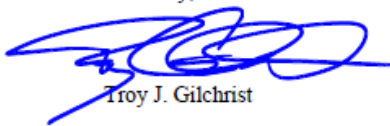
Negative Impacts

By designating feedlots a conditional use, the County recognizes feedlots can have negative impacts that need to be address through the imposition of conditions on the permit. Under Chapter 8, Section 11.F.3 of the County Ordinance, one of the criteria that must be met before a CUP can be approved is that "adequate utilities, access roads, drainage and other necessary facilities have been or are being provided." To satisfy this criterion, as well as first criterion regarding impacts on surrounding properties (in this case the road), the County Board imposed a condition requiring a road agreement. The Town's position is that without the condition the CUP should not have been issued because the road cannot handle the truck traffic generated by a feedlot of this size.

The Owners asking now to limit or avoid the requirement is contrary to the purpose of a CUP to mitigate its impacts on others. There is no legitimate basis for removing the condition other than attempting to shift the costs additional road maintenance and repairs from the Owners to the Town's residents. Attempting to amend a CUP immediately after it is issued calls into question the legitimacy of the initial process and should be rejected.

A member of the Town Board plans on attending your meeting and will be happy to answer any questions. Thank you for your consideration of the Towns request to deny any effort to remove or modify the condition.

Sincerely,



Troy J. Gilchrist

cc: Pat Oman
Brian McDonald
Spring Creek Township

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One letter that had not been received before the hearing was read into record and is entered below:



WHITE EARTH RESERVATION

CHAIRMAN Michael Fairbanks SECRETARY-TREASURER Michael LaRoque
DISTRICT I Henry Fox DISTRICT II Eugene Sommers DISTRICT III Cheryl "Annie" Jackson

Jamie Konopacky
Environmental Counsel
White Earth Band of Minnesota Chippewa Indians
35500 Eagle View Road
Ogema, MN 56569
Cell: 608-630-0166
Jamie.konopacky@whiteearth-nsn.gov

November 9, 2022

Becker County Planning Commission

Re: Zurn Feedlot Conditional Use Permit rescission and/or amendment

Dear Planning Commissioners:

I am writing on behalf of the White Earth Band of Minnesota Chippewa Indians ("Band") regarding the conditional use permit ("CUP") issued to Erica and Eric Zurn for a feedlot to be constructed at 18633 County Highway 14 Callaway, MN 56521, within the exterior boundaries of the White Earth Reservation. The Becker County Planning Commission Meeting for November 9, 2022, to be held at 6pm, lists amendment of the CUP as item 2 on the agenda. Accordingly, it is our request that this letter be included and considered as part of the meeting record pertaining to agenda item 2, amendment of the Zurn CUP.

The Band supports Spring Creek Township's opposition to amending the CUP in order to remove the previously included road agreement condition. However, the band disagrees that the CUP does not need to be reopened and rescinded. Failure to reopen and rescind the permit, which authorizes a CAFO land use directly threatening the Band's core sovereign interests, as discussed in more detail below, violates federal law.

The Band requests the CUP be reopened for consideration of additional conditions necessary to protect the health, welfare and safety of tribal members and tribal water and other natural resources within the White Earth Reservation. Protection of tribal health, welfare and natural resources on the Reservation is within the power and jurisdiction of the Tribe as a dependent, domestic sovereign, and the proposed issuance of the CUP without inclusion of conditions that

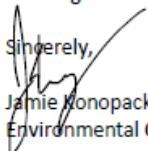
the Tribe deems sufficient to protect tribal health, natural resources and economic security violates federal law. *United States v. Wheeler*, 435 U.S. 313, 322-23 (1978); *Worcester v. Georgia*, 31 U.S. 515,555 (1832) (the Band possesses “inherent powers of a limited sovereignty which has never been extinguished” and “has plenary and exclusive power over its members and territory subject only to limitations imposed by federal law”).

In addition to retaining authority over its own members and land within the reservation, federal law also makes clear that the Band “retain[s] inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.” *Montana v. United States*, 450 U.S. 544, 565,66 (1981). Becker County and the State of Minnesota are bound by the dictates of federal law, and, as such, it was error for the county to issue the CUP permitting a CAFO land use that directly threatens tribal member health and welfare and tribal water and other natural resources within the exterior boundaries of the reservation without Tribal consultation and inclusion of conditions that the Band deems sufficient to protect its core Sovereign interests.

While the Band appreciates the County’s inclusion of requirements, to wit, a single annual water sample, manure management plan and three-row tree buffer, the Band is well aware that similar and much more comprehensive requirements have been insufficient to protect human health and water resources across the State of Minnesota and the Country, more broadly. The Band will not approve of CAFO operation land uses within the reservation boundaries without considerably more safeguards in place, including but not limited to comprehensive groundwater monitoring networks beneath CAFO confinement facilities and any areas where land application of manure is to take place. Moreover, the Band will not approve of land application of manure that exacerbates the buildup of excessively high phosphorus levels in the soil or contributes unsafe levels of nitrate leaching to groundwater, both of which directly threaten connected surface water resources and tribal resources including wild rice, mussels and fish located therein. Lastly, the Band will not tolerate land uses that threaten to further impair waters, which already fail to meet their designated uses due to E.coli contamination.

This comment renews and reiterates the previous, timely comment and concerns submitted on behalf of the Band by Chairman Michael Fairbanks on August 26, 2022, prior to County Board approval of the CUP on September 6, 2022.

I am available by phone (608-630-0166) to discuss this matter before, during or after your meeting. Please respond and advise me of your decision at your earliest convenience.

Sincerely,

Jamie Nonopacky
Environmental Counsel, White Earth Band of Minnesota Chippewa Indians

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Testimony closed.

230 Hall commented that the road is there for everyone to use and that if the landowner is
231 willing to repair any damages that occur during the construction phase it should not be
232 held up any longer.

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234 Skalin agreed and commented that while this operation will increase use on the road it
235 will also be an added tax base to the township.

236

237 Ailie stated that traffic outside of construction should be minimal.

238

239 Blomseth read the original motion from August that the Planning Commission approved
240 for recommendation to the County Board.

241

242 Knutson commented that it was the County Board who made changes to that
243 recommendation and added the stipulations, one of which being the road agreement
244 stipulation.

245

246 Hall said there's no reason to keep coming back as Zurn seems willing to take care of any
247 damages. Therefore, he recommends removing the road agreement stipulation.

248

249

250 **MOTION: Moritz motioned to approve the application to remove the road**
251 **agreement stipulation, but to maintain a condition that they must take care**
252 **of the road during construction phase and if damaged, pay any expenses to**
253 **put it back to the way it was prior to construction. Aho second.**

254

255 Vareberg stated for clarification that the motion is specific only to that one amendment
256 and that no other action is being taken before this board.

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258 **Roll Call; All in favor. Motion carried.**

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262 **3. APPLICANT: Stein Properties** PO Box 324 Osage, MN 56570 **Project**
263 **Location:** 23915 Pine Ave Osage, MN 56570 **LEGAL LAND**
264 **DESCRIPTION:** Tax ID number: **21.0281.000** Section 29 Township 140
265 Range 036; PT NW1/4 NE1/4; BEG 684' S OF NW COR NE1/4, TH S TO S
266 LN, E 575', N TO PT 684' S OF N LN & W 575' TO BEG **APPLICATION**
267 **AND DESCRIPTION OF PROJECT:** Request a Conditional Use Permit
268 for manufacturing of home interior and exterior items.

269

270

271 Steve Pachel presented the application and explained that he has an existing business and
272 would like to build an additional building to expand his business.

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274 As there was no one else to speak to the application and no written correspondence,
275 testimony was closed.

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Knutson commented that it's a good fit.

MOTION: Aho motioned to approve the application; Moritz second. Roll Call; All in favor. Motion carried.

4. APPLICANT: Stein Properties LLC PO Box 324 Osage, MN 56570
Project Location: 54511 & 54545 St Hwy 34 Osage, MN 56570 **LEGAL LAND DESCRIPTION:** Tax ID numbers: **21.0336.000 & 21.0337.000** Section 29 Township 140 Range 036; AUD PLAT 140-36 PT LOT 2, 4, 12: BEG NE COR LOT 2, S 207', W 87', N 207', E 87' TO POB.; AUD PLAT 140-36 LOT 3 LESS HWY .60 ACRES. **APPLICATION AND DESCRIPTION OF PROJECT:** Request a Change of Zone from residential to commercial.

Steve Pachel tabled this application until the December 14th, 2022, Planning Commission hearing.

Other Business:

D) **Tentative Date for Next Informational Meeting: December 7th, 2022; 8:00 am; 3rd** Floor Meeting Room in the Becker County Courthouse, Detroit Lakes, MN.

Since there was no further business to come before the Board, Hall made a motion to adjourn. Ailie second. All in favor. Motion carried. The meeting adjourned at 6:34 pm.

David Blomseth, Chairman

Jeff Moritz, Secretary

ATTEST

Kyle Vareberg, Zoning Administrator