

PLANNING COMMISSION MEETING MINUTES CITY OF GRANT

June 8, 2022

Present: Greg Anderson, Jerry Helander, Jim Huttemier, Robert Tufty, Dan Gagliardi and David Tronrud (6:47)

Absent: Matt Fritze

Staff Present: City Planner, Jennifer Swanson; City Clerk, Kim Points

1. CALL TO ORDER

The meeting was called to order at 6:36 p.m.

2. PLEDGE OF ALLEGIANCE

3. APPROVAL OF AGENDA

MOTION by Commissioner Tufty to approve the agenda, as presented. Commissioner Huttemier seconded the motion. MOTION carried unanimously.

4. APPROVAL OF MINUTES, March 9, 2022

MOTION by Commissioner Tufty to approve the March 9, 2022 Minutes, as presented. Commissioner Helander seconded the motion. MOTION carried with Chair Fritze abstaining.

5. NEW BUSINESS

PUBLIC HEARING, Consideration of Application for Minor Subdivision, 9250 Dellwood Road North – City Planner Swanson advised the Applicant, Sam Scott, is requesting a minor subdivision and rearrangement of the two existing parcels located at 9250 Dellwood Road N., into three lots (two new). In late 2021 and early 2022 the Applicant met with staff to discuss the potential minor subdivision of the subject property. The applicant indicated their desire to subdivide the property to create two new rural residential lots consistent with the City's ordinance requirements.

City staff indicated that all created and resulting parcels must comply with the City's ordinances, including the necessity to amend the existing Conditional Use Permit (CUP) for the horse boarding and indoor riding arena operations. In conjunction with this request for Minor Subdivision, the applicant has requested an amendment to the CUP and the staff report is provided under separate cover.

The following summary of the request is provided for your review and consideration.

City Planner Swanson stated duly noticed public hearing is scheduled for June 8, 2022, and property owners within 1,320-feet were notified of the subject application.

Application Summary:

Applicant & Owner: Sam Scott	Site Size: ~59.42 Acres (Gross)
Zoning: A-2, Agricultural Small Scale Land Use: Rural Residential	Request: Minor subdivision to rearrange and subdivide two existing parcels. The proposed minor subdivision creates two lots west of Justen Trail N, and one lot east of Justen Trail N.
Address: 9250 Dellwood Road Grant, MN	Location Description and PIDs: PIDs – 1503021310001 and 1503021130002

Existing Lot/Parcel Configuration

Lot/Parcel	Acres	Notes
9250 Dellwood Road N. (PID 1503021310001)	49.5 Acres	This Parcel was not platted as part of any of the Victoria Station subdivisions. The existing farmstead and all existing accessory structures, including the gatehouse, are located on this parcel. The parcel is included in the existing CUP for horse boarding operations and indoor riding facilities.
Outlot A Victoria Station No. 3	~9.8 Acres	This parcel was platted as part of the Victoria Station No. 3 subdivision. The parcel is included in the existing CUP for horse boarding operations and indoor riding facilities.

The proposed Minor Subdivision will result in the following:

Lot/Parcel	Acres	Notes
Parcel A	42.28 Acres	The created lot includes Outlot A of the Victoria Station No. 3 subdivision and that portion of the existing 9250 Dellwood Road parcel lying east of the west Justen Trail N., roadway easement. (The full Justen Trail Roadway is located on this parcel)
Parcel B	7.84 Acres	The created lot is located west of the Justen Trail N., roadway. The proposed lot frontage, home and driveway are from Justen Trail N.
Parcel C	9.30 Acres	The created lot is located west of the Justen Trail N., roadway. The proposed lot frontage, home and driveway are from Justen Trail N.

Review Criteria

Section 30-9 Minor Subdivisions

Section 30-130 Street Design

City Planner Swanson advised the subject property is bordered by Dellwood Road N. (Hwy 96) on the south, Jamaca Ave N (CSAH 9) to the west, and Justen Trail N., runs north-to-south through the property. The existing principal structure and all accessory buildings, including an indoor riding arena, are located east of Justen Trail N. There is a large existing pond and/or wetland area located along the eastern edge of the property that extends north onto the area described as Outlot A of the Victoria Station No. 3 Subdivision, and a small wetland area located on the northwest corner of the property adjacent to the CSAH 9 right-of way. The majority of the subject property was not platted as part of the Victoria Station subdivision, and only that portion associated with Outlot A was part of any previous subdivision.

The Minor Subdivision exhibit is provided as Attachment B to this Staff Report. As shown the proposed subdivision will rearrange two existing lots into three lots. The following ordinance sections are provided as reference.

Section 30-1 Definitions, states that “*Minor Subdivision* means any subdivision containing not more than two lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the master plan, official map, chapter 32, or these regulations.

Section 30-9 (a)(3) states that, “The newly created parcels shall meet all requirements of chapter 32 pertaining to zoning....”

Section 30-9 (a)4) states that, “Prior to approval of a minor subdivision, the city council reserves the right to require the dedication of streets, utility easement.”

Section 30-130 (a) Minimum widths of street design require local streets to be dedicated with 66-feet of right of way. Section 30-130(b) Widening existing streets states that “Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the standards of subsection (a)...”

The proposed Minor Subdivision creates two new rural residential lots that are proposed to be accessed from Justen Trail North (Parcel B and Parcel C). As shown on the Minor Subdivision exhibit Justen Trail N. is a roadway that runs north-south through the subject property and connects the Victoria Station subdivisions adjacent/adjoining the subject property with Dellwood Road North (Hwy 96). The roadway segment on the subject property has been the subject of litigation with the City and the Applicant has contested their responsibility to maintain/manage this segment of road. It is staff’s understanding, that they have further indicated that they believe

the segment of Justen Trail N. on their property is only a limited and restricted grant of easement (shown as Roadway Easement on the Minor Subdivision exhibit, and further described in the City Attorney's memo) and that it does not represent a full dedicated public right-of-way. Further, per the definition of Minor Subdivision, the Minor Subdivision may "not adversely affect the remainder of the parcel or adjoining property, and not in conflict with any provisions or portions of the master plan, official map, chapter 32, or these regulations."

The segment of Justen Trail North that crosses the subject property is the main roadway connection to the adjacent Victoria Station subdivisions, and its maintenance and management responsibilities has a direct impact on adjacent lots and parcels that use the roadway. The City uses a road assessment policy to maintain and manage its roads as described in the City Engineer's memo. When a minor subdivision is granted, the City requires the full right-of-way to be dedicated to the City, if it has not been already. The intent of Section 30-9(a)(4) is to ensure that the road is publicly dedicated and that it is subject to the City's associated policies regarding proper upkeep and management so that all properties that rely on it for access can reasonably be assured that it will be maintained.

Since the road segment is the subject of continuing litigation and the Applicant recently filed an appeal, the debate regarding this segment of road and its rights and responsibilities remains at issue. Staff cannot confirm whether the minor subdivision will adversely impact adjoining or nearby properties, since the issue of responsibility remains undecided.

The issue is further impacted by the new lot configuration that proposes access from Justen Trail N., but does not dedicate nor acknowledge the road as public right-of-way and instead refers to it as the "Roadway Easement." Since the Applicant is contesting their responsibility to maintain and manage the roadway through objection of paying the City's assessment it is unclear how, and what, responsibilities the Applicant as the subdivider of the two new lots would have in the maintenance and management of the roadway. Further, Section 30-9(a)(3) expressly requires newly created lots to meet the requirements of Chapter 32, which requires all lots to provide minimum frontage on a street but it is unclear if this condition is met given the current litigation and appeal.

Finally, as shown on the Minor Subdivision exhibit the "Roadway Easement" depicted for Justen Trail North does not align with the roadway traveled surface and does not appear to be of adequate size to accommodate the City's required right-of-way width of 66-feet. The Minor Subdivision does not meet the City's requirements for road design as required in section 30-130(a) and 3-130(c) that suggests when roadways are of inadequate width abutting a subdivision that the plat (subdivision) shall dedicate additional width to meet the City's road design standards.

City Planner Swanson noted the City Engineer and City Attorney have provided memos that are attached to this staff report for your review and consideration.

Staff is recommending denial of the proposed minor subdivision based on the following findings:

- It cannot be determined that the proposed minor subdivision will not adversely impact adjacent or adjoining properties given the status of continuing litigation regarding maintenance and rights associated with the roadway.
- The City requires the dedication of the land associated with a public right-of-way that abuts a proposed minor subdivision to ensure that public access is provided. The Minor Subdivision exhibit does not dedicate the existing roadway easement, nor does it dedicate the required 66-foot right-of-way required by the City's subdivision ordinance.

MOTION by Commissioner Anderson to open the public hearing at 7:02 p.m. Commissioner Huttemier seconded the motion. MOTION carried unanimously.

Mr. Geoff Schmid, 9370 96th Street N, stated he supports the recommendation to deny. Victoria Station has gone through many changes and why would the City every consider splitting the property up?

Ms. Annas Schelander, 9144 Justin Trl N, stated she also supports denial of the request as she is concerned about the domino effect and more subdivision with that property.

Mr. Patrick Besker, 9255 96th Street, stated he was under the assumption the property could not ever be subdivided. He also stated that he would expect any subdivision plan that comes forward would include a public roadway.

Ms. Kathy Blasen , 9121 96th Street N, stated she moved here a year and a half ago and the property abuts her property. She stated she moved here to stay rural and is against the subdivision.

Ms. Vicky Ablom, 9710 Joliet Avenue N, stated she has been here for 40 years and there is so much history there. The last 30 years there have been 6-8 different owners. She wants it to stay just he way it is as a premier boarding and horse showing facility. She stated she is very much against the subdivision.

Ms. Laurie Marshall, 9590 Genero Court N, stated she is just north/west of the proposed subdivision. She stated she is opposed to this and it sets precedence.

Mr. Brad Roux, 9430 96th Street N, stated he is opposed to the subdivision for many reasons. He prefers the rural setting if and subdivided all property taxes will go up. Adding parcels may not meet the City's density standard.

Ms. Kristin Towberman, 9393 96th Street, stated she is concerned about a precedent being set. She also stated she was approached by the property owner to purchase an easement from her. Access will end up allowing for more lots and she supports denial of the application.

Ms. Cheryl Frey, 9650 Justin Trl, stated the septic systems were based on lots sizes. If approved it may affect requirements relating to septic systems.

MOTION by Commissioner Tronrud to close the public hearing at 7:20 p.m. Commissioner Huttemier seconded the motion. MOTION carried unanimously.

Commissioner Helander stated a lot of people were under the assumption that this property was part of the original Victoria Station subdivision. That is not correct and this proposed subdivision would meet all City Ordinances.

MOTION by Commissioner Tufty to deny Minor Subdivision, 9250 Dellwood Road North, as presented. Commissioner Helander seconded the motion. MOTION carried unanimously.

This item will appear on the regular City Council agenda on Tuesday, June 28, 2022/

PUBLIC HEARING, Consideration of Amended Conditional Use Permit for Victoria Station Boarding Stable and Indoor Riding Arena, 9250 Dellwood Road North – City

Planner Swanson stated the Applicant, Sam Scott, is requesting an Amendment to the existing Conditional Use Permit (CUP) to allow for the subdivision of the subject property. The existing CUP was granted in 1993 to construct and operate a horse boarding stable and indoor riding arena. The CUP was recorded approximately 55-acres of the Applicant's property that includes the primary parcel with the principal structure and accessory buildings, and a port of Outlot A of Victoria Station No. 3. The existing CUP clearly states that no subdivision of the parcel is permitted for the CUP to remain valid because the operations, including number of permitted horses, was based on the full acreage.

In late 2021 the Applicant met with City Staff in a pre-application meeting to discuss the potential minor subdivision of the property and the impact that a subdivision would have on the existing CUP. During the meeting, staff indicated that the CUP would either 1) need to be successfully amended; or 2) would become invalid and must be vacated to allow for the subdivision. During the meeting the Applicant indicated that he currently lives on the property and would like to continue horse boarding activities on that portion of the property that he would retain after a minor subdivision. Given the Applicant's desire to continue operating the horse boarding facilities, the Applicant is seeking an amendment to the CUP to reduce the intensity of the operations and to amend the legal description to except out that area west of Justen Trail.

City Planner Swanson stated a duly noticed public hearing is scheduled for June 8, 2022, and property owners within 1,320-feet were notified of the subject application.

Application Summary

Applicant & Owner: Sam Scott	Site Size: ~59.42 Acres (Gross)
Zoning: A-2, Agricultural Small Scale Land Use: Rural Residential	Request: Amended Conditional Use Permit (CUP)
Address: 9250 Dellwood Road Grant, MN	Location Description and PIDs: PIDs – 1503021310001 and 1503021130002

The Applicant is requesting an amendment to the Conditional Use Permit (CUP) to allow for the minor subdivision of the subject property. Based on the submitted Minor Subdivision Exhibit, the proposed amendment would except out approximately 17.14-acres of the subject property lying west of Justen Trail, leaving approximately 42.28 acres subject to the CUP. As shown on the Minor Subdivision exhibit, there is approximately 59.42 gross acres with approximately 5.04 acres of existing roadway easement area (Note, the existing 1993 CUP is associated with approximately 55-acres which is the area exclusive of the roadway easement area).

The proposed amendment to the 1993 CUP is to:

- Amend the legal description to remove the area west of Justen Trail North (shown and proposed Parcel B and Parcel C on the Attached Minor Subdivision exhibit).
- Amend Condition Number 2 to state that “The 42.28-acre parcel shall not be further subdivided.”
- Amend Condition Number 16 regarding the permitted number of horses proportionately to the ratio established. The existing CUP permitted approximately 1 horse per acre exclusive of roadway easement area, so the total number of horses permitted on site would be amended to allow 39 horses (this is a reduction from the 60 horses permitted in the current permit).

All other conditions of the 1993 CUP would remain valid and are not proposed to be amended as part of this application.

City Planner Swanson advised the City Code addresses amendments to existing CUPs in Section 32-152 that states, “An amended conditional use permit application may be administered in a manner similar to that required for a new conditional use permit...” As such, the Application to amend the CUP is processed accordingly, and the requested amendment is to consider only those portions of the operations and/or facility that are proposed to change. The City Code states the following for consideration when reviewing a Conditional Use Permit (32-141):

“(d) In determining whether or not a conditional use may be allowed, the City will consider the nature of the nearby lands or buildings, the effect upon traffic into and from the premises and on

adjoining roads, and all other relevant factors as the City shall deem reasonable prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.”

(e) If a use is deemed suitable, reasonable conditions may be applied to issuance of a conditional use permit, and a periodic review of said permit may be required.”

The purpose of this amendment is not to consider the use of the property as a horse boarding and indoor riding arena facility since the determination that the use is consistent with the City’s regulations was approved in 1993. This amendment relates specifically to allowing for an amendment to the legal description to reduce the total area associated with the CUP to approximately 38 acres, and to reduce the number of horses permitted on site proportionately to the reduction in acreage.

The subject property is bordered by Dellwood Road N. (Hwy 96) on the south, Jamaca Ave N (CSAH 9) to the west, and Justen Trail N., runs north-to-south through the property. The existing principal structure and all accessory buildings, including an indoor riding arena, are located east of Justen Trail N. There is a large existing pond and/or wetland area located along the eastern edge of the property that extends north onto the area described as Outlot A of the Victoria Station No. 3 Subdivision, and a small wetland area located on the northwest corner of the property adjacent to the CSAH 9 right-of way. The majority of the subject property was not platted as part of the Victoria Station subdivision, and only that portion associated with Outlot A was part of any previous subdivision.

City Planner Swanson stated the site is guided RR – Rural Residential in the City’s adopted Comprehensive Plan. Land within the RR land use designation is generally described as supporting rural residential uses with limited commercial and institutional uses as identified and allowed within the City’s zoning ordinance. The proposed amendment does not change the use of the site for a Horse Boarding and Indoor Riding Arena facility, which is identified as a compatible use within the City’s Comprehensive Plan and supporting Zoning Ordinance.

The Applicant included the Minor Subdivision exhibit as part of the application to demonstrate the proposed area of the subject amendment. As shown on the existing, Parcel B and Parcel C would be excepted or removed from the CUP, and Parcel A would be the only remaining area subject to the CUP. Since the area associated with the permit is reduced, a full review of the dimensional standards based on the reduced area is necessary to ensure that the proposed amendment would not create any new non-conformities.

The following site and zoning requirements in the A-2 district for Horse Boarding facilities is provided. The following review is conducted focusing on Parcel A, which is the area that would be subject to the Amended CUP.

Dimension	Standard	Proposed Lot Configuration
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Minimum Lot Area (requires minimum of 5 acres for horses on property)	5 Acres	~42.28 Acres
Frontage on Improved Public Street	300'	~1,630'
Front Yard Setback (arterials)	150'	~106.6 (existing home)
Side Yard Setback (from street in case of corner lot)	65'	~92'
Side Yard Setback (from interior lot lines)	20'	~1,180'
Rear Yard Setback	50'	~215'
Height of Structure	35'	NA
Accessory Buildings (# and Total SF)	No limit based on acres	5 Existing Buildings + Principal Structure
Wetland Setback Structure (Buffer)	75' (50')	No Change
Impervious surface coverage	50%	5%
Grazable Acres* See discussion below	1 horse per 2 grazable acres, or CUP is required – existing CUP permits 60 horses which is 1 horse per 1.4 grazable	39 (horses per 1.4 grazable acre see analysis below)

Lot Area and Accessory Building Standards

The amended CUP is proposed to include an area approximately 42.28 acres, where the horse boarding and indoor riding operations are currently operating. *As amended, the proposed lot area meets the City's ordinance requirements for minimum lot size.*

All of the improvements, including principal structure, gate house and accessory structures are located on the subject parcel. Section 32-313 establishes that lots containing more than 20 acres do not have a limit on the number of permitted accessory buildings or square footage. *The proposed amended area for the CUP meets the City's requirements for accessory buildings.*

Setbacks

The request to amend the legal description changes the lot configuration and moves the western property boundary from the Jamaca Avenue right-of-way to the west side of the Justen Trail N., roadway easement area. This request corresponds to the requested minor subdivision (see staff report under separate cover for minor subdivision review). As shown on the Minor Subdivision exhibit, the proposed modification of the westerly property line creates a new side yard setbacks for the structures located on the subject parcel since the existing farmstead and

its buildings are accessed from the primary frontage on Dellwood Road North (Hwy 96). The side yard setback of a structure from a street when a corner lot is 65'. As referenced in the minor subdivision, the Applicant has proposed a new westerly lot line that is on the west side of roadway easement, which would encompass the full roadway on the subject property. Regardless of the proposed lot line, which is reviewed within the Minor Subdivision staff report, the side yard setback of structures on a corner is 65-feet from the street right-of-way or easement. The existing indoor riding arena is the closest structure to Justen Trail and is setback approximately 80-feet from Justen Trail.

There are two existing habitable structures on the property – one is the principal structure, and the second is a permitted gatehouse. It is assumed that the gatehouse is the southernmost structure on the subject property and is approximately 1,800 square feet. As shown on the Minor Subdivision exhibit the structure is located within the front yard setback and does not meet the City's code. The encroachment of this structure is an existing condition, and the proposed amendment does not impact or increase the encroachment. Further review regarding this structure is provided in the Minor Subdivision report, but for purposes of this CUP Amendment there is no impact to the existing encroachment.

No new structures or improvements are proposed as part of this request to amend the CUP. ***All existing structures meet the required setbacks from the proposed westerly boundary, and no further encroachments into required yard setbacks is proposed.***

Grazable Acres

The City Code requires 2 acres of grazable land for each horse, and an increase in density is permitted with a CUP. The 1993 CUP permitted a maximum of 60-horse which corresponding to approximately 1 horse per 1.4 acres of grazable land. The proposed amended reduces the acreage of the site by approximately 17.14 acres. If the ratio of horse to grazable acres is maintained then the number of permitted horses must be amended to correspond to the reduced area.

To determine the grazable acres the total parcel area (Parcel A) is adjusted to except the roadway easement areas, the building footprints, and wetland areas. Based on this analysis the total grazable area remaining is approximately 27.67 acres. Using the approved horse ratio from the 1993 CUP, the number of permitted horses on site would be

$$(1.4 \text{ Horses per grazable acre}) \times (27.67 \text{ grazable acres}) = 39 \text{ Horses}$$

Based on the revised area, staff recommends that Condition #16 would be reduced from a maximum of 60 horses to 39 horses, consistent with the methodology performed in the 1993 CUP.

City Planner Swanson noted the City Engineer did not have any comments regarding the proposed amendment since the request to amend is based on the intensity of use, and there are no site or physical improvements proposed.

The proposed amendment reduces the area associated with the CUP and no other alterations are proposed that represent an expansion of the use. Therefore, no other agencies are required to review the request. However, it should be noted that the conditions as established by the 1993 would remain valid, including, but not limited to, maintaining proper approval and licenses from MPCA, Washington County, etc., related to the operation of the boarding facility.

Staff is recommending approval of the Amended CUP with the conditions as noted:

- The legal description must be updated to reflect that the CUP is only recorded against the approved Parcel A configuration. (Note that the subdivision review is provided under separate cover.)
- The Minor Subdivision must be approved, and the accurate legal description provided, for this Amendment to be valid.
- Condition #2 is modified to reflect the approved acreage of Parcel A, depicted as 42.28 acres on the Minor Subdivision exhibit as 42.28, which may be modified based on the recommendation of the Minor Subdivision.
- Condition #16 is modified to permit a maximum of 39 horse.
- Add a condition that any modification or intensification of the proposed use shall require an amendment to the CUP.
- All other conditions noted in the 1993 CUP remain valid and in full force.

Commissioner Tronrud stated he is concerned that the remaining parcel has a higher percentage of wetland and the City should look at that so the use is not intensified. In addition, the non-conforming gatehouse should potentially be removed.

City Planner Swanson stated per the County GIS and information from the City Engineer, all grazable are was calculated. However, a condition of approval could be added that a wetland delineation is done. The gatehouse is not something the City typically sees but they have a right to it per the CUP. The gatehouse has to remain on the same parcel as the main structure. The City would be challenged to limit is use.

MOTION by Commissioner Tufty to open the public hearing a 7:49 p.m. Commissioner Gagliardi seconded the motion. MOTION carried unanimously.

Ms. Anna Schelander, 9144 Justin Trl N, stated putting two CUPs on the property feels wrong. She stated the application is complicated and it should not be approved until subdivision is determined.

Mr. Patrick Beskar, 9255 96th Street, stated it appears the permit assumes Outlot A is together with the main parcel and it is not grazable at all. The grazable acres should be recalculated.

Ms. Laurie Marshall, 9590 Genero Ct. N, stated the application should be denied.

MOTION by Commissioner Tronrud to close the public hearing at 7:52 p.m. Commissioner Tufty seconded the motion. MOTION carried unanimously.

MOTION by Commissioner Tufty to recommend denial as presented. Commissioner Gagliardi seconded the motion. MOTION failed with Commissioner Tronrud, Anderson, Helander and Chair Fritze voting nay.

City Planner Swanson advised a condition of approval could be added along with the wetland delineation requirement, that litigation must be resolved and the road deemed a public roadway prior to any approvals.

MOTION by Commissioner Huttemier to recommend approval as amended. Commissioner Anderson seconded the motion. MOTION carried unanimously.

This item will appear on the regular City Council agenda on Tuesday, June 28, 2022.

PUBLIC HEARING, Consideration of Conditional Use Permit to Process Firewood, 10151 75th Avenue North – City Planner Swanson advised the Applicant, Pete Mogren, Mogren’s Firewood, is requesting a Conditional Use Permit (CUP) on the subject property to allow for the processing and selling of firewood. The use includes cutting and processing firewood that is dried using a large kiln on site. The Site Plan shows the location of the existing building on the property, the stockpile locations for the processing operations and the location of the kiln.

City Planner Swanson noted a duly noticed public hearing is scheduled for June 8, 2022, and property owners within 1,320-feet were notified of the subject application.

Application Summary

Applicant: Pete Mogren, Mogren’s Firewood Owner: Mike Regan	Site Size: 101.5 Acres
Zoning & Land Use: A2 – Agricultural Small Scale	Request: Conditional Use Permit (CUP)

Address: 10151 75 th Avenue North Grant, MN 55082	Location Description and PIDs: PID 26.030.21.33.0001, subject property generally located west of the 75 th Street N and Lake Elmo N intersection
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The Applicant is requesting a CUP on the subject property for the Firewood processing operation. A summary of the proposed use is as follows:

- Cutting and processing the firewood
- Loading and operation of a kiln dryer
- Delivery of firewood
- Occasional customer pick-up
- Year-round operation, with Spring/Summer being the slow season
- Operating hours as detailed below

In the applicant's narrative they describe the operations as being similar to a landscape supply and agricultural use. As described, the operations would occur on site between two and five days a week, with average time per day between six and seven hours. The applicant has indicated that the variation in hours will occur based on whether it is the busy or slow season. (E.g., there is higher demand for firewood during the cold season). In the applicant's narrative, they have indicated that they have purchased an electric processor to replace the current processor to reduce the noise associated with the operations. The new electric processor will be quieter than the current processor and is scheduled to arrive in June 2022.

City Planner Swanson advised the City Code states the following for consideration when reviewing a Conditional Use Permit (32-141):

“(d) In determining whether or not a conditional use may be allowed, the City will consider the nature of the nearby lands or buildings, the effect upon traffic into and from the premises and on adjoining roads, and all other relevant factors as the City shall deem reasonable prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.”

(e) If a use is deemed suitable, reasonable conditions may be applied to issuance of a conditional use permit, and a periodic review of said permit may be required.”

Section 32-245 Table of Uses establishes the list of permitted and conditionally permitted uses in the City. Subsection (b) states, “Uses shall be allowed according to the use table in subsection (c) of this section. When a specific use is not listed, the closest similar listed use shall determine the restrictions and conditions which apply.”

The site is located in the southern portion of the City, which is bordered by Highway 36 on the south. The area is generally used for a mix of agricultural fields and residential uses.

10151 75th Avenue North, PID 26.030.21.33.0001

The parcel is described as being in the Southwest Quarter of Section 26, Township 30 North, Range 21 West. The parcel is approximately 101.5 acres, is fairly regular in shape, and is bordered by 75th Street North on the north. The majority of the site is wooded with a large agricultural field in the central portion of the property.

The site is guided RR/AG – Rural Residential/Agricultural in the City’s adopted Comprehensive Plan. Land within the RR/AG land use designation is generally described as supporting rural residential and agricultural uses with limited non-residential uses that require a CUP. The proposed firewood processing operation is similar to other agricultural and nursery/landscape supply businesses in the City that operate with a CUP. Depending on the conditions established for the firewood processing operations and provided a CUP is obtained, the proposed firewood processing operation could be consistent with the adopted comprehensive plan.

The Applicant submitted a Site Plan for the proposed amendment (See attached Exhibit). The following dimensional review is provided for review and consideration.

The following site and zoning requirements in the A2 district related to the proposed application. The following review is conducted focusing on the submitted site plan.

Dimension	Standard
Minimum Lot Area per non-residential structure (Sec. 32-313(b))	5 Acres, or as per permit
Frontage on an Improved Public Road	300’
Front Yard Setback along Arterials	150’
Side Yard Setback (from street in case of corner lot)	65’
Side Yard Setback (from interior lot lines)	20’
Rear Yard Setback	50’
Height of Structure	35’
Accessory Buildings (# and Total SF)	No limit
Impervious surface coverage	50%
Floor Area Ratio	30%

Proposed Use

The Applicant’s narrative describes the proposed use as a firewood processing operation. Section 32-245 Table of uses does not specifically identify firewood processing operations as a use. As indicated previously, subsection (b) of the Table of Uses states that if a use is not expressly identified on the table, then the most similar use should be considered. The Applicant’s narrative suggests that the most similar type of use is an agricultural and landscape supply type of business. The

proposed use has similarities with both, however, a landscape supply use is also not on the City's table of uses. The proposed use is most similar to the nursery/landscape/hardscape businesses that are currently in operation in the City. All businesses of this type (e.g., Hegberg, Buberl, etc.) operate with a Conditional Use Permit in the A-2 zoning district. As such, staff believes that a CUP is the appropriate permit, if the Planning Commission and City Council determine that the use is similar to other uses permitted in the City and on the Table of Uses.

**Lot Area and
Accessory Building
Standards**

The subject property is approximately 101.5 acres and is used for a non-residential structure. Section 32-313(b) states that the maximum building size is established for a CUP based on the lot size. As identified, there is no limit on maximum total square footage on lots larger than 20 acres.

There is no limit on number of accessory buildings allowed. For non-accessory, non-dwelling structures, the limit is determined as per the permit.

Setbacks

As shown on the Site Plan, the operation is located in the northwest portion of the property. The kiln is located approximately 300' from the westerly property line and 450' from the northerly property line and 75th Street North frontage. The identified processing area is approximately 345' from the eastern property line and 495' from the northerly property line and road frontage.

The existing building on the site is setback approximately 370' from the eastern property line and 540' from the northerly property line.

The identified operations area (with the kiln, stockpiles, loading and processing area and the existing building) is setback approximately 300' from the easterly property line, 360' from the northerly property line and more than 1,500' from both the westerly and southerly property line.

Operations

The hours of operation given in the narrative are as follows:

- Running the wood processor: 8:30 am – 3:00 pm, 1 – 2 days a week
- Loading truck for delivery: Between 8:30 am – 3 pm, 1 – 3 days a week. This includes delivery of firewood so the delivery truck would be loaded 3 – 4 days onsite between these hours.
- The kiln runs consecutively for 36 hours when no one is present onsite.

It is assumed based on the Applicant's narrative that all firewood product will be delivered, and there is no client pick-up from the site. Staff

recommends including a condition that no client pickup is permitted since this would change the onsite needs (e.g., may necessitate the need for improved parking areas, driveways for traffic flow, etc.) Similarly, it is assumed that there will be no onsite retail sales or signage associated with the business since the product will be delivered. Staff recommends a condition that no onsite retail operations are permitted as part of this permit.

Noise

The subject operations were brought to the attention of the City due to a concerned neighbor regarding the noise generated on the Site. The staff investigated the complaint and determined that the operations required a permit to operate. The City's noise standards are established consistent with the MPCA's noise regulations, and all operations must demonstrate compliance with the standards. The applicant has indicated that the new electric processor will be significant quieter than the current processor, however, it is unknown what the noise and/or decibel levels area associated with the operation and if they comply with the noise standards.

Staff recommends discussion by the Planning Commission and with the Applicant at the meeting to understand the noise levels associated with the activities and different equipment. For example, it is assumed that the majority of the noise generated is from the processor, however, it is not clear if the kiln also generates noise. In addition to any conditions that may be brought forward during the meeting, staff would recommend including a condition that all operations must comply with the MPCA's noise standards that set regulations for duration, decibel levels and time of day.

City Planner Swanson noted there are no new buildings or landscaping being proposed as part of this application.

The property is within the Brown's Creek Watershed District, and the Applicant will have to obtain any necessary permits from the Watershed.

Staff is recommending approval of the CUP for the Firewood Processing Operation. The following draft conditions are provided for your review and consideration:

- The activities associated with the firewood processing operation shall be limited to the areas identified on the Site Plan which is attached to the Permit.
- The hours of operation shall be limited to the following:
 - No operations shall be permitted on Sundays

- Running the wood processor: 8:30 am – 3:00 pm, no more than two (2) times per week, limited to Monday through Saturday.
- Loading truck for delivery: 8:30 am – 3 pm, no more than three days a week. (loading and unloading will occur during the designated time period).
- The kiln may run at any time, and the hours of operation are not limited provided all other activities occur during the designated hours.
- All activities on site must comply with the MPCA's noise standards and regulations.
- No exterior lighting of the operations is approved as part of this CUP. Any proposed light may require an amendment to the permit.
- No signage is approved as part of this CUP. Any proposed signage may require an amendment to this permit.
- No retail operations on site are permitted, and no client pick-up is permitted. All firewood must be delivered from the site. If any changes are proposed to the delivery operations an amendment to this permit may be required.

Commissioner Helander stated the definition of Manufacturing may apply to this use.

Commissioner Gagliardi stated Buberul has a wood business as well and he is a neighbor of the property in question. He stated he has seen the operation and do not hear the noise at all. It is different from a sawmill and he is in favor of the use.

MOTION by Council Member Tronrud to open the public hearing at 8:39 p.m. Commissioner Gagliardi seconded the motion. MOTION carried unanimously.

Mr. Corey Mogren, Applicant, stated there is no cutting on the property. All logs get hauled in during the winter. He stated he lives next to Buberul and he has also talked to five neighbors that have no noise concern with the operation. He stated he does not work weekends at all and cutting only occurs one day a week. New equipment has been purchased that will be much quieter. He noted he was told when he started this a CUP was not required. He only delivers the wood and there is no pickup on site.

MOTION by Commissioner Huttemier to close the public hearing at 8:45 p.m. Commissioner Helander seconded the motion. MOTION carried unanimously.

Mr. Mogren continued stating the processor is loud but the muffler points toward the field. The new piece of equipment runs off power so essentially is noiseless. There is a circular 14 inch saw and the logs come from Wisconsin.

Chair Fritze suggested a condition of approval be added to limit operations to weekdays only.

City Planner Swanson advised the MPCA, who regulates noise pollution, has different standards for different uses. The City has to follow MPCA standards and decibel levels.

Commissioner Tronrud stated he is concerned about screening and future problems. The CUP will outline activities similar to a nursery but isn't issued for a nursery.

Commissioner Helander stated he believes the use is industrial and the City does not have an industrial zone. He stated he cannot support this operation.

MOTION by Commissioner Gagliardi to recommend approval based on the outlined conditions and added conditions relating to no operations on Saturday and Sunday. Commissioner Tufty seconded the motion. MOTION carried with Commissioner Helander and Tronrud voting nay.

6. OLD BUSINESS

There was no old business.

7. ADJOURNMENT

MOTION by Commissioner Huttemier to adjourn at 9:05 p.m. Commissioner Tufty seconded the motion. MOTION carried unanimously.

Respectfully submitted,

Kim Points
City Clerk