



*Sherburne County  
Planning Advisory Commission Meeting Minutes  
April 15, 2021  
6:00pm*

The Sherburne County Planning Advisory Committee met in the Board Room at the Sherburne County Government Center in Elk River, Minnesota on April 15, 2021 to hold a public hearing for all unincorporated areas of Sherburne County in which the County has zoning and land use authority, along with the Township of Big Lake, the Township of Baldwin and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Chairperson, Bryan Lawrence called the meeting to order and roll was taken.

The following members were present:

Chair, Bryan Lawrence, Baldwin Township; Vice-Chair, Bruce Aubol, Big Lake Township; Roger Nelson, Blue Hill Township; Lila Spencer, Livonia Township; Steve Demeules, Palmer Township; Bryan Adams, Orrock Township; David Jehoich, Santiago Township; Tim Dolan, County Commissioner

The following staff members were present:

Nancy Riddle, Zoning Administrator; Lynn Waytashek, Assistant Zoning Administrator; Mitch Glines, Planner; Carrie Winter, Secretary; David Roedel, Assistant Public Works Director/Deputy County Engineer

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Lawrence stated that the meeting was being recorded and announced that the Planning Commission is a recommending body. Items recommended for approval by the Planning Commission will be heard by the County Board of Commissioners on May 4, 2021 at 9:00am.

Jehoich made a motion to approve the minutes from the March 18, 2021 Public Hearing. Spencer seconded. Motion carried and the minutes were approved for the March 18, 2021 Public Hearing.

Demeules made a motion to approve the Public Hearing agenda for April 15, 2021. Aubol seconded. Motion carried and the Public Hearing agenda for April 15, 2021 was approved.

**Agenda:**

1. **Merlin Valerius:** Requesting an Interim Use Permit for Mining.
2. **Cantlin Lake Properties LLC:** Requesting a Preliminary and Final Simple Plat approval of Schumacher Acres.
3. **Ryan Boogren:** Request an Interim Use Permit for a Medium Contractor's Yard.
4. **Carol Gordon:** Request an Interim Use Permit for Home Business in an Accessory Building – Antiques and Furniture.

**Agenda Item # 1-6:02pm**

**Merlin Valerius:** Requesting an Interim Use Permit for Mining

PID 30-028-1400, Sec 28, Livonia Township on 41.40 acres in the General Rural District and within the Tributary Stream District of Tibbets Brook

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, attachments, and comments.

**BOARD PACKET ATTACHMENTS:**

- A. 2020 Aerial Photo
- B. Proposed Mining Site Plan
- C. Original Mining Site Plan from 2012 IUP
- D. Written description with Stormwater Plan
- E. Copy of NPDES Permit

**LIVONIA TOWNSHIP COMMENTS** (March 23, 2021) Unanimous to approve the request for IUP the requested amendment allows mining in the area adjacent to the original IUP area; the location preserves trees; yardage removed is the same as the original IUP.

**DEPARTMENT/AGENCY COMMENTS:**

No comments received.

**PLANNING & ZONING STAFF COMMENTS:**

1. In 2012 the applicant obtained an Interim Use Permit for Excavating 10, 000 cubic yards or more. The Applicant started mining the site in 2013 and it was estimated at that time it would take 10 years to complete the project. As the project has progressed the applicant has determined that the previous Mining Site Plan (Packet Attachment C) no longer meets the demands of the project and wishes to modify the plan to abandon Pond C on the south east side of the property. The applicant is now proposing to excavate a third pond on the northwest side of the property (see Packet Attachment B). Staff has no objection to the proposed operation. The applicant is required to obtain a new IUP for Mining as the county no longer has an IUP for Excavating 10, 000 cubic yards or more.
2. Due to the long duration for this project truck traffic has not been an issue. At most the applicant may remove 5 to 15 truckloads a week.
3. The applicant is requesting a new interim use permit to permit excavating in a Type 2 and Type 7 wetland for the peat. The applicant is permitted only to excavate in the wetlands provided the ponds max depth is less than 6ft with undulated bottoms and there are 5 to 1 side slopes. No filling is permitted in the wetland the applicant cannot build a road through

the wetland to access the excavation site. All excavation will need to be done during the winter when the wetland is frozen. All excavation spoils must be immediately removed from the wetland areas.

4. Since 2013, the applicant has maintained a valid Wetland Conservation Act Certificate of Exemption for this project and was most recently extended on in September 2020.
5. The applicant has a valid National Pollution Discharge Elimination System (NPDES) permit from the MN Pollution Control Agency a copy of this permit is part of the record (see Packet Attachment E).
6. If the Board chooses to approve this request the County will need to revoke the 2012 IUP for Excavating 10, 000 cubic yard or more (Permit Number 47768 and Recorded Document Number 747039).

**RECOMMENDED CONDITIONS IF APPROVED:**

1. The applicant agrees to revoke Interim Use Permit Number 47768, Recorded Document Number 747039 for Excavating 10,000 cubic yards or more upon recording the current Interim Use Permit for Mining and pay the separate recording fee of \$46.00.
2. This Interim Use Permit is issued to: Merlin Valerius and shall expire with a change in majority ownership of the business or sale of this property
3. All erosion control measures outlined in the applicants SWPPP must be established and maintained.
4. The days and hours of operation will be Monday – Friday 7:00 AM to 7:00 PM, Saturdays 7:00 AM – 5:00 PM and Sundays, if needed 9:00 AM to 12:00 PM.
5. No excavation allowed outside the designated mining areas identified on Proposed Mining Site Plan, Packet Attachment B.
6. The property owner shall permit the county to inspect the property.
7. The applicant shall comply with all local, state and federal laws.
8. The applicant must maintain a valid Wetland Conservation Act Certificate of Exemption for this project. Failure to maintain this exemption will invalidate the Interim Use Permit.

**Planning Commission Discussion Followed:**

Merlin Valerius, 13986 70<sup>th</sup> St NE, Otsego, came forward as the applicant. He stated that the pond will be the same area (as the current pond). Nothing is changing except for switching up where the pond is, from the woods, down to the grassy area.

Lawrence asked if all of the digging will take place during the winter months.

Valerius confirmed that this is correct. No dirt gets piled, it goes from the machine doing the digging, to a truck that leaves the property.

Lawrence asked if Valerius lives on the site.

Valerius stated that there is no dwelling on the site.

Aubol asked about the blue squares in the attachments and why they looked different in attachment A and attachment B.

Waytashek stated that the property lines are in blue on packet attachment A and packet attachment B is where the digging is happening.

Aubol stated that the pond silhouette on attachment B shows different pond areas.

Waytashek said that this may be because we have aerials from 2018 and from 2020. Attachment A may be from 2018 and attachment B may be from 2020 when more ponds were dug. The newer photos from 2020 have less tree coverage.

Aubol added that it is a noticeable difference, so he wondered if it was a timeline issue.

Glines confirmed that the attachment A is from 2018 and attachment B is from 2020.

Lawrence opened the Public Hearing.

Glines mentioned that a resident from the area had called after receiving their notice and was concerned about the impact on the creek in the area. This resident was assured that this site is at a safe distance. They live down the creek from the site and want to make sure that no sediment would get into the creek. It was explained to this resident that this mine has been operating since 2012, so if it hasn't been seen before, then it won't be seen in the future.

No one from the Public was present for the public hearing. Nelson made a motion to close the Public Hearing. Aubol Seconded. The motion carried and the Public Hearing was closed.

Lawrence asked the applicant if he understood and can abide by the Conditions or if there are changes that should be made.

Valerius confirmed his understanding and stated that he does not need any changes.

Spencer made a motion to recommend approval of the Interim Use Permit (IUP) for Mining with the (8) Conditions as listed. Demeules Seconded.

**Conditions:**

1. The applicant agrees to revoke Interim Use Permit Number 47768, Recorded Document Number 747039 for Excavating 10,000 cubic yards or more upon recording the current Interim Use Permit for Mining and pay the separate recording fee of \$46.00.
2. This Interim Use Permit is issued to: Merlin Valerius and shall expire with a change in majority ownership of the business or sale of this property
3. All erosion control measures outlined in the applicants SWPPP must be established and maintained.

4. The days and hours of operation will be Monday – Friday 7:00 AM to 7:00 PM, Saturdays 7:00 AM – 5:00 PM and Sundays, if needed 9:00 AM to 12:00 PM.
5. No excavation allowed outside the designated mining areas identified on Proposed Mining Site Plan, Packet Attachment B.
6. The property owner shall permit the county to inspect the property.
7. The applicant shall comply with all local, state and federal laws.
8. The applicant must maintain a valid Wetland Conservation Act Certificate of Exemption for this project. Failure to maintain this exemption will invalidate the Interim Use Permit.

**FINDINGS:**

*No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:*

*Glins read the Findings Spencer while provided a response.*

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES** or NO, WHY?

***Yes, the applicant has been mining this property since 2013 and the proposed mining activity will be consistent with past operations which have not generated any complaints or violations of the permit.***

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES** or NO, WHY?

***Yes, the establishment of this permit will not impact development of surrounding vacant properties. The work is temporary and only involves excavating and removing materials from this parcel. This IUP should have no impact on the development of neighboring land.***

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES** or NO, WHY?

***Yes, the site has been mined for peat since 2014 and has demonstrated the property has adequate utilities, access to road, and proper drainage.***

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **YES** or NO, Why?

***Yes, the low volume of truck traffic during the winter months and the adequate space on site for loading and parking.***

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and other lights in such a manner that no disturbance to neighboring properties will result. **YES** or **NO**  
Why?

***Yes, the applicant's past practice and proposal to keep things the same has established that this interim use permit will not create a nuisance to neighboring properties.***

*The motion carried and the Interim Use Permit (IUP) for Mining was unanimously recommended for approval to the County Board with the (8) Conditions and Findings of Fact.*

**Agenda Item # 2-6:11pm**

**Cantlin Lake Properties LLC:** Requesting a Preliminary and Final Simple Plat approval of Schumacher Acres.

PID 15-025-3300 and 15-025-3303 Sec 25 Blue Hill Township 19.55 acres in the General Rural District.

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, attachments, and comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Preliminary Plat (date stamped March 26, 2021)
- C. Final Plat (date stamped March 26, 2021)

**BLUE HILL TOWNSHIP COMMENTS** (April 2, 2021): The Blue Hill Town Board has no concerns with Schumacher Acres Simple Plat. All Driveways access are to a County Road. Blue Hill will need \$150. Escrow money for the house signs when we sign the mylars.

**DEPARTMENT/AGENCY COMMENTS:**

**County Attorney Office:** No comments received.

**Mike Lindenau, Co Ditch Inspector** (March 22, 2021): Does not appear to be on a ditch. No concerns.

**David Roedel, Deputy County Engineer** (March 26, 2021):

- 1. The Sherburne County Public Works Department will require park dedication fees for 2 lots at \$800 per lot, totaling \$1,600. The lot with the existing home does not require Park dedication fees. Park fees must be paid prior to the Public Works Department signing the plat mylars
- 2. All work shall be performed in accordance with applicable State and County standards.
- 3. All other concerns have been addressed with March 26, 2021 revision to Schumacher Acres Preliminary Plat drawing.

**Russ Heiling, County Surveyor** (March 26, 2021): All survey comments have been addressed. Title work will be required to be submitted at final plat review.

**PLANNING & ZONING STAFF COMMENTS:**

- 1. The applicant is proposing to alter two parcels into three. The total acreage of the two existing lots is 19.55 acres. The applicant has proposed two 5-acre lots and one 9.41-acre lot. Each lot meets the minimum lot requirements, but the shared lot line between Lot 2 and 3 has a unique shape. County staff would prefer lot lines that are perpendicular with roads and maintain 90-degree angle, but these lots do meet the requirements of the County Subdivision Ordinance. On March 26, 2021 the surveyor for this subdivision, Craig



Wensmann of Bogart and Pederson responded to staff's concerns stating the proposed lot meets the county's Zoning requirements and was the best layout for the proposed of this plat.

2. There is an existing house on PID 15-025-3303 which currently is being rehabbed the septic system for this house has a passing septic compliance from March 2021.
3. Lots 2 & 3 will share an access to County Road 42. Lot 1 will have a separate access that meets the 330ft spacing requirement in the County's Long-Range Transportation Plan.
4. Koch Pipeline Company has a gas pipeline that runs through all three parcels Easement Document #169061. The developer has stated they have spoken with Koch's Right of Way Agent, Elizabeth Barkley and they agreeable to ingress egress easement across their easement and will provide authorization as needed. Not all lots have the same need to cross the pipeline. Lot 1 has access to the building pad and septic locations without the need to cross the pipeline. There is a 50ft building setback to the edge of the pipeline easement.

**RECOMMENDED CONDITIONS IF APPROVED:**

1. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.
2. The Sherburne County Public Works Department will require park dedication fees for 2 lots at \$800 per lot, totaling \$1,600.
3. An Access Permit will be required prior to the access construction and according to Public Works Engineering Standards.
4. Pipeline Company shall be notified by the applicant of the proposed driveway crossing. The County shall be provided written acknowledgement from the Pipeline Company, that the developer has been given permission to cross their easement along with the driveway specification requirements.

**Planning Commission Discussion Followed:**

Craig Wensmann of Bogart, Pederson & Associates, 13076 1<sup>st</sup> St Becker, came forward as representative of the Plat Application.

Spencer asked about the coal pipeline that goes through this property and asked if the developer is required to inform property owners of the pipeline?

Glines replied that the developer is not required to inform the property owners of this, but they will need to get approval to build. In the Ordinance it states that it must be delineated with signage, where the pipeline is, it could be something that is done because the pipeline is on such a large portion of the property. The County does not inform them, it would be more for the builder or developer to inform of this.

Spencer stated that her concern is that if people are not aware of this pipeline, and something needs to be done on the pipeline, that their yard will get torn up.

Glines stated that it would be nice if the property owners were given a copy of the plat by the developer to know where it is and then the owners know that there is a pipeline easement and to not dig in the area. He stated that this is an invisible easement on the property.

Wensmann stated that permanent markers will be placed on each side of the easement on the lot line to indicate where the easement is.

Dolan stated that these issues will come up in a title search when the property is purchased. The title company, as a part of their policy will notify the buyers of those.

Lawrence asked if the markings on the plat are the County setbacks of 50 ft from the pipeline?

Glines confirmed that this is correct, there is a 50 ft setback from the Right of Way and to the pipeline.

Lawrence asked if the 40,000 sq ft of buildable area per lot is in effect? Has this been approved by County Board and being implemented now?

Glines stated that this has been approved and deferred to Wensmann to address the implementation; he would only see Lot 1 as a potential concern.

Wensmann stated this plat was submitted before that was implemented. Either way, each lot has sufficient area, even with the new standards.

Lawrence added that the minimum buildable area is to be 40,000 sq ft after taking out setbacks and all of that.

Waytashek stated that the plat drawing, under scheduled buildable area shows West of the easement area and East of the Easement area and that they are excluding the areas where there are easements, wetlands or a Right of Way and a 10 ft property line setback. They are excluding these areas and showing that they are able to meet that minimum of 40,000 sq ft on each lot.

Lawrence opened the Public Hearing.

No one from the Public spoke nor were any Public comments received.

Nelson made a motion to close the Public Hearing. Spencer seconded. The motion carried and the Public Hearing was closed.

Nelson made a motion to recommend approval of the Preliminary and Final Simple Plat of Schumacher Acres with the recommended (4) Conditions. Aubol seconded.

**Conditions:**

1. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.
2. The Sherburne County Public Works Department will require park dedication fees for 2 lots at \$800 per lot, totaling \$1,600.
3. An Access Permit will be required prior to the access construction and according to Public Works Engineering Standards.
4. Pipeline Company shall be notified by the applicant of the proposed driveway crossing. The County shall be provided written acknowledgement from the Pipeline Company, that the developer has been given permission to cross their easement along with the driveway specification requirements.

*The motion carried unanimously and the Preliminary and Final Standard Simple Plat of "Schumacher Acres" is recommended for approval to the County Board with the (4) Conditions.*

**Agenda Item # 3-6:20pm**

**Ryan Boogren** (Property owner: Roger & Judith Orluck) Request an Interim Use Permit for a Medium Contractor's Yard.

PID 30-028-4105, 30-027-3205, Address: 12060 239<sup>th</sup> Ave NW Sec 28, Livonia Township on 23.98 acres in the General Rural District

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, attachments, and comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Written Description of Business (1-2)
- C. Building Layout/Site Plan (1-3)
- D. List of Equipment
- E. Proposed Signage
- F. Screening Plan
- G. Security Plan
- H. Noise, dust, odor and erosion control plans (1-2)
- I. Site Photos (1-4)

**LIVONIA TOWNSHIP COMMENTS** (March 24, 2021): Unanimous to approve the request for IUP – Medium Contractor's Yard with the following conditions listed in the Board comments: The Board would require Mr. Boogren to build a berm between the equipment parking area and the wetland to protect the wetland from potential fuel and oil contamination; the driveway and parking areas will be graveled for stabilization; trees/vegetation are to be planted along the road for visual screening.

**DEPARTMENT/AGENCY COMMENTS:**

No comments received.

**PLANNING & ZONING STAFF COMMENTS:**

1. Ryan and April Boogren (Husky Construction, Inc.) are looking to relocate their business from the City of Eden Prairie to Livonia Township. Husky Construction, Inc. is a tree removal, erosion control and restoration contractor that completes projects for cities, counties and MNDOT throughout the state of Minnesota. *The property will also be used for livestock (horses, goats, donkey).* The applicant has a purchase agreement for two parcels totaling 23.98-acres (PID's 30-028-4105, 30-027-3205).
2. There is one structure (11,360 sq. ft.) currently on this parcel, which the front portion (48'x50') will be used to store erosion control materials. The larger portion of the building

(70'x100') will be utilized for storage of materials, equipment and to do any light maintenance on the equipment. Per the applicant, they hire out all oil changes and other fluid activities. An awning (10'x100') on the building will be used to park equipment under. The remaining portion of the building (28' x 70') will be used for the proposed farm purposes. The equipment and trailers will have their set location on the property (see Packet Attachment C-3).

3. A house on the property burned down in 2020. The applicant is proposing to build a modular house on the property during the summer of 2021, but availability has been limited so it could end up getting pushed into the Fall of 2021. That would be their full-time residence during the summer as they usually go out of state during the winter months when they are not working.
4. There is a current septic system located between the existing building and future house site (passed compliance in 2019) on the property. The septic system is currently being used for an existing bathroom in the 48' x 50' portion of the building and will be used for the future house (if sized accordingly). The septic area should be fenced off so no equipment or vehicles are driven or parked over it.
5. There is a private ditch on the property (non-public water).
6. Proposed hours are 7:00 to 5:00pm Monday – Friday, it is anticipated employees' vehicles will be onsite 30 minutes prior and after the working hours, so 6:30am to 5:30pm. Husky Construction's typical working months are April through November, with occasional work during the winter.
7. Currently Husky Construction, Inc has 6 employees per the business plan submitted, but is requesting the maximum of 20 employees to allow for future growth.
8. Currently Husky Construction, Inc. has 16 commercially licensed equipment/vehicles, however they are requesting the maximum of 20 commercially vehicles to allow for future growth (see Packet Attachment D for list of equipment and vehicles).
9. The site plan submitted with the application (see Packet Attachment C) indicates the contractors' yard and proposed gravel parking lot will be located over 400ft. from the Township road. The applicant's site plan complies with the 150ft setback from property lot lines for a contractors yard.
10. The applicant has stated they will build a 3' berm, per the Township's comments, between the vehicles/equipment parking area and the wetlands.
11. Proposed and existing screening (see Packet Attachment F) consist of heavy tree coverage on the east side of the property along with existing and proposed tree coverage along 239<sup>th</sup> Ave NW. New trees are proposed to be at least 6' tall and spaced at least 4' apart.
12. The applicant has provided a noise, dust and odor mitigation plan that will limit backup alarms whenever possible and rock the driveway to reduce dust (see Packet Attachment H-1).
13. The applicant is proposing to have a sign for the business near the Township road and outside of the road right of way (see Packet Attachment E).

**RECOMMENDED CONDITIONS IF APPROVED:**

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1. Use of the property as a Contractor's Yard is limited to the land identified on the site plan in Packet Attachment C-3.
2. All exterior lighting shall be directed away from the public right-of-way or neighboring properties.
3. Exterior storage shall be screened from public view as proposed on the site plan or as necessary to provide adequate screening from public view.
4. This IUP is issued to Ryan and April Boogren and shall expire with a change in majority ownership of the business or sale of this property.
5. The septic area must be fenced off to avoid the equipment or vehicles to be driven or parked over it.
6. Per the Township's comments, a 3' berm must be built between the wetlands and the proposed parking area for the equipment and vehicles. Applicant must work with the Sherburne County Planning and Zoning as to make sure no wetlands are filled.
7. Applicant must follow the "Screening Plan" outlined in Packet Attachment F. The proposed white pine trees along west side of property must be planted at least 5' tall and be spaced at least 30' apart. The proposed arborvitae trees along the driveway must be planted at least 5' tall and be spaced at least 4' apart. The proposed arborvitae trees along the Township Road to fill in the void areas must be planted at least 5' tall. Trees must be planted by June 15, 2021 and maintained for the duration of the permit.
8. Driveway and parking areas must be of durable surface such as gravel to avoid dust and tracking on the streets or erosion to the wetlands/private ditch.
9. The contractor's yard is limited to a total 20 commercially licensed vehicles.
10. There may be no more than 20 employees on this property.
11. Days and hours of operation shall be M-F from 6:30 am to 5:30 pm.
12. The two (2) lots must be combined and the lot combination form must be submitted to the County's Auditor/Treasurer's Office.
13. Any signage shall comply with the sign ordinance and a sign permit is required.
14. The applicant shall allow the County to inspect the property during normal business hours.

**Planning Commission Discussion Followed:**

Waytashek stated that the plans say that Boogren will be building a 16 x 80 three bedroom, one bath in the future. However, this must be an error since the minimum width for a house must be at least 24 ft. She wants to make sure that the applicant knows that he must build a home that is at least 24 ft wide.

Lawrence asked if this needs to be a Condition or if the applicant just needs to be aware?

Glines stated that when the applicant comes in for a building permit, we will make sure that the house meets the minimum size and dimensions.

Ryan Boogren, 3841 Games Drive, Minnetrista, came forward as the applicant. He stated that the township was concerned about adding a berm on the back of the property to catch anything, if anything leaked from a truck, that it wouldn't make its way to a wetland. This has been added. He stated that they are a small, erosion control, tree removal contractor. Many of the guys take their trucks home after work, traffic would be minimal to the site. When they say that 6 people will be coming to the site daily, this may even be high. He tried to take an average and counted himself and his wife in this number.

Lawrence asked if any brush would need to be stored on the property?

Boogren stated that the township was okay with them bringing logs back to the property. They didn't want a lot of brush because brush doesn't look good. They would bring some logs back to convert into firewood. The goal is to bring as little as possible back to the property because then it has to be handled twice. They usually try to hit one of the many dumps around the cities.

Lawrence stated that Princeton has a processing facility, but they are not taking any contractor's brush anymore.

Boogren stated that one of his guys said that there is a landscaper around Elk River. They have been taking all of the trees for a current project.

Dolan asked about the floor of the building that used to be a riding arena, are there plans for paving that arena?

Boogren stated that there are no immediate plans. He would like to build another arena in the future, and he would like to save that material that is in the current arena as there is great sand in there for horse riding. Eventually he would like to concrete it and have a hard floor in there.

Dolan stated that he is concerned about storing machinery and equipment on a pervious surface.

Lawrence asked if Boogren understands and can abide by the Conditions, do these fit his business plan?

Boogren stated, "Yes, Sir."

Lawrence opened the Public Hearing. No one from the Public Spoke.

Glines received a comment from Phil and Lynn George, 12235 239<sup>th</sup> Ave NW, Elk River and read this comment in full into the record. He stated that he did respond with the packet and staff comments.

*How long is this IUP being requested for?*

*Is this temporary or long-term?*

*What type of equipment will be stored in this contractors yard and is it equipment like trailers or does it include equipment that runs off of its own power (ie loaders, semi's, etc) that could possibly damage the bituminous on 239th Avenue?*

*This additional traffic, along with the newly approved indoor storage facility, may very possibly increase the number of accidents at the corner of 169 and 239th Avenue.*

*I brought this concern up to the Board a number of years ago when they wanted to approve heavy equipment access Highway 169 via 239th Avenue from the mining company. This request was denied due to the danger to public traffic in this area. The corner of 169 and 239th Avenue has always been a high accident area due to traffic that does not move over so vehicles can merge onto 169, plus there is a curve and a hill at this intersection increasing difficulty to merge when heading south.*

*We always cringe when we hear another emergency services vehicle (police, fire, helicopter, etc.) at that intersection because of the high number of accidents that have occurred at that location. Some of these accidents have resulted in deaths and serious injuries. You could check with the sheriff's department to verify the high amount of accidents in that area.*

*Livonia Township has replaced the 239th Avenue street sign many times due to the large number of accidents hitting the street sign. The last time they replaced it, they moved it further down 239th to avoid replacing it after each accident.*

*If heavy equipment from the contractors yard will be using 239th Avenue, can we request that they repair any damage they cause to bituminous on 239th Avenue and request from the State of Minnesota that the contractor company storing their equipment at this location pay for acceleration lanes be added to the north and south on 169 to avoid increasing accidents in this area?*

Glines stated that he reached out to MNDOT and their Development Review Committee discussed the IUP request and did not have any specific comments.

Lawrence asked if Glines followed up with the folks who sent the letter?

Glines stated that he did follow up with the Georges today, sending them staff comments and the packet so they can get a good idea and he let them know that their comment would be read into the record. They did reply with:

*Thank you Mitch for sending me the information. I did not see a list of the equipment that they will be using daily, I did see that it would be 20 vehicles. The hours of operation when the*



*employees would be coming and leaving do not concern me, it's the type of equipment that they will be trying to get onto 169 with. Because that corner is a dangerous location, and the traffic in the morning is horrible, I'm concerned about additional accidents.*

Lawrence asked about any restrictions in the future for building additional buildings on this property since it's a contractor's yard.

Glines stated that this depends on what the building is to be used for. If this is different from what was proposed on the site plan as part of the IUP? If this is dramatically different than what is being proposed and recommended for approval tonight, then an amended or new IUP may need to be done.

Lawrence wanted applicant to be aware that there could be additional restrictions for future buildings.

Boogren replied that the property is set up for livestock now in front of the pole barn. He realizes that he would need to go through the building permit process.

Lawrence added that there are certain properties that do not require additional structures to be built and he just wants the applicant to be aware and to have the conversation that this would allow, depending on what it's used for.

Boogren stated that if they did do this, it would solely be for livestock.

Adams made a motion to close the Public Hearing. Nelson seconded. The motion carried and the Public Hearing was closed.

Spencer made a motion to recommend approval of the Interim Use Permit (IUP) for Medium Contractor's Yard with the (14) Conditions. Adams seconded.

**Conditions:**

1. Use of the property as a Contractor's Yard is limited to the land identified on the site plan in Packet Attachment C-3.
2. All exterior lighting shall be directed away from the public right-of-way or neighboring properties.
3. Exterior storage shall be screened from public view as proposed on the site plan or as necessary to provide adequate screening from public view.
4. This IUP is issued to Ryan and April Boogren and shall expire with a change in majority ownership of the business or sale of this property.
5. The septic area must be fenced off to avoid the equipment or vehicles to be driven or parked over it.

6. Per the Township's comments, a 3' berm must be built between the wetlands and the proposed parking area for the equipment and vehicles. Applicant must work with the Sherburne County Planning and Zoning as to make sure no wetlands are filled.
7. Applicant must follow the "Screening Plan" outlined in Packet Attachment F. The proposed white pine trees along west side of property must be planted at least 5' tall and be spaced at least 30' apart. The proposed arborvitae trees along the driveway must be planted at least 5' tall and be spaced at least 4' apart. The proposed arborvitae trees along the Township Road to fill in the void areas must be planted at least 5' tall. Trees must be planted by June 15,2021 and maintained for the duration of the permit.
8. Driveway and parking areas must be of durable surface such as gravel to avoid dust and tracking on the streets or erosion to the wetlands/private ditch.
9. The contractor's yard is limited to a total 20 commercially licensed vehicles.
10. There may be no more than 20 employees on this property.
11. Days and hours of operation shall be M-F from 6:30 am to 5:30 pm.
12. The two (2) lots must be combined and the lot combination form must be submitted to the County's Auditor/Treasurer's Office.
13. Any signage shall comply with the sign ordinance and a sign permit is required.
14. The applicant shall allow the County to inspect the property during normal business hours.

**FINDINGS:**

*No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:*

*Glines read the Findings while Spencer provided a response.*

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES** or **NO**, WHY?

***Yes, the property is currently used for agricultural purposes and a portion of the property will continue to be used for that purpose. The nearest residence is over 460ft away from this proposed business. Existing screening and the requirement to ensure it is maintained should mitigate impact on neighboring properties.***

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES** or **NO**, WHY?

***Yes, the establishment of this Interim Use Permit will not impede the normal and orderly development of surrounding properties. The contractors' yard will meet the setbacks and all performance standards established in the County Zoning Ordinance for a contractors'***

***yard. This property is less than a mile from Hwy 169 so it will be close to highway access and an IUP for mini-storage was just approved in this area.***

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES** or **NO**, **WHY?**

***Yes, the applicant's business does not have a need for special utilities and has adequate land for access and drainage.***

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **YES** or **NO**, **Why?**

***Yes, the contractor's yard is on the 23.98 acres so parking will not be an issue. The applicant has sufficient parking space and will have a class-5 driveway for this business.***

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and other lights in such a manner that no disturbance to neighboring properties will result. **YES** or **NO**, **Why?**

***Yes, the isolation of the business being over 460ft from any residential use along with noise, dust, odor and erosion measures have been taken into consideration. Also, the existing and proposed tree coverage will create screening from neighboring properties.***

Lawrence asked for permission from Spencer who made the motion and Adams who seconded the motion to add for the record that this property is less than a mile from Hwy 169 so it will be close to highway access and an IUP for mini-storage was just approved in this area.

***The motion carried and the Interim Use Permit (IUP) for Medium Contractor's Yard is recommended for approval to the County Board with the (14) Conditions and Findings of Fact.***

**Agenda Item # 4-6:37pm**

**Carol Gordon:** Request for an Interim Use Permit for a Home Business in an Accessory Building (Furniture & Antiques)

PID 35-015-2100 Address: 16885 261<sup>st</sup> Ave NW Sec 14, Orrock Township on 10 acres in the General Rural District

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, attachments, and comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Business Description
- C. Building Layout
- D. Site Plan
- E. Site/Building Photos (1-3)

**ORROCK TOWNSHIP COMMENTS** (March 25, 2021): The Orrock Township board recommends approval of this IUP and has no issues or concerns.

**DEPARTMENT/AGENCY COMMENTS:**

No comments received.

**PLANNING & ZONING STAFF COMMENTS:**

1. The applicant is requesting to operate a furniture and antique store from an existing 30' x 45' building on the property.
2. The store would have one (1) employee that resides at the property.
3. Garbage would be disposed of using their regular garbage hauler.
4. The applicant only uses water-based chemicals to restore the furniture.
5. Hours are proposed to be 10AM – 5PM Friday through Sunday (amended in email dated 3/24/2021 from original request of Friday and Saturday). Business is proposed to be operated year-round. Improvements to the building will be required to make this a year-round business. The building improvements may require building permits and meet commercial codes, if applicable.
6. There are no bathrooms in the building and restrooms will not be available to customers.
7. The applicant agrees that there shall be one sign no more than 12 sq. ft. on the premise.

**RECOMMENDED CONDITIONS IF APPROVED:**

1. The applicant shall comply with all local, state and federal laws.
2. The applicant shall also work with the Fire Marshal to determine capacity for fire code.

3. A building permit is required from the Planning and Zoning Department for any alteration to the existing building and must meet commercial code, if applicable.
4. All unused paint/varnish shall be disposed of properly.
5. The applicant shall have parking for the business area delineated on the property. No parking is allowed on the County Road.
6. Hours are Friday – Sunday 10AM – 5PM.
7. All exterior lighting shall be directed away from the public right-of-way or neighboring properties.
8. All activities must be conducted within the Accessory Building.
9. There may be one non-illuminated sign totaling no more than 12 sq. ft. in size located on the property, but outside of the public right-of-way.
10. The IUP is issued to Michael and Carol Gordon and shall expire with a change in ownership of the property.
11. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the IUP.
12. The property owner shall permit the County to inspect the property during normal business hours.

**Planning Commission Discussion Followed:**

Carol Gordon, 16885 261<sup>st</sup> Ave NW, Big Lake, came forward as the applicant for the IUP.

Lawrence asked if she understood the 12 conditions and is able to meet all 12.

Gordon replied, “Yes.”

Adams asked if the hours of operation are Friday through Sunday or Friday and Sunday?

Gordon replied, “Friday through Sunday.”

Adams clarified, so it’s 3 days?

Gordon replied that originally it was 2 days, but she may move it to a Sunday. She wanted the opportunity to have that.

Glines added that her request was Friday and Saturday with a possible Sunday. Staff advised Gordon that she would need to go through the entire process again if she wanted to add Sunday, so she decided to add Sunday now, but plans on only Friday and Saturday.

Lawrence opened the Public Hearing. No one from the Public Spoke nor were any Public Comments received.

Nelson made a motion to close the Public Hearing. Spencer seconded. The motion carried and the Public Hearing was closed.

Jehoich asked if it should be proposed to have a fire extinguisher in the building for a home business in an accessory building? Adding, we haven't had it before.

Lawrence asked if this would be covered under local, state, and federal law to have fire suppression.

Glines added that it is a Condition to follow state laws and to work with the Fire Marshall. The Fire Marshall or the Local Building Official may state that any use needs to meet Commercial Use. We could make this a Condition.

Jehoich would like this added as Condition #13, to have fire extinguishers available.

Lawrence mentioned that there may be a square footage requirement.

Dolan added that for commercial use the Fire Marshall will dictate what fire equipment is needed on site based on their use. If they are using water based now and if they add certain chemicals, they will require a different set of extinguishers, etc. so this will be covered through the Fire Marshall and Building Code.

Lawrence asked if there is a time and a process when the applicant will be meeting with the Fire Marshall.

Dolan stated it can be added as a Condition.

Lawrence suggested; Fire suppression will be addressed with the fire chief (fire extinguishers).

Adams made a motion to recommend approval of the Interim Use Permit (IUP) for Home Business in an Accessory Building (Furniture and Antiques) with the (13) Conditions. Spencer seconded.

**CONDITIONS:**

1. The applicant shall comply with all local, state and federal laws.
2. The applicant shall also work with the Fire Marshal to determine capacity for fire code.
3. A building permit is required from the Planning and Zoning Department for any alteration to the existing building and must meet commercial code, if applicable.
4. All unused paint/varnish shall be disposed of properly.
5. The applicant shall have parking for the business area delineated on the property. No parking is allowed on the County Road.
6. Hours are Friday – Sunday 10AM – 5PM.

7. All exterior lighting shall be directed away from the public right-of-way or neighboring properties.
8. All activities must be conducted within the Accessory Building.
9. There may be one non-illuminated sign totaling no more than 12 sq. ft. in size located on the property, but outside of the public right-of-way.
10. The IUP is issued to Michael and Carol Gordon and shall expire with a change in ownership of the property.
11. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the IUP.
12. The property owner shall permit the County to inspect the property during normal business hours.
13. Fire suppression to be addressed with the fire chief (fire extinguishers).

***FINDINGS:***

*No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:*

*Glins read the Findings Adams while provided a response.*

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity. **YES** or **NO**, **WHY?**

***Yes, the proposed use is an antiques and furniture store and it is not anticipated to diminish and impair values within the immediate area. All activities will take place within the accessory structure. No additional noise is anticipated.***

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area. **YES** or **NO**, **WHY?**

***Yes, the area is heavily wooded and there are already homes on the adjacent properties.***

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES** or **NO**, **WHY?**

***Yes, the applicant is not requesting additional utilities beyond what a normal residence would require.***

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **YES** or **NO**, **Why?**

***Yes, the applicant has enough parking space to accommodate the proposed use.***

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **YES** or **NO**, Why?

***Yes, it is not anticipated to cause offensive odor, fumes, dust, noise and vibration to the immediate area. All activities will be conducted in the accessory building.***

*The motion carried and the Interim Use Permit (IUP) for Home Business in an Accessory Building (Furniture and Antiques) is recommended to the County Board for approval with the (13) Conditions and Findings of Fact.*

**Closing:**

Nelson made a motion to adjourn the meeting. Demeules seconded. The motion carried and the meeting was adjourned at 6:46pm.

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Submitted by Carrie Winter, Secretary