

Planning Commission Meeting

June 12, 2018

Meeting called to order: 7:00 p.m.

Pledge: Charlene Sims

Minutes were discussed. After discussion, minutes approved with changes.

By: Ed Andersen

Seconded: George Teagarden

Board Members Present: Fred Teagarden, Tate West, David Berglund, Charlene Sims, Ed Andersen, George Teagarden, Richard Morrell, and Fred Kautt

Absent: Melanie Staton and Jo Ernst

Also present: Andy Mayhugh, Jackie Messer, Sheri Loveland

Motion to move CUP 18004 EON Climate & Renewables NA LLC to the end of the agenda per Ed Andersen. Seconded by Charlene. Motion 7-0

Charlene Sims asked the public attending to please state their name and where they were from prior to speaking.

Case #SD18-01. Paul and Barbara Baird were present, son and mother respectively. Paul said that the property in discussion is family property and as such will stay in the family. He mentioned that they don't intend to split the property any further. Barbara said that it was her husband's wish that it stays in the family.

Dave Berglund said he sees 10 ft side yard setbacks but no utility easements in setback. Dave suggested the utility easements need to also be included in the plans. Jimmy Schmitz approached the committee with the survey plans. Jimmy stated the easement request is not a problem. Dave mentioned the utility easements are shown on the front of the property, but the plan does not show utility easements anywhere else around the proposed plan. Dave thinks utility easements should be shown all around the property. Jimmy Schmitz replied that these are 20 acre lots and thought maybe it should not be a problem. Dave suggested the setbacks be set up now so that in the future they are pre-planned. Barbara Baird mentioned that they are already zoned for agriculture and Dave Berglund replied that this is not really the issue. It was agreed that 10' easement on the west side will be changed to 15'. Setbacks on lot 1 and the east line of lot 2 also south building setback lines on lot 1 and also building setback limits on the north end of lot 2 will become utility with building setbacks combined. Andy Mayhugh asked that the change in these lots to be voted on.

Dave Berglund moved to have the changes reflected on the plat. Ed Andersen seconded the motion. All in favor 7-0.

Dave made a motion to accept the plat with changes. Seconded by Tate West. Vote 7-0. County Commissioners will hear this when changes are made and plat is signed.

Case #CUP 18005. Rich Eckert spoke on behalf of Mid-West Materials, LLC. The Cadmus quarry is a Kansas owned and operated quarry. This quarry does everything that quarries do, deliver rock, sell rock etc., Mid-West is asking for a renewal of a 4-year permit that expires in September of this year. Mid-West bought out Wade Quarries last year. This quarry also supplies rock to Miami and Anderson County in Kansas. It is a large regional quarry. Are wanting to talk about an expansion request also which is CUP-18006 and will be discussed after this request. Rich Eckert stated that reclamation is a very big deal to our corp. Mid-West intends to leave the site better than before it was mined. Mid-West is 3-time winner of the Mine Land Reclamation Award. Video was shown of Mid-West Materials, LLC reclamations. Rich stated that Mid-West is compliant with MSHA (Mine Safety and Health Administration). Rich Eckert stated that probably the most hinderance is the blasting. Can assure that the residence surrounding might hear the blast but there will be no property damage. Zoning schemes for mining are usually in an agricultural area of course not in the cities. Traffic safety is an important aspect to Mid-West. There is no parking along K-7 and they try to keep our traffic at a minimal. There is not any excessive lighting at night. If we do operate at night, we use specific lighting to keep the glare down. Ed Andersen asked if explosives will be stored on-site or brought in. Mid-West said that they are brought in and none would be stored on-site. Mid-West has to have a special permit to store them and they have no intentions of storing any explosives.

Staff recommended findings:

- 1) The use of the property as a quarry has existed for many years and quarries are commonly found in agriculture zoning districts.
- 2) The underlying zoning conforms to the character of the neighborhood.
- 3) The property is suitable for use as a quarry.
- 4) The continuation of the use will not detrimentally affect nearby properties.
- 5) There is a public gain to the public welfare by providing rock to this portion of the county.
- 6) The use conforms to the Linn County Comprehensive plan.

Recommended Conditions:

- 1) Quarry shall be operated in conformance with submitted plans and documents.
- 2) Property shall be used as a quarry, asphalt, and concrete plant location.
- 3) Conditional Use Permit shall be valid for a period of ten (10) years.

Charlene Sims asked if anyone wanted to speak against the quarry. No one spoke. Tate asked if we have records of their permits. Andy said he would check to see and if not, Mid-West stated that they will get them to Linn County.

Andy recommended that we approve CUP-18005, renewal of Cadmus Quarry.

Charlene wanted to know the life of the quarry and Rich Eckert said there is no way to truly know. Rich said they do not want to lose the site, so they would like to keep the permits up to date.

The request for CUP-18005 asked that it valid for 10 years. Dave Berglund opposes 10 years, thinks 5 years would be a better time allotment. Richard Morrell replied that is what the Counties guidelines that allow at maximum 10 years. That is why Mid-West has asked for a 10-year extension on the permit.

Charlene stated there have been complaints about the Cadmus Quarry and so she thinks 5 years might be a better solution so that it can be again looked after the 5 years. Dave Berglund stated that the types of complaints we receive are such things as chickens not laying eggs in the surrounding area.

Dave Berglund motions for a 5-year permit. With no additional conditions.

Ed seconded.

Charlene asked for anymore discussion. Richard Morrell wanted to know how long the quarry has been there. Rich Eckert stated it has been there 16 years. Richard asked if the last time it was approved that was that the time of the previous complaints? Dave Berglund said there are no complaints tonight, and that the previous complainants are not here tonight so the problems must have been resolved during the last 5 years. Richard states he doesn't think that 10 years is unreasonable but if the committee believes that 5 is a better decision then 5 years it should be.

7-0 vote approval for the CUP extension of 5 years.

This will be submitted for approval to the County Commissioner on July 2.

Case #CUP-18006, also Mid-West Materials

Dave makes a motion to give them a CUP extension for 5 years also since it's the same issues as were just discussed for CUP-18005.

Charlene Sims asked that in addition the quarries shall provide an environmental assessment. Charlene asked that it is stated that a reclamation plan & environmental plan be sent to the Zoning office of Linn County.

Rich Eckert state that no one can open a quarry without the reclamation plan in place with the state Kansas. Tate said the question is did they meet the requirements of the proposals? Rich Eckert said that they are ultimately responsible if they do not meet the requirements of the Permits. Tate stated that there is no water or wildlife areas surrounding the quarries only a line of trees and so there is nothing in that topic to have to be considered.

Scott Carlson, Assistant Director Division of Conservation for the State of Kansas. Anyone that has questions feel free to call him. He offered his business card to anyone that had any questions about Mid-West Quarries reputation. Scott stated that Mid-West always conforms to the regulations.

Conditions need to be the same as CUP 18005.

Dave Berglund motioned for a 5-year permit renewal. Fred Kautt seconded. All in favor 7-0.

Case # CUP#18004 Charlene Sims asked who was there to speak on behalf of CUP-18004.

Garrett Ketchum EON Climate and Renewables presented himself and his application. Garret stated that EON is asking to put up a meteorological tower to measure wind speeds.

Andy Mayhugh asked if this approved what is maximum amount of time needed to test?

Garrett stated 2-3 years. 1 year is not enough to judge the results.

Charlene asked who was present to speak against the wind test tower.

Bert Peterson from Garnett stood up to speak against. Stated he has lived in area for many generations. He had fought against the Anderson County test tower that was put up and then was vandalized. States that they know what the test towers lead to. Problem is the towers should not be built in the middle of agriculture areas. He has handouts to for others to review and consider the adverse effects of wind towers or test towers.

Jess Kinder spoke about the test towers. He has property in both Anderson and Linn County.

Jess stated that most wind farms are government subsidized.

Charlene Sims stopped this discussion as it was not on test tower but on the actual wind generators. The CUP request is for a test tower at this time.

Jerry Peterson asked what happens if there is not enough wind after the testing is done.

Tammy Veltman stated that it looks as if most attendees are opposed to the towers. It was also noted that many attendees opposed were not from Linn County but rather from Anderson County.

Fred Kautt asked why they chose the site they did. Garrett said that the Blue Mound area has more winds than other areas and that is why it was picked.

Charlene stated that if they do go forward with an application for a wind farm that these people come and attend again. Bert Peterson asked that the Planning Commission do some research into these test towers and that the wind generators have the same adverse effect as the test towers. Asks that the Planning Commission review information on towers before they make a final decision.

Location of test tower legal description: NW ¼ of NE ¼ of SE ¼ of SE ¼ of Section 15, Township 22, Range 22.

Mike White spoke, a Linn County citizen. Wanted to know if the landowner asked for this test tower or did EON ask the landowner. Garrett stated that he is not at liberty to divulge that information. Tammy asked what happens with towers after they are done with them. Brett stated that they take them out and leave the area as pristine as when the tower was placed. Fred Kautt said if anyone wants to see what they look like he has a picture of one.

Another citizen asked how they affect the adjacent landowners. Garrett stated that all data is compiled per satellite. He also stated that the towers are 60 meters or 197 feet tall.

Andy explained that before the actual generators could be installed and used EON would have to go through another complete application process. This is just the test, this does not approve an application of a wind generation farm.

Bert Peterson approached Planning Commission and passed out his research. He stated that sometimes these types of Wind Generation businesses approach elderly landowners and take advantage of these people. Garrett Ketchum stated that their contracts offer free legal counsel to anyone that signs a contract with them and are not happy with the results of the contract and wind farm that they have agreed to. Bert Peterson stated that if you allow even one tower in it leads to more towers coming in afterwards.

Jim Rutherford wanted to know why these people are here if they are not from Linn County? He stated that this is not the same company that had the adverse results at a farm in Anderson County. Jim wants to hear what Garrett with EON has to say, not what a group people from Anderson County are here to say. A citizen from Anderson County stated that they were there as concerned citizens to make sure that Linn County does good research before they decide on allowing Wind Generation.

Bert Pearson wanted to know how much land this will affect. Charlene Sims stated 2.5 acres.

Garrett Ketchum told the audience that EON is company out of Germany, but they have numerous branches throughout the U.S.

Dave made a motion for a 2-year conditional use permit and that after 2 years there will need to further discussion.

Findings:

1. The application conforms to the Linn County Comprehensive Plan.
2. Towers are commonly placed in Agricultural Zoning Districts and therefore conforms to the character of the neighborhood.
3. The application does not change the parcels' Agricultural designation and therefore it matches the zoning of the nearby properties.
4. The temporary placement of this tower will not negatively affect nearby properties to any great extent.
5. This proposal is encouraged by the landowner and is a positive to the public welfare by providing recorded data on existing winds.

Staff recommended conditions:

Time limit of 2 years then tower must be removed or an application for an extension must be filed.

Sign be attached with tower owners contact information.

Comply with any FAA requirements.

The commission was asked why they are even considering this CUP. Dave Berglund stated that there appears to be no harm in doing the testing. In 2 years it will be looked at again. The County needs to go forward into the future and prosperity possibilities for this County.

Garrett stated this process takes about 5 years and so you can't wait if you want to consider going forward with it. Garrett also stated that after 2 years they will come back and if all good perhaps we can go forward if not or it's opposed then apparently, we have wasted our money. EON takes that chance financially in doing this when making these leases.

Dave Berglund stated that since there aren't Linn County people present that are opposed to the test tower that most likely Linn County citizens are not against it.

Dave made a motion to pass the CUP for EON Climate and Renewables with staff's recommended conditions. Seconded by Ed Anderson.

All in favor 5-1, and 1 abstention.

Tate West stated that he voted for it because he feels that each landowner has a right to do with their property what they want.

July 2nd will be the County Commission meeting, do not know the time currently.

No Old business.

Dave Berglund motioned to adjourn. Richard Morrell seconded. Motion passes 7-0