

**Planning Commission  
November 14, 2017  
Linn County Annex**

Members Present: Ed Andersen, John Ballou, Dave Berglund, Fred Kautt, Charlene Sims, George Teagarden, Tate West

Staff Present: Melissa Fund, Jackie Messer, Meghan Swanson, Gary Thompson

Charlene Sims called the meeting to order at 7:00 pm

Fred Kautt led the Pledge of Allegiance

Ed Andersen motioned to approve the minutes of the previous meeting, Fred Kautt seconded, 7-0 vote

**New Business**

**Revocation of CUP 1215368: Kevin Luetjen/Snowhill Rock**

Gary Thompson, County Counselor, advised that the basis of revoking the CUP is for failure to comply with the conditions of the permit- specifically that the quarry obtain and provide copies of all state and federally required permits. Gary spoke with the State and has confirmed that the quarry had not obtained all of the required state permits to operate.

Charlene Sims asked for public comment.

Paul Meyer is the former owner of the property and advised he still holds mineral leases on the property and wanted to know if he would still be able to explore for those materials if the CUP was revoked.

Gary Thompson advised that the CUP and county zoning do not regulate oil/mineral development or drilling- that is strictly a state matter. Gary Thompson advised he could still explore, but he wouldn't be able to run a rock quarry on the property without reapplying for a CUP.

Heath Chalmers represents First Business Bank, which holds the mortgage on the property. He advised foreclosure proceedings are underway and should be complete by January or February of 2018. The bank would like to know what the County's position on the property is, and what will need to be done to continue operating the property as a quarry.

Gary Thompson advised that the new owner would need to apply for a CUP. He doesn't believe that the Planning Commission or the County Commissioners have any objection to a quarry, but want to ensure regulations are followed and proper permits obtained.

Discussion about the current condition of the property, and other quarries in the county.

Tate West asked for clarification on what the permit violations were. Gary Thompson stated that Kevin Luetjen had provided the county with what he represented as completed permits, but that the

paperwork hadn't actually been submitted to the state for approval. Tate West asked how long the quarry had been operational, Paul Meyer advised it was 12-18 months.

Bryan Crouch asked how the county will prevent this problem from occurring in the future, he is also concerned that the reclamation process for the property is followed.

Gary Thompson advised that Meghan Swanson would be responsible for vetting permits in the future.

Charlene Sims asked for clarification on Paul Meyer's position, as the bank owns the land but he has the mineral rights. Paul Meyers advised that he is also a lienholder on the land. He holds the 2<sup>nd</sup> mortgage on the property as an unsecured creditor due to a personal note between the owner and himself.

Paul Meyer advised he had volunteered to clean up the property in order to make it easier for him to sell his adjacent property.

Charlene Sims asked for any other public comment.

Bryan Crouch supports the revocation of the permit, and asks that the county have a more stringent vetting process for any future CUP applications on the property.

Tate West finds that Kevin Luetjen violated conditions 1 and 2 of CUP #1215368 by failing to operate without proper permits and by not submitting the permits to the Planning and Zoning office. Charlene Sims clarified that while permits were provided to the office, they weren't legitimate permits as they were not complete.

Bryan Crouch asked if the county would pursue criminal action against Kevin Luetjen for the fraudulent permits. Gary Thompson advised that he doesn't feel the county can make a case for damages in this instance, and that any criminal charges would need to be brought by the County Attorney.

Bryan Crouch then asked if the physical damage to the property caused by the lack of reclamation would be considered damages. Gary Thompson stated that he is not sure if this is something the county would pursue, or if this would be for the adjacent landowners to pursue.

George Teagarden moved to accept the findings that Kevin Luetjen has failed to comply with conditions 1 and 2 of the conditional use permit and to revoke CUP# 1215368. John Ballou seconded.

Fred Kautt asked for clarification on which bank holds the mortgage on the property, and if there would be public notice of the amount due on the property. Heath Chalmers advised that First Business Bank holds the note, and that the initial bid at the sheriff's sale will be for the amount due on the property. Once the auction is complete there will be a 180 day redemption period before the new owner can take control of the property.

Charlene Sims asked if there was any additional discussion: no discussion, 7-0 vote

Gary Thompson advised there will be a 14 day waiting period before the matter is presented to the County Commissioners to review and make their final action.

Bryan Crouch asked that we notify the surrounding landowners of the final outcome, the staff advised they would do so.

**CUP 17-004: Stonypoint Seed LLC**

Robert Stainbrook advised that he is applying for the CUP to start a retail business selling seed and agriculture chemicals, and provided an overview of the business.

Charlene Sims asked for the size of the largest chemical storage container on the property. Robert advised 260 gallons, and that the spill containment pit would hold at least 360 gallons. Floors will be sloped into the containment pit, and are being built to state/federal requirements or stronger. Robert advised that the state requires the floor have 2000 psi concrete, but they are building to 4000 psi.

John Ballou is concerned that proper storage and handling of chemicals is met at the facility and that provisions are made for employee safety. Robert advised that they are putting in an emergency shower, eyewash stations, etc.

Fred Kautt asked how many employees they plan to hire. Robert advised they currently employ 3 people- he is the general manager, his wife is the bookkeeper, and they have one salesperson. Eventually they plan hire up to 3 salesman and 4-5 delivery drivers.

Ed Andersen asked for the type and amount of materials that would be stored at the facility. Robert advised fertilizers would be direct shipped to the customer, and that the herbicide/pesticide volume would depend on the season/crops/etc. Robert advised they are currently licensed as a Pesticide Dealer in Kansas, Missouri, and Oklahoma.

Charlene asked about the driveway to the facility- Robert advised that they will be graveling the drive to the building, that it will be wide enough for two semis to pass, and will be maintained as needed. Charlene asked if the 1.5 acres listed on the conceptual plan is a sufficient to include the driveway. Meghan Swanson reviewed the conceptual plan with the Board and applicant and will make changes to include the driveway.

Tate West asked if the pad work had been done on the building already, Meghan advised just the gravel was done now, but that a building permit has been issued.

Tate asked if any chemicals/fertilizers will be stored in the application equipment. Robert advised they will not be doing any application work as they have a restricted pesticide use sales license. Robert advised that his father does have application equipment for his own personal farm use, but this is a separate entity, and the business will not be doing any custom application.

George Teagarden asked what type of fertilizers they will be storing on the property. Robert advised they won't be storing any fertilizer, just pesticides.

Ed Andersen asked what would be stored in the silos on the back of the building. Robert advised those would be future storage for soybeans, and would allow them to offer bulk sales and deliveries to farmers.

Charlene Sims asked if the applicant would have any objections to chemical spill regulations being part of the CUP. Robert said they would not and explained they already have a clean-up plan in place, and that this is part of the requirements for their state licensing.

Ed Andersen asked if the Rural Fire Department would be notified of the chemicals on the property, Robert advised they would and that he will supply MSDS sheets to the RFD and will keep updated as needed.

Ed asked where the sign for the business will be located. Robert advised one will be at the corner of the property to direct truck traffic, and they will also have another sign on 2400 Road directing traffic to the business. Robert advised he is also willing to apply dust control to 2400 Road as needed.

Fred Kautt asked about the lagoon on the property. Robert advised it is an existing KDHE approved 3 stage lagoon that has been modified to be the sanitation system for the building. There will be no livestock on the property, the lagoon will be for the building only.

Meghan Swanson presented the revised conceptual plan, which now includes 4.5 acres.

Fred Kautt asked what volume of chemicals will be sold: Robert advised the container size will vary from 2.5 gallon jugs to 260 gallon cubes, depending on the type of chemical being sold.

Charlene Sims asked if the driveway is large enough for semis to turn around on, Robert advised it was.

Tate West asked if chemicals would be sold as packaged, Robert confirmed they will be- he will not be transferring chemicals to smaller containers on site.

Tate asked if there would be any outside storage of totes, Robert advised only empty totes would be stored outside.

Charlene Sims reviewed the staff findings:

1. The proposed use does conform to the character of the neighborhood as well as the acceptable land uses of the County Land Use Map and the Future Land Use Map.
2. The zoning of nearby properties includes Agriculture.
3. Dwelling density is low and will not burden existing infrastructure.
4. Detrimental Change to the nearby properties will be none.
5. The property is occupied.
6. No gain to the public health, safety, and welfare. No diminution in the value of the developer's property.

Charlene Sims reviewed the proposed conditions:

1. Building be constructed to properly contain spills per state requirements.
2. All state and federal regulations be followed and current permits kept on file.
3. The CUP will apply to the 4.5 acre area as listed on the conceptual plan.
4. The Rural Fire Department will be kept updated on the chemicals on the property and advised of any changes.
5. The business will only sell packaged chemicals and no transfer of materials between containers will be done on site.
6. Permit will be valid for 5 years.

Tate West motioned to accept the findings and conditions, Ed Andersen seconded, 7-0 vote.

### **Old Business:**

#### **Review of Zoning Regulations**

Meghan Swanson advised she needs clarification on tiny houses, Jackie Messer advised that question came up at Tanglewood's meeting recently as well. People are bringing in sheds/houses that are less than 600 square feet, which is not allowed by Tanglewood regulations, but nothing prevents this in the county regulations.

Tate West asked if the county issues building permits or occupancy permits. Gary Thompson advised building permits. Tate West feels that requiring an occupancy permit may be a solution to this problem. Gary Thompson advised that we can't do an occupancy permit without building inspections, and we can't do inspections without building codes.

Gary Thompson believes that we could do a foundation requirement, and possibly square footage requirements, without having to enact building codes.

Discussion about issues that have been encountered with structures around the county, and the potential liability they represent to the county.

Gary Thomson talked about the "minimum housing code" that the City of Pleasanton has enacted. Gary Thompson doesn't believe the county is ready to enact building codes or hire a building inspector to enforce them at this time. He does think a minimum housing code would accomplish many of the same goals and could include requirements for minimum square footage, number of exits, foundation standards, etc., but would not be oppressive for citizens or require a full time building inspector.

Discussion about problems that lack of codes can have on the community as a whole, enforcement issues, and the need to protect the investment people make in their property.

Gary Thompson advised that he would like for staff to research the minimum occupancy standards of surrounding areas, he will then draft a resolution to present to the Board and the County Commissioners.

Discussion about seasonal vs. permanent living quarters, modifications being made to pre-manufactured structures, requirements for foundations, etc.

Jackie Messer suggested requiring homes to undergo certain inspections before power can be turned on. Further discussion about building codes. Gary Thompson advised it is possible to have a minimum occupancy standard inspection required before power can be turned on.

Dave Berglund asked if the codes court is working. Gary Thompson advised it has been up and running for about a year, so far it has only handled sewer and nuisance violations.

Tate West asked if there were any abatements through codes court- Gary Thompson advised that codes court is for punishment only, any abatements would be ordered by the County Commissioners.

Gary Thompson advised that the Planning Commission is not involved in abatement process at all. As the codes officer, Meghan Swanson will investigate and provide notice of the violation. She can then bring an abatement order to County Commission to review and approve. Once approved, the abatement will be done by the county or an outside firm, and the homeowner will either be billed directly for the charges or it will be added to their taxes.

Tate West asked if the Planning Commission developed the nuisance codes. Gary Thompson advised the Planning Commission deals with zoning and planning regulations, manufactured homes, and when the County Commissioners are considering changing codes they may ask the Planning Commission for their recommendation. The Planning Commission does not have any enforcement authority.

Tate West feels we want to encourage people to come here and invest in the county, and that we have to be able to guarantee the safety of that investment. Dave Berglund agrees.

Fred Kautt suggests the staff review minimum requirements for the buildings that the state parks allow to be constructed and rented out on a daily/weekly basis, and that we should consider those requirements before we set a hard rule on what the county will allow. Fred feels that there are very small square footage buildings that are just as nice as homes of a larger size, especially those that haven't been maintained.

Charlene Sims feels that is where other minimum standards will come into play, that a square footage minimum itself won't solve the problem.

Further discussion about nuisance and abatements around the county, codes court, etc. Jackie Messer advised the County Commissioners will start getting regular updates on the codes court cases. Tate West recommends adding the length of time a case has been in a certain status in order to identify problems with the system. Jackie advised the newspaper has been asking for this information as well.

Charlene Sims motioned to adjourn, Tate West seconded, 6-0 vote.

