

CHISAGO COUNTY
PLANNING COMMISSION OFFICIAL PROCEEDINGS
October 5, 2023

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, October 5, 2023 at the Chisago County Government Center.

Staff Present: Kurt Schneider, Environmental Services Director; Beth Gervais, Land Services Coordinator; and Nikki Garner, Office Support Specialist.

Chair Yeager called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was taken. Commission members present: Dave Whitney, Chris DuBose, Eric Leivian, Chip Yeager, Jim McCarthy, John Sutcliffe, and Jolene Wille. Absent: None. A quorum was established with all members present. Also present: Ex Officio County Commissioner Rick Greene.

Approval of Agenda – Motion by Sutcliffe to approve the agenda as presented; second by Wille. **Motion passed 7-0.**

Approval of Minutes – Motion by DuBose to approve the September 7, 2023 regular meeting minutes as presented; second by Leivian. **Motion passed 7-0.**

Receive all Materials and Submittals into Record - Motion by Whitney to accept all materials and submittals into the record; second by Sutcliffe. **Motion passed 7-0.** Materials distributed to the Planning Commission in advance of the meeting for their review included staff reports with attachments for agenda items 6a and 6b. Copies of all correspondence and meeting materials were made available for the public.

Public Hearings – New Applications

William & Beverly Payne and Keith Payne – Coordinator Gervais provided a brief background on the request for Interim Use Permit (IUP) allowing a Contracting Business Owned and Operated by Persons Residing at the Property as requested by property owners William & Beverly Payne and applicant Keith Payne, explaining that the proposed business would offer lawn care and landscaping services from the 20.00± acre subject site located at 38575 Kost Trail in Sunrise Township (PID 09.00225.10). Gervais provided detail about the subject site and surrounding area and explained that the Paynes wished to operate a family-owned contracting business, known as Finishing Touch Lawn Care and Landscape, LLC, from their residence, noting that the business was owned and operated by William Payne and Keith Payne (father and son) who both resided on the subject site.

Gervais reviewed details of the application materials. The Paynes employed a total of eight individuals, including seven part-time employees and one full-time employee. Three of these employees currently resided on the subject site and five resided elsewhere. Employees reported to the office / subject site first before going to a job site. The business would operate year-round with hours during spring, summer, and fall being 7:00 am to 9:00 pm with equipment that may be running from 6:00 am to 10:00 pm. Work would rarely occur outside of this time range, with application materials suggesting that it may happen once or twice a year. The business would operate around the clock during the winter, as they would offer snow removal and ice management services. Services offered in the spring included clean-up and removal of yard debris and waste, fertilization and weed control services, and coordination of irrigation

services. Services in the summer would include complete grounds maintenance services, fertilization and weed control services, coordination of irrigation services, and landscape installation/repairs. Services in the fall would include clean-up and removal of yard debris and waste and coordination of irrigation services. The business would offer residential and commercial snow removal and ice management services during winter months. Additionally, the business would offer tree removal and trimming services on an as-needed basis year round.

The main office building, which was currently under construction and was 12' x 28' (336 sf), was located approximately 30' west of the dwelling and immediately north of the employee parking area. A recently constructed 22' x 25' (550 sf) salt bin was located immediately adjacent to the southernmost pole building. One or both pole buildings would be used for off-season equipment storage, equipment maintenance and repair. The site plan showed that all structures were at least 210' and as much as 970' from the nearest property boundary. The employee parking area was 88' x 25' in size and located on the west / southwest side of the dwelling. The equipment parking area was located adjacent to the two pole buildings and could accommodate four pick-up trucks, 2-5 trailers, a bobcat, and occasionally 1-2 lawnmowers.

In terms of screening, the application materials suggested that sloping elevations between the roadway and structures as well as existing vegetation to the north, south and east provided screening to surrounding property owners. The proposed office building would not include sanitary facilities. Instead, the dwelling would be made available for this purpose. Gervais noted that the County Sanitarian had not expressed any concerns with the intent to use the dwelling's sanitary facilities for business purposes and added that the existing septic system – serving the dwelling – was inspected on September 21, 2023 and found to be compliant.

The Technical Review Committee met with applicant Keith Payne on September 13, 2023 and it was revealed to staff that the business had been operating for three years, with employees and equipment for the past 1 ½ years. Gervais noted that the request for IUP was not a result of code enforcement efforts but, rather, the business owners' desire to bring the business into compliance after learning that an IUP was required. The Committee did not identify any other concerns. The Sunrise Town Board considered the request on September 21, 2023 and recommended approval with no conditions. The 60-day review period was scheduled to expire on November 5, 2023.

Gervais concluded by offering a recommendation of approval with draft Findings of Fact and conditions, and reviewed options available to the Planning Commission.

Chair Yeager invited the applicant to address the Planning Commission. Applicant Keith Payne stepped forward and asked for clarification on recommended conditions pertaining to the number of employees and storage of hazardous waste. Payne stated that most of his employees were part-time and were not all scheduled at one time, so it may be difficult to keep the total number of employees to 10. DuBose asked Payne about current and future employee levels and, in response, Payne stated that there were currently nine employees in addition to himself but he envisioned having as many as 15 employees in the future. Whitney suggested that 10 full-time equivalent (FTE) employees may be a better term for employee count. In regard to the storage and generation of hazardous waste, Payne explained that fertilization and weed control services required chemicals that were currently kept in a dry, locked room in a pole shed with a concrete floor.

Chair Yeager opened the public hearing and sought comment.

Richard Berthiaume of 38406 Kost Trail, Sunrise Township stepped forward and expressed concern over pesticide usage and the licensure required to apply pesticides. In response, Payne confirmed that certain employees had the required license.

With no other persons wishing to speak, ***motion*** by DuBose to close the public hearing; second by Sutcliffe. **Motion passed** 7-0.

Chair Yeager asked the Planning Commission if they had any additional questions or comments. DuBose offered that he would be agreeable to a maximum of 15 employees, similar to what was allowed for Major Home Occupations, or 10 FTE. Whitney also offered support for 10 FTE. McCarthy asked for clarification on how the hazardous materials and waste would be disposed of and/or stored. Schneider commented that he believed the business would be storing the hazardous materials on-site to be used elsewhere as needed so there wouldn't be a problem with storing of hazardous waste much like a farmer would store fertilizer and pesticides. There was no required County license but there were best practices for handling.

Motion by DuBose to add a condition requiring that all insecticides and fertilizers and similar materials used for business purposes be stored indoors in accordance with accepted practices and State guidelines; second by Whitney. **Motioned passed** 7-0.

Motion by DuBose to amend the recommended condition pertaining to employees in a manner that would allow up to 10 FTE employees; second by McCarthy. **Motion passed** 7-0.

Whitney sought clarification from the applicant about the method for disposal of debris from tree removal services, explaining that he was concerned about debris accumulation. Payne explained that tree removal service was very limited and typically only included removal of small limbs to allow for ease of landscaping services. Payne added that limbs were either dropped off at a composting site in the metro area or brought back to the subject site and burned.

Motion made by DuBose to add a condition requiring that all wood debris be disposed of off-site within 15 days; second by Whitney. **Motion passed** 7-0.

Motion by McCarthy to add a condition requiring the installation of additional screening on the west side of the equipment parking area between the driveway and the salt shed, with allowable screening options including a privacy fence or a staggered double row of 6'+ tall trees spaced 16-foot on center and meeting or exceeding 75% opacity within three years of the approval date; second by Whitney. **Motion passed** 6-1 (Nays: Leivian).

Motion by Whitney to amend the recommended condition pertaining to hours of operation in a manner that would allow the business to operate 24 hours a day, seven days a week during the winter; second by Wille. **Motion passed** 7-0.

Motion by Whitney to eliminate the recommended condition which prohibited the use of back-up alarms on the subject site; second by DuBose. **Motion passed** 6-1 (Nays: McCarthy).

Motion by DuBose to adopt Resolution No. PC2023-1001, a resolution of the Planning Commission of Chisago County, Minnesota, recommending approval of an Interim Use Permit allowing a Contracting Business Owned and Operated by Persons Residing at the Property on property located at 38575 Kost Trail in Sunrise Township, with Findings of Fact as presented and conditions as amended; second by Leivian. **Motion passed** 7-0.

Conditions as Amended:

1. This Interim Use Permit grants approval for the operation of a lawn care and landscaping Contracting Business Owned and Operated by Persons Residing at the Property, as specifically described in the application materials dated received August 24, 2023 and kept on file with the Department of Environmental Services, except as specifically conditioned herein. No commercial or retail activity, apart from the activities described in the application materials shall be permitted as part of this approval.
2. The Contracting Business shall be allowed to operate Monday through Saturday (no Sundays) year-round with hours of operation being 7:00 am to 9:00 pm during spring, summer, and fall. Equipment may begin warming up on site no earlier than 7:00 am and shall not run on site later than 9:00 pm. Winter hours will vary depending on weather conditions, which means that the business may operate 24 hours a day, seven (7) days a week and equipment may run on site as needed when snow and ice conditions exist.
3. Noise generated from the approved use shall be subject to the Chisago County noise standards. No undue or objectionable noise resulting from said uses shall be transmitted beyond the subject site's property boundaries.
4. To mitigate potential adverse impacts related to noise:
 - a. ~~No back-up alarms shall be utilized on the subject site, including when equipment is used, loaded, or off-loaded.~~
 - b. The permit holder shall maintain existing vegetation (large stands of trees) – and replace dying, dead, or downed vegetation – located between the area of business operations and the surrounding property boundaries.
5. The permit holder shall install screening for the equipment storage area. The screening shall be located on the west side of the equipment storage area extending from the driveway to the salt shed. Allowable screening options include a privacy fence and/or two (2) staggered rows of six foot (6') tall coniferous trees planted no greater than sixteen feet (16') on center which meet or exceed 75% opacity within three (3) years of the approval date.
6. In addition to the business owners, the permit holder may employ up to ten (10) full-time equivalent (FTE) employees.
7. Except for the outdoor parking of equipment (i.e., trucks, trailers, and heavy machinery), there shall be no outdoor storage of lawn care and/or landscaping goods or materials used in conjunction with the approved Contracting Business.
8. Any signage shall be installed in accordance with the Chisago County Zoning Ordinance.
9. No hazardous waste shall be generated or stored on the subject site.
10. Any fuel storage at the subject site shall be in accordance with MPCA regulations.
11. All insecticides and fertilizers and similar materials used for business purposes shall be stored

indoors in accordance with accepted practices and State guidelines.

12. Wood debris shall be disposed of off-site within fifteen (15) days.
13. This Interim Use Permit shall expire at such time that the property is no longer owned and occupied by either William Payne or Keith Payne.
14. Any expansion of the use – including, but not limited to, the construction of new structures used for the Contracting Business, the expansion of the number of employees / hours of operation, or other expansion as determined by the Department of Environmental Services – shall only be allowed upon further review by the Planning Commission and approval by the Board of Commissioners by way of an Interim Use Permit Amendment.
15. Annual certification of the Interim Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Interim Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Interim Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

Mackenzie & Megan Johnston – Gervais provided a brief background on property owners' Mackenzie & Megan Johnston's request for an after-the-fact CUP for Major Home Occupation to operate and expand their business known as East Central Sports on their 23.50± acre property located at 4840 Rush Lake Road / CSAH 1 in Nessel Township (PID 06.00058.00). Gervais provided detail about the subject site and surrounding area. Gervais noted that East Central Sports had a 2,000 sf retail location in downtown North Branch and, according to the website, the business specialized in the sale of ATVs and snowmobiles. The owners of East Central Sports resided at the subject site and used it in conjunction with their business activities.

Gervais reviewed details of the application materials. The Johnstons utilized the subject site as their warehouse storage facility. Products were assembled and stored in the existing 60' x 120' pole building and typically transported to the North Branch location. As part of the CUP request, the property owners were proposing a new 60' x 80' (4,800 sf) structure to be used as a cold storage facility. This structure would warehouse crated and unassembled units. Gervais noted that, while the subject site had a split zoning classification of Rural Residential I (RRI) District and Agricultural (AG) District, the proposed structure would be located entirely within the AG District, as was the existing pole building, where there was no limit on the square footage of accessory structures.

The current hours of operation were Monday through Friday, 9:00 am to 6:00 pm. The Johnstons currently employed two full-time employees and one part-time seasonal employee. Gervais commented that the written narrative later suggested that the Johnstons employed a total of five in addition to themselves and suggested that the Planning Commission seek clarification from the applicants on this matter. The site plans showed that there were five customer parking spaces, three employee parking spaces, and two ADA accessible parking spaces located immediately south of the existing pole building. The plans also showed two truck and trailer parking spaces southwest of the existing pole building / south of the proposed structure. The Johnstons believed that they had sufficient space for all customer and employee parking needs.

The Technical Review Committee met with Mac Johnston on September 13, 2023. Johnston shared with the Committee that the subject site was primarily used for storage and assembly of product, with an average of 2-3 customers per day and 1-2 deliveries per week. Johnston added the proposed structure would not increase the number of customers, employees, or traffic. The County Sanitarian recommended a septic compliance inspection. Gervais noted for the Planning Commission that a septic compliance inspection had been completed prior to the October 5, 2023 Planning Commission meeting. Gervais also commented that the request for CUP was not a result of code enforcement efforts but, rather, the business owners' desire to bring the business into compliance and expand the business by constructing a new structure. The Nessel Town Board considered the request on September 12, 2023, and recommended approval with no conditions. The 60-day review period was scheduled to expire on November 5, 2023.

Gervais concluded by offering a recommendation of approval with draft Findings of Fact and conditions, and reviewed options available to the Planning Commission.

Chair Yeager invited the applicants to address the Planning Commission. Property owners Mac and Megan Johnston came forward. DuBose sought clarification from the applicants on the number of employees and if staff's recommended condition limiting the business to five employees on-site at any given time would be sufficient. Mac Johnston responded that there were two full-time employees and one part-time employee in addition to his wife and himself, and the recommended condition would be sufficient. Whitney questioned the types of motorized equipment that East Central Sports sold, why a customer would go to the subject site to pick up equipment rather than the North Branch location, and if there would be any testing of equipment at the subject site. The Johnstons both answered that they sold ATVs, golf carts, dirt bikes, parts, and basically anything that could be categorized as motorsports; their customers would come to the subject site to pick up a particular order that wasn't at the North Branch location; and, they didn't allow any testing of equipment at either the North Branch or Nessel Township location.

Chair Yeager opened the public hearing and sought comment. No members of the audience were present to speak to this request. **Motion** by Sutcliffe to close the public hearing; second by Wille. **Motion passed 7-0.**

Motion by Whitney to eliminate the recommended condition which prohibited the use of back-up alarms on the subject site; second by DuBose. **Motion passed 7-0.**

Motion by Whitney to add a condition prohibiting an exterior track on site for testing or use of ATVs, snowmobiles, or other types of power equipment; second by Leivian. **Motion passed 7-0.**

Motion by DuBose to adopt Resolution No. PC2023-1002, a resolution of the Planning Commission of Chisago County, Minnesota, recommending approval of a Conditional Use Permit allowing a Major Home Occupation on property located at 4840 Rush Lake Road / CSAH 1 in Nessel Township, with Findings of Fact as presented and conditions as amended; second by Sutcliffe. **Motion passed 7-0.**

Conditions as Amended:

1. This Conditional Use Permit grants approval for a Major Home Occupation involving the use of detached accessory structures, as specifically described in the application materials dated received

August 31, 2023 and kept on file with the Department of Environmental Services, except as specifically conditioned herein.

2. Hours of operation shall be limited to Monday through Friday, 9:00 am to 6:00 pm.
3. The maximum number of employees – in addition to the permit holder – on-site at any given time is five (5). This condition is not intended to prohibit the permit holder from having more than five (5) employees but, rather, to limit the number of employees on-site.
4. Noise generated from the approved use shall be subject to the Chisago County noise standards. No undue or objectionable noise resulting from said uses shall be transmitted beyond the subject site's property boundaries.
5. To mitigate potential adverse impacts related to noise:
 - a. ~~No back-up alarms shall be utilized on the subject site, including when equipment is used, loaded, or off-loaded.~~
 - b. The permit holder shall maintain existing vegetation (large stands of trees) – and replace dying, dead, or downed vegetation – located between the area of business operations and the surrounding property boundaries.
6. The permit holder shall accommodate all customer, employee and delivery parking on-site. No such parking shall be allowed on Rush Lake Road / CSAH 1.
7. The permit holder shall ensure adequate year-round access and parking for emergency vehicles on-site, including space to maneuver/turn vehicles.
8. Any signage shall be installed in accordance with the Chisago County Zoning Ordinance.
9. No hazardous waste shall be generated or stored on the subject site.
10. Any fuel storage at the subject site shall be in accordance with MPCA regulations.
11. There shall be no exterior track on site for customer testing or use of ATVs, snowmobiles, or other types of power equipment.
12. Any expansion of the use – including, but not limited to, the construction of new structures used for the business activity (aside from the one proposed structure included in this request), the expansion of the number of employees / hours of operation, or other expansion as determined by the Department of Environmental Services – shall only be allowed upon further review by the Planning Commission and approval by the Board of Commissioners by way of a Conditional Use Permit Amendment.
13. Annual certification of the Conditional Use Permit is required. The permit holder shall notify the County annually that the activity permitted by the Conditional Use Permit is ongoing and the activities being conducted continue to adhere to the conditions of approval. Failure to maintain certification may be a basis to revoke the Conditional Use Permit. The property shall be made open and available for regular inspection at any time during reasonable hours by the Chisago County Department of Environmental Services and/or any duly authorized law enforcement agency.

Public Hearing – Continued Hearings – None

Old Business – None

New Business – None

William & Beverly Payne and Keith Payne – REVISITED – DuBose shared that he believed the added screening requirement for the Payne IUP request was excessive and suggested that the Planning Commission reconsider the number of trees required. After a lengthy discussion, ***motion*** by DuBose to reconsider the previously adopted motion pertaining to screening by allowing screening options to include either a privacy fence or a single row of 6'+ tall trees planted no greater than 16-foot on center and meeting or exceeding 75% opacity within three years of the approval date; second by Wille. **Motion passed** 4-3 (Ayes: Wille, DuBose, Sutcliffe, and Leivian. Nays: Whitney, McCarthy, and Yeager).

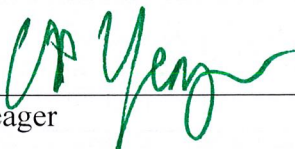
Condition as Amended:

5. The permit holder shall install screening for the equipment storage area. The screening shall be located on the west side of the equipment storage area extending from the driveway to the salt shed. Allowable screening options include a privacy fence and/or two (2) staggered rows one (1) row of six foot (6') tall coniferous trees planted no greater than sixteen feet (16') on center which meet or exceed 75% opacity within three (3) years of the approval date.

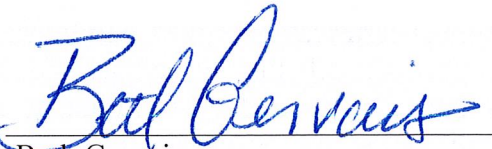
Communications and Reports – County Board Liaison Greene shared that the ribbon cutting for the extension of the Sunrise Prairie trail head in Harris would take place on October 13, 2023 beginning at noon. An Age Well event was scheduled for Friday, October 20, 2023 at the Chisago Lakes High School. A Chisago County Operation Community Connect event was scheduled for Thursday, October 19, 2023 from 11:30 am to 2:00 pm at the North Branch High School. Commissioner Greene also stated that the County's preliminary 2024 budget was down to a 3.34% increase over 2023, with budget efforts continuing.

Miscellaneous – Chair Yeager shared that staff incorporated new language into the draft Findings of Fact prepared for the October 5, 2023 meeting which referenced the Planning Commission's site visit. Being that the draft Findings were prepared in advance of the site visits, Yeager encouraged Commissioners to offer comments or suggested amendments during the regular Planning Commission meetings if they felt it necessary.

Adjourn Meeting – ***Motion*** by DuBose to adjourn the meeting; second by Leivian. **Motion passed** 7-0. The meeting was adjourned at 7:55 p.m.



Chip Yeager
Chair

ATTEST: 

Beth Gervais
Land Services Coordinator