



## REDWOOD COUNTY ENVIRONMENTAL OFFICE

*Planning & Zoning • Parks & Trails • GIS  
Aquatic Invasive Species • Septic Inspector  
Drainage Inspector • Agricultural Inspector*

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### REDWOOD COUNTY PLANNING COMMISSION

#### MINUTES

**Meeting Date: November 26, 2018**

A meeting of the Redwood County Planning Commission convened on Monday, the 26<sup>th</sup> day of November, 2018, at the Redwood County Government Center.

The following members of the Redwood County Planning Commission were present: Mike Kaufenberg, Mike Scheffler, John Rohlik, Jr., Mark Madsen, Jeff Huseby, and Commissioner Dave Forkrud. Also present were the following individuals: Mike Rasmussen, Environmental Director Scott Wold, Land Use & Zoning Supervisor Nick Brozek, and Administrative Assistant Lali Ortega.

At 1:00 p.m. the regularly scheduled November 26<sup>th</sup>, 2018 Redwood County Planning Commission meeting was called to order by Chair Kaufenberg.

Chair Kaufenberg read aloud the rules and procedures of the meeting.

At 1:02 p.m. Chair Kaufenberg called to order a public hearing on application for Conditional Use Permit #14-18 – filed by Alan Eller.

Prior to the Planning Commission meeting, the Planning Commission members were provided an informational packet, which included the following information regarding the matter:

1. Alan Eller is requesting to develop and operate a BBQ restaurant on his property located on the southeast corner of the intersection of US Hwy 19/71 and Noble Avenue, about 1 mile east of the city of Redwood Falls. The property is located in the northwest corner of Section 3, Paxton Township, in the agricultural district. Mr. Eller's dwelling and various outbuildings are located on the property. The property address is 33991 Noble Avenue, Redwood Falls.
2. The restaurant will consist of a 26 foot long by 8 foot wide concession trailer, or "food truck." It will be mobile, but Mr. Eller plans to leave it in place. The site will be accessed via the existing driveway serving Mr. Eller's home. Customer parking (gravel) will be available on the east side of the driveway. Eller hopes to connect the restaurant to the existing electrical service serving the house, as well as the hot and cold water, LP gas, and the existing septic system. The water comes from Mr. Eller's private well located on the site.
3. All food served will be prepared on site in the trailer, which will have a service window for customer orders. All orders will be for take-out or delivery. There will be no dining room or customer seating. Hours of operation will be 11 am through 8 pm, Tuesday through Sunday (see attached business plan for details). Mr. Eller projects that the restaurant will produce gross income of \$1,000 per day.

4. Mr. Eller has years of experience operating a food concession trailer at outdoor events. He also has restaurant management experience, and is ServSafe certified. "ServSafe" is a food and beverage safety training and certificate program administered by the National Restaurant Association and accredited by the American National Standards Institute (ANSI) and the Conference for Food Protection.
5. Advertising for the restaurant will include enlarging and re-facing an existing sign on the property to create an 8' x 8' double-faced advertising sign. This is the largest sign area that is permitted in the agricultural district.
6. The restaurant will be managed and operated by Mr. Eller with one employee.
7. Long term plans for the restaurant are to remodel the existing barn on the property for use as a permanent "brick and mortar" restaurant. Among various state regulations, remodeling that barn as a restaurant would require that Mr. Eller apply for and obtain an additional conditional use permit.
8. The three nearest dwellings to the proposed restaurant are as follows: (1) Tim Hanna, located 300 feet south of the site; (2) Brent & Hope Lang, located 1040 feet east of the site; and (3) Donald Okins, located 1040 feet north of the site. The proposed restaurant site is located adjacent to (just north of) the Oakleigh Farms North Subdivision, which includes 6 single family homes (including the Hanna and Lang residences) and 4 undeveloped residential lots.
9. The site is across Noble Avenue from the proposed location of the new Veterans Cemetery.
10. A copy of the Conditional Use Permit application, maps, plans, and proposed permit conditions are enclosed.

After the public hearing was opened, Brozek stated that the applicant was not present, and that Brozek had not received any word from the applicant and did not know why he wasn't there.

Kaufenberg provided a short summary of the informational packet.

The commissioners asked whether space would be provided for dining on site. Brozek stated that the proposal is for take-out only.

Brozek informed the commissioners that the only public contact received in connection with the application was from MNDOT. Brozek received an email stating that MNDOT did not want the food truck or the business sign to be located in the MNDOT right-of-way (Hwy 71/19). Brozek stated that the food truck, sign, and all proposed activity to be permitted will be on the applicant's building site and not on the right-of-way. Additionally, the site will be accessed via the applicant's existing driveway from Noble Avenue, so no new access is required.

Chair Kaufenberg inquired whether anyone was present to support or oppose the project. No one came forward.

Huseby made a motion to table application for CUP #14-18 until the next scheduled Planning Commission meeting, which is scheduled to take place at 1:00 pm on Monday December 17, 2018. Madsen seconded the motion and it was passed unanimously.

At 1:08 p.m. Chair Kaufenberg called to order a public hearing on Conditional Use Permit #17-17, held by Mike Rasmussen.

Kaufenberg asked Brozek to explain the purpose of the hearing. Brozek made the following statements:

- Rasmussen's Conditional Use Permit requires that he have a reclamation security in place, in the amount of \$30,000, for a term lasting one year beyond the ending date of the permit. In the past he has done this via Irrevocable Letter of Credit.
- Rasmussen's letter of credit for his previous permit, which permit expired at the end of 2017, is still in effect until Dec 31, 2018. However, Rasmussen has not obtained a new letter of credit, or other security, for the new permit term.

Brozek asked Rasmussen to explain his attempts to obtain a letter of credit. Rasmussen made the following statements:

- He uses his excavating equipment as collateral to get the letter of credit.
- His equipment was worth \$30,000 when he first started his project, but now his equipment is worth \$500,000. But the bank still wants all his equipment as collateral.
- He is worried that if he takes out a letter of credit using all his equipment as collateral, he won't be able to use the equipment as collateral for any other loans. In other words, he would have half a million dollars of equipment tied up for a \$30,000 letter of credit.
- On the morning of the day of this Planning Commission meeting, Rasmussen again spoke to Kirby, his banker at Minnwest Bank, and got "the same story as Nick [Brozek] got." Kirby said that if the bank needed to collect on the letter of credit, they would just take \$30,000, not all Mike's equipment.
- He has also been talking to another bank to refinance his house. He believes he has plenty of equity in the house and could use \$30,000 of the equity to finance the reclamation security required by his conditional use permit. However, this process is taking a long time.
- His reclamation project went well over the summer. Made a lot of progress with Duinincks bringing in over 1100 loads of fill. His driveway is now repaired and he is ready to repair Schmidt's property line in the spring of 2019.

Brozek stated that he had also previously spoken with Kirby at Minnwest Bank. Brozek clarified what Rasmussen meant when he said that Kirby told him "the same story as Nick." Kirby explained that using all a contractor's equipment as collateral on a loan is standard bank practice, rather than using specific pieces of equipment as collateral. This allows the contractor to buy and sell equipment without needing to get the banks permission each time. Also, if the bank has to collect from Rasmussen, they would compel him to sell enough equipment to cover the \$30,000, but the rest of the equipment would stay under Rasmussen's ownership. Also, since the "lien" would only be for \$30,000, Rasmussen would be able to offer the remaining equity in his equipment as collateral on additional loans. Rasmussen stated that he had, that morning, requested that the bank provide him this information in writing. According to the bank they can do this within a few days.

Brozek stated that if Mike gets his letter of credit through Minnwest Bank, but later wants to switch to a new bank, or finance a letter of credit through his home equity, that Rasmussen would be allowed to do so. If Brozek receives a new letter of credit, he would release the one from Minnwest.

Kaufenberg asked for staff suggestions as to course of action on Rasmussen's permit. Wold and Brozek stated that there are two options if Rasmussen fails to provide the required reclamation security:

1. To draw on his existing security before it expires on December 31, 2018, and/or
2. To recommend to the County Board of Commissioners that Rasmussen's permit be revoked, which would prevent Rasmussen from using concrete material for his reclamation project.

Rasmussen said another option would be to get rid of the requirement that he have a reclamation security. Brozek pointed out that the Redwood County Zoning Ordinance specifically requires reclamation securities, so in order to get rid of the requirement, the County Board would need to first amend the ordinance.

Rasmussen pointed out that he does have a letter of credit in place, so right now he is in compliance. Brozek responded that Rasmussen is not, in fact, in compliance with his permit conditions because the current letter of credit expires at the end of the year, whereas Rasmussen's permit requires that it remain in effect until December 31, 2028.

Kaufenberg asked what Rasmussen needs to accomplish in order for the project to be considered complete. Brozek replied that Rasmussen would need to complete the construction of the proposed terraces, to shore up the sides of the old clay pit and prevent sloughing.

Rasmussen stated he needs 3 to 5 more years to complete the work.

Brozek stated that once the work is complete and approved by the Environmental Office, the letter of credit can be released.

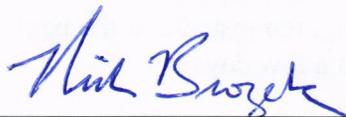
Wold asked the Commissioners is they had any suggested action to take in the event that Rasmussen does not provide a letter of credit by December 15. Mike Scheffler suggested using Friday December 14 as the deadline.

Forkrud stated that the December Board of Commissioner meetings are scheduled for the 11<sup>th</sup>, 18<sup>th</sup>, and 20<sup>th</sup>.

Madsen made a motion to recommend that the County Board of Commissioners revoke Rasmussen's permit if he does not provide the required letter of credit by December 14, 2018. Kaufenberg asked whether revoking the permit was necessary as long as there is still a letter of credit to draw on. After some discussion Madsen amended his motion to recommend that staff draw on Rasmussen's letter of credit prior to the end of the year, in the event that Rasmussen fails to provide a new letter of credit by December 14, 2018. The motion was seconded by Scheffler and passed unanimously.

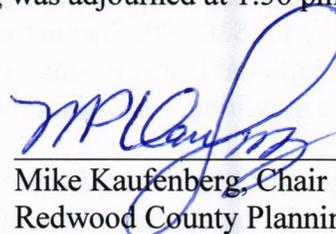
The Commissioners reviewed and discussed the minutes from the August 27<sup>th</sup> Planning Commission meeting. On a motion by Forkrud seconded by Rohlik the minutes from the August 27<sup>th</sup> Planning Commission meeting were unanimously approved as presented.

On a motion by Huseby, seconded by Madsen, the meeting was adjourned at 1:36 pm.



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Nick Brozek  
Land Use & Zoning Supervisor  
Redwood County Environmental Office



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Mike Kaufenberg, Chair  
Redwood County Planning Commission