

**DRAFT**  
**PLANNING COMMISSION MEETING**  
**October 7, 2020, at 7:00 PM**  
**Carlton County Transportation Building**

(1) Chairperson Ezell called the meeting to order at 7:01 PM.

Members Present: Jack Ezell, Jim Gottschald, Byron Kuster, Sam Huhta, Dennis Lundin, Erik Abrahamson and Keith Depre

Members Absent: None

Ex Officio Members Present: Commissioner Mark Thell and Heather Cunningham

Ex Officio Member Absent: None

(2) Motion by Abrahamson, seconded by Lundin, and supported by all yeas votes to approve the minutes of the August 5, 2020, meeting.

(3) The public hearing was called to order at 7:02 PM.

(4) Chairperson Ezell read a statement that legal ads were sent to the two legal newspapers. The Star Gazette ad was sent on September 17, 2020, and published September 24, 2020. The Pine Knot ad was sent on September 17, 2020, and published on September 25, 2020.

(5) Chairperson Ezell read statements regarding Findings of Fact and Finality of Decisions. Statements regarding Findings of Fact and Finality of Decisions were placed on the projector screen.

(6) Permit Requests:

**(A) Interim Use Permit #420004**

Alex R. Omar of 2351 Bromfield Road, Carlton, MN 55718, represented by Precision Pipeline, LLC (Mitch Repka of 3314 56<sup>th</sup> Street, Eau Claire, WI 54703 and Rachel Johnson of 1409 Hammond Avenue, Suite 114, Superior, WI 54880), has requested a Conditional/Interim Use Permit for a temporary contractor construction yard to support Enbridge Energy Line 3. The subject property is described as Part of the Northeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  and Part of the Southeast  $\frac{1}{4}$  of the Northeast  $\frac{1}{4}$  all in Section 35, Township 48 North, Range 18 West in Atkinson Township. The property addresses are 2323 and 2351 Bromfield Road, respectively (PIN 33-022-9160 and 9240).

Mitch Repka, Rachel Johnson and Alex Omar were present to represent the request. Chairperson Ezell read the description of the request from the legal ad and asked the representatives to expound on the request.

Repka indicated the subject property is two parcels owned by Alex Omar. Precision Pipeline would like to use the property as a laydown yard and equipment and material storage yard. They would like the flexibility to be able to have office trailers. The purpose of the project is for Line 3. Repka requested a sunset date of December 31, 2023, for the proposed use. During the construction of Line 3, they would like to use the yard 24 hours a day, seven days a week to support winter activities and winter construction. During the winter, they drive the frost down in the construction right-of-way.

Johnson indicated the access points as depicted on the maps will be finalized next week in a meeting with the township.

Repka indicated they have completed the necessary environmental surveys, the wetlands are noted on the maps and have also completed a cultural survey. The Stormwater Pollution Prevention Plan (SWPPP) will be submitted soon.

Chairman Ezell asked about the crossing of the DNR trail. Johnson indicated that she has been in communication with Cunningham. The DNR will be providing the signage and they will be mindful of the crossing.

Kuster asked about what welding activities would take place on the subject property. Repka indicated it would mostly be equipment repairs. He didn't want to leave out the possibility of pipe fabrication.

Chairman Ezell remarked that no one except for the representatives were present at the public hearing. He asked if anyone spoke to the neighbors. Omar indicated everyone seems fine with the project. There is a pipeline replacement project towards the end of the road and the neighborhood is used to construction. Johnson indicated Enbridge did outreach as well.

Kuster asked what type and capacity of fuel tanks would be used on the property. Repka indicated they hire a third party. The tanks will have secondary containment and no more than 250 gallon capacity. The third party completes all the necessary permitting.

Chairman Ezell asked if there were any questions from the Planning Commission. There were none.

Chairman Ezell summarized the development review submitted by Zoning Administrator Cunningham dated September 30, 2020.

Chairman Ezell asked the representatives if they understood and agreed to the conditions. Repka indicated yes.

Gottschald asked the Planning Commission about the wording of the sunset condition used for the pipe storage yard permitted at the last meeting for Omar Sand and Gravel. Cunningham passed around a statement with the sunset condition used for that permit to each Planning Commission member and the representatives. Gottschald asked if this condition would work for this project. Repka indicated no, this yard would be used during the decommission of the existing line which will be completed after the new line is mechanically completed. Commissioner Thell asked the representatives how and where the decommissioned line would be disposed of. Repka indicated that would be a question for Enbridge.

Cunningham played the development review video and the representatives and Cunningham narrated.

Gottschald asked where the fencing would be placed. Repka pointed out the location on the map attached to the application.

Chairperson Ezell asked if there were any other comments or questions. There were none.

(7) As there were no additional questions, Chairman Ezell closed the public hearing at 7:33 PM. The Planning Commission deliberated the conditional/interim use application as part of the Planning Commission meeting. During deliberations, it was decided to add a condition relating to the additional permitting that will likely be required from local, state and federal entities.

**(A) Interim Use Permit #420004**

Motion by Depre, seconded by Gottschald, and supported by yea votes to recommend approval of Interim Use Permit #420004 to the County Board in accordance with the findings of fact and approved by the Planning Commission with eight conditions, as follows:

IS THE USE REQUESTED TEMPORARY?

Yes. The application indicates that the request is temporary. Clarification is needed on the term of this request.

IS THE USE OWNER SPECIFIC?

No. The use should not be considered owner specific as indicated on the application.

DOES THE USE LACK SPECIFIC EXISTING OR NEW INFRASTRUCTURE?

No. According to the application, the use includes existing or new infrastructure.

IF YOU ANSWER ANY OF THE ABOVE QUESTIONS YES, CONSIDER PROCESSING AS IUP. PLEASE DESCRIBE WHY THE USE SHOULD BE CONSIDERED AN IUP OR CUP: This office recommends that the use is processed as an interim use. A date should be set by the Planning Commission for this use to sunset (December 31, 2023).

**FINDINGS OF FACT:**

1. IS THE CONDITIONAL OR INTERIM USE SPECIFICALLY LISTED IN THE ZONING DISTRICT IN WHICH THE PROPERTY LIES? No. Article 4, Section 5, Subdivision B of Carlton County Ordinance #27 does not specifically list temporary contractor construction yard as a permitted or conditional/interim use.

*If the answer is no, you must make the following findings:*

A.) THE USE IS SIMILAR IN NATURE TO OTHER USES LISTED IN THE SAME ZONING DISTRICT. WHY OR WHY NOT? Yes. Permanent forest processing activities, including sawmills, debarking and chipping facilities and yarding areas are listed as conditional/interim uses in Zoning Districts A-2. These activities would be similar in nature as they could potentially create nuisance noise, dust, vibration and traffic concerns. Also listed as a conditional/interim use is a regional pipeline.

B.) THE PROPOSED USE DOES NOT CREATE A GREATER POTENTIAL FOR IMPACTS THAN OTHER USES LISTED THAT CANNOT BE MITIGATED WITH APPROPRIATE CONDITIONS. WHY OR WHY NOT? Yes, if the use is temporary. The proposed use and any potential impacts could be mitigated with appropriate conditions, as detailed below. The request to operate 24 hours per day, seven days a week could be mitigated with lighting and noise restrictions.

C.) IS THE PROPOSED USE COMPATIBLE WITH ADJACENT LAND USES? WHY OR WHY NOT? Yes, if the use is temporary. Adjacent land uses appear to be residential and agricultural. There are several residences located across Bromfield Road in in the viewshed of the proposed use. Potential impacts to these residences need to be mitigated with conditions related to noise, dust and lighting.

D.) THE PROPOSED USE IS CONSISTENT WITH THE CARLTON COUNTY COMPREHENSIVE PLAN OR THE INTENT OF THE ORDINANCE. WHY OR WHY NOT? Yes. The request does not appear to be in conflict with the intent of the Carlton County Comprehensive Plan or Carlton County Zoning Ordinance #27. The Highway 61 corridor has a historical use for light industrial.

*If the answer to 1 is yes or if A – D are all yes, proceed to question 2. If not, the request should not be approved.*

2. THE USE WILL NOT BE INJURIOUS TO THE USE AND ENJOYMENT OF PROPERTY IN THE IMMEDIATE VICINITY FOR THE PURPOSE ALREADY PERMITTED NOR

SUBSTANTIALLY DIMINISH AND IMPAIR PROPERTY VALUES. Yes, if the use is temporary. The use of the property as a temporary contractor construction yard could be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted if conditions are not imposed or if the use were permanent. Property values within immediate vicinity should not be substantially diminished as the proposed use is temporary. Potential impacts need to be mitigated with conditions and a sunset date for the use.

3. THE ESTABLISHMENT OF THIS USE WILL NOT IMPEDE NORMAL AND ORDERLY DEVELOPMENT AND IMPROVEMENT OF SURROUNDING VACANT PROPERTY FOR USES PREDOMINANT IN THE AREA. Yes. The establishment of the interim use should not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area as long as appropriate conditions are placed on this use as described and includes a sunset date.
4. ADEQUATE UTILITIES, ACCESS ROADS, DRAINAGE AND OTHER NECESSARY FACILITIES HAVE BEEN OR ARE BEING PROVIDED. Yes. It appears that adequate utilities, access roads and drainage have been or are being provided.
5. ADEQUATE OFF STREET PARKING IS OR WILL BE PROVIDED. Yes. No parking will be allowed on Highway 61, Bromfield Road or the Willard Munger Trail.
6. ADEQUATE MEASURES HAVE BEEN OR WILL BE TAKEN TO PREVENT OR CONTROL OFFENSIVE ODOR, FUMES, DUST, NOISE AND VIBRATION SO THAT NONE OF THESE CONSTITUTE A NUISANCE. Yes. The applicant shall comply with any requirements of the DNR or Atkinson Township regarding traffic and dust control. A condition has been developed for noise compliance monitoring with audits to measure and take corrective action.
7. ADEQUATE CONTROL OF LIGHTED SIGNS AND OTHER LIGHTS IS PROVIDED SO THAT A DISTURBANCE TO NEIGHBORING PROPERTIES WILL NOT RESULT. Yes. A condition has been developed to control lights so that a disturbance to the neighboring properties will not result.

#### **CONDITIONS:**

1. The application is processed as an Interim Use Permit. The use as a contractor construction yard shall terminate by December 31, 2023.
2. The applicant must undertake the project according to the plans and specifications submitted to the County with the application or as modified by Carlton County.
3. The permit will be periodically reviewed by the County to assure compliance with the permit and permit conditions. The permit may be modified or revoked if the permittee violates one or more of the conditions of the permit.
4. The County may enter onto the premises at reasonable times and in a reasonable manner to insure the permit holder is in compliance with the conditions and all other applicable statutes, rules, and ordinance.
5. Lighting shall be directed away from neighboring properties so as not to be a nuisance.
6. The applicant shall comply with any requirements of the Carlton County Transportation Department, Atkinson Township and the Minnesota Department of Natural Resources (DNR) regarding traffic, dust control and signage. This includes any road repairs required above and beyond typical road maintenance completed by the County, Township or DNR.

7. The noise generated from the use shall not exceed the standards set forth by the Minnesota Pollution Control Agency (MPCA) in Minnesota Rules Chapter 7030. The applicant shall be responsible for the hiring of a qualified consultant to test for compliance of the aforementioned Rule during the first month of operation and if and when a signed, written complaint has been received by the Zoning and Environmental Services Office from a property owner within 0.25 mile of the subject property. The test results shall be filed with the Zoning and Environmental Services Office.
8. The applicant must comply with all other applicable Federal, State and Local rules and regulations.
- (8) Old Business: None
- (9) Other Business: None
- (10) Motion by Abrahamson, seconded by Kuster, and supported by yea votes to adjourn the meeting.

Respectfully submitted,

Heather Cunningham  
Zoning and Environmental Services Administrator  
Recording Secretary