

CARVER COUNTY PLANNING COMMISSION
Regular Meeting – July 19, 2022
Minutes

Members Present: Scott Wakefield, Scott Hoese, Frank Mendez, Roger Storms, Matt Kerber, John P Fahey

Members Late: Greg Grazzini (arriving at 7:32 p.m.)

Members Absent: None

Staff Present: Jason Mielke, Donovan Hart, Christina Neel, Laura Jaunich, Matt Steele

Pursuant to due call and published notice thereof, the July 19, 2022, regular meeting of the Carver County Planning Commission was called to order by Chairman Wakefield at 7:00 p.m.

Chairman Wakefield conducted roll call which showed six board members present, with Grazzini absent. Mr. Grazzini had notified staff that he would not be available at 7:00 p.m. but arriving later.

Agenda – Chairman Wakefield called for any changes to the agenda or a motion to approve. A motion was made by Hoese to approve the agenda as printed. Mendez seconded the motion. All voted aye. Motion carried. The agenda was approved as printed.

Minutes – A motion was made by Fahey and seconded by Mendez to approve the minutes from the June 21, 2022, regular meeting. All voted aye. Motion carried.

File #PZ20220024 – ScreamTown – Chairman Wakefield called the continued public hearing to order at 7:01 p.m. to consider a request by Mitch Michaelson. The purpose of the public hearing was to consider a request for an amendment to a CUP for a Large-Scale Activity (Recreational) pursuant to Chapter 152 of the County Code. The property is in Section 9 of Dahlgren Township.

The following were present: Mitch Michaelson, Matt Dunn, Brian Gennrich, Matt Udermann, Theresa Mieseler, Jim Mieseler, Michele Imdieke, Beva Steinberg, Tom Goodrum, Karin Johnson, Tom Johnson, Joann Schindler, Jane Herget, Randy Herget, Richard Licht, Rick Gorra, Amanda Gorra

The following items were entered into the record:

Exhibit H – Staff Report addressed to the Planning Commission and Dahlgren Township dated July 12, 2022, and all attachments

Exhibit I – Petition signature page submitted

Exhibit J – Two emails from Matt Dunn

Exhibit K – One email from staff to the applicant team

Hart stated this public hearing is continued from June 21st and a 60-day letter has been sent to the applicant to extend the review period for this request as allowed by Statute. Staff reviewed meeting notes and compiled a list of concerns to address the additional information sought by the Planning Commission. Hart reviewed each item on the listing, stating the concern and the applicant's response to it as printed in the packet on pages 2-4 through 2-6. Hart stated there have been discussions between the applicant and staff concerning these issues and he noted one correction to a condition; namely, Condition #4 concerning setbacks. The correct distance a structure must maintain from a property line is 15-feet according to the Zoning Code. This is not a negotiable distance through the issuance of a CUP. Hart suggested language that indicated all operational areas and parking areas maintain an 8-foot setback from a property line, with a 10-foot setback for the access road. He clarified that the 8-foot setback would also include the freight stages.

The applicants had no additional comments at this time.

Chairman Wakefield then allowed for public comments concerning this request.

Mark Willems, 9310 150th St, stated he has seen all of the applications for Scream Town because he served on the Township board and also the Planning Commission in the past. He stated there have been noise issues at the site and he felt that increasing the attendance numbers from 600 to 2500 would also exponentially increase the noise nuisance. He asked that the language for extending the hours of operation 'due to weather or unforeseen incidents' is too vague and should be better defined. He stated the current hours of operation end at 11:00 and felt that all guests should be gone by that time and the only people around should be employees working quietly while cleaning up. He also stated the use of 'flex days' is vague on the specific qualifications for their use, stating this attraction has been weather-dependent from the start, but wasn't sure if the weather had ever affected their operating hours. He stated that application for the appropriate permits should have been submitted prior to the road work being conducted. He stated it seemed that some of the permits with the Planning & Water department had still not been issued. The statement regarding dust control also seemed vague. He asked who would make the determination on these vague issues if the parameters were not specific. In reference to the Zoning Code, Chapter 152.251(B), *'The conditional or interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.'*, he stated that one of the neighbors leaves her house when this event is happening to avoid the nuisance. He doubted some information that he had read on the website concerning an A+ safety rating and that professional security is provided. He reviewed the original CUP and felt there were discrepancies with the proposed activity and the actual events on the property, noting that the original application proposed a corn maze and family-friendly activities. He reiterated his concerns about clarifying vague issues. Mr. Willems also expressed concern with serving alcohol at this event, stating that was never mentioned in the original CUP.

Tom Johnson, 7575 Mellgren Ln, expressed concerns with the noise level. He stated the applicants feel the noise isn't an issue and have conducted sound tests which indicate the noise level is within acceptable limits. He stated the noise they hear while sitting outside or having windows open isn't much louder than a radio playing, but the type of noise is screaming, which is very disturbing while visiting with friends. He noted the leaves on the trees help to mitigate

the sound, but when they fall off later in the season, the noise level increases. He also mentioned the statement ‘... *will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted*’ and claims it is very disruptive to the enjoyment of their property. He also noted the original CUP application and the request for agri-tourism with corn mazes, etc. has never been developed. The current activity is far from that request and he felt the business should be dissolved.

Theresa Mieseler, 7777 Hwy 212, cited the petition which was included with the packet for this meeting was signed by 22 people, which she felt was powerful to indicate how the neighboring residents feel about this activity. She read a letter received July 19th from a neighbor at 12710 Laurie Ln expressing concern about trash strewn on or near her property, which happens during the time that Scream Town is in operating.

Tom Goodrum, 9841 Xerxes Crv, is a Land Use planning consultant with a background in County, City and Regional planning. He was hired by Scream Town when they did their initial traffic management plan with MnDOT fourteen years ago and worked with them through the process. He was contacted by them again concerning the reconstruction of Hwy 212 and how that would affect their operation. When he met with them about changes to the access, the conversation also led to the overall operation and the changes they have experienced over the past fourteen years. He stated Mr. Dunn talked about the importance of flexibility. He noted that any CUP has the potential to change the character of a neighborhood. Trying to define every ‘unknown circumstance’ would be impossible to do and therefore, the request includes the flexibility to work around unforeseen issues. He asked the board to allow for transparency open dialogue in the request for the amendments, recognizing that there will be times when some flexibility is necessary to meet the circumstances. He cited examples of flexibility with the days and hours of operation. He stated in the conversations with staff, the proposed conditions have been developed to the satisfaction of the applicants, with are reasonable. He reiterated the three main points of the amendments are to be transparent to the neighborhood, flexible to the activity on the site, and to improve the site with the improvements to Hwy 212.

Michele Imdieke, 2710 Shadow Wood Ct, is the owner of Sticks Tavern at Dahlgreen Golf Course and has an agreement with Mr. Dunn to provide beer and seltzers for Scream Town under their liquor license. She wanted to clarify that there is no liquor sold and the beer and seltzers are sold responsibly.

Beva Steinberg, 5708 Yates Av N, works for Mr. Dunn at Scream Town as a supervisor who wears a radio at all times on the grounds. She stated some people who arrive have been drinking outside of Scream Town, before they arrive. The on-site security is well-trained and are available when needed to respond to anyone who is misbehaving. Security will act in a professional manner to ask the guests to leave, and they are not allowed to re-enter that evening. All guests who purchase a ticket are allowed to go through the exhibits and nearing closing time, they are asked to reduce the noise level. They are aware there are neighbors and they try to maintain a low level of noise, especially near closing time.

Brian Gennrich, Dahlgren Township supervisor, stated at the July 11th meeting, the Town Board gave everyone a chance to voice their concerns and he felt the meeting was conducted in an

orderly fashion. After hearing the residents' comments, Dahlgren Town Board would propose that the hours of operation remain from 5:30 p.m. to 11:00 p.m. The Town Board did not have any recommendation about the policing issue, stating they would leave that up to the Sheriff's Department. The Town Board was satisfied with dissolving the need to regulate the average number of daily patrons at the site. Their recommendation on the 'flex days' was that Scream Town would be allowed to operate a total of 21 days, with the option of 3 'flex days' and the ending time on those flex days would be 10:00 p.m. The site shall not operate longer than 4 consecutive days at any one time. Mr. Gennrich stated the request had been reviewed at their June meeting with only 2 supervisors in attendance. He stated that one of the supervisors has resigned, so the July meeting also had only 2 supervisors in attendance. He noted that the 2 supervisors in attendance had voted alike and if the third supervisor had voice a different opinion, the result would have been a 2-1 vote with these results.

Chairman Wakefield asked if any Planning Commission member had questions for the Township.

Kerber asked about the Township recommendation from the June 13th meeting which stated the car count and guest capacity limits were approved to be lifted, did they suggest any restriction, or were they going to defer to the request of the applicant.

Mr. Gennrich explained that they felt there was adequate parking on site for the guests and the highway improvements allowing a right-in/right-out access would improve the traffic safety.

Mitch Michaelson responded that their request was to have those numbers removed because it was a reflection on the traffic and the road situation at that time. He was unclear when they were asked to provide a number of guests on site, but presumed it was established between the Township meeting and the first Planning Commission meeting.

Mielke stated the number of patrons on the site came about because of safety concerns and the condition of Highway 212 at that time. There was much discussion at that time and concern for the safety of patrons and other traffic in general. Staff would still like to see a number related to the patrons on site and Mr. Dunn's request was based on prior numbers and data from prior years' records.

Hart stated that numbers from past records indicated that there had been up to 1,900 and 1,500 patrons on site in a day at their busiest days. He also noted the average number of days in operation was 15. He cited that language from the Zoning Code which reads *'A stipulation is made in the permit as to the number of persons to be using the facility at any one time.'* is one of the criteria for a large-scale activity and that is why it is required. Hart noted that the requested threshold of 2,500 has not been reached at any time in the previous years of operation.

Mendez asked how the number increase from 600 to 2,500 was calculated and/or justified. He asked what changes or plans are being made to justify that type of an increase in patron numbers.

Mr. Michaelson stressed that the number of 600 was an average daily attendance figure and staff and the planning Commission were requiring a specific number to be identified. He reiterated

Hart's previous mention of the two highest attended dates having 1,900 and 1,500 patrons over the past 14 years, and stated they built in a little buffer.

Mendez had many questions about how things were handled with 1,500 patrons on site in one day. He asked how a much higher number would be managed with concern for parking, safety, security, traffic, etc. He stated if the number would be increased to 2,500, there must be a plan to reach that capacity.

Mr. Dunn responded stating the way the event is operated has changed over the years. The tickets now are 'timed tickets' so the event planners know guests arrival times are staggered. They have also changed the flow of the event so that patrons arrive and flow through the event in an order and when it is completed, they leave the site. They are only allowed to go through one time and do not hang around the site for anything else. This flow pattern has dramatically reduced the time that guests are on-site, allowing for more patrons to visit. It is easier to manage and control in this way. Guests can complete the event in 40 minutes, and he further explained how adjustments can be made to change the accelerate flow pattern if necessary.

Mendez noted the last tickets are sold at 10:20, which would get them through the event at 11:00. He asked if the guests were aware of the 11:00 closing time.

Mr. Dunn replied this information is made clear on the website and guests are also told that. There is nothing else for guests to do at that time since the food vendors and attractions are closed.

Mendez asked when the site clean-up begins in relation to the last patrons' visit.

Mr. Dunn explained on nights when closing is at 11:00, some of the parking help will go into the park to begin clean up. After closing at 11:00, staff will continue to clean up for another twenty minutes. The following day there will be more cleaning done in the morning or afternoon.

Mendez asked Mr. Dunn if he had visited any of the neighbors who expressed concerns to find out if there were improvements that could be made during the times the event is open.

Mr. Dunn replied he has reached out to the closest neighbors who have expressed the same concerns which have been heard here.

Mendez asked what has been changed to alleviate those concerns.

Mr. Dunn replied there is little he can do to change the dislike and the nature of the event. Over the years, they have changed the events so that areas closer to residents do not have actors who frighten guests and cause loud screaming near the houses. One year, they constructed a tunnel to help mitigate the sound. Music has been changed which has quieter tones. He has offered his telephone number and invited calls or text messages at any time of the evening to neighbors.

Mendez stated he is supportive of businesses and would like to see this business succeed. But he stated CUP and the neighborhood and the operation need to bind together and work in unison. He is not getting that feeling from what has heard and what is being presented.

Mr. Dunn stated that being neighborly is a top priority of his and it is important to have relationships with neighbors and to mitigate any problem as well as he can.

Mendez stated a good neighbor also includes being a good citizen and following rules and regulations. He asked Mr. Willems to expand on his previous suggestion to dissolve the current CUP.

Mr. Willems affirmed that is exactly what he meant. He felt that Scream Town has not been a good neighbor and has not followed their current CUP. He recalled the initial plan was for a corn maze and family-fun event, which is not the activity taking place. He doubted whether dust control is applied on the site as required.

Mendez asked if the applicant had bills or receipts for evidence that dust control has been applied.

Mr. Dunn stated there are watering trucks from local farmers at the site and he could provide evidence to prove the dust control.

Mr. Willems listed other issues which he felt were in violation of the current CUP. He also commented the Mr. Goodrum's explanation of the amendments for transparency was an admission that activities have not been run in accordance with the current conditions of the permit. He recalled sitting as a member of the Planning Commission and hearing plans for a corn maze and activities.

Kerber suggested that a daily cap on the number of patrons would be easier to track than trying to calculate an average daily attendance over the course of the event.

Mendez agreed with that suggestion and stated that definite number should have some reason in the calculation.

Storms asked about the criteria for using the three flex days. He asked if the applicants would notify property owners within a specific distance when these flex days would be used.

Chairman Wakefield stated the flex days was a suggestion by the Township and asked Mr. Gennrich for further explanation.

Mr. Gennrich stated the flexible days was a request from Scream Town to offer some leeway if there were regularly scheduled days when they were not able to be open. He said the applicants do not want to be open on non-scheduled days because their workers may not be available. The Township had offered this solution to be available only in the last 3 weeks of operation if the event had been cancelled due to weather or other undesirable conditions to allow the same number of operating days. He also noted the closing time would be 10:00 on the flex days.

Mendez asked for further explanation.

Mr. Gennrich stated the Township also suggested a cap of 21 days Scream Town would be in operation and at the request of the applicants, offered the flex days to allow them the opportunity to be open if weather or other conditions prohibited operation earlier in the season.

Fahey asked the applicants for past reasons why the business could not be open on the regularly scheduled days.

Mr. Dunn replied they try to be open on the optimal days for their business and that is why they are not open on Sundays early in the season. He stated the customers dictate when they prefer to come and the last 2 weekends are best attended. Two years ago, it snowed 6 inches which removed the entire weekend for attendance. In that case, they would like to be able to add the Thursday and Monday to the days of operation to make up for a prior closed weekend for which people had purchased tickets.

Mendez summarized a lot of discussion has surrounded the issues with these amendments. He felt there are a number of issues that should be addressed and clarified in addition to the days and hours of operation. He asked for a summary of possible compliance issues and other requests.

Mielke explained the request to expand the haunted hay ride and trail brought a property line dispute to light at last month's meeting. The applicants have contacted a surveyor to identify and mark the property lines, and a certificate of survey must be submitted as proof of the property line location. He also mentioned the culvert placement issue and the possible Water Management permit issue recognized after an on-site meeting. He indicated the survey can have an impact on additional work that may need to be completed or corrected, because it will have an effect on the operational area for the CUP, which will need to be in place prior to this season's operations. If an agreement is not reached or the constructed road does not meet the appropriate setbacks, that portion of the operation will not be able to be used until it meets the requirements.

Mr. Dunn stated the newly constructed road is used for the hayride where the tractors drive.

Chairman Wakefield noted the time and some of the unfinished information on issues that need to be resolved before moving forward with a decision on this request. He asked staff for any additional comments.

Mielke commented on the initial CUP which was issued in 2008 and stated anyone who was on the board or involved with the decisions made at that time know that it took several meetings before the CUP was issued. He clarified the activity was identified as a haunted corn maze and they also requested to have the fall festival activities. The Planning Commission at the time made the decision that the event would have to be one or the other activity, but not both. The revised operational plan submitted by the applicants indicated that they would move forward with a 6-acre haunted maze, haunted houses, haunted trails and concessions. He wanted to be clear for the new board members, the previous request was revised and through many meetings became Scream Town with the current activity.

Chairman Wakefield reiterated the items to be clarified and defined before moving forward with this request. He liked keeping the hours of operation suggested by the Township. He stated many ideas have been considered on the number of days for operation and offered that there be a fixed number of days, having the applicant choose the dates of operation prior to July 31st of every year, so the surrounding property owners and neighbors could be notified. He was not in favor of any flex days because staff could not monitor them. The number of attendees should also be a fixed number and be reasonable based on the prior years' records. Adequate dust control needs to be done and documented. He reiterated the importance of the survey information for a decision on the road and the culvert and also the resolution of the Water Management permit and drainage issues.

Mielke stated Paul Moline indicated the culvert cannot run to the edge of a property line. There needs to be a water disbursement area on the property, unless that would be an easement agreement with the neighboring property owner. Mr. Dunn was involved in the on-site meeting with Mielke and Moline and understands the work which needs to be done with the culvert. Mielke stated a list of items that need to be resolved should be determined for the benefit of the applicant.

Mr. Michaelson agreed that a list of items for them to work on completing or gathering more information would be necessary before the next meeting. He stated they are working toward resolution and compliance with all of the items and conditions and feel they have shown that through their conversations with staff, surveyor, consultant and water management personnel.

Chairman Wakefield recommended the applicants to consider the number of days for the operation to be open, and stated he would like to see a fixed 20 days, no flex days, with the applicants choosing those dates prior to July 31st. He stated that the final day would be no later than October 31st. The number of daily patrons on the site will be based on the daily averages from the past 14 years of operation. He suggested the applicants also consider the dust control measures among other things before the next meeting on August 16th.

Mr. Michaelson stated all of those things are acceptable and asked if it could be written into the application, if this would move toward positive progress with the request.

Mendez suggested that the applicants reach out to the neighbors to discuss what can be done make the conditions better to coexist.

A motion was made by Wakefield to continue the public hearing to the August 16, 2022 meeting. Mendez seconded the motion to close.

Fahey asked Mr. Wakefield why he recommended 20 days of operation when the Dahlgren Town Board offered a cap of 21 days.

Mr. Wakefield stated 20 is a round number and was his preference. His suggestion for the applicants was only a recommendation and will be open for further discussion.

Fahey also noted a 10-foot setback for structures, access roads, and parking areas from the property line was written on page 2-8 of the packet, but an 8-foot setback had been previously discussed. He stated the survey will play a critical part in this decision and asked that more information be submitted for the August meeting.

Mielke stated the 10-foot setback for structures is incorrect. The Zoning Code requires a minimum setback distance of 15 feet for a structure from a side property line. Some of the stages used are not structures pursuant to the building code and may be closer than the required minimum 15-foot setback. He stated the survey and the engineering for the road will help determine a reasonable setback so as not to impact the neighboring property. The applicants are also welcomed to come up other plans or solution also. The Zoning Code does not have a property line setback for the operational and parking areas. This would be up for discussion to determine a reasonable distance.

Fahey appreciated that information and asked that it be written in the next staff report. He also asked for resolution on the Sheriff patrol presence and/or the number of deputies needed.

Mielke stated in the discussions with the applicant, the number of peace officers present was questioned. The County Sheriff's Office does not want to contract their services for private events. If it is necessary that Mr. Dunn needs a contract, they could potentially do that, but they may not have staff available every night the event is operating.

Hoese stated he would like to have a written plan from the applicant on their plan to resolve issues with the neighbors. He indicated the telephone numbers were listed but asked who answers the number when it is called and what is the action taken.

Chairman Wakefield called for a vote on the motion to continue the public hearing to August 16, 2022. All voted aye. Motion carried. The public hearing was continued at 8:28 p.m.

File #-PZ20220028 – Aaron & Amy Burkhart – Chairman Wakefield called the public hearing to order at 8:37 p.m. to consider a request Aaron & Amy Burkhart. The purpose of the public hearing was to consider a request for amendments to a CUP for a Farm-Related Business pursuant to Chapter 152 of the County Code. The property is in Section 1 of Benton Township.

The following were present: Aaron Burkhart, Amy Burkhart, Zach Hustad, Cassie Dauwalter, Andy Steinhagen, Terry Bruesehoff, Amanda Gorra, Rick Gorra

The following items were entered into the record:

Exhibit A – Legal Description

Exhibit B – Proof of Publication of the Hearing Notice

Exhibit C – Proof of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E – Letter from the applicant received June 23, 2022

Exhibit F – Staff Report addressed to the Planning Commission and Benton Township dated July 11, 2022, and all attachments

Exhibit G – Letter from Dauwalter family dated July 12, 2022

Exhibit H – Township Recommendation Form from the July 14, 2022 Town Board meeting

Mielke explained the applicants own a 30-acre parcel improved with a house with attached garage, personal accessory structure, agricultural storage structures, a personal solar array, man-made pond, pasture area for personal animals & livestock and a Conditional Use Permit for a Farm-Related Business, Jack Cooper Custom Meats. The applicants are requesting amendments to their CUP to add a structure and expand the hours of operation and operational area of the business. Mielke used an aerial photo of the site plan to illustrate and describe what was approved with the initial CUP in 2020. The new structure, which is already placed on site, is a climate-controlled cargo container which will be used to store the gut barrels between pick-ups by the rendering service. The hours of operation are currently 9:00 a.m. – 4:00 p.m. Monday through Friday. Since opening the business, they are requesting to expand the hours to 7:00 a.m. – 7:00 p.m., 7 days a week to better accommodate their customer needs. These hours were posted on their business website, which also prompted the need for amending the CUP to assure compliance with the permit. The Zoning Code allows a single cargo container on a property if a building permit is obtained and it meets setbacks, does not exceed 320 square feet, is a neutral color, and is prohibited from displaying any logo, sign, advertising, or message regulated by Chapter 154 (Sign Regulation) of the County Code. Based on these standards, the existing cargo container is allowed after a few minor modifications are made (i.e. logo and screening). Mielke reviewed the other conditions of the existing permit and noted there are no requests to change or modify any of these conditions.

Amy Burkhart interjected and clarified the existing permit does not list a number of animals to be processed annually at the site. She said there was discussion at the initial meeting, and it was decided to not put a cap on the number of animals processed annually, but let the business dictate what can be handled adequately at the facility.

Mielke stated that was correct and recalled the discussion and stated the suggested cap of 250 animals annually had not become a part of the conditions. He continued with reading all the other conditions of the current CUP, noting parking space, CCWMO with respect to site improvements exceeding 1 acre (cumulative) in size, signage, SSTS compliance, and required permits and compliance from Mn Dept of Agriculture. Carver County Public Works Department provided a statement saying, “Carver County Public Works has no comments on the proposed amendment to the Conditional Use Permit”, however, it was noted that there is an unpermitted second access to the site, located east of the driveway. The location of the new unpermitted access was historically a field access, which is limited exclusively for purposes of farming and not inclusive of the site’s use as a butcher shop. Public Works requests that the unpermitted gravel driveway at the field access location be removed. Mielke referred to letter submitted by Public Works in the packet on pages 3-12 & 3-13 referring to the unpermitted field access and stated this issue should be resolved either by appropriate permitting or removal and does not have any bearing on the requested amendments to the CUP. The Benton Town Board heard the request at their July 14, 2022, meeting and is available to provide comments. Mielke noted three possible results for the amendment request (approval, denial, or withdrawal/fail), and read the proposed conditions for approval, and referenced the requirements for denial with explanation. He also noted a correction that there would be no cap on the number of animals processed annually, therefore, Condition #8 would be removed if the permit is approved.

Chairman Wakefield asked the applicants for any additional comments about their request.

Ms. Burkhart apologized and stated they were unaware that a permit was necessary for the cargo container. Once they were notified, they applied for the building permit and were informed that it is an amendment to the Conditional Use Permit, along with the change in hours, which brought them to this meeting. They will establish the required screening when the permit is approved and will also pour a concrete pad to better accommodate the rendering truck. She clarified that they are currently not open from 7:00 a.m. – 7:00 p.m., however, they would like to grow into that option in the future. The access road (field access) is used as access to a personal riding arena and installing fencing and is not associated with or used with the butcher shop operation. They will contact Public Works for resolution to that issue. She stated she will contact Paul Moline with the CCWMO to discuss any issues that may be needed about the Water Management Rules. She confirmed the Mn Dept of Health and Humane Handling people are on site daily for inspection. She stated they had offered the suggestion to use a cargo container for the gut barrels to reduce the odor. Ms. Burkhart clarified the animals brought for slaughter are not allowed to remain live on the property for more than 24 hours. They are generally brought in the evening and slaughtered in the morning. Since they have only 2 holding pens available, the number of animals on site to be slaughtered at any time is minimal.

Chairman Wakefield asked the applicants if they agree with the proposed conditions for approval.

Ms. Burkhart stated they agree with them and will be following them. She noted the regulations imposed by the State are quite stringent and they would not be able to operate if they were not compliant with all conditions of the business operation.

Andy Steinhagen, Benton Town Board supervisor, confirmed the applicants attended their meeting of July 14th to discuss the proposed changes and the Town Board recommends approval along with the proposed conditions. He asked if the condition about the property including the structure and grounds shall be maintained in a neat and orderly manner is a part of all CUP's. He wasn't referring to this site but noted there are other Conditional Use Permits where the property is not neat or orderly and what is the benchmark for conditions.

Mielke stated this is based on the use of the property and could be interpreted by the person reviewing the CUP. It is intended to be a catch all for maintaining order. He agreed that it may be difficult to follow up with enforcement. It is not included with all permits but may apply to business operations with outside storage prior to required screening standards.

Chairman Wakefield asked for comments from the public on this request.

Cassie Dauwalter, 10975 Little Av, expressed her appreciation of the business and how convenient it is for the surrounding community. She appreciated the expanded hours of operation and stated the cargo container is a positive improvement which eliminates the odor.

Zach Husted, 9134 Lakeside Dr, wanted to personally thank the Burkhart's for establishing their business and mentioned many positive aspects to the community as a result, namely creating jobs

and purchasing locally grown animals, keeping the revenue in the area. He asked the Board to support the amendments and approve the request.

Ms. Burkhart added their increase in hours has not increased traffic numbers at this time. It just made it more convenient for customers who are available after 4:00 p.m.

A motion was made by Hoese to close the public hearing. Grazzini seconded the motion. All voted aye. The public hearing was closed at 9:09 p.m.

Mendez asked how many animal units would be allowed at this site.

Mielke reiterated there was no cap on numbers of animals which could be processed. It his error to have included that information from the previous CUP.

Mendez clarified his question to inquire how many animal units the property owners could have of their own on site.

Ms. Burkhart stated the animals on site for processing are separate from the animals they raise themselves. They are working with the Carver County Feedlot Officer on the number of personal animal units they are allowed. The slaughter cattle are on site for less than 24 hours before they are processed and do not factor into the number of animal units allowed.

Mendez asked how many animal units were on site for their personal animals.

Ms. Burkhart stated there will be approximately 44 animal units of their own on site. She stated they do not qualify as a feedlot because of how they are pastured and housed. They are working with the Feedlot Officer for the feedlot regulations.

Chairman Wakefield asked Matt Steele, Carver County Feedlot Officer, to respond to these questions.

Steele stated the applicants are planning to seed an area to be used as pastureland and move a structure to get into compliance with the number of animal units on site.

Mendez stated the current situation on site is non-compliant.

Ms. Burkhart stated they received a letter about the animals on site and have 60 days to correct the issues to get into compliance.

Mendez stated compliance with all regulations is important to him and allows him to better decide how future situations might be handled. He asked how many animal units were on the property and how many were allowed to be compliant.

Steele stated that any property with 10 animal units or more, which has not previously been registered as a feedlot, must register with the County as a new feedlot. The Feedlot ordinance requires new feedlots to be 200 feet from property lines. Currently, there are components on site

which do not meet the 200-foot setback requirements. He recently sent a letter to the Burkharts informing them of the situation and offering 2 possible solutions. One opportunity is to reduce the numbers and remain under 10 animal units so feedlot registration is not necessary, or they can apply for a variance for reduced setback from the property line.

Ms. Burkhart asked about having 10 animal units in the Shoreland area.

Steele stated that the variance would not allow more than 10 animal units in the Shoreland area but would allow for a reduced setback distance for a new feedlot to the property line.

Mendez asked if a permit was required for the shed used to house the livestock.

Mielke interjected and illustrated the location using the aerial map. He stated that this discussion was leading to another direction and straying away from the CUP amendment request. He indicated the location of the covered pen area for the slaughter animals and the parking area for the business. Mielke explained the different roles and guidelines for other aspects of activity on the property and stated that they do not fall under the Zoning Code for specific land use. They all play a part in the whole picture but are not necessarily a part of the CUP amendment request.

Mendez asked about manure handling on the property and the proximity to any wetlands area.

Ms. Burkhart explained the process of daily cleaning the animal slaughter housing pens and said the manure is hauled off site, which is a State requirement.

Wakefield asked for more information about the second driveway and its use.

Ms. Burkhart stated they placed rock over the second driveway so they could use it to haul fencing to the back of the property for the riding arena. She stated it had been too wet to drive on without some improvement. She said they recently purchased the adjacent 10 acres and are working to build fences and create pastureland on it.

Wakefield noted a propane tank near that entrance and asked about any service vehicles or the rendering truck using that access.

Ms. Burkhart stated there is a gate across the access preventing any vehicles from using it.

Wakefield asked which access is used for hauling their personal animals.

Ms. Burkhart replied the main driveway is used because they have to put the animals on a trailer and back up to the drop off pen.

A motion was made by Hoeser to **approve and adopt Resolution #22-09** approving the CUP amendments for a Farm-Related Business. The motion for approval was seconded by Kerber. Wakefield asked if the motion included the findings of fact and proposed conditions for the permit. Hoeser agreed to a friendly amendment to his motion to incorporate the findings of fact and staff recommendations into the motion. Kerber agreed to second the amended motion.

Fahey asked for clarification on Condition #12 on page 3-3 concerning the field access and Public Works request that it be removed.

Mr. Burkhart stated the field access was there when they purchased the property.

Ms. Burkhart stated she would contact Public Works in the morning and deal with it personally, as it is not a part of the CUP application.

Chairman Wakefield called for a vote on the motion to approve the request. All voted aye. Motion carried.

Chairman Wakefield announced there would be a 5-minute break before the next public hearing.

File #PZ20220027 – Eric Anderson – Chairman Wakefield called the public hearing to order at 9:29 p.m. to consider a request by Eric Anderson. The purpose of the public hearing was to consider a request for amendments to a CUP for a contractor's yard pursuant to Chapter 152 of the County Code. The property is in Section 35 of Waconia Township.

The following were present: Eric Anderson, Matt Udermann, Amanda Gorra, Rick Gorra

The following items were entered into the record:

Exhibit A – Legal Description

Exhibit B – Proof of Publication of the Hearing Notice

Exhibit C – Proof of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E – Letter from the applicant dated June 22, 2022

Exhibit F – Staff Report addressed to the Planning Commission and Waconia Township dated July 11, 2022, and all attachments

Exhibit G – MnDOT review letter

Exhibit H – Letter from neighbor

Hart stated the applicant owns an approximate 20-acre parcel improved with a single-family dwelling, a 60' x 120' commercial accessory structure and several other accessory structures containing commercial storage. The applicant is requesting an amendment to their existing contractor's yard CUP issued in 2006, to expand the operational area, adjust the operating hours and work season, and add a hoop house structure. The business currently employs approximately 13 full-time employees with an additional 20 'college labor' employees during the summer season. The current summer season runs from April 1 to November 15, 7am – 7pm, Monday through Friday, and 7am – 2pm on Saturday. The proposed summer season and operating hours is April 1 to November 15, 7am to 6pm, with no work on Saturdays. The proposed winter hours would be from November 15 to April 1 with variable operating hours, as snow removal is dependent upon the conditions. Hart used an aerial photo to illustrate the areas of expansion of the operational area and indicated where additional items are stored. The applicant is proposing screening along the north property line to augment the existing screening and obscure the view from a neighboring residence to the northeast. An existing sign measuring 3' x 5' is on the accessory structure adjacent to Hwy 284. All signage on the property must meet

the standards of Chapter 154 – Sign Regulations of the County Code. Lori Brinkman, Carver County Senior Environmentalist, stated a portable toilet would be a requirement to ensure adequate restroom facilities available to employees. All future contracts for the portable toilet must be submitted to Land Management and Environmental Services Departments. The Waconia Town Board heard the request at their June 27, 2022, regular meeting and recommended approval with a restriction of “When Waconia Township approves a policy policing gun ranges/shooting ranges-Mr. Anderson agrees to comply with the policy.” (NOTE: The applicant reports there is a personal pistol range on the property used by the owners and employees. There are currently no zoning code standards or prohibition for this private use.) Hart read the proposed conditions if the request is approved and referenced the requirements for denial with explanation.

Mr. Anderson had no additional comments and expressed his appreciation for the opportunity to work and operate at the present location for the past 16 years. He stated he and his company agree to all of the terms and conditions of the permit.

No one was present to represent the Waconia Town Board; however, Scott Wakefield (Waconia Township Treasure) noted their recommendation for approval with the noted restriction on the Township Recommendation form.

A motion was made by Fahey to close the public hearing. Hoese seconded the motion. All voted aye. The public hearing was closed at 9:37 p.m.

A motion was made by Fahey to **approve and adopt Resolution #22-10** incorporating the findings of fact and staff recommendations approving the CUP amendments for a Contractor’s Yard. Mendez seconded the motion for approval. All voted aye. Motion carried.

File #PZ20220029 – Dawn Thostenson – Chairman Wakefield called the public hearing to order at 9:39 p.m. to consider a request by Dawn Thostenson. The purpose of the public hearing was to consider a request for amendments to an existing CUP for a public equestrian facility pursuant to Chapter 152 of the County Code. The property is in Section 8 of Dahlgren Township.

The following were present: Dawn Thostenson, Brian Gennrich, Amanda Gorra, Rick Gorra, Matt Udermann

The following items were entered into the record:

Exhibit A – Legal Description

Exhibit B – Proof of Publication of the Hearing Notice

Exhibit C – Proof of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E – Letter from the applicant dated June 24, 2022

Exhibit F – Staff Report addressed to the Planning Commission and Dahlgren Township dated July 12, 2022, and all attachments

Exhibit G – E-mail from MnDOT received July 14, 2022

Neel stated the applicant owns approximately 205 acres of agricultural production land, wooded area, wetlands, and lakebed. She resides on the property located at 8572 Hwy 212 and owns and operates a public boarding equestrian facility and feedlot at 8570 Hwy 212 permitted by CUP 10481 in October 1996. The applicant is requesting an amendment to the CUP to expand the permitted maximum animal unit (A.U.) numbers from 70 to 88 to accommodate growth of Cross Creek Stables, the public equestrian facility. The applicant's letter describes this expansion as Phase I, while maintaining the operational area consisting of existing barns, arenas and other facilities. The facility would continue to operate year-round, 7 days a week, with the current hours of 7:00 a.m. to 10:00 p.m. Staff arrives at 6:00 a.m. and the number of employees, full- and part-time, will remain the same. The increase of 18 horses will not require an increase in employees but may require an adjustment to their shift hours. There should be no significant increase to traffic to the site and the available parking appears to be adequate to accommodate the additional trips. The applicant has recently expanded arena barn lots 1 and 2 by approximately 6,500 square feet and converted approximately 22,000 square feet from feedlot to pasture. This reduced the feedlot area by approximately 15,500 square feet. Phase II of the operational plan would include construction of a new barn and indoor riding arena, as well as dry lot areas to accommodate an additional 35 horses. The applicant understands the Phase II work will require a future CUP amendment. Matt Steele, Carver County Feedlot Officer, has discussed the feedlot standards with the applicant and conducted a routine inspection and determined the feedlot is compliant with the County Ordinances and the Mn Rules, Chapter 7020. In September 2021, a compliance inspection on the stable barn holding tanks and the septic system for the house was conducted which resulted in certificates of compliance on both systems. MnDOT reviewed the request and submitted comments that the additional horse numbers should not affect the access from Hwy 212. There is a 32-square foot sign adjacent to Hwy 212 which meets the standards of Chapter 154-Sign Regulations of the County Code. Dahlgren Town Board reviewed this request during their July 11, 2022, meeting and recommended approval without any additional conditions. Neel read the proposed conditions for consideration if the request is approved and noted the requirements for denial if the request is denied.

Ms. Thostenson stated the interaction that people have with the horses tends to relieve stress and she sees a need to increase her animal numbers to provide this service for her clients. She has read and agrees with the proposed conditions of the permit.

Brian Gennrich, Dahlgren Township Supervisor, stated the applicant had attended their meeting of October 2021 to discuss the proposal and the Town Board voted unanimously to recommend approval of her proposed amendments. After she applied with the County for the request, she attended their July meeting and they again voted unanimously to recommend approval of the request.

A motion was made by Hoese to close the public hearing. Storms seconded the motion. All voted aye. Motion carried. The public hearing was closed at 9:46 p.m.

Fahey stated he spoke to a customer of the facility who was very satisfied with the operation and how it is run. He complimented her on the job she is doing for a well-run business.

A motion was made by Fahey to **approve and adopt Resolution 20-11** incorporating the findings of fact and staff recommendations approving the CUP amendments for a Public Equestrian Facility. Grazzini seconded the motion for approval.

Kerber stated he has driven by the property numerous times over the years and stated it is always neat and orderly.

Chairman Wakefield called for a vote on the motion for approval. All voted aye. Motion carried.

File #PP-PZ20220031 – Roger Falkenstein – Chairman Wakefield called the public hearing to order at 9:47 p.m. to consider a request by Roger Falkenstein. The purpose of the public hearing was to consider a request for a preliminary plat pursuant to Chapter 152 of the County Code. The property is in Section 3 of San Francisco Township.

The following were present: Roger Falkenstein, Julie Falkenstein, Scott Selken, Andy Olson, Matt Udermann, Larry Schmidt, Kellen Schmidt

The following items were entered into the record:

Exhibit A – Legal Description

Exhibit B – Proof of Publication of the Hearing Notice

Exhibit C – Proof of Mailing of the Hearing Notice

Exhibit D – Site Plan

Exhibit E – Letter from the applicant dated June 24, 2022

Exhibit F – Staff Report addressed to the Planning Commission and San Francisco Township dated July 11, 2022, and all attachments

Mielke explained the applicant had combined two parcels to apply for a CUP for additional density lots and received approval, therefore allowing the application for the preliminary plat. The plat consists of 1 high amenity lot and 3 conservation lots, and incorporating the existing house with attached garage and 2 accessory structures. The property is in Section 36 of San Francisco Township. The plat consists of vegetated prairie, trees, wetlands, steep slopes and tillable crop production areas. Mielke explained the classification of each lot and illustrated the plat configuration. He also noted the conservation easement area, which will be recorded along with the plat, and is a requirement for the additional density. San Francisco Township allows for this type of development in their chapter of the 2040 Comprehensive Plan. The lots are laid out in such a manner that there are no more than 4 houses per quarter quarter according to the density regulations of the Zoning Code. The residential lots range in size from 3.41 acres to 4.57 acres and the agricultural lot consists of 59.76 acres with the conservation easement area. The proposed SSTS locations for each lot have been identified and approved by Lori Brinkman, Carver County Senior Environmentalist. The septic system for the existing house will need a compliance inspection and an alternate site identified prior to the final plat. A 10-foot drainage and utility easement is shown around each of the 5 lots. A 30-foot wetland buffer has been shown around 2 wetlands identified by a professional delineator. This information will be verified by the Planning and Water Management Department. Access to the lots will be from a Township road and will require Township approval. The WMO and/or Carver SWCD will

review each lot when a building permit is issued to review and prevent erosion and sediment from leaving the site during construction. The Conservation Easement document will be recorded with the final plat and identifies the preservation, establishment, monitoring and enforcement responsibilities of the amenity areas. Draft covenants have been submitted and need to be approved by the County Attorney's office. A Developer's Agreement is not required for this plat, since construction of a new public road is not necessary. San Francisco Town Board has reviewed the preliminary plat at their June 20, 2022, meeting and recommended approval. Mielke stated the next step is to ensure that everything has been submitted, reviewed and approved, the covenants are finalized and the conservation easement is finalized, to move forward with recording the final plat. He stated the final plat does not need to come before the Planning Commission.

Mr. Falkenstein stated there is a maintenance plan relating to the conservation area which is also being reviewed for accuracy and approval before recording the final plat.

Mielke clarified the maintenance plan is a part of the conservation easement which lists the guidelines of the prairie establishment.

Larry Schmidt, San Francisco Township Supervisor, expressed his thanks to the staff in working with Mr. Falkenstein to get this project moving. The conservation lots is something the Township has been in favor of and they are pleased to see this moving along. He asked the Planning Commission to vote favorably for this project.

A motion was made by Fahey to close the public hearing. Hoese seconded the motion. All voted aye. The public hearing was closed at 10:05p.m.

Fahey thanked the applicant for his patience and persistence in following the procedures of the process to develop this plat. He recognized it has taken multiple conversations and time to get to this point.

A motion was made by Fahey to **approve and adopt Resolution 20-12** incorporating the findings of fact and staff recommendations and including the conservation easement maintenance plan approving the preliminary plat. Mendez seconded the motion for approval. All voted aye. Motion carried.

Adjournment

A motion was made by Mendez and seconded by Hoese to adjourn the meeting. All voted aye. Motion carried. The meeting was adjourned at 10:07 p.m.