

**Summary of the
MEEKER COUNTY PLANNING COMMISSION
April 16, 2019 – MEETING MINUTES**
Audio Available

The Meeker County Planning Commission met at the Courthouse in Litchfield, MN at 5:00pm on April 16, 2019 to consider the following Conditional Use permits and other business before the Board. Present was Hempel, Piepenburg, Beach, Euerle, Loff, Johnson, Jans and Zoning Administrator Cote.

5:01pm

Jans calls the meeting to order. There is a quorum.

The Board states their names for voice recognition.

Jans asks the Board if they have any corrections or additions to the March 26, 2019 meeting minutes. None are noted.

Beach makes a motion to approve the minutes.

Loff seconds the motion.

Motion carried 7-0.

5:02pm

Jans opens the public hearing for Mike Wichman (applicant), 12282 180th St, Hutchinson, MN 55350 and Bruce & Jane Smith (owners), 10410 Cain Rd, Rogers, MN 55374. Property located at 27837 CSAH 4, Dassel, MN 55325. Lots Six & Seven (6&7), Arvilla Shores, Lake Arvilla, Dassel Township. An after-the-fact Conditional Use permit application to move more than fifty (50) cubic yards of material in the Shoreland District and more than ten (10) cubic yards of material in the Shore Impact Zone for shoreland alterations in the R-1 Suburban Residential District and within the Shoreland District.

Cote: This property consists of three (3) riparian R-1 Suburban Residential zoned lots on Lake Arvilla in Dassel Township within the plat of Arvilla shores. The plat of Arvilla Shores was made before the Shore land Ordinance of 1972. In the summer of 2018 the property owner began a dirt movement project on this property without the proper permits. The applicant removed a substantial amount of material to cut a hill out on the lakeshore. According to the survey submitted with this application approximately 370 cubic yards of material were disturbed for that portion of the project. The applicant was served a cease and desist order from Meeker County Planning and Zoning in regards to this unpermitted project. The property owner has now applied for an after the fact CUP to allow for the dirt movement already completed and for the construction of two walls to retain the area which was disturbed during the original portion of the project (south side of lot). The amount of proposed material to be moved for the construction of said retaining wall is 120 cubic yards. The wall height of said retaining walls is less than 4' so engineering is not required to be submitted with this application. The total amount of material to bring this site into compliance and to construct the retaining wall is 490 cubic yards. Bio logs are proposed be utilized for erosion control during the construction of the walls. As per Article 19A.04.C.2.d movement of more than 10 cubic yards of material in the shore impact zone and/or 50 cubic yards of material in the shore land district requires an approved conditional use permit from the County.

Mike Wichman and John Anderson are present for this hearing.

Jans: When we were out and viewed this property, a lot of work had been done. The retaining walls weren't in. We did see some issues.

Wichman: Smith dug a bunch of dirt out and now I'm putting a wall in, then going back 6' and putting another wall in.

Jans: We have a map here with the walls penciled in. The way I understand it, it is going to come up 45' from the shoreline?

Wichman: Yes.

Jans: The walls are going to be 4' in height?

Wichman: Yes. The first one wall will be 4' and the second tier will be about 42". There will be 6' between the walls.

Cote: It would have to be less than 4'.

Piepenburg: Did you guys measure this? It looks like it will be more than 4'.

Cote: What he is proposing is a wall then 6' back and another wall.

Jans: So you have about a 9' shelf now, correct?

Wichman: Yes, we are going up roughly 8'. So you have the first 4' then you slope in between then you go up to the other, then you slope the back. It will be like a pyramid. It is the highest point in the center and slopes on both sides.

Jans: The one thing we saw out there is that there is no silt fence along the wetlands area. There was one where the dirt was cut, but another is needed at the bottom where the fresh fill is. We have it written that 500 cubic yards of material to be moved?

Cote: It's a total of 490 cubic yards. I made that change as to what was moved and what is proposed to be moved.

Jans: We noticed that there was a cut coming down from the neighbors. Was that in there before?

Wichman: It is a straight up and down cut.

Jans: If you go past that, between that and the lakeshore, it's almost like there is a cut going up the hillside.

Wichman: There is a road and that was there prior. I'm just taking care of the big tall area.

Jans: But the retaining wall will go in front of that road, correct?

Wichman: The road is staying. That little slope going down to the lake is staying. We are not going to harm that.

Jans: What's going to keep that driveway coming up from the neighbor's house from water running down?

Wichman: Like I said, we aren't messing with that, but if we need to put straw down/erosion blanket, we can do that. I got into this in February when there was 4' of snow, so I'm going off of everything on the plan. He wanted 45' from the water, so that is where we are going to start. He wanted to keep the path coming down. So basically, he cut everything straight down—that's where the two tiers will be going.

Cote: What is his plan with the cut between the road and the lakeshore?

Wichman: There is no plan that I'm aware of.

Hempel: You are confident that those walls will hold with the 3 or 4 grown trees that have the roots exposed?

Wichman: Yes. It's all about compaction. We have approximately 30 yards of $\frac{3}{4}$ clear coming in and that is it for the second tier. We are not cutting anything back and redoing it. It's the first wall that we are cutting. The clear acts like a buffer.

Jans: If we make a decision tonight, it will only be on the wall. Any other work that wants to be done on this property is not what we are voting on.

Cote: We issued a Cease & Desist. He stopped working in August or September after he had completed his cut.

Hempel: I'm struggling with this, because we are only addressing the retaining wall. There are so many other issues. The road is clearly going to become a road. The retaining wall will go in and it's going to become a road that will be an access to the lake. I have big issues—Wetland violation, continuing to work after Cease and Desist, a LOT of dirt was moved. We have pictures to show that he moved so much dirt that it is now washing into the wetland. He has buried trees, which experts say is not allowed. One didn't used to be able to see through the lot and he went in and mowed it down. We keep saying that we should forgive everybody. I'm worried about the trees falling--the roots are exposed.

Wichman: That big tree that is almost falling over will be coming down.

Beach: The application is for the walls. This crosses our jurisdiction with other issues. What are our options? The work is done. What can we do about it?

Cote: Wichman can only comment on the component of the project that the property owner has asked him to do.

- The Board could continue this hearing if you want to see a more fully formed plan in place that encompasses the whole site. I'm in contact with Joe Norman with the SWCD who handles our wetlands work, because there are wetland violations. That isn't a Planning Commission issue, but may be something you want to have more information on, in regards to your decision.
- The Board could require that the property owner put the property back in the condition it was before he started. I have to say, this property owner has been very difficult to work with. It's like pulling teeth to get what we do have, and that is only because a contractor came into play. I don't know how much success we will have getting more information, but we may have more success if the contractor can work with that individual. The County has not had much success getting him to contact us back with regards to the issues on that site.
- The Board could extend the 60 days and continue this to the May meeting if the Board would like to request a full plan or request that Mr. Smith attend this meeting.

It is up to the Board as to what you need to see to make a good informed decision on this application.

Johnson: We could ask Smith to come in, but we are almost coming into rainy season. What is washing away right now where it shouldn't?

Wichman: Granted what Smith did was wrong, but it has to be fixed. So, maybe you can allow me to do these walls--the walls aren't going to move, they will hold up when it's done. Then put on conditions to whatever else is going to happen. I don't know about wetlands, that's a whole different game, but if we

don't do anything now, all that loose clay is just going to go somewhere. It's going to go back in the water, in the wetlands. It's going to go somewhere. We will probably get 2" of rain in the next week.

Johnson: It would be interesting to know what that site looked like last fall when he stopped. How much has washed away from the heavy wet snow this winter already, and what's about to go.

Jans: If we approve this tonight, that doesn't necessarily mean we approved his dirt that he moved.

Cote: That does encompass the dirt that he moved in the wall construction. It would not encompass beyond that.

Beach: Could we dial back the 490 cubic yards to just what would be needed to put the walls in?

Cote: Once you put the walls in, if this were ever to go to court and the Board went back and denied the initial dirt movement and the walls had to be removed, it might be looked at as possibly arbitrary and capricious. I would say, you probably don't want to do that, but I could get a legal opinion.

Beach: My concern is that we are going to experience more washing. Although we need a band-aid right now, there is a bigger picture and we need to consider our options.

Wichman: This doesn't clear him from any wetland issues that may be coming. I'm sure that will be the next step. You can't just throw dirt on a wetland.

Johnson: Mike, if we recommend this to the commissioners and they approve it, how soon would you be able to get in there?

Wichman: As soon as it is dry!

Beach: One consideration is to await consultation from Joe Norman and really get that ruling and understand what other implications there may be before we act of this.

Jans: We can okay the retaining wall tonight. The wetland issues can be handled with Joe at a later date. We need to get these walls up as soon as possible. If the weather got really bad, that whole hill side would go down.

Hempel: I agree with that, but that is exactly why it was done. This is your classic case of thumbs to you. I had many people on the lake ask me how he was able to do this. I told them that he was ordered to stop. We deal with after-the-fact soil movement over and over again. I would say in my short time on this Board, 99% of them seem to have an ignorance attached to them. They did not know. All others stopped when we asked them to stop and most are small scale. This one is mammoth and seems very intentional. There is so much moved.

Jans: It was wrong that he did it and he probably knew that it was wrong, but we need to take care of it now so it doesn't become any worse. I think there will be a lot more consequences if there is a wetland violation.

Beach makes a motion to close the public hearing.

Hempel seconds the motion.

Motion carried 7-0.

Cote reads possible conditions:

1. The total cubic yardage moved and/or brought onto this site for the total completion of this project shall be a maximum of 490 cubic yards of material.

2. The project shall be completed as per the plans submitted with this application.
3. Construction must meet all setback requirements.
4. Erosion control shall be installed on all disturbed land on this site and adjacent to the wetland area to protect the wetland from any material being deposited within it. Said erosion control shall be maintained on-site until permanent vegetative cover is established to prevent erosion of material into sensitive areas.
5. Applicant shall have an appropriate wetland delineation completed prior any additional work being done on this site to ensure the wetland area is protected.
6. The applicant and/or property owner shall notify Meeker County Planning and Zoning within seven (7) days of completion of this project. Once notification of project completion has been given an inspection shall be done by the Meeker County Zoning Administrator or his/her designee and one member of the Planning Commission at their earliest convenience to ensure site compliance.

Jans: Soil and Water will have to go out and make a determination about the wetlands. If we do it prior to the construction of the wall, we know it will get done.

Piepenburg: Can something be laid down to stabilize it in the meantime?

Wichman: I can put straw down and seed it.

Piepenburg makes a motion to stabilize the hill, get a determination from Soil & Water and continue to next month.

Wichman: I can stabilize the stuff going down into the wetlands, but I can't stabilize the hill. It is straight up and down.

Jans: I think our best option is to get the hill next to the wetland stabilized then the wetland determination can be done.

Johnson: Is there going to be an inspection once the walls are completed?

Cote: You can put that as a condition.

Jans: Do I have a second on the motion? Motion dies for lack of a second.

Cote: The area between the ramp and the lake where there is a cut does not have any erosion control. I don't even think there is a silt fence.

Wichman: We can put a silt fence/erosion control around the whole property.

Johnson makes a motion for approval with the conditions.

Loff seconds the motion.

Motion approved 5-2. (Beach and Hempel opposed)

5:40pm

Jans opens the public hearing for a NOTICE OF APPLICATION FOR LIVESTOCK FEEDLOT PERMIT. Notice is hereby given per Minnesota Statute 116.07 subd. 7(a) that Sparboe Farms, Inc has made application to the Minnesota Pollution Control Agency and Meeker County for a permit to construct or expand a feedlot with a capacity of 500 animal units or more.

The existing feedlot is located at the SW ¼ of Section 16 of Darwin Township (T119N, R30W), Meeker County, Minnesota.

The existing facility consists of total confinement barns with solid manure storage areas. These barns hold a total of 1,806,808 laying hens less than 5 lbs. (3,761.55 AU). This facility is currently permitted by Meeker County for 5420.4 AU's. Additionally, the site has 3 above ground, aerated, liquid egg wash treatment and storage tanks.

The proposed facility will house 2,047,500 laying hens less than 5 lbs. (5,420.42 AU) housed in total confinement barns with solid manure storage areas. Six existing high-rise style layer barns housing a total of 469,308 laying hens are proposed to be demolished and replaced with the construction of two buildings with an enrichable colony style housing system, 147'x450' in size, housing a total of 720,000 laying hens resulting in an increase of 250,692 layers or 752.076 animal units. The two new buildings include belted conveyors that continuously transfer the collected litter to a new enclosed 10'x394' truck loadout area. Egg wash water is collected and treated in an existing, aerated, above ground, 30' diameter, 28' tall, steel tank and then stored in two, existing, aerated, above ground 90' diameter, 26' tall steel tanks before land application by irrigation. The total animal units after expansion will be 6,142.5.

Alan Larsen, Jared Stonecypher and Ryan Breming are present for this hearing.

Cote: This property is an existing feedlot located in an A-1 zone in Section 16 of Darwin Township on US Hwy 12 and is a portion of a 146.13 acre parcel of property. This is a Class D feedlot.

Currently onsite there are 10 production facility buildings. In addition to the production buildings this site consists of the egg processing facility, the steel tank system for holding process wastewater, and various outbuildings. This site is permitted for a maximum of 5,420.42 AU's (1,806,808 layer hens less than 5 lbs).

The request is for the construction of two, new 450' x 147' production facilities as well as to increase the number of animal units to 6,142.50 (2,047,500 layer hens less than 5 lbs.) which is an increase of 722.08 AU's from what Sparboe is currently permitted to house by Meeker County. The proposal is to remove the northerly production units 4 through 9 and construct 2 new 450' x 147' production buildings, a 20' x 70' concrete bunker for solid manure load out and a 100' x 394' manure structure. This construction will allow for an enrichable colony style housing system which is the style utilized in the existing barns that were most recently constructed on-site. Each new building is proposed to house 720,000 laying hens. These buildings will include belted conveyors that continuously transfer collected litter to the new truck load out area. These new building will enable Sparboe to continue to utilize a new style of manure management that employs no long term storage of litter and emphasized a keep clean strategy.

The applicant completed an Environmental Assessment Worksheet as is required for a feedlot expansion of this size in 2013 and the MPCA made a negative declaration on the need for an Environmental Impact Statement thus completing the environmental review process. Applicant has submitted an appropriate NPDES Permit for this proposed expansion.

Jans reads a letter from MnDOT:

Hello Kristin,

Thank you for the opportunity to review the permit for Sparboe Farms to construct or expand a feedlot at the SW 1/4 Section 19 of Darwin Township (T119N, R30W), Meeker County, MN. Should Sparboe Farms wish to make any changes to their highway access during the expansion, they will need to be in contact with Jell Illies in permits, copied on this email. If not, we have no other comments.

Again, thank you for the opportunity to comment.

Lindsey Bruer (Knutson), AICP Planning Director

Cote: On the proposed conditions, you will see that #9 is highlighted. That has been a long term condition on this site. It is in regards to water testing in the private ditch near this site. That was a condition placed on this site before all the manure was stored under structures. There used to be outside storage of manure. Sparboe was wondering if that is still a valid condition since there is no manure that would be exposed to the elements or potential for runoff and it is all house on concrete flooring.

Larsen: This expansion is just a continuation of the first three buildings that were constructed after the EAW. It continues the premise of keeping the manure under a roof, improving the environment of both the chickens and the employees. The MPDS permit has been issued for this site.

Jans: This is always a clean site.

Cote: Back in approximately 2013, there were multiple fly complaints in regards to the Sparboe operation. We spent a lot of time investigating it. We have seen an improvement. I haven't seen any issues within the last year. Condition #11 was added as a way for the County to keep a handle on what is happening in regards to their pest control on site. That requires pest control protocol to be submitted on March 1st yearly to the County for review. Even though it seems that any problems that may or may not have been caused by Sparboe, this condition allows us to keep a handle on it.

Piepenburg: Does "pests" include rodents?

Cote: Yes.

Loff: Were there any complaints last year regarding flies?

Cote: I believe the commissioner from the district received a couple. We personally at the county didn't receive any calls. It sounds like there were a couple sites that had more flies than normal.

Anne Steinhaus, Meeker County Feedlot Officer: I have no complaints in my file from last year.

Beth Oberg, County Commissioner: I received a couple calls.

Johnson: When do you anticipate completion?

Breming: Right now it is in the hands of management. There isn't an official start date, so there isn't a completion date.

Johnson: Will 24 months be achievable?

Breming: Yes.

Larsen: Four of the barns have already need removed, there are two left.

Piepenburg: Are birds considered pests?

Stonecypher: No, birds are wild. I can't stop the birds from flying through the air. We have ways to prevent birds from entering the barn, but we can't stop them from flying.

Johnson: Do you sell the manure for crops?

Larsen: The manure is transferred. The contract hauler takes it and applies it directly or stockpiles it in accordance with the MPCA rules.

Cote reads the proposed conditions:

1. The Meeker County Zoning Administrator, or his/her designee(s) and at least one member of the Planning Commission shall inspect the premise at least once per every third calendar year at a time to be set by the Administrator with the first inspection to commence in 2020. If at any inspection a feedlot violation is noted an inspection shall there forth occur yearly until three (3) consecutive inspections have occurred with no violations. Operator shall pay all costs associated with the inspections in accordance with the fee schedule of the Zoning Administrator or One Hundred Fifty Dollars (\$150.00), whichever is greater.
2. The facility shall consist of:
 - a. One (1) 134' x 400' egg processing facility with an attached 40' x 140' office area;
 - b. Three (3) 426' x 106' production units with attached 188' x 106' manure storage structures;
 - c. Two (2) 450' x 147' production units;
 - d. One (1) 600' x 90' production unit;
 - e. One (1) 100' X 394' manure structure;
 - f. One (1) 20' x 70' concrete bunker for solid manure loadout;
 - g. The steel tank system for holding process wastewater; and
 - h. Various outbuildings not utilized for animal confinement.
3. Applicant shall maintain the row of coniferous trees adjacent to the proposed process wastewater holding tanks located northwest of the barns to screen the view of said holding tanks. As per the application plans additional trees shall be added and maintained on the easterly boundary of the property for site screening.
4. Applicant shall maintain the existing elevated grass waterway in the private ditch running through the proposed site to minimize direct run off from the chicken barn complex making its way into the county ditch that also passes through the proposed site. Applicant may incorporate a sediment basin in the waterway system.
5. Windbreak: Applicant shall maintain an existing windbreak using several rows of woody plants and trees that will tolerate the normal high water table at this site as per condition #4 of Conditional Use Permit #12640 which was granted by Meeker County May 18, 2010.
6. Disposal of dead birds:
 - a. Composting;
 - b. Incineration; or
 - c. Such other technology as is approved by the Planning Commission and the Board of Animal Health.
7. Applicant shall continue to utilize the existing steel tank system for the disposal of wash water.
8. Utilization of manure: Sparboe Farms, Inc. and the purchaser of the manure shall maintain a log of the amount of manure that is spread and the specific location and acreage where it is spread within Meeker County. A copy of the log and associated maps and descriptions shall be made available to the Commission upon request. The purchaser of the manure shall ensure that the manure is applied only as allowed in governmental agency guidelines and regulations and shall not exceed the recommended crop nutrient requirements and after application there shall be prompt incorporation of the manure, weather permitting. Any manure that is sold shall be utilized in accordance with these guidelines.

9. Sparboe Farms, Inc. shall monitor water in its private ditch near the county ditch. Upon request of the Planning Commission Sparboe Farms, Inc. shall have an independent laboratory analyze said samples and the results shall be made available to the Commission.
10. Sparboe Farms, Inc. shall maintain a program of continuous checking of the floors of its buildings on the site and check for cracks and holes and will repair and prevent leakage from the on-site buildings into the area ground water.
11. Sparboe Farms, Inc. shall submit yearly on March 1 their updated pest control protocol to the Meeker County Feedlot Officer or his/her designee. Said plan shall be reviewed for its appropriateness and kept as a part of Sparboe's file. This information shall not be made public without the express written content of Sparboe Companies.
12. Any outdoor manure spills on public roads, including the right-of-way-areas, shall be immediately cleaned.
13. Owner/operator shall install and maintain erosion control measures sufficient to prevent soil from washing off the premises into wetlands, ditches, creeks, or adjacent property.
14. Sparboe Farms, Inc. shall at all times be in compliance with local, state, and federal statutes, rules, regulations, and ordinances.
15. Sparboe Farms, Inc. shall have twenty-four (24) months from the date of final approval of this application by the County Board of Commissioners to commence construction on this project.
16. This Conditional Use Permit and conditions replace and supersede all other previously approved Conditional Use Permits and Conditions.

Jans: Let's go back to the condition of water monitoring. Should we just remove it?

Piepenburg: Water tests are cheap, why take it out?

Stoneypher: Over the course of the years, we have not had any issues at all. We still monitor and do a sample every year. You've never requested it from us. There are obviously bigger issues if it does come up.

Johnson: We are having them do something that we aren't even monitoring.

Beach: The issue I see with that is there was a precedent that was established with having it prior. That's the only thing that could potentially be an issue. Again, your comment is spot on. If there is an issue, there is a bigger problem.

Anne Steinhaus: I come from a lab background. I feel:

1. If no one looks at the data, it's not valuable data.
2. There is no water source, so there shouldn't be a risk.
3. You could discontinue the annual testing, but you could put on a condition that asks for it upon request.

Piepenburg: How are the dead birds handled?

Larsen: They are collected, bagged and transported to the landfill.

Hempel makes a motion to close the public hearing.
Euerle seconds the motion.
Motion carried 7-0.

Piepenburg makes a motion for approval with the conditions.
Johnson seconds the motion.
Motion carried 7-0.

6:10pm
Other Business: Final Plat of Beckman Estates

Hempel makes a motion to approve the final plat of Beckman Estates.
Johnson seconds the motion.
Motion carried 7-0.

6:18pm
Loff makes a motion to close the public hearing.
Hempel seconds the motion.
Motion carried 7-0.