

STAFF REPORT

| | |
|--------------------------------------|---|
| Application: | Requests related to the use of a property for commercial purposes. Approvals required include a Rezoning of the parcel from Agricultural to Commercial. |
| Applicant and Property Owner: | Tony and Connie Swenson |
| Agenda Item: | 4(a) |

Background Information:

- **Proposal:** The applicants are requesting that the existing approximate 9.25 acre property be rezoned from Agricultural to Commercial to allow for the future splitting of the property into two and use of the property for commercial uses.
- **Location:**
 - Property address: 17931 119th Ave
 - Sec/Twp/Range: 29-140-35
 - Parcel number(s): 27.29.00210
- **Zoning:** Agricultural (proposed to be rezoned to Commercial)
- **Lot size:** Approx. 402,930 sq ft (9.25 acres) according to County GIS estimate.
Existing Impervious Coverage: Well under required limits
- **Septic System Status:** The property is served by private sewer and water.
- **Natural Features:**
 - Floodplain: The existing and proposed structures are not within an identified floodplain.
 - Bluff/Steep Slopes: The lot does not contain a bluff. The lot does not contain steep slopes that would impact the proposed improvement(s) to the property.
 - Wetlands: There are not wetlands that are likely to be impacted by the proposed improvement(s) to the property.

Planning Commission Action: The Planning Commission may recommend approval of the variance request, denial of the request(s), or tabling the request(s) if the Commission should need additional information from the applicant. If the Commission should recommend approval or denial of the request, the Commission should state its recommended findings which support either of these actions.

Staff Comments:

1. Rezoning of the property to Commercial would allow for the entire list of permitted, conditional and interim uses identified in the Township Land Use Ordinance - not just the anticipated use the applicant may have at this time. To approve a rezoning, the Township should consider whether the full list of uses allowed is acceptable.

2. The property is surrounded entirely by properties zoned Agricultural. The nearest Commercial-zoned property is just over one mile to the east on the north side of the road (properties along the north side of Eureka Road).
3. While zoned Agricultural, there are at least two other business operations within ¼ - ½ mile to the west – Bergen’s Nursery and Dog’s Paw Pet Boarding. The property on the opposite corner of the intersection has been used for an animal feedlot and boat storage operations.
4. The building on the east side of the subject property has long been used for commercial businesses and until recently had a large amount of outside storage of vehicles, equipment and scrap material. The property has also historically had a home on it.
5. While not directly the subject of this application, which is only a request that the entire property be rezoned to Commercial, the applicant indicates that he intends to split the property if the rezoning is approved (it is not large enough to split and meet minimum lot size requirements in the Agricultural district (min. 5 acre lots and 300 ft width required). With rezoning to Commercial, the minimum lot size would be reduced to 1 acre and 200 ft width.
 - a) The property is located at the intersection of 119th Ave and State Highway 34. Any future access to a western lot that would be created in a split would likely need to come from 119th Avenue unless MN DOT were to grant another access from the state highway to the “new” property.
 - b) There is approximately 238-240 feet of lot depth on the east side of the property where it abuts 119th Avenue. The Township Subdivision Ordinance requires that lots 4.5 acres or larger have a minimum 66 foot strip of land leading to a public road. For lots less than that size it only requires 33 feet. Technically, this requirement would be more than met for both lots because of their State Highway 34 frontage, although practically if the 200 ft min. width were required on the east side for the east lot, it would leave only about 38-40 feet for the west lot which seems likely to be greater than 4.5 acres in size.

Staff Recommendation: Based on the findings of fact and discussion listed below, Staff recommends approval of the proposed Rezoning only if the Township finds that the proposed rezoning is not inconsistent with the Comprehensive Plan and that approving the rezoning would not amount to “spot zoning” only for the convenience of the landowner rather than part of a larger plan of the Township.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) Will the proposed use be in compliance with the Todd Township Community Comprehensive Plan and/or the general goals or conditions of the Township?

Findings Supporting Approval

The Township Comprehensive Plan does not identify specific properties as being appropriate for one type of land use over another. It does express general goals of minimizing land use conflicts, regulating scattered and fragmented commercial uses, improving the local tax base

and maintaining attractive residential areas. The proposed rezoning would allow for a property that has historically been used for business activities to continue to be allowed for additional business uses. There are other established businesses in the area, including a greenhouse, a dog boarding business and outdoor boat storage and as such the rezoning of this property would be consistent with existing uses in the immediate area.

Findings Supporting Denial

The property is not in an area that generally contains commercial uses and rezoning to commercial would amount to "spot zoning" that is only for the convenience of the landowner as opposed to following an established general plan for land use in the Township.

Appendix A

Applicable Statutes and Ordinances

Todd Township/Hubbard County Regulations

5.0 LAND USE DISTRICT PROVISIONS

5.03 Agricultural District

The purpose of this district is to preserve and protect those portions of the township where agriculture, livestock and/or forestry are a dominant land use and are expected to continue to be vital elements of the local economy as identified in the comprehensive Plan. An efficient and profitable agricultural/livestock/forestry industry is an economic benefit to this township. It provides added opportunity to the crop based agriculture and creates service industries that provide employment and further economic related activities.

This zone has been created to promote the orderly development of agriculture/livestock/forestry and to reduce the risk of pollution and damages to natural resources. Other compatible uses may be allowed under conditional use permits or interim use permits. This district is intended to meet the following goals of the Todd Township Comprehensive Plan:

- 1.01 Limit loss and intrusion of residential development near agricultural land by family owned farms
- 1.02 Minimize intrusion on farming areas where there would be need for more infrastructure and public services
- 1.03 Constrain commercial farming / feedlots
- 1.04 Control temporary housing/ and use of recreational vehicles in agricultural areas
- 1.05 Protect surface water / ground water contamination by education about shallow wells and poor land practices
- 1.06 Allow, but carefully manage irrigation use
- 1.07 No loss of wetlands
- 1.08 Evaluation and referral of potential wetlands areas

5.03.01 Lot Requirements

- A. Minimum acreages: 5 acres,
- B. Minimum lot width: 330 feet
- C. Setbacks from:
 - Property line - 50 feet
 - Public road right of way - 35 feet (from right-of-way) or 65 feet from the centerline of the traveled roadway, whichever is more restrictive.
 - County right of way - 35 feet
 - Township and other rights-of-way - 35 feet

D. Maximum lot impervious surface coverage – 20%

1. The allowable impervious coverage may be increased to 50% on parcels of at least twenty (20) acres in size by conditional use permit and with the submittal and implementation of a comprehensive stormwater management plan acceptable to the Township that emphasizes the onsite treatment and storage of stormwater and any irrigated water through a combination of methods which may include buffer strips, swales, rainwater gardens, retention or infiltration ponds or other acceptable best management practices. The Township may require such plans to be designed by an engineer or other qualified professional and reviewed by an independent engineer or other qualified professional before approving such plan.

5.03.02 Permitted Uses

The following uses are permitted subject to any applicable performance and general development standards contained in Sections 6 and 7 of this ordinance:

- A. Accessory agricultural buildings subject to the conditions of Section 6 & 7 of this ordinance
- B. Agricultural operations
- C. Cabin
- D. Cemeteries
- E. Conservation designed development
- F. Daycare center 14 children or less
- G. Dwelling-single family residential
- H. Earth shelter homes
- I. Essential services, transmission services, utility substation
- J. Guest cottage – less than six hundred (600) square feet
- K. Garage – attached and detached
- L. Greenhouses and nurseries
- M. Licensed nonresidential programs
- N. Licensed residential programs
- O. Public and private forest and game management areas
- P. Public parks and trails
- Q. Residential accessory buildings subject to the conditions of Section 6 & 7 of this ordinance
- R. Solar Energy System – Accessory

5.03.03 Conditional Uses

The following uses may be allowed as conditional uses following the procedures set forth in Section 3.13 of this ordinance and further subject to the performance and general development standards contained in Section 6 and 7 of this ordinance.

- A. Antennas, personal wireless

- B. Automobile sales
- C. Bed & breakfast inns
- D. Churches
- E. Schools
- F. Community buildings
- G. Concrete (ready mix) or asphalt mixing facility, permanent
- H. Contractor Shop (i.e. plumber/electrician/landscaper)
- I. Golf course
- J. Guest cottage - greater than six hundred (600) square feet but not more than 700 square feet
- K. Kennels - more than 4 animals
- L. Manufactured home park
- M. Mini-storage facility
- N. Multifamily dwelling
- O. Conventional designed developments
- P. Professional services - (i.e. medical, accounting, attorney, dental).
- Q. Solar Farm
- R. Vehicle repair shop
- S. Welding shop

5.03.04 Interim Use Permits

The following uses may be allowed as interim uses subject to the procedures set forth in Section 3.13 of this ordinance and further subject to the performance and general development standards contained in Sections 6 & 7 of this ordinance:

- A. Concrete (ready mix) or asphalt mixing facility, temporary
- B. Group family daycare
- C. Group family daycare
- D. Home business
- E. Home occupation
- F. Migrant and/or seasonal worker housing
- G. Mining
- H. Outside storage/display of goods less than 2 months
- I. Secondary single-family dwelling unit for a 1st degree relative to assist with farming on the same property.
- J. Temporary uses/special events Rural Tourism and Event Center

5.05 COMMERCIAL DISTRICT

The purpose of this district is to promote the concentration of a wide range of commercial and recreational establishments into a general commercial area to service residents and the traveling public. A commercial district is near existing business areas. The commercial district varies in size and depth from the road rights-of-way as shown on the Todd Township Official Land Use Map. This district is intended to meet the following Todd Township Comprehensive Plan goals:

- Regulate scattered and fragmented commercial uses
- Support living wage opportunities
- Identify the types of suitable commercial growth in township

5.05.01 Lot Requirements

- A. Minimum acreage: 43, 560 square feet (1 acre)
- B. Minimum lot width: 200 Feet
- C. Setbacks from:
 - Property line - 10 feet
 - Public road right of way - 35 feet (from right-of-way) or 65 feet from the centerline of the traveled roadway, whichever is more restrictive.
- D. Maximum impervious lot surface - 35%
 - 1. The allowable impervious coverage may be increased to 75% on legal nonconforming lots smaller than 0.5 acres, or to 50% on lots of at least 0.5 acres, by conditional use permit and with the submittal and implementation of a comprehensive stormwater management plan acceptable to the Township that emphasizes the onsite treatment and storage of stormwater and any irrigated water through a combination of methods which may include buffer strips, swales, rainwater gardens, retention or infiltration ponds or other acceptable best management practices. The Township may require such plans to be designed by an engineer or other qualified professional and reviewed by an independent engineer or other qualified professional before approving such plan.

5.05.02 Permitted Uses

The following uses are permitted subject to any applicable performance and general development standards contained in *Sections 6 and 7 of this ordinance*:

- A. Accessory uses and structures that are incidental to the principal use
- B. Antennas - receiving short wave/private transmitting, personal wireless service and microwave, subject to the conditions of Section 6 & 7 of this ordinance
- C. Bait shops
- D. Beauty shops
- E. Community buildings

- F. Commercial day care centers
- G. Eating and drinking establishments
- H. Essential services – distribution and utility substations
- I. Financial institutions
- J. Golf courses and club houses
- K. Government and administrative buildings
- L. Grocery stores
- M. Health clubs
- N. Landscape, nursery, greenhouse or garden sales
- O. Liquor-off sale – must have pre-approved license
- P. Lumber sales/warehouse
- Q. Offices, clinics
- R. Outdoor display
- S. Retail uses
- T. Self-service storage facilities
- U. Solar Energy Systems – Accessory
- V. Veterinary clinics

5.05.03 Conditional Uses

The following uses may be allowed as conditional uses following the procedures set forth in *Section 3.13 of this ordinance* and further subject to the performance and general development standards contained in *Section 6 and 7 of this ordinance*.

- A. Contractor shop (i.e. plumber/electrician/landscaper)
- B. Drive in businesses
- C. Grain and seed sales and storage
- D. Gas Station (minor repairs) and/or convenience stores
- E. Hotels, motels
- F. Kennels, commercial, boarding only
- G. Motor Vehicle Repair
- H. Outdoor sales lots, including used cars, trucks, trailers and farm implements
- I. Packaging/warehouse
- J. Salvage yard
- K. Solar Farm
- L. Theatres – indoors

M. Churches

N. Schools

5.05.04 Interim Use Permits

The following uses may be allowed as interim uses subject to the procedures set forth in *Section 3.13 of this ordinance* and further subject to the performance and general development standards contained in *Sections 6 & 7 of this ordinance*:

- A. Outside storage/ display of goods less than 2 months
- B. Rural Tourism and Event Center