

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: December 16, 2021

MINUTES – (Informational)

The Wright County Planning Commission met December 16, 2021, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Dan Mol, called the meeting to order at 6:30 p.m. with the following Commission members present: Dan Mol, Pat Mahlberg, Ken Felger, Sandy Greninger, Dan Bravinder. Absent: Mike Kaczmarek & Jan Thompson. Representing the Planning & Zoning Office were, Stacy Marquardt, Planner and Barry Rhineberger, Planning & Zoning Administrator; Greg Kryzer, legal counsel.

Action on November 18, 2021, minutes

On a motion by Greninger, seconded by Mahlberg, the minutes for the November 18, 2021, meeting were approved with a word change on page 7, from HMAc to HCMC.

Discussion on 2022 Meeting Date Calendar

Commission received a tentative calendar for the 2022 meetings. Felger requested they avoid setting a meeting during Holy Week leading up to Easter.

On a motion by Bravinder, seconded by Greninger, the Commission adopted the proposed 2022 calendar with a date change from April 14 to April 21.

1. SARA J. HELMAN – Cont. from 11/18/21

LOCATION: 12009 Banyon Avenue NW – W ½ of SE ¼ of SE ¼ Section 35, Township 122, Range 26, Wright County, Minnesota. (Silver Creek Twp.) Tax #216-100-354401

Petitions for a Conditional Use Permit to operate a kennel which includes dog boarding and day care facility as regulated in Section 155.003(73), 155.028, 155.048(D) Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Sara & Mike Helman

- A. Marquardt summarized the request is for a kennel for up to seven adult dogs. The Commission continued the hearing for a site inspection. The map to show the existing zoning for the 20-acre parcel is AG and Land Use Plan designation is Rural-Residential were displayed. The property is at the end of a road and Staff found an easement for the driveway is recorded.
- B. Mol asked the applicant if they have any new information, Helman responded no changes. Mol opened the hearing for public comment.
- C. David Mergen – neighbor next door. Referenced the adjacent development next door and the Declaration of Covenants for Wooded Acres and conditions placed on those lots include: 1) Use is only for single-family residences; 2) no noxious activity on the lot that could be carried out that could become an annoyance or nuisance. The owners must live by those rules in the adjacent neighborhood. He pointed these out because her clients will have to come through this neighborhood to get to the kennel. At the last meeting a Township Supervisor was present; but, after the meeting he talked with Mike Ludenia, who clarified that the Town Board voted this down. At the last meeting the Supervisor made the impression they approved. The driveway is on Matt Witschen's land who told him he did not want all these people coming across his land. The

residents who live on Banyon are in the audience. This is not popular for those living in Wooded Acres that must live next to this. Mol asked if the applicant's lot is part of this plat? Mergen confirmed it is not, but they will get the traffic.

- D. Josetta Zetah – noted their property is directly south. A letter was submitted for the first meeting expressing their concerns. The noise is a big one. She is concerned this could impact the enjoyment of their property. She explained the roads around this area are winding. Neighbors along this road use it to bike and ride horses, her special needs daughter also uses the road. This is a dead-end street. Concerned for the future and the expansion that might come that will be out her front yard. She is concerned her dog might be attracted by other dogs. A large dog kennel is 2.5 miles from here. There are a lot of kennels that receive many complaints and doesn't want another.
- E. Sheryl Salonek – 11920 Banyon Avenue – is concerned barking dogs and traffic will be a nuisance to their quiet neighborhood. Dogs can scale a 12' fence, she does not want this in their neighborhood.
- F. Sara Helman – addressed the concerns, noting their property is not in the development referred to. She explained the type of kennel she would operate (see description in minutes of the previous meeting) and assured the neighbors there would not be a large amount of traffic that the neighbors are anticipating. Her clientele is made up of family, friends and acquaintances that she would have no problem warning them to use caution when driving on this road. Dogs are dropped off and picked up by appointment and picked up on different days and traffic may be 2-3 cars a day. Her operation in Plymouth where she lived on a half-acre lot received no complaints over the three years she was there. The location was at the end of a cul-de-sac, some neighbors did not know she had a kennel operation. She understands the residents want to protect their peace and quiet, she grew up in the country and has lived in neighborhoods near railroad tracks and other noise. The reason they moved out here. She felt the neighbors' objections are based on fear and assumptions. They will be with the dogs all the time, including their bedroom is located above the area where the dogs are housed. They do not want to listen to barking either. A picture of the space they will be housed in their home was displayed. There is a pasture between them and the neighbor to the south. That neighbor had informed her husband their dog is aggressive and may be part of her concern. Helman stated her dogs will never be exercised in that area of the property. She again reiterated she will always be with the dogs when outside. This is her dream job and only source of income for her.
- G. Michael Helman – confirmed there were no complaints from neighbors on the dead-end they lived in Plymouth. Some neighbors had small children riding bikes. One neighbor commented to him that he did not know they had dogs living next door the first year. In response to a question by Mahlberg, he stated their address in Plymouth was 4655 Irvindale Ct.
- H. Chris Klein - representative of the Silver Creek Town Board – suggested if the Commission considers approving the permit they limit it to an Interim, so it does not transfer with ownership. Felger asked the Town Board's vote. Klein – the vote was split, and the majority voted to deny. His opinion was they could make it work here.

- I. Felger made the site inspection and the room for the dogs was a converted garage, just below the applicant's bedroom? S. Helman – that is right.
- J. Mahlberg asked if exercising is limited to the fenced area? S. Helman – yes. She would like to use the trails on the property, but they would get plenty of exercise in the fenced area. If she took a dog on a trail, it would because she wants to take a walk. She will keep her dogs as far away from the Zetah property as possible because of her dog. The Zetah's dog should not be able to see her dogs. Location of the trails was reviewed.
- K. Felger asked if there are other dogs in the neighborhood and if the applicant hears them bark? S. Helman stated there are and she hears dogs bark in the distance because they are in the middle of the 20 acres. She perceives that might be how neighbors would hear her dogs if they should bark. Felger asked how many dogs are allowed without a permit? Marquardt – up to three adult dogs.
- L. Bravinder looked at the City of Plymouth Ordinance related to dogs. Apparently have a policing agency to handle animals and a strict leash requirement. Found no complaints on the applicant's property. He felt the applicant has a good track record, shown they are conscientious and are taking the neighbors concerns into consideration. He has looked at the location of the trails on the property which most are in the opposite direction of the neighbor to the south. He supports this. The Town Board action was 5/4 with only comments that were negative. He does not know the reasons for those in favor and would like to see them all. S. Helman explained at the first meeting with the Town Board she was not prepared as she was when she went back. She felt the Town Board supervisors were on the fence and if she would have been more prepared, the outcome may have been different. She expressed gratitude for Klein, who she did not expect, to come to the meetings to speak on her behalf. Silver Creek has four kennels, two have sled dogs that are the Huskey breed, kept outdoors and talk and howl. That is different than the breed of dogs she has and those are more of a breeding operation. She does not know if she would be expanding for a while.
Bravinder asked about an Interim use rather than a standard Conditional Use and the difference. Kryzer – Interim is defined by Statute and carries with it more planning mechanisms. The Planning Commission can put all kinds of conditions that extinguish the permits, and the owner loses the “grandfather” rights. He referred to one use is gravel pits. A Conditional Use Permit carries and runs with the land but is subject to conditions set by the Commission.
- M. Bravinder moved to approve a conditional use permit for a kennel with the following conditions:
1) No more than 7 adult dogs on site at any given time; 2) Dogs must be housed inside at night and supervised at all times when outside; 3) The township will review yearly for compliance; 4) Any expansion or change in use requires an amended conditional use permit; and 5) the Conditional Use Permit for a kennel terminates upon the transfer of ownership. Greninger seconded the motion.

DISCUSSION: Mahlberg felt looking at the map of the applicant's previous kennel, gives an idea of what he would expect from the applicant. This location is not off to the best start with the neighbors and will be held at a high standard, as they should be. He hopes the annual reports they get back from the Town Board are positive. Felger asked about the review. Kryzer – this is standard condition to make sure someone at the local level is looking at what is going on. If there are concerns those are sent to the

Commission. The Office can also receive police reports and if there are violations, there can be an Order to Show Cause and the Commission can hold a revocation hearing.

VOTE: CARRIED UNANIMOUSLY

2. **ESTATE DEVELOPMENT CORPORATION** – Cont. 11/18/21

LOCATION: 11216 Eastwood Avenue SE – Part of W ½ of NW ¼, Section 35, Township 118, Range 25, Wright County, MN. (Franklin Twp.) Tax #208-200-352300 Owner: David Lubben Trust

Petitions to rezone from AG General Agriculture to A/R Agricultural-Residential and a Rural Planned Unit Development District as regulated in Section 155.028, 155.047 & 155.059 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Tom Gagnon, Estate Development Corporation & Paul Otto, Otto Associates

- A. Marquardt reviewed the property location, noting it is currently zoned AG General Agriculture and in the Land Use Plan designated for Rural-Residential. The hearing was continued for a site inspection. The site is roughly 39 acres with an existing home. The applicant is requesting to rezone to A/R Agricultural-Residential with a Planned Unit Development overlay for six lots and one out lot. There is mixture of prime and non-prime soils on the property. The soil map and PUD concept plan were displayed.
- B. Otto - at the site inspection questions came up about drain tile and where the outlets are located. He was able to identify that one tile goes to the south by the wooded area. There is another tile closer that goes to the area on lot 4 where the rectangular pond is located. Water from the road ditch flows into this pond. The survey crew did locate both ends of the drain tiles and an easement will be included for maintenance on those tiles. Hopefully by visiting the site the Planning Commission members were able to see what they are trying to accomplish and preserve with the PUD. The middle area and lowlands are the area they want to see preserved and feel these lots fit into character with lots on 115th Street.
- C. Jeff Sullivan – it was mentioned that the developer would ensure that the common space would facilitate drainage; but he does not see anything addressing ownership and who would be responsible for maintenance. The Rice Lake Retreat development starts right near this parcel and had covenants in place when built to ensure the aesthetics was consistent. There are no plans in the PUD that enforce any kind of aesthetics to maintain property values. Marquardt - currently only in rezoning phase of the proposal. If this goes further a lot of those questions will be addressed. Reminded the Commission and audience that this discussion is only regarding the rezoning phase.
- D. Felger addressed Otto and questioned if the drain tile is properly operating. Otto stated that when at the site there was no water running. The tile is a 12” pipe so he would assume there would be evidence near the recently tiled inlet if it was not properly operating. Greninger asked Otto to show on the map the tiles and how the water flows on the property. Otto used the displayed concept plan to describe how tiles and the road ditch handle the flow of water. Felger questioned Otto if he remembered the discussion regarding a culvert that is potentially in the NW corner and goes under the road. Otto – remembers the neighbor mentioned a culvert that went across Deegan. When at the site he observed that water goes north and across the road into the common open space across Eastwood. He does not believe water flows east and west on Deegan. When at the site he specifically looked for a culvert, as the neighbor had mentioned, and did not see one.

Believes the water goes north into the open space between lots 1 and 5. Did not see a culvert at Deegan but there is one at Eastwood.

- E. Mol – the PUD ordinance says there needs to be 40 acres; this parcel is just short at 39 acres. Questioned if this could be an issue. Marquardt – with a Planned Unit Development you need 20 acres. The reason 40 acres came into play is because some of the Commission members felt a PUD might not be feasible and thought 10 acre lots would be a better direction. That would give them 3 lots. If the Planning Commission is leaning that direction then staff would recommend renotification and have applicant change their concept plan to get to the 40 acres. The current property owners do own a parcel to the east where they could obtain the acreage needed to get that 40-acre size. Required to reapply and the Commission would hear that rezone request separately. A PUD technically only needs 20 acres to be applied for.
- F. Bravinder questioned if there was a PUD on Rice Lake. Marquardt – there is PUD that does have lakeshore lots. Mol – asked the approximate size of those lots. Marquardt – lots are roughly 4-5 acres. Without having the proper measuring tool, it is hard to have a concrete number.
- G. Bragg, Courtney – owns a lot in the Rice Lake Development. Stated she has the smallest lot at 2.5 acres with largest being 6 acres. The open space in their plat is a large horse farm.
- H. Greninger – questioned if a PUD must be 10 acres. Marquardt – must have 20 contiguous acres to request a PUD. Each lot would be less than 10 acres because it is a cluster style development with the minimum at 1 acre. In this case they are asking for lot sizes ranging from 3-5 acres. The 10 acres is if the Commission does not allow a PUD, then it would be a 10-acre minimum.
- I. Mahlberg – addressed Otto, is there anything unique about this property that makes it different than any other similarly situated piece of land. Otto – if you look at a cookie cutter 10 acre split it would not protect the lower wetland areas, trees, and has roads on 3 sides, as this proposal does. Previously involved in situations like this before in the County, where we used existing roads for a PUD and protected wetlands. Typically, come in and need to build a road. He would argue this is more of a 2nd phase of what is behind the parcel. If the request was putting in a road and open space than it would be a different conversation. With the road frontage already available it makes this a unique situation. Preserving the road and wetland flowage, that drains down to the river, also makes this a unique situation.
- J. Bravinder – appreciated the reply and comments from Franklin Township. Noted that they asked for a developer's agreement and would like to know how that works when the County is involved. Kryzer stated he spoke with the Townships Attorney regarding this request. He indicated it would not be a problem and it is something they have previously done. The agreement would be to secure the road structure during construction and recorded with the Plat. This is like what has been done with solar farms.
- K. Bravinder motioned to recommend approval of the rezoning to the County Board of Commissioners from AG General Agriculture to A/R Agricultural-Residential because the Board feels it meets the criteria outlined in the Land Use Plan and the Township approved. Seconded by Greninger.

DISCUSSION: *Felger – to be clear the motion made is simply approving the rezoning to AR without a PUD. Bravinder – stated he was confused by the staff motion as it appears that the 2nd proposed motion was cut off from the staff report and his intention was to include the PUD.*

VOTE: 5/0 OPPOSED UNANIMOUSLY

- L. Bravinder motioned that the Commission finds that the criteria in Section 155.059 of the Wright County Code of Ordinances are met, the Plan will meet the requirements for common open space as regulated in 155.059 (I), and the Town Board has approved. Therefore, the Commission recommends to the County Board approval of the rezoning as the property is shown on the concept plan completed by Otto Associates dated 10/20/2021 from AG General Agriculture to A/R Agricultural-Residential and a Rural Planned Unit Development District because the request meets the intent of the Land Use Plan, there is similar development in the area and the Town Board approves. Seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

3. **MINNESOTA TEEN CHALLENGE, INC.** – Cont. from 11/18/21 – Public Hearing Closed

LOCATION: 8150 - 20TH Street SE – W ½ of SW ¼, Section 9, Township 119, Range 24, Wright County, Minnesota. (Rockford Twp.) Tax #215-000-093300
Property owner: Sacred Portion Foundation

Petitions for a Conditional Use Permit as regulated in 155.003(B)(165), 155.029, 155.048(D)(25) & 155.110 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow operation of a residential treatment and recovery facility using the existing buildings.

Present: Blake Graham, Applicant's Attorney

- A. Public comment was closed at the last hearing. Mol asked the Commission members if they have any questions or comments after receiving the Findings. Kryzer – there was a revision this morning that Staff have provided to the Commission. The applicant has looked over the conditions and indicated they agree as presented. Marquardt – the suggested action is in the Commission's packet.
- B. Mahlberg referred to Page 14, para. 20, where the third sentence talks about property values. It suggests the values were increased by the past resort use. He did not see the record supported that. But, that there was not a decrease and did not see proof of that. He proposes to strike that part of language, "the opposite appears to be true".
- C. Felger moved to adopt the Findings as presented this evening with the strike out as suggested. Greninger seconded the motion.

VOTE: CARRIED, Mahlberg opposed

Kryzer asked if there was a representative for MN Teen Challenge present to accept the Findings? Graham appeared and was handed the Findings.

4. **DENNIS G. HAVEL** - Cont. from 10/28/21

LOCATION: xxxx Davern Avenue NE – NW ¼ of NE ¼, & part of Gov't Lot 1, Section 3, Township 120, Range 25, Wright County, MN. (Gilchrist Lake-Buffalo Twp.) Tax #202-000-031200

Petitions to rezone approximately 85 acres from AG General Agriculture and S-2 Residential-Recreational Shorelands to A/R Agricultural-Residential and S-2 and a Conditional Use Permit for an unplatted eight-lot subdivision as regulated 155.028, 155.047 & 155.057, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Dennis Havel & Jolene Pierce, owner's agent

- A. Marquardt reviewed the property, zoning and Land Use Plan that is located on Gilchrist Lake. The recommendation to rezone to A/R was accepted by the County Board in August. The unplatted subdivision for eight lots is now before them.
- B. Mol opened the hearing for public comment. No one came forward and discussion went to the Commission.
- C. Bravinder questioned the report from Wright County Soil & Water (SWCD). Marquardt – explained it now meets the de minimis Rule. If they want to make any changes such as to the driveway, house location or excavation they will have to go back to SWCD. The report indicates what is before them meets their standards. Bravinder –was the wetland delineated? Marquardt - yes.
- D. Mahlberg moved to approve a Conditional Use Permit for an unplatted eight-lot subdivision in accord with the survey completed by Meyer-Rohlin Land Services with the revision date of 11/18/2021; File No. 21310 with the following conditions: 1) Access permits for each lot will need to be obtained from the Township, if required, prior to building permits being issued; 2) For Parcel D, if the home is not going to be placed where it is shown on the approved survey then SWCD would have to approve the new location before the application of any building permits. Additional permits through SWCD and/or a land alteration hearing may be required if the location is changed; and 3) The parcels west of Davern Ave NE are not allowed cattle or swine. All lots are allowed ½ animal unit per acre after a Notice of Construction or Expansion of a Feedlot form is submitted to Planning & Zoning. Felger seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **KENNETH J. WURM** – New Item

LOCATION: xxxx 63rd Street NW – N ½ of SW ¼ of SE ¼, Section 35, Township 121, Range 27, Wright County, Minnesota. (Corinna Twp.) Tax #206-000-354300

Petitions to rezone 20 acres from AG General Agriculture to A/R Agricultural-Residential as regulated 155.028 & 155.047, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances to allow for one dwelling (currently restricted land).

Present: Kenneth & Betty Wurm

- A. Marquardt displayed the zoning and land use maps, noting the property is zoned AG and in the Land Use Plan to remain AG. The history of the property includes a Board of Adjustment action when the 20 acres was added to the west 20 acres that has their homestead. That action noted that it did not increase entitlements. The existing home is the only entitlement. The soils map shows the 20 acres is classified prime tillable soils.
- B. K. Wurm noted he would not have to repeat the information he submitted in his letter if the Board has seen that. Their intention is to stay in their home long-term and the rezoning would allow their granddaughter who is in training to become a nurse to build and live on the property and help them with their needs when it comes time.
- C. Mol opened the hearing for public comment. No one came forward to address the Commission.
- D. Felger noted the parcel is in the middle of an AG zoning district and is guided in the Plan to remain AG. Rezoning here would be considered “spot-zoning”. He could not recall a time when the Commission rezoned a property that is right in the middle, may have come close; but this is in an area designated to remain AG.
- E. Greninger asked if the request goes against the Land Use Plan? .Mahlberg explained the request is not consistent. Owners can only rezone when the situation is considered a rare and unique circumstance. Greninger indicated she asks because this is new to her. Mahlberg asked the applicant why they felt this property meets the rare and unique criteria that justifies going against the Land Use Plan. K. Wurm responded he thinks it is the health care needs at their elderly age. Appreciates what the Board does and understands every property cannot be rezoned but felt the Ordinance could be overlooked if the Board can consider this like a court case. They would prefer a building spot to locate the home on a different 17 acres, if the Commission would prefer. He explained he is a Vietnam veteran, and this land came up for bid before his discharge and return home. His bid was awarded as it was the only one. He asked for consideration for his care needs. They would prefer the house on 17 acres (across the road).
- F. Felger questioned a request for health care arrangements for the Martie property. Mol – summarized that was living space in a shed and the applicant had lost family members. There were horses involved. Marquardt clarified that was a permit for a farm accessory. Another option she reviewed with the applicant was a request for a medical hardship mobile home. That is heard

by the County Board. These permits allow a mobile home and are removed when no longer needed. Mahlberg recalled the details on the Martie request. Marquardt noted the Commission found the request met the farm accessory standards. Mol asked if either of those options require rezoning? Marquardt – answered no.

- G. Greninger noted this request is for a permanent home.
- H. Mol explained the request before them is to rezone. The Commission's action is a recommendation.
- I. Mahlberg stated he is a stickler for rules. He thanked K. Wurm for his service to our Country, but at the same time, from his role on the Commission and those standards, he has a hard time finding justification for it. Many owners would like to have a generational arrangement, he is not finding that a rare and unique circumstance to justify the rezoning.
- J. Bravinder – finds this difficult. His family made an addition to their home for his mother-in-law. Other families are planning ways to care for family members. The difficult thing is they must look at the future, this would be a split of the property. He supports having someone live on the property to help. However, the Commission has rules to follow. Another proposal for a split was similar and thought that was rare situation because of the park land on one side and rezoning would not expand in that direction. He supports providing care for family members.
- K. Mol – felt they need to look at the Ordinance and what has been done in the past. As Felger pointed out, this is in the middle of a field and would be spot zoning. There are other alternatives through Human Services for a trailer home that would be removed in the end. That might be an option rather than having them live in the same house. He noted the Plan limits density to protect the farm operations.
- L. K. Wurm – although it is 20 acres, the granddaughter would not want to mow that much. Most of it would remain in farmland. Mol – if a home is allowed here, and another situation comes before them down the road, they have set a precedence. He is trying to protect the farm operations and wants to avoid splitting up land that was supposed to be preserved for farming. It goes against the Ordinance, and he tries to protect agricultural. The Plan indicates where they want the homes to go, he would go along with a request to rezone in those areas. He was part of Clearwater Township Board when the Land Use Plan was updated. K. Wurm agreed this is all tillable soil.
- M. Bravinder – read the Town Board's comments and asked what is being referred to as a high concentration of homes and that the request would not be out of character. Mahlberg – noted on the air photo there are some lots to the north. Marquardt – those across the road are "entitlement" divisions and reason the land is restricted.
- N. Felger indicated he was ready to recommend denial of the request to rezone.
- O. Kryzer suggested the Commission could offer the applicant an opportunity to withdraw. Mol – explained it looks like it is heading for denial. That action requires him to draft Findings

consistent for denial. K. Wurm – asked for clarification on whether he could come back again? Kryzer – in six months he could come back. Mahlberg – as a commissioner when he sees there was a denial on a property it is clear it was well thought out. Whereas with a dismissal he is not sure of the reasons. It could be more prejudicial if there are Findings and a denial. K. Wurm hearing the explanation indicated it may be more in their favor to withdraw at this time. Mol – stated it is the applicant's choice. K. Wurm asked for withdrawal and signed a form requesting that.

- P. Felger moved to dismiss the rezoning request at the applicant's request.
Malberg seconded the motion.

VOTE: CARRIED UNANIMOUSLY

6. **KERRI ANN ROBB** – New Item

LOCATION: 15925 – 105th St. NW – Part of N ½ of SW ¼ Section 9, Township 121, Range 28, Wright County, Minnesota. (Southside Twp.) Tax #217-000-093201

Petitions for a Conditional Use Permit for Commercial Outdoor Recreation to have occasional outdoor small wine tasting events (up to 20 people) that will sometimes include music as regulated in Section 155.003(B)(119), 155.029 & 155.048 of Chapter 155 Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Kerri Ann Robb, Sean Robb

- A. Marquardt – reviewed the property location in Southside Township. The 12-acre parcel is zoned AG General Agriculture and is in the Land Use Plan to remain AG. A request for a Conditional Use Permit for a Commercial Outdoor Recreation has been submitted for a winery. All activities will take place outdoors and use tents if needed. The number of public is proposed up to 20 people with hours from Thursday – Sunday between 11 a.m. and 6 p.m.. The winery would include some music that has been described as a singer and non-amplified music.
- B. K. Robb – looking for a small patio venue where people can enjoy the outdoors, their vineyard, learn about grapes and enjoy the view. S. Robb they have found with COVID people want something to do outdoors. They have a variety of grapes, four varieties with 300 plants. K. Robb, they have been doing this for several years and want to share the wine.
- C. Mol opened the hearing for public comment. No response.
- D. Bravinder – referred to the Town Board comments, and they mentioned about 20 people at a time. K. Robb – that is right. Bravinder – that number will be written into the CUP, or could it be more. K. Robb – will be very small. S. Robb – groups might be for a work party. Bravinder – felt they should consider the number so they are not in violation if there happens to be a larger one. S. Robb – understands the point but did not think they would go very large. Mol – asked if 20 is the most, would they have a larger event and be in violation? K. Robb – agreed they could set the number higher but would not want 100. S. Robb they are not interested in weddings. The Town Board has asked they come back in three years. K. Robb – felt the maximum of 50 would be the most she could anticipate. Bravinder – is there parking available for that many? K. Robb yes. Mol – are they in agreement with no amplified music? Robb indicated they are. Marquardt – asked if the notice sent stating up to 20 people would create an issue? Kryzer – it comes down to the Commission can increase for a reasonably foreseeable event, or they can set the number up or down. Mahlberg – is the wine only made from what they grow on the property or do they bring some in? Is the 135 ga. of wine an average per year? S. Robb stated they do not bring in any and that is a good average. They are not looking to get big but want to share their property with people they do not know. Mahlberg – felt this operation is limiting.
- E. Felger questioned if the Town Board should not consider the number that is more than doubling. This would give the Commission a chance for a site inspection. Noted the property is a “flag” lot with access goes beyond someone living in front. S. Robb – they have separate driveways. K.

Robb – when talking with the Township, they were thrilled with it. Mahlberg read the Township response that refers to approximately 20. Felt it shows a reasonable reference that they were mimicking what the Robbs were saying. Felger it addresses his concern. He was concerned how the neighbor feels about the traffic by his house. Greninger – most people would come in at least pairs in each car. She would not expect there would be a lot of traffic.

- F. Marquardt – two responses were received. The neighbor who lives by the road did not respond.
- K. Robb – stated they know that neighbor well and have a good relationship with them.
- G. Mahlberg moved to grant a conditional use permit for commercial outdoor recreation for a winery in accord with the site plan and record with the following conditions: 1) All public activities must be outside of any structure; 2) Porta potties will be required for the public to use; 3) The Township reviews in one year for compliance; 4) No more than 50 people on site at any given time; 5) No amplified music and must only be during hours of operation as approved Thursday through Sunday 11:00 am to 6:00 pm; and 6) Any change or expansion would require an amended conditional use permit. Bravinder seconded the motion.

VOTE: CARRIED UNANIMOUSLY

7. **NOTICE OF INTENT TO AMEND §155.108 SOLAR ENERGY FARMS AND SOLAR ENERGY SYSTEMS – Ordinance Amendment 21-5** – New Item

The Wright County Planning Commission heard a proposed amendment to the Wright County Code of Ordinances. Proposed is to amend 155.006 and 155.108 to change the threshold requirements of a Conditional Use Permit for the Solar Energy Farms & Solar Energy Systems, setbacks, and decommissioning requirements. The ordinance amendment includes changes to the definitions section and any further typographical or minor wordings changes found during the codification process which are related to the use of solar on parcel of real property.

- A. Marquardt - this past year they were directed by the County Board to study the solar ordinance. There were several workshops to study the Solar Ordinance and amendments. Information from those meetings were taken into consideration and used to develop the Ordinance amendments. Some changes addressed were size requirements of solar farms and systems to allow for more leeway. Setbacks from public lands are proposed. In addition, a requirement to have the property owner sign the building permit after the hearing to make sure the solar companies and property owners are both are on the same page. There is language on noxious weeds and drainage concerns through the developer's agreement and surety. Also, plans are to show the location of other solar farms and setbacks before approved. As part of the application (as shown in the red) is the language requiring the drainage and erosion control system are designed and shown on the plan by a licensed engineer, approved by the State and reviewed and accepted by the Wright County Soil & Water Conservation District before an application will be deemed complete. Another change is for 1.4 MW and less are not located within one mile from another solar farm.
- B. Mahlberg questioned the setback of one mile? Who was the delegate to the Task Force and what was the reason? Kryzer explained the County Board is looking to prevent what they see as 1 MW co-location so that they get around paying a production tax. Also, for the Assessor's office so these get assessed properly. The large solar farms do not pay production tax, however, over 1 MW you pay the production tax and pay a commercial tax. He explained if the development of a 1 MW farm should come in at different times with different companies all on the same property, it ends up three different solar farms owned by different companies and different inter-connections. What the County is saying is if any owner is going to co-locate on the property it will have to be one large solar farm, otherwise the property is limited to one.
- C. Felger asked about the setback proposed does it mean from any solar array, such on a neighbor's property. Kryzer – more than 200 KW, so something on someone's house would not count. Felger – what he is asking is if a neighbor wants to also build a solar farm. Kryzer - he would be unless it is under 1.5 MW. Mahlberg asked if the County has seen it, or it is anticipated? Marquardt – the one recently before the Commission was near the gun club in Monticello. Kryzer – there are a couple others also. Felger this could put a damper expansion of solar farms. Kryzer – or they can develop the large farms The County Board sees that as leveling the playing field. Felger – felt far removed from the issue, felt he would have to abstain.
- D. Mol – opened the hearing for public comment, asked comments be kept to under 5 minutes.

- E. Alex Pouliot is a field director MN Land & Liberty Coalition represents farmers and business owners and interested in protecting the environment and State. Although the County's process has been open and transparent, could see where the County was headed. However, the section with the 1 mile was never foreseen. The question he asked is do they want the citizens to be able to decide what is best for their land and family. He understands the concern is about production tax. It appears the County is saying they cannot get their hands on these funds. This would be a state level issue, they need to contact their legislators and say this is a problem. They oppose the restriction on a neighboring property owner that may not be able to have a solar farm because the County would not get their hands on a tax. He wants the Commission to focus on the property rights issue that this would limit. He did not feel this restriction will fix the problem. The tax is a separate issue. Mahlberg how is that different than other zoning restrictions. Noted the Wurms' earlier on the agenda asked to rezone, who felt that was the most beneficial use of their property. How is that different from how they had to apply the policy Pouliot – noted the difference is solar does not take prime farmland out of production forever. Fundamentally, their Organization supports property rights. Understand there are rules but fundamentally, they feel support property rights. Mahlberg asked is there something shorter than one mile that strikes a better balance? Pouliot – this is arbitrary and did not think they cannot just draw a line. Mahlberg asked if any line from their perspective is a bad line?. Pouliot – felt the State should address the production tax which he felt is a fair issue, should be looked at the State level. The solar industry market has changed since they first started. They originally only lasted about 15 years and it has not been addressed since.
- F. Evan Carlson – with IPS Solar since 2016 he has been coming in several years to participate in workshops. First when they applied for the Anderson project that was held up while they had a workshop. He feels the current Ordinance developed is a very robust Ordinance that was well thought out. It gave the County a lot of leverage. Four years later, he has another project this year, and another moratorium went into effect. He again sat on the Committee this past year. Makes sense to review an Ordinance and they addressed issues. He was upset this product was not a part of the Committee, including the one-mile radius. There was an explanation of the reasons for the one mile, but it is a lie. Would have been addressed if it were a part of the Committee discussion. They are not allowed to co-locate in the State on one property. If they are seeing more than one project on one property, they are different companies, not the same. He felt the purpose of the moratorium was to help in the decommissioning fund for one project. A different conflict with another Company was the real reason for the study. That was developed, but the one mile goes too far. Kills all solar development, no one was able to see this. Mahlberg – why does it kill development, he is trying to catch up with the different pieces? Carlson – cannot build any bigger than 1 MW and would like to. They are not asking for a tax loophole; it came down from the State. Mahlberg - why cannot build, is it economics, geographics or to meet the setback? Carlson – they are limited to a utility service territory, circles around cities, must be on a 3 phase power line that runs to a substation to handle the power. There are not many places available. The one-mile radius limits it to one project within that area. He felt they need a map to show how this would limit solar farms. They will not be able to get another one in the County. He questioned how this Ordinance arrived in this form when they spent a year working on something else.
- G. Lori Cocking, of Waverly – felt the argument for production tax is criminal. She emphasized the importance of clean energy and impact the use of fossil fuels has on the health of citizens. She

argued there is a chance for clean energy, a plan for it. She did not think a production tax should stop solar energy. She noted the benefits of solar that reduces the amount of coal used to generate power. Asked that the citizens of the County come first. The Commissioners should figure this out and decision not based on the taxes. The importance of the citizens health should be the most important. Solar companies bring taxes, energy independence and jobs along with income for farmers. She asked the County to figure it out to increase solar and look to the future.

- H. Pete Stupar – Monticello Township Supervisor and a member of the Solar Committee – was at the workshop meetings, many of which were virtual. At first he was not in agreement with Carlson, but Carlson is right, what is before them is a substitute of what the Committee came up with. He does not know where it came from. Asked where the changes came from? Kryzer – the County Board met, took the recommendations from the Committee, and directed Staff to draft this. Marquardt clarified the language in red represents the changes.
- I. Phil Munson – Cokato – he supports solar and is very concerned about climate change and is hoping they can find a solution.
- J. Nathan Dull - field representative for MN Land Liberty Coalition – a non-profit organization representing farmers, landowners and other stockholders who support the State's effort on alternative energy. After a year working on this, he expressed a disappointment when he received the email what the proposed amendments would be. The one addition will stifle any future development in Wright County. Other counties that have adopted similar setbacks are no longer attractive to outside developers. This hurts farmers and landowners to do what they wish. This is what the Coalition is all about, to assist people with what they feel is best for themselves and their land.
- K. Brian Kenan – with IPS Solar – understands solar is a contentious issue, but they show it is gaining traction. Most americans are in favor of improving solar development. Wright County has the most robust solar ordinance in the State. To have this addition at the last minute is surprising. The one-mile setback does not solve the issues the County is trying to address. Xcel limits them, it is limited to 1 MW, community solar is the game and they cannot put more than one together. The one mile does not put a production tax on them. Production tax generates about \$2,600 a year and not a financial windfall for Wright County. Property valuation does not change if they are spread out. If it were discussed at the Workshops they would have addressed this. If there is a way to make a bigger production system they could have. Questioned why the County wants to spread them throughout the County. Geographically it is very limited to where they can put these, there is not room. He asked they strike (18). Mahlberg stated he understand the benefits of co-location; but have situations where there are farmers that oppose and some of them do have significant arguments. Co-locating does not mean the neighbors will like more panels next to them. Kenan – that is why they have setbacks and screening, however, if there are two property owners next door to each other wanting to do it, there would be no complaints. Mahlberg – did want to point out that all co-locations are not met with neighborhood approval. Kenan – they work hard to find locations that are appropriate, put in screening to be good neighbors. These farmers that they locate on are not absentee and also want to be good neighbors.

- L. Jonathan Heindrichs— has no financial interest in solar industry but this is an Ordinance that is going to be a problem. If it is about taxes, it is not a good argument. An estimate of 96% of energy consumed in MN comes from outside of the State. There is no coal and oil in Minnesota, and it is 14 degrees outside. Energy diversity will save lives someday. A restriction of one mile will create a problem in the future, he felt they need to take another look at this. The solar farm requires a Conditional Use anyway.
- M. John Dietering – Rockford Township Supervisor – gave some history on this. About 8-10 years ago an international company with a state permit came into Buffalo Township. That was a problem with the Township and who established a moratorium. Then Franklin Township felt that was a good idea. There was plenty of bad blood when the solar process started and is affecting the Ordinances. Hoped everyone is in favor of renewable energy and the Commission will recognize that some of the townships are angry about solar operations. They need to get beyond that. Asked if someone at the County level is keeping any eye on what counties around Wright are doing to compare. He owns three business in the County and asked that they consider they may be making it harder for those business to come to Wright County. Does not want to push them out, but pull them in. He did not think they should get out of hand and ahead of other counties. They are in competition for these, helps the County, farmers, and grandchildren. Thought the solar operations are paying commercial rates. Kryzer – they thought they would, but don't because they are 1 MW. Assessor cannot assess the value of the panels with the land. Dietering – asked about the surety bonding, can they use the value of the installation/material for the security? Kryzer – that is the backup.
- N. Stupar – there are 18 townships in the County, two have their own Ordinances to ban solar. He asked the solar committee; how does it impact the two townships who have adopted additional standards. Kryzer – they must be as restrictive and can be more restrictive.
- O. Mol – asked what the action is required when the members are at odds with it. Can they forward it without a recommendation? Marquardt – the action is a recommendation to the County Board, they can approve, deny, or send it with no recommendation. Bravinder can their action include changes? Kryzer that is one option. The County Board will make the final decision.
- P. Felger felt it was safe to assume regardless of the Commission's recommendation, the County Board will do what they want. Kryzer – the production tax was brought up by Commissioner, Darek Vetsch at every committee meeting. Felger expressed anger, he noted the considerable time spent on these committees. He was a member of the first committee in which much time was spent, and they encouraged input from everyone. For someone to slip it in at the end is frustrating. He feels solar is the future, they are directed to meet government standards and have a certain amount of energy needs met by alternate sources. Does this Ordinance force neighbors into a race to get solar first before their neighbors do? The comment about the limits on where they can only locate these within three-phase areas, is true. Where is economic development on this? The one-mile setback will restrict property rights. As Dietering stated, we want to invite industry in and not chase them away. Considering the amount of work done, he felt a recommendation could be ignored.

- Q. Mahlberg – asked if the Ordinance before them went to the Town Boards? Marquardt – correct. Mahlberg – the feedback they got back would also be forwarded to the County Board of Commissioners. Marquardt – this version was sent out to all Workshop members, Town Boards, Cities, industry, and County Board members at the same time. The work group met last at the end of August, then the County Board met at a Committee of the Whole to discuss what the Workshop came up with. Mahlberg was asking because of the allegation it was slipped in was the reason he questioned. Although he does not know enough about the industry or the tax balance the County Commissioners are trying to strike. Kryzer – they had looked at the neighboring counties.
- R. Bravinder – he was one of the members of the Workshop, many of which were virtual. He did sit in on them all though he did not speak much. It is correct about the tax issue. Did not remember ever talking about the one-mile setback. He did get the final copy, but #18 as a Town Board stopped them in their tracks. Felt it was overreach and his Township had a problem with it. He would accept the proposal if #18 is removed.
- S. Felger asked Kryzer how the tax matter came down and asked Carlson to explain how he recalled it. Evan Carlson came before the Commission and explained the developers are not trying dodge taxes, they cannot build larger than 1 MW. Would be happy to pay the tax if they could get the deal done. Never discussed the one-mile radius at the Workshop meetings. Felger – felt if this change goes through it will kill solar. He would not object to a solar field next to him. He agrees with Bravinder and would support this if the entire para. 18 is stricken.
- T. Greninger it appears it balances on #18. Mol – before the moratorium they had a strong Ordinance and had thought it was the decommission portion that needed to be strengthened. The Commission routinely add conditions on the solar farm permits from grading, roads, tiling, etc. Each one has had a site inspection, look at the individual parcels, see tiles and make sure things are taken care of. He works a lot in Sherburne County for a seed company, many are growers up there around the Becker Power Plant and in 2023, they are looking at putting in 6,000 acres into solar panels. The landowners want this because they can make more money with it. This paragraph will make it hard for solar to come into Wright County. In Sherburne they are putting it close to the grid. He felt the County had a good Ordinance after it was amended once. He agrees #18 is troublesome. He asked how the Commission wants to proceed, there is no precedence?
- U. Bravinder – based on the letters and Town Board recommendations #18 is a common thread. Cokato Town Board is made up of only three members, did not see other Town Board responses but he moved to recommend to the County Board of Commissioners approval of the proposed amendments with Section 155.108, (C)(18) be removed. Greninger seconded the motion.

DISCUSSION: Mahlberg stated he does not know enough about #18 and felt there are concerns beyond his role as a Planning Commission member and would not forward a recommendation. Rhineberger to get the proper reference of paragraph to be removed it is the following: Section 155.108, (C)(18). Felger confirmed it is the entire paragraph removed? Kryzer correct.

VOTE: CARRIED 3/0 ABSTAINED: Mahlberg & Mol

8. Kryzer suggested they set up a workshop for the Commission to see the new Board room that will have new technology. Commission agreed and a date will be set at the January meeting.

Mol adjourned the meeting at 10:00 p.m.

Respectfully submitted,

Stacy Marquardt
Planner

cc: Planning Commission
Twp. Clerks/Applicant/Owners