

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: September 29, 2022

Minutes

The Wright County Planning Commission met September 29, 2022, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Commission members in attendance: Ken Felger, Dan Bravinder, Sandy Greninger, Jan Thompson, Mark Daleiden. Absent: Dan Mol and Pat Mahlberg. Barry Rhineberger, Planning & Zoning Administrator; Greg Kryzer, Assistant County Attorney, legal counsel.

ACTION ON AUGUST 11, 2022, MINUTES

On a motion by Daleiden seconded by Bravinder, all present voted to approve the minutes for the August 11, 2022, meeting as printed.

PUBLIC HEARINGS:

1. BUFFALO LAKE, LLC, represented by Michael M. Erpelding – Cont. 8/11

LOCATION: Part of Gov't Lots 4, 5 & 6 Section 1, Township 119, Range 26, Wright County, Minnesota. (Deer & Buffalo Lakes – Marysville Twp.) Tax #211-000-012400 & -013100

Petitions for a Conditional Use Permit for a platted 12-lot residential subdivision as regulated in Section 155.028, 155.029, 155.047, 155.057 & 155.059, Chapter 155 Title XV, Land Usage & Zoning of the Wright County Code of Ordinances and Subdivision Regulations.

Present: Paul Otto with Otto Associates, representing Buffalo Lake, LLC.

- A. Rhineberger reminded the Commission this matter was heard in 2021 and approved for a Planned Unit Development Platted Subdivision. The Township had some concerns with the road and the project was delayed. To satisfy the requirements of the Township road standards the developer has redesigned the roads going into the development. The preliminary plat was displayed while the roads were reviewed. The request was originally to be heard at the August meeting; however, staff was waiting on clarification from the County Highway Department regarding turn lanes. Originally the Highway Departments response was that they wanted to have an additional turn lane onto Armitage Ave. as well as the one already required Antelope Ave. turn lane. The Highway Department has since reviewed and responded that they approve of the revised plan, but will require a west-bound turn lane for Antelope Ave. The Township has provided approval, with a list of conditions that they would like to have in their Developers Agreement. This list was provided to the Commission for full review. If the Commission moves forward with approval the list of conditions does not need to be included individually as they would be addressed within the Developers Agreement.
- B. Otto – this was originally seen by the Commission without 7th Street SW and Armitage Ave. was one long road. The lot numbering remained the same with the open space being slightly less. Lot 4 Bock 3 was further south but with the street it was pushed to the north. Other than those two items nothing has significantly changed since the last time the Commission saw the request.
- C. Felger questioned if the noted homesites on the plan the suggested homesite or the only area of the lot where a home could be placed. Otto – at this stage of the planning the house location is a guess as to where someone might build. A requirement of a PUD is to prove a lot can fit two septic sites and house. It is his opinion that a house site can be moved if those same requirements can be meet. There are times when county staff will require a location change to come back to the Commission for review. Daleiden questioned if soil borings are required. Otto – one of the 1st steps in the planning is to determine if the site can support two (2) septic sites. Each site has to have three (3) soil borings to prove the lot is buildable. The proved septic sites would have to be preserved until it is proven there is another suitable septic location. Felger – addressing Rhineberger – asked if a person wants to move the location of the home is there an allowance or process. Rhineberger – depends on the amount of movement and where the home is being moved to. There are times when wetlands, drainage, and utility

easement issues could come into play. The condition states the zoning administrator may require any significant change in location of the home must go back before the Commission. Felger – there is an opportunity for the homesite to potentially be moved, within reason.

- D. The call was made for public comment. No public comments were made.
- E. Kryzer – addressed a correction to the staff recommended motion. The last Lot and Block reference of Condition #8 should be Lot 2, Block 5.
- F. Daleiden moved to approve a conditional use permit for a 12-lot platted subdivision called Lake Estates, as the Commission finds the terms of Chapter 155 Section 155.059 of the zoning ordinance are met, that the plan preserves significant natural areas including wetlands, steep slopes, wildlife habitat, and floodplain, and provides for a better design than a standard subdivision by utilizing the common open space of Outlots A, B & C. Therefore, the preliminary plat of Lake Estates is approved in accord with the record of these hearings and the plans, terms and specifications submitted by the applicant and completed by Otto Associates dated 2/18/2021 Project #19-0547, with revisions dated 6/30/2022 and is subject to the following conditions: 1) Prior to recording the final plat checklist must be completed including but not limited to the following: a) Park dedication is paid along with the other fees noted on the plat checklist. b) Title opinion and developer's agreement are submitted and accepted by the County Attorney. c) Documents establishing the homeowner's association and covenants shall be submitted to the County Attorney for review and include provisions for the maintenance of common open areas if needed. d) The letter of credit or other acceptable financial surety is established for the township road and the right turn lane required from the County Highway Department. This will need to be included in the required developer's agreement, along with other conditions are required by the Township, and approved by the County Attorney's office noting that prior to any building permit the Township will have approved the road as a public road and County Highway Dept. will have approved the access off of County Road 108; unless Township provides confirmation the road has been completed to the extent that they will approve of Township road access for a building permit to be issued. Driveway approaches onto the township road must be approved by the Township. No driveway access will be allowed off County Road 108 and no direct access off of CSAH 12 will be allowed. 2) The Commission notes that there are wetland areas and drainage areas throughout the plat and that these areas are subject to regulations and control and cannot be altered without the proper permits through SWCD. 3) The lowest floor of all structures must be at or above elevation 922.7 (RFPE). 4) Outlots A, B & C shall be common open space in accord with Section 155.059(I) of the Wright County Code of Ordinances, for the purpose of preserving the natural areas and no further development shall be permitted on Outlots A, B & C. 5) To preserve the integrity of a unified development, to protect the drainage and sewage treatment facilities and due to required floodplain elevations for this plat, homes shall be generally located as shown on the approved preliminary plat although minor changes may be allowed if all building requirements are met. Any building or development proposed for any lot must include plans to show the preservation of proper surface drainage and both a primary and secondary sewage treatment site. The Zoning Administrator may require that any significant change of the building location or land alteration on lots shall require review by the Planning Commission as an amendment to this Planned Unit Development approval. 6) Existing buildings on Outlot B must be removed and all structures and refuse properly disposed before any new development takes place on those lots. 7) The lots shall be regulated by the standards for R-2 zoning. 8) Livestock are allowed as regulated by Section 152 of the Wright County Code of Ordinances. A feedlot setback of 500 feet to a new home affects the dwelling placement on lots: Lot 1, Block 1; Lot 5, Block 2 and Lot 2, Block 5. Those individual lot surveys must show the setback being met at the time of dwelling permit application. Seconded by Thompson.

VOTE: CARRIED UNANIMOUSLY

2. **MARY MITHUN** - New

LOCATION: 4875 37th Street SE. – Part of SE 1/4 of NE 1/4 and part of the E 1/2 of SE 1/4, Section 23, Township 119, Range 25, Wright County, MN. (N. Crow - Rockford Twp.) Tax #215-100-234100 & 215-100-234400
Property owners: Apple Jack Orchards LLC

Petitions to amend existing Commercial Ag Tourism CUP to allow a 40 x 60 pavilion to cover the current corn pit, with the ability to use the pavilion for other approved uses, such as a picnic shelter, when not being used as a corn pit. The proposal does not include uses such as weddings or other events as regulated in Section 155.03 (25), 155.03 (119), 155.029, 155.048 and 155.109 of Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances Subdivision Regulations.

Present: Mary Mithun

- A. Rhineberger displayed the zoning, land use and Beacon site map as he reviewed the property details. The property is zoned General Agriculture and is designated in the Land Use Plan as Rural Residential. The property went through a hearing in 2004 for a Conditional Use Permit to expand the orchard to include year-round actives and seasonal retails sales under Commercial Outdoor Recreation. In 2016, the 2004 CUP was amended to change the use to Commercial Agricultural Tourism for the allowance of a food kiosk. The request before the Commission is to construct a permanent 40 x 64 pavilion to cover the corn pit area, which is normally covered by a large tent. The pavilion will be used for other gatherings when not in use for the corn pit. The Township did provide their approval with no other replies received.
- B. Mithun – the corn pit is used by kids so they want to make sure the building is built as it should be. In August they had apply for a building permit and had not realized the first step was to ask permission from this Board. Felger – intention tonight is to amend the existing CUP. Mithun – correct.
- C. Thompson – grew up on a farm but does not know what a corn pit is. Mithun – 40 x 60 rectangle with hay bails around the side and filled with corn. It is like a sandbox for kids but with corn. Felger – stated he has been to Apple Jacks and it is a fine facility.
- D. No comment from the public.
- E. Motion made by Bravinder to approve the construction of a 40 x 64 pavilion shelter to cover the current corn pit, with the ability to use the pavilion for other approved uses, such as a picnic shelter, when not being used as a corn pit. With the following conditions: 1) Current conditions as outlined in previous approvals on file remain in effect. 2) Events such as weddings or other such gatherings will require an amendment to the Commercial AG Tourism conditional use permit. Seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

3. **CAROL KRAJEWSKI & STEVEN HAJAS** - New

LOCATION: 11304 Fannon Ave SE & 11345 County Road 17 SE – Gov't Lot 3 and East 1/2 of the Northwest Quarter as well as the West 1/2 of the NE Quarter in Section 36, Township 118, Range 25, Wright County, (Franklin Twp.) Tax # 208-200-362100 & 208-200-361200 Property owner: Carol L. Krajewski & Steven Z. Hajas

Petitions for a Conditional Use Permit for an unplatted seven-lot residential subdivision as regulated in Section 155.029, 155.047 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances Subdivision Regulations.

Present: Carol Krajewski

- A. Rhineberger displayed the concept plan and reviewed property details. The Franklin Township property is two parcels that combine for a total of 188.94 acres and are located along Fannon Ave. and County Highway 17. The eastern parcel is 70.45 acres and rezoned in 1996 to Agriculture Residential (A/R). In 2021, a two-lot unplatted subdivision was approved that created a 11.2-acre lot to the north. The western parcel is 118.49 acres and was rezoned in 1999 to A/R. The request is for an un-platted seven-lot residential subdivision. Tracts B and C are proposed on the 70.35 acre eastern parcel and Tracts D, E, F, G, and H are proposed on the 118.49 acre western parcel. With the properties rezoned the only item before the Commission is the subdivision request. The request is to divide the eastern parcel into a 10-acre parcel and a 60 acre parcel. The western parcel would include 4 lots, roughly 10 acres in size for the northern portion and the remaining property, including lakeshore, being a large 76.5 acre lot. All lots are at least 10 acres with the required 300 feet in width and depth and meet the minimum criteria for A/R parcels. Soil borings have been submitted for each proposed parcel. The County Highway Department has responded for Tracts B and C they will not allow any new access along County Highway 17. These two (2) tracts will require a shared access on the property line, or they can vacate the existing access on Tract C and relocate the access to Tract B. Tract D access is allowed to stay or relocate along County Highway 17. A minimum of 650 feet of sight distance will be required when entering the highway system. Access placement, culvert size and such will be addressed when the Highway Department receives an access application. Franklin Township did approve of the request. One neighbor did respond with concerns regarding drainage, dust control and maintenance of Fannon Ave.
- B. Felger questioned the applicant on the shared access of Tracts B and C. Krajewski stated they are not going to pursue that at this time. There is an existing road approach they thought they could convert to residential use, for a homesite. They feel that they have been bounced between the County and the Township with that access. The County Highway Department states the Township has nothing to do with the access and the Township says they will not allow a shared driveway, private road, or take over a paved road. At this time, she is not sure that the issue could be solved so she is willing to forgo that portion of the request. Kryzer addressed the applicant and asked if she is stating she would like to leave Tract B and C out of the subdivision request. Krajewski – does not think it would be neighborly to sell a property that no one can access. Feels that they might need to keep asking for driveway approval until given permission. Kryzer – the Highway Department is not likely to change their stance on the matter. Krajewski – is it standard to allow a single access for a lot this size? Kryzer – on this type of a highway, yes. Krajewski – then that lot can be forgotten for now. Kryzer asked for clarification on what the intentions are related to the proposed division on eastern parcel. Is the intent to withdraw the eastern parcel, Tracts B and C, from the subdivision request? Krajewski – there is nothing to approve if access isn't there. Kryzer – position is to withdraw? Krajewski – not her position that it should be withdrawn, her intentions are to sell the parcel. It sounds like it is not something that would be approved tonight or ever, if the Highway Department has said no. Felger – there might need to be some additional discussion. Stated he does not want the applicant making a rash decision. Krajewski questioned if the eastern division

would be approved without access? Kryzer – no. Krajewski – feels they are at an impasse with the lots on the eastern parcel but the 4-lots on the western parcel discussion can be hand. Felger – suggested working out the details so that when coming to the Commission it is with a concrete proposal. Krajewski – believes this is a concrete proposal. Several proposals have been reviewed by Planning & Zoning and they were told they needed to show what the entire intent was for the property; this is the 8th or 9th drawing to be submitted over the last 5 years. Understand that they will not be approved without the access, but they were told to present what the overall use of the property would be and that is what was provided.

- C. Bravinder questioned that the notes from the Highway Department reference a 650 ft. sight line that needs to be present. His guess is that is why they are denying two accesses. Rhineberger – that is his interpretation. Bravinder – if given only one (1) access, that would mean only one (1) lot on that east side, not two (2). Is that an option? Krajewski – asked for clarification on what is being asked. Rhineberger – as divided, that is what they have. Lot C includes Lot B, that is one large buildable site. They have the ability to put a house on parcel as it currently stands. When the 2-lot subdivision was done it was an 11-acre lot on the north end and the southern end was left a larger lot, that has the ability to have a single home. The new division and need for another access is the issue. Krajewski – we were told to draw up what intentions are for the entire piece. If needed to move along they can set Tract B and C aside.
- D. Felger – the Highway Department is willing to give a shared access, right on the property line of Tract B and C. Krajewski – correct, they are also willing to allow a frontage road or private road. The Township stated they will not allow the roads. The Highway Department is stating it is a County Highway, so the Township really has no say. She is concerned an application would not be accepted without Township approval and the feeling is that they are being bounced around. The Township has said no to a private road or a frontage road. Rhineberger stated he would not take an application on a private road. If there was an application that included a new public road additional review would be required. With division requests the Township review is for the time for access and road details to be sorted out. With new roads the Township should be included in conversation prior to a new application. Felger – in this case, the parcel is on County Road 17 and would be under the full jurisdiction of the County Highway Department. Kryzer – correct, the right-of-way is completely in the jurisdiction of the County Highway Engineer.
- E. Bravinder – reading through the minutes from the Township, they approved of the division and there is nothing stating they would not allow a shared access off of the County Highway. Krajewski – that conversation is in the minutes from the 2020. Kryzer – the Highway Department is requiring a shared driveway between Tract B and C, what they do with it once they get beyond that initial shared access is completely up to the property owners. The requirement is to have a mutual easement between the lots, so they have shared access onto the County Highway. Bravinder – did not see in the Township minutes that would not be allowed. Kryzer – the Township does not have jurisdiction of a private driveway onto a County Highway. What would not be allowed is a private road to be developed with the landlocked parcel off of that private road, it would have to be a public road. Felger – asked the applicant if she is clear on what was discussed. Krajewski – that was her understanding. Questioned if the Township understood, as they had stated they would not approve a shared driveway. Felger – the Township does not have authority over the County Highway. Krajewski – concerned that she will need approval and if she applies with a shared driveway would it be turned away because the Township won't accept the shared driveway. Rhineberger – the application would be accepted. If a shared driveway was wanted off of Fannon Ave., and the Township said no, that would be a case where he would suggest not applying. In this case the Highway Department has jurisdiction over the shared driveway and the Township does not. Krajewski stated that has been her understanding. Rhineberger – access permits for County Road 17 are applied through the County Highway Department not the Township. He stated that does not like taking that stance with the Township but in the end, they have no authority over the access in question. Krajewski agreed but does not want to upset the Township.

- F. Bravinder – the term shared driveway keeps being used but this is not a shared driveway, this is a shared access. Kryzer – correct, the Highway Department wants a shared access but once it gets out of that shared access realm and becomes a driveway going into Tract C, that is completely a private matter.
- G. Thompson – feels that the Commission needs to remember is that the applicant is bringing a request to the committee and has requested she wanted to withdraw a portion of the request. She would like to respect her wishes to withdraw that eastern portion, if that were what she would like to do. Krajewski – sharing an access has always been her understanding of how another parcel could be added. Thompson – asked the applicant if she is worried the Township could affect the ability to sell the other lots. Krajewski – if the protocol is to accept what the Township says, certainly she does not need go above their heads. Thompson – might need a lawyers opinion or have another conversation beyond this Commission.
- H. Felger – as member Bravinder pointed out, in the most recent Township recommendations there was no comment related to the shared access. Bravinder – is on the Cokato Township Board, there is no jurisdiction on County Highways for access. The Township has no say access for a County Road unless it would affect what is happening to the drainage ways. He wants to make sure the applicant is understanding that a new road is not an option here, but the Highway Department is saying they will allow a shared access between Lot B and C. This is not a new concept for this Commission. Krajewski – just repeating what was told to her regarding private roads, frontage roads and shared driveways throughout the years. It has always been her understanding that the Township doesn't have jurisdiction with the County Highway. Agrees and understands but why than is township approval required when the application is submitted. Rhineberger – township approval isn't required for the application. What is required is a meeting with the township and receiving a recommendation prior to the hearing date. An application is not denied if a township denies the request because the authority is with this Commission. In this case, if the Township said no to this access but agreed to rest of the request the Commission will be the one to discuss and make a decision. Felger questioned if the applicant would like to proceed as requested. Krajewski – confirmed, as there is a separate parcel with 4-lots that are all conforming and have no access issues. Felger – the Commission will consider what is presented. Krajewski – agreed.
- I. Felger asked for public comment
- Patricia Juntunen – perhaps it would be helpful for the applicant to have the statement that was made tonight regarding not needing township approval, on record and signed by the board. If there was written record it would help show she did her due diligence and did not ignore the Township. Daleiden – there isn't a need to submit an application to the Township. Once approved by this Commission, the Township is out of it. Juntunen – correct, but it sounds like Ms. Krajewski wants to do her due diligence with her permit packet she could include the document from this meeting. Daleiden – it will be noted in the official minutes. Felger – as mentioned, this conversation and discussion will be in the official minutes. Rhineberger stated he will be at Franklin Township on Monday and will have a direct conversation with the Board. It was reiterated the discussion from tonight will be part of the minutes.
 - James and Christine Johnson – 11191 County Rd. 17 SE – C. Johnson stated their home is located right before the curve of County Rd. 17. The concerns they have is if the parcel closest to them, on County Rd. 17 is developed, there is drainage that goes under the road and into a low area that conjoins their property. If that area is developed the area where crops are not planted will be affected and cause draining issues on their lot. Also, right now with the crops they have wildlife that they would like to continue seeing. They feel the development will cause them and their neighbors to lose that wildlife. The concern with the multiple driveways on County Rd. 17 is appreciated. There is a lot of traffic and people travel well over the 55 mph speed limit. They are in favor of a single access for the two lots onto

- the County Rd. 17. J. Johnson – this area is the 1st area you can pass when coming off of County Rd. 20 and County Rd. 6, there is a lot of passing that happens in this area. Felger – the proposal does not have more than one driveway. C. Johnson – with the aerial map displayed the low area was pointed out and it was stated that they would like to make sure the area stays a wetland or remains an unbuildable spot. Concern is the area will be filled in and affect their property. Daleiden – speaking from experience, you cannot legally fill in a wetland without going through several government agencies. If a wetland is filled in another one will have to be created, most people find it not worth messing with. C. Johnson – want their case stated that this area stays not buildable. Krajewski – this area is considered a wet meadow and they are not allowed to plant there or disturb. The building site is all the way in another corner of the property. J. Jonson – also opposed to more homes being built in the area. C. Johnson – crop land is disappearing every day and there is a need to feed the people. J. Johnson stated they know of another neighbor, that could not attend the meeting, and is opposed to the request. Daleiden stated that if a property owner decides to stop farming it is their right to develop or sell one large parcel. C. Johnson questioned what would happen with their property taxes if a large multi-million dollar homes goes up.
- Dean Maynard – 5161 114th St SE. – using the aerial photo he directed the Commission to his home that is located at the end of Fannon Ave. Attending the meetings as he is curious as to how this will impact the neighborhood. He would like to know how the access off of Fannon and County Rd. 17 would look like and asked for a copy of the concept plan, which was provided. Rhineberger displayed the proposed site plan and reviewed the access points onto Fannon Ave. for each lot. Maynard questioned if Fannon Ave. would be paved, how is the neighborhood going to be impacted by taxes going forward and what size lots are proposed. Rhineberger – status of that road would be up to the township. The tax implications would be a discussion with the County Assessor. All proposed lots are 10 acres or more. Maynard asked if Tract H could later be developed into smaller lots. Rhineberger – certainly a possibility. With the requirements of the zoning district and wetland in the area any further division will likely require the building of a new township road.
- J. Daleiden – reminded the public that the residents can petition a township to blacktop their street. The cost would be split between the property owners.
- K. Bravinder moved to approve a conditional use permit for a seven lot un-platted subdivision in accord with the survey completed by Schoborg Land Services Inc., dated 7/19/22; Job No. 8747, with the following conditions: Access permits from the County Highway Department or Franklin Township must be obtained before any construction activity commences. 1) Tracts B and C to have a shared access location along the common property line. Shared access must be constructed and existing access on Lot C must be removed prior to building permit application on either lot. 2) Reciprocal easements for the extent of the shared access must be recorded at or before the time of sale. 3) Per Feedlot regulations, the A/R parcels will be allowed ½ animal unit per acre and will not be allowed to reach 10 animal units. Seconded by Daleiden.

DISCUSSION: Thompson stated that she would like clarification as to what is being exactly voted on. Talked about what was originally presented and the applicant mentioned withdrawal of certain lots. Is the vote on the original proposal? Felger – correct, back to the original request as presented.

VOTE: CARRIED UNANIMOUSLY

4. **BLAINE JOSEPHSON** – New

LOCATION: xxxx Platt Ave NW – Lot 7, Block 2, Northridge Addition in Section 28, Township 121, Range 28, Wright County, (Southside Twp.) Tax #217-034-002070 Property owner: Julie A Peterson

Petitions for a Conditional Use Permit as regulated in Section 155.029, 155.030(D), 155.049, 155.057 & 155.101 of Chapter 155, of Title XV Land Usage of Wright County Code of Ordinances for a land alteration over 50 cubic yards in a shoreland area to add rip-rap, bring in fill to level ground, build a 2' boulder retaining wall and create a sandy beach area. Also redoing the unapproved trail down the bluff with Agtec Geocell Ground Grid for stabilization.

Present: Jodi Tvedt designer for Blaine Josephson at Outdoor Specialized Services

- A. Rhineberger displayed maps of the property and proposed site plan. The property is 0.55-acres located within the Northridge Addition on the north shore of West Sylvia Lake, which is a General Development Lake. The property is currently zoned Urban/Rural Transition (R-1) and in the Land Use Plan to remain R-1. The lot is considered a preexisting nonconforming lot that was platted prior to the current 1-acre standard. In 2013, the property was before the Board of Adjustment for a variance to construct a home within the bluff area. That request was denied. This proposal is to construct a new access to the lakeshore, through the bluff, with roughly 50 cubic yards of material in the driveway access as well as a gravel parking area and some other land alteration work within the shore impact zone. The plan includes the creation of a beach and patio area by the lakeshore. The Township did indicate approval with no other comments received.
- B. Tvedt – the trail that goes to the lake is existing. Plan is to enhance the trail by installing a grid system and the rock on top, so that it does not shift or move off of the trail. There are no intentions of building a home on the site. The property owners want to be able to utilize the lower area to access the lake. The beach area is above the rip rap, not at the lake level. At the bottom they would like to flatten out, so that it is stable. Possibly construct an accessory building down below, for lake toys and general storage. They would also like to know what would be needed to get an accessory building near the lakeshore. Felger questioned the grade on the proposed pathway or driveway. Tvedt – does not have the figures in front of her but can say that the slope is easily walkable. Rhineberger – that area is more than 18% slope. The lot itself has a significant amount of bluff. With DNR guidance, this area would still be considered bluff. With knowledge of the property, the trail that is there now was recently constructed and did not go through any approvals at the county level. Recently staff did visit the site and he does not believe land alteration was over the 50 cubic yard threshold, but the trail should be included in the request as it is a cumulative number. Has personally visited the site in the past and knows the trail is not an old preexisting trail or driveway. In the past year the office has seen at least 80 calls from potential buyers.
- C. Felger – personally thinking he would like to visit the site. Asked Mr. Rhineberger if in his opinion there is any evident erosion. Rhineberger – did not visit the site himself. Staff walked to a point they could see down the hill. Personally, he has driven past the site within the last few years and did not notice a pathway, so he directed staff to verify if there is indeed an existing trail.
- D. Greninger – regarding calls from potential buyers, were those inquires for a home on the site? Rhineberger – vast majority of them asked about the potential for a house site. Standard answer was to apply to the Board of Adjustment with house plans and a survey for a decision. To meet the bluff requirements, a house would have to be located in the middle of the road. The only buildable area on the lot is the area the accessory structure is shown on the plan. That permit can be issued without a variance. In the ordinance it states that in bluffs the

preferred method to navigate bluffs are stairways, lifts and landings not improved roadways or trails. This is the Board that would determine if those types of paths and accesses are acceptable.

- E. Daleiden questioned if permits are required from the DNR, because of the lake. Rhineberger – only permits required by the DNR are below the Ordinary Highwater Mark. Everything above elevation 1,050.1 ft., which is the elevation of Lake Sylvia, is the Counties jurisdiction and below that number would be the DNR jurisdiction.
- F. Thompson stated she would like to continue with a site inspection. With past involvement from the BOA, she feels it is prudent to make a site inspection prior to proceeding. Tvdet – Scott Decker, with the County, has given permission for the conditional use permit (CUP). When this proposal was under review it was proposed for someone to build a home, in the bluff. This client is not proposing a house at all. If anything, this path is more for walking and maybe an ATV. It is not really for a driveway.
- G. Felger questioned why the parking area is needed. Tvdet – for an ATV and flatter spot.
- H. Rhineberger – an administrative land alteration permit was applied for, with Scott Deckert being the staff member that reviews those. It was decided that the proposed work exceeded what is allowed administratively and would require a CUP. Mr. Deckert approved the application for the CUP, but this Commission is the only one that can grant a CUP. Tvdet – believes Mr. Deckert was at site and met with staff from her office.
- I. Felger asked for public comment.
 - Jerry Euteneuer – 7798 Platt Ave NW – clarified a few years ago the trail was made when their landscaper used that area to access their property to construct a fire pit and retaining wall. When the project was finished grass seed and straw was installed. A portion was returned to grass but an area under heavy tree cover was left with no grass. It was not meant to be a trail or road; it was only intended to be an access for their project. That area is not used by them to access the lake. They would like to maintain the ability to use the path for access on an upcoming construction project. Felger – that would be a conversation with the property owner and is a private situation. Euteneuer – stated he understands. Daleiden asked for the Beacon aerial map to be displayed and clarification was made on which property was related to the request and Mr. Euteneuer. Greninger – Mr. Euteneuer needs to use the top area to access his lower area of this lot. Euteneuer – doing a remodeling project they need to use the top area of the Peterson property to access their property with equipment. They have no objection with the request. The concern is if a Geocell permanent walkway is installed it should be totally on the Peterson lot, not theirs.
- J. Felger called for a 3 minute break at 8:40 pm. At 8:43 pm Chairman Felger called for the discussion to come back to the Commission.
- K. Thompson moved to continue the petition to the October 13, 2022, meeting for a site inspection. Daleiden seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **CRAIG MCADAMS** - New

LOCATION: 693 90th St. NE – Part of NE ¼ & part of Gov't Lot 2, Section 19, Township 121, Range 25, Wright County, MN. (North Lake– Monticello Twp.) Tax #213-100-191200 Property owners: North Lake Acres LLC.

Petitions to amend and waive the open space dedication fee, as required by the existing Conditional Use Permit for a simple platted seven-lot residential subdivision that was granted in July 2022 as regulated in Section 154.07(C), 154.12(A) & 154.34 of Chapter 154, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances Subdivision Regulations.

Present: Craig McAdams and Tim Hillukka with North Lake Acres LLC.

- A. Rhineberger – this request is for a waiver of the park dedication fee as required by Chapter 154, the Subdivision Ordinance. Section 154.34(B) does require that either 7% of the gross area of the subdivision or 10% of the raw land value, determined by the County Assessor's office, shall be gifted to, or paid to the county for public recreation and parks. In this case, the park dedication fee associated with this plat is \$64,225.40. The applicant is requesting a waiver of that fee. There are two items in the Ordinance that allow the Commission to review this request. The Planning Commission can grant a waiver of any requirements as indicated in Chapter 154, Subdivisions. As well as this is a condition the Planning Commission included in the July plat approval. The applicant is asking for an amendment to the condition that states the "Park Dedication fees must be paid prior to submittal of the final plat". Generally, when dealing with the plat fees the tendency is to be working with smaller lots or Planned Unit Developments (PUDs). In this case, since it is not a PUD the total residential acreage for the seven-lots is about 88 acres. As an example, the recently approved Franklin Ridge PUD, has six-lots but the fee was a lot less because the total land area was largely taken up by the platted outlots. The total residential acreage is where the difference in the fee comes into play.
- B. Felger questioned if there are two ways to calculate the fee. Rhineberger – if accepted by the County Board and County Parks Department they are allowed to use 7% of the gross area of the subdivision as a land dedication to the County. Basically, the County would have to agree to accept this land as a county park. Felger – land dedication in lieu of the cash. Rhineberger – in 23 years with Planning & Zoning he has never seen land dedicated in lieu of cash. Funds paid are dedicated in the township of the property and can only be used in that township for the purchase of park properties or new amenities within an existing park. This section was established prior to county zoning enabling statutes had anything for a park dedication. The fee structure was adopted more in line with the city statute for open space dedication. Since that time, the county ordinance enabling statutes has changed and does allow some provisions for park dedication, more on a per-lot cash payment, as established by the County Board. There has been discussion regarding revisions to the ordinance language to become more in line with what county ordinance enabling statute states. The Township did provide comment that is included in the information packet that was provided to the Commission.
- C. Daleiden questioned if the amount can be adjusted. Rhineberger – since the Planning Commission has authority to waive any of the requirements, they should have the ability to amend the requirement, as long as it is not above and beyond what is stated. The fee could be lowered but not increased. Daleiden stated he would like to hear why the applicant feels they should not provide to the park dedication fee.
- D. McAdams stated he is new to this process and the fee was not brought to their attention until in front of the Planning Commission when he heard the motion for plat approval. Since that time, has done some digging and raised the issue with the Township. The Township did not want to take a strong position on the issue, as it was a decision to be made by the Planning Commission. Some of the discussion with the Township was that they didn't understand the fee and the size of the fee was not known. Rhineberger – read the full Township response

statement, which is on file with Planning & Zoning. Section 154.34 specifically states that “in all subdivisions either 7% of the gross area of the subdivision or 10% of the raw land value shall be dedicated or paid to the county for public recreation and parks.” His understanding is that the department policy has been to apply park deduction fee to a platted subdivision. Historically, this fee has been applied specifically to plats with roads and without roads. However, the ordinance reads all subdivisions. The way he interprets the language is that a subdivision could be assigned the fee as platted or unplatted. The Commission just approved a 7-lot unplatted subdivision where no park dedication fees will be collected. His intention is to bring the matter to the Planning Commission and potentially the County Board with an amendment to the ordinance. Not prepared for a change at this time as he has other items on his agenda and will need to do some additional research.

- E. Felger questioned if the custom has been to not include unplatted subdivisions. Rhineberger – the standard practice has been to not apply to unplatted subdivisions. With the platted subdivisions there is a trigger of the final plat approval that will allow the process to stop, and fee can be collected prior to any sales. With an unplatted subdivision a property can be sold prior to the fee being paid because there are no triggers beyond approval from this Commission. With a platted subdivision there is a long list of conditions that are required prior to final approval from the County Board and one of those items is if the dedication fee has been paid.
- F. McAdams – there are neighboring parcels that were split off, the Viet property, that are all 10-acre parcels and very similar to their division plan. They have a significant amount invested in bringing in a road to this project. The Viet property lots are 10-acres in size and substantial residential lots did not require a park fee to be paid.
- G. Bravinder – after reading the Monticello Township reply it was stated that they are okay with the fees being waived. They are the ones directly benefiting from the fee. Rhineberger – Monticello Township does not have any authority over the fees. Bravinder – the fees are to be used only in Monticello Township. Rhineberger – correct. Bravinder – they have no problem with the fees being waived. How will the fees be used if they are not used by the Township? Rhineberger – they are used by the Parks Department to purchase land or equipment for the parks within the Township. The fees have to be spent within the Township, not spent by the Township. Daleiden – Monticello Township has one of the largest parks. It is a little confusing between a plat and unplatted subdivision and that one is charged but the other is not. Agrees with comment by Rhineberger that the fee should be on a per-lot basis for all subdivisions and not based on acreage. Daleiden – the Commission just approved a division in Franklin Township that is not required to pay any fees. Rhineberger – at this time, he has not wanted to change the policy until further discussion can be had and therefore has been operating under the method of those before him. Staff has done some research and started to gather information on what a revision could look like. Stated he is considering enforcing as written, with all subdivisions, platted or not, being subject to the dedication fee. The one exception he would recommend is for the standard entitlement divisions, which does not come before the Planning Commission. The fee could possibly be set up in such a manner that the County Board would review yearly with the fee schedule.
- H. Felger – if there is discussion being had he would like to see any park dedication fee split between the township and the county. Why can't there be a township park or why can't a subdivision have their own park? It was stated the County has never accepted land in lieu of the park dedication fee. Feels the funds should be distributed in a way that gives people other options. Rhineberger – Legislature is the one that determined the statute with the County collecting and having control of the funds; this can't be changed by him or this Commission. Ultimately, the Planning Commission and County Board have the right to amend the ordinance, if they want to change the way the fee is determined.
- I. Hillukka questioned if the correct name of the fee is Open Space Dedication fee. Rhineberger – Public Sites and Open Spaces, is the proper name. Hillukka – from the beginning they have been stumbling through the process. Early in the process one option presented to them was a PUD, which required open space. The density

of the PUD was not something they were driving towards with their plan. They feel there is plenty of open space in their proposal. Understands, the suggestion that these developments should have open areas set aside. Seeing as these are all 10-acre, or more, lots they do not see the need to dedicate further open space. As mentioned, the County doesn't generally accept land as it is more for them to manage and maintain. Daleiden – is on the Parks Committee and they do work with the Townships when they express interest. The Parks Committee has spoken with Franklin Township, many times, to come up with a park in their area as there are currently no parks. Rhineberger clarified this would be a County park within the Township, not a Township owned park. Bravinder addressed the split of the funds comment. The Townships are not equipment to own a park, they do not have a parks department to maintain and manage a park.

- J. Thompson questioned Rhineberger if when the original motion was created it known there would be such a large fee. Rhineberger – knew there would be a fee but he himself had not calculated the fee. This item was started during a period of time of a lot of staff turnover in the Planning and Zoning office and he is not aware of what was expressed by previous staff. Apparently, it had not been discussed and he himself did not bring it up. Thompson – is this something that has been on the books for a long time or is it relatively new? Rhineberger – the Ordinance passed 12/11/1979. That is when the open space dedication was passed by the Legislature and added into Statute. Thompson – is this the 1st time an appeal like this has been brought before the Planning Commission? Rhineberger – yes, he believes so. The Planning Commission has waived platting requirements on subdivisions, but he is not sure if the actual park dedication fee has been waived. Thompson – since she has been on the Commission this is the 1st time; she recalls hearing of this dedication fee. Wondering if these other properties that might have been missed are they grandfathered into not having to pay the fees. Rhineberger – properties have not been missed. Since he can remember the park dedication fee requirement has been a condition of the platted subdivision motion. When this PUD was approved in July 2022, the motion specifically listed a condition that the “park dedication is paid along with the other fees noted on the plat checklist”. McAdams – confirmed that is what was stated in the motion, and it was the first time he had heard of the fee. Rhineberger – the motion for the first item on today's agenda included the exact same verbiage. Thompson – so this was included in other motions and is not a new development. Rhineberger – confirmed.
- K. Felger – two methods were stated to calculate the fee. One was 7% of the gross land area and the other was 10% of the raw land value. Gross area of this subdivision would include the entire property since it is not a PUD. Rhineberger – dedicated road area is subtracted. Daleiden and Felger continued discussion on how the assessed value is worked into the equation.
- L. Kryzer reminded the Commission the question at hand is a petition related to Ordinance 154.12, Exceptions. The provision was displayed and reviewed. The exception is related to the entire Chapter of 154, not just the particular open space provision. Paragraph B was pointed out with the conditions the Commission will need to find exist. All three (3) conditions must be found in making the determination. Daleiden – confirmed all three (3) of those exceptions must be met. If that is the case, he is thinking the item might need to be tabled until the next meeting, with hopes that the park dedication fee can be revised. He can't see where they can come up with all three (3) exceptions, unless a smaller fee can be granted. Kryzer – only way to come up with a smaller fee is to adjust the assessed land value and that simply cannot be done in a timely manner. The next opportunity would be next year with an appeal to the Assessor. Daleiden – feels the Commission's hands are tied. If the item is tabled, then there is a possibility the amount could be reduced. If not tabled, there are three (3) exceptions that have to be met and he is not sure that can be done.
- M. Thompson addressed counsel and asked if there was anything legally the Commission could do. Kryzer stated as legal staff he needs to remain neutral. Rhineberger – with public hearing requirements he does not believe an amendment could be done in the time that would be conducive for the applicant. Daleiden – an amendment wouldn't happen until after the 1st of the year. Rhineberger – several departments will need to be involved in

the discussion. At this point there is an item before the Commission that needs to be ruled on in a timely manner. Daleiden stated he felt the Commission could meet the exceptions. Item number one (1) was read; the Viet property mentioned in discussion is very similar to this situation but because it is not a PUD there is not park dedication fee. Item number two (2) was read; all lots are over 10 acres in size. With this size of lots the residents will be able to enjoy the full amount of land with no issues as they would a park. Number three (3) was read; stated he does not see where granting this will cause other issues. Bravinder – agrees with what was stated. Rhineberger questioned if the Commission is looking at a full waiver or modified waiver. Figures were gathered on the developments permitted and based on the number of lots created and number the amount of open space fee collected the average fee collected from 2015-2022 is \$3,094.70 per-lot. Felger – \$3,100 per-lot and it does not distinguish the size of lot. Feels that approach makes sense and is reasonable. The impact is the same no matter the size of the lot or the number of people using the lot.

- N. Thompson questioned if the Commission is at a point of delaying to another meeting or can a decision be made. Greninger – the applicant might want to move forward with a decision tonight. McAdams – would appreciate a decision tonight. Kryzer – feels a motion would be in order.
- O. Daleiden moved to approve the request, as the Commission finds that the request meets the requirements of Wright County Ordinance 154.12(B) and for this request the assigned open space dedication fee is to be \$3,100 per-lot. Motioned seconded by Thompson.

VOTE: CARRIED UNANIMOUSLY

6. **Discussion item - Ordinance Amendments**

Staff and Counsel have been working on amendments to the sections 155.025 – Zoning Administrator, 155.027 – Planning Commission, 155.029 – Conditional Use Permits, 155.031 – Interim Use Permits, and changes that are needed to the zoning district section that were missed when the solar ordinance amendment was recently adopted.

- A. Kryzer – the item before the Commission is Ordinance Amendment 22-1. He is before the Commission to review some administrative type changes and clean-up areas of Chapter 155 Zoning of the Wright County Ordinances. There will be two (2) Articles addressed with each individual section mentioned and explained.

Article I

- a. Section One (1) – Zoning Administrator – is related to updating the Zoning Administrator's authority and creating an appeals process. Kryzer went on to review the changes related to the authority of the Zoning Administrator. Sub Part C, Appeals of the Zoning Administrator, is a new addition. Currently, the Zoning Administrator is allowed to make administrator opinions and there is technically no statute of limitations. This section will create an appeal timeframe and bring finality to an opinion. Bravinder questioned the ten (10) days limit. Kryzer – that was a suggested number by outside counsel and consistent with other zoning jurisdictions. Felger – is it a frequent occurrence that warrants a change? Kryzer – not a frequent occurrence but there does need to be some finality. Prior staff is not here to defend themselves and their opinion. A recent appeal was reviewed for the Commission and how having finality is important. Before an administrator's opinion is issued there are numerous conversations that have been had with the applicant and they are well aware of the decision being made.
- b. Section Two (2) – Planning Commission – the interim use permit is currently being discussed with the gravel workgroup. Therefore, feels that the interim use permit should be removed from all areas of the proposed amendment and addressed at a later date. Rhineberger – it makes sense to remove IUPs from this amendment request and include when the mining and gravel section is addressed.
- c. Section Three (3) – Conditional Use Permit – outside counsel does not feel a case could be won on what is currently in place. Recommendation by outside counsel is a one (1) year or longer limit. This section deals with abandoned conditional use permits or where a CUP was granted, and the property sells with a new use on the property. The original CUP does not expire so a person could operate separate CUP's on a single property. Felger – this language would cover the extinguishing of the previous CUP. Kryzer – it should, depends on what it is. This will be used more in the Industrial and Commercial districts, where every single use requires a CUP.
- d. Section Four (4) – Interim Use Permits – will not be included in the amendment request.

Article II

- a. This change is related to the Solar Energy Systems verbiage. Rhineberger – when the solar ordinance was updated, in January 2022, each zoning districts permitted uses and conditional uses was not update with the specific reference listed. The amendment being suggested would be to reference what is defined in the Solar Ordinance, Section 155.108. This just streamlines the process if there is a change.
- B. Felger questioned if Rhineberger feels comfortable working under a single County Administrator. Rhineberger stated he is comfortable with the situation. Daleiden explained the County Administrator works under the direction of the County Board. Rhineberger – this is the form of government the County is currently working with, so it is an item that is required to be changed.
- C. Greninger moved to set the November 17, 2022 Planning Commission hearing as the public hearing to discuss the proposed amendments, with interim use permits removed from 155.027(A), 155.029(D) and the entire Section 155.031 Interim Use Permits. Seconded by Daleiden. VOTE: CARRIED UNANIMOUSLY

SITE INSPECTION

Commission scheduled a site inspection date for Tuesday, October 4th, Commission to meet at 8:30 a.m. at the Government Center.

Meeting adjourned at 9:52 p.m.

Respectfully submitted,

Barry Rhineberger
Planning & Zoning Administrator

BR:sd

cc: Planning Commission
Applicants/Property Owners
Twp. Clerks