

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: December 15, 2022

MINUTES - (Informational)

The Wright County Planning Commission met on December 15, 2022, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Dan Mol, called the meeting to order at 7:30 p.m. with the following Board members present: Dan Mol, Ken Felger, Pat Mahlberg, Mark Daleiden, Sandy Greninger & Dan Bravinder. Absent was Jan Thompson. Barry Rhineberger, Planning & Zoning Administrator, represented the Planning & Zoning office; Greg Kryzer, Assistant County Attorney, was legal counsel absent.

ACTION ON NOVEMBER 17, 2022, MINUTES

On a motion by Daleiden, seconded by Greninger, all voted to approve the minutes of November 17, 2022, meeting as printed.

Rhineberger addressed the Commission with a request to add the Final Plat review and approval for Pheasant Addition to the end of the meeting with the Commission agreeing to do so.

PUBLIC HEARINGS:

1. **DUSTIN PARKER** – Cont. 11/17

LOCATION: 15152 Elder Ave NW – Part of SW 1/4 of SW 1/4 , Section 16, Township 122, Range 26, Wright County, MN. (Silver Creek Twp.) Tax # 216-100-163306, 216-100-163301, 216-100-163305, 216-100-163310. Property Owners: Dustin Parker, Crystal Lawrenz and Barry A Hart.

Petitions to for a Conditional Use Permit to operate a bar and restaurant as regulated in Section 155.027, 155.029(B), 155.054(B)(9) of Chapter 155 Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Applicant not present

- A. Rhineberger stated the applicant has not yet met with Silver Creek Township and is requesting continuation to the January 19th hearing, along with having already signed the appropriate 15.99 waiver.
- B. Motion made by Daleiden to continue the item to the January 19th meeting at the applicant's request. Seconded my Bravinder.

VOTE: CARRIED UNANIMOUSLY

2. **CORWYN SCHUELER** – New

LOCATION: 10480 State Hwy 24 NW – part of the NE 1/4 of the SW ¼ in Section 09, Township 121, Range 27, Wright County, Minnesota. (Corinna Twp.) Tax #206-000-093103. Property Owners: CHD Ventures LLC. purchase under contract for deed with Handeland Annandale LLC.

Petitions to rezone from B-1 Highway Business District, and that portion currently zoned AG - General Agricultural, all to B-2 General Business District as regulated in 155.028, 155.048, 155.053 & 155.054 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Corwyn Schueler

- A. Rhineberger displayed Beacon aerial with the current zoning. The property is a 4.19-acre site on the corner of State Highway 24 and 105th Street NW in Corinna Township. The property is currently a split-zoned property with two zoning districts, General Agriculture-AG, and Highway Business-B-1. The request is to rezone the entire parcel to General Business District-B-2. The Township did provide an approval statement and there are no other comments.
- B. Schueler – straight forward request and is trying to clean up the zoning with a B-2 zoning being a better fit for the bar/restaurant operation and future plans. Rhineberger – any uses or subdivisions will be strictly the authority of Corinna Township.
- C. No public comment.
- D. Daleiden moved to recommend approval of the rezoning from B-1 Highway Business District and AG General Agriculture to B-2 General Business District to the County Board of Commissioners.
Motion seconded by Bravinder.

VOTE: CARRIED UNANIMOUSLY

3. **EUGENE RAHN** – New

LOCATION: 13812 County Road 7 NW – NW ¼ of NW ¼ & SW ¼ of NW ¼ north of road, except tracts..., Section 25, Township 122, Range 27, Wright County, Minnesota. (Clearwater Twp.) Tax #204-100-252200 Property Owners: Eugene J Rahn & Johnelle M Rahn

Request for a Conditional Use Permit for a three-lot un-platted subdivision as regulated in Section 155.029 & 155.047, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances & Wright County Subdivision Regulations Chapter 154 Land Usage and Zoning, Title XV of the Wright County Code of Ordinances.

Present: Eugene J Rahn & Johnelle M Rahn

- A. Rhineberger displayed the site plan and reviewed the property. The property sits on a 44.75-acre site located along County Road 7 NW in Clearwater Township. This parcel was rezoned to Agricultural/Residential (A/R) zoning in 2004. As part of the rezoning of the property the Planning Commission approved a 2-lot unplatted subdivision. In 2004 the original proposal was for a 3-lot unplatted subdivision, but because an area of Parcel B had been clay mined an adequate septic location was not found for a third lot. Because of this, Parcel A was required to be combined with Parcel B of the original proposal with Parcel C allowed to be split as its own buildable site. The request today is to reinstitute the 3-lot subdivision with the line between Parcel B and C being moved slightly. New soil borings have been provided. Staff now looks at road frontage and minimum width differently than it had in 2004. Staff felt because the Planning Commission had previously approved Parcel C, and it could legally be divided and sold as approved in 2004, that it warranted review by the current Planning Commission. This request is to allow the subdivision of what was previously approved as Parcel A into two lots. A slight alteration to the property line between Parcels B & C was done to allow for a septic system on Parcel B. All of the lots are proposed with the same road frontage as the 2004 proposal showed. Clearwater Township did provide approval. Response from the County Highway Department stated that the existing homesite access can remain and the other two locations will require change in use permits from ag/field to residential access. Responses were received from Mark Chowen, Frederich Mische and Amanda Chowen. Mr. Chowen indicated he is averse to any plan requiring zoning changes. The other responses were more related to lot sizes and use of the property.
- B. E. Rahn – goal is to sell Parcel C. They have resided on Parcel A for over 20 years and would like to replace their manufactured home with a new home on their current lot. To fund this endeavor, they would like to sell Parcel C with Parcel B eventually being a lot they could sell. Recognizes the line between B and C is a little jagged but all lots are good size at 10, 12 and 22 acres. He has already constructed a pond and driveway on Parcel C.
- C. Open to public.
- Jason Compton – at the meeting to see the intent. Lives next door to the pond on Parcel C. He does have a concern with the driveway on the top of a hill and being dangerous. Otherwise, no other comments. With no other comments from the public E. Rahn addressed the driveway concern. He did have the Highway Department approve the driveway and their 600 ft. sightline was part of the discussion and review with the location being approved.
- D. Daleiden questioned if Soil and Water Conservation District (SWCD) had been out to the site to review, there appears to be a lot of low land on Parcel C. Beacon aerial was displayed. E. Rahn – the pond that he installed was approved by SWCD. At that time the parcel was reviewed and determined that the height of the pond he installed is 20 ft. higher than the low are near the water. With contours displayed E. Rahn continued to explain

the area appears to be wet and lowland but the arial photo is deceiving. In the past roughly 7 acres of Parcel C was harvested with corn and beans. Daleiden – asked if a septic perk tests had been done. E. Rahn – confirmed that in 2004 a perk test was done for Parcel C and recently for Parcel B tests were done with a 2 site septic location determined.

- E. Mol – knows of the property, as it is around the corner from him. Prior to the meeting he was able to discuss the item with the Zoning Administrator. The request meets the requirements of the previous Planning Commission with regards to the 300 ft. of road frontage. Site plan was displayed for review. Because of the low land there is no way to access the northern area of Parcel C and a driveway could not be installed. The person that would buy Parcel C, as presented, would be purchasing a lot of dead land so his thought was to bring the line of Parcel B down and take up that inaccessible area of Parcel C. The septic site for Parcel B would not be affected but making that adjustment would take away road frontage that Parcel C, which needs for the 300 ft. to be compliant with the ordinance. This is a challenging one with Parcel C being previously approved with the 300 ft. of road frontage obtained in a way that might not be acceptable today. Mol questioned the applicant if the northern portion of Parcel C is accessible from the southern area. E. Rahn stated he has a trail that goes all the way to the northern area, even during non-drought years. Recognizes this is a unique parcel but there are 22 acres, versus the minimum of 10 acres. The southern building area of Parcel C is 7-10 acres. Mol – he would have preferred the line for B and C to be adjusted so that the northern portion of Parcel C goes with Parcel B. E. Rahn – his goal is 3 parcels. If the Commission wants to waive the required 300 ft., he would be all for making an adjustment. Mol – concern is the northern end of Parcel C not being maintained and becoming overgrown with weeds and a nuisance to the owners of Parcel B. E. Rahn – currently he has that area in a native state and does not do a lot with the area. Mol – but weeds are maintained, and the new buyer of Parcel C might not do the same if they can't access that area and do not use it. E. Rahn – the area can be reached to maintain with no problem. Mol – the property is already rezoned, and the parcels are considered are buildable. He does not like the way the line between Parcel B and C runs, but that is needed to get 300 ft. of road frontage and has once already been approved. The Highway Department did approve the driveway access and they are the ones responsible to address the sight line. Because of the low area on the lot a person might need to build up the driveway to come in level with the highway. E. Rahn – from the road the area does look like it is down in a hole but when you drive down into the lot you will notice that it is actually more level with the road than it appears.
- F. Rhineberger explained how Staff now looks at subdivision requests. Subdivisions now must have the ability to fit a 300 ft. x 300 ft. “box” with a minimum width and depth, at the road. That would be 300 ft. of continuous road frontage with 300 ft. of depth. This process changed roughly 15 years ago. The ability to vary the 300 ft. of road frontage is not an option in this situation. The only way for the Planning Commission to deviate from lot standard requirements is through the Planned Unit Development process.
- G. Daleiden – if the new owner of Parcel B wants to obtain a portion of Parcel C would they be able to purchase any additional land? Rhineberger – would not be allowed because of the required minimum 300 ft. road frontage. Daleiden asked for clarification on the contiguous status of Parcel C. Rhineberger – wetlands do not break contiguous status of property, only a DNR classified meandered body of water will do that. This parcel sits on a DNR classified wetland, which does not carry the same rules as a meandered lake. The land is considered contiguous because it accessible

and is a wetland. Even if you can't access along the western property line there is an ability to access that northern area from the highway.

- H. Mahlberg questioned Rhineberger on the precedence of accepting an application that would not fit current standards, just because a board years ago accepted the request. Rhineberger – the change from 2004 is more of an interpretation. In this case he felt that since Parcel C could be sold today, with the road frontage as approved in 2004, he wasn't in a position to tell the applicant the application was not allowed. Regarding the road frontage, Parcel C is exactly what was approved in 2004 with the only change being a small deviation in the line between Parcels B and C for the septic site. He felt that if he didn't accept the application, it would be him not recognizing what the Commission did in 2004 as well as the new request didn't alter the road frontage. If the proposal had come in with a change in the road frontage, he would have potentially looked at things differently. If this Commission decides to deny the request the applicant can still sell Parcel C as it was approved in 2004.
- I. E. Rahn – part of Parcel B was clay mined and he was not aware of that at the time of purchase. In 2004 when MSTs did the soil borings the area of Parcel B was not accepted, as the soil was disturbed. At that time, he was in a rush with the end of the year fast approaching and decided to forgo addressing the issue and go with the 2 lot approval. Had he known at that time what he knows now he would have created that lot line jog and been done with this 10 years ago.
- J. Mol – after visiting with the Zoning Administrator he feels what the Commission is doing is looking at splitting Parcel A into 2 lots. Feels that the Commission is not allowing anything new that wasn't petitioned for in 2004. Both Parcel B and C would make good building sites.
- K. Felger moved to approve a conditional use permit for a three lot un-platted subdivision in accord with the survey completed by Bogart, Pederson, & Associates, Inc., dated 10/28/2022; File Number 22-0462.00, with the following conditions: 1) access permits from the Wright County Highway Department must be obtained before any construction activity commences; 2) the Commission notes that significant wetlands exist, and these wetlands must be avoided. No alteration of the wetlands may occur without prior approval by the Wright County SWCD; 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. Motion seconded by Bravinder.

VOTE: CARRIED UNANIMOUSLY

4. **ADAM WERNER** – New

LOCATION: 409 County Road 30 SW – part of the NW 1/4 of the NE 1/4, Section 24, Township 118, Range 26, Wright County, MN (Woodland Twp.) Tax # 220-000-241201 Property Owners: Adam & Rebecca Werner

Petitions for a Conditional Use Permit to have a non-commercial contractor's yard to store business equipment and materials for the applicant's residential contracting business in an accessory structure that is located on the property as regulated in Section 155.003(30), 155.029 & 155.048 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Adam Werner

- A. Rhineberger displayed the site plan while reviewing the property details. The property is a 10.01-acre site along County Road 30 SW in Woodland Township, zoned General Agriculture (AG), and in the long range plan to remain Agricultural. The request is for a conditional use permit to operate a non-commercial contractor's yard. There is an existing building with a parking area. Woodland Township did approve with a request that if the CUP is approved, they are set to review in 2 years. One adjoining neighbor has expressed concerns regarding disposal and burning of pallets, paper and cardboard, junk stored along the property line, headlights, and other activity so close to the home as well as run-off from improved surfaces related to the business.
- B. Werner stated that he does not burn cardboard and pallets, he does have a dumpster for those items. He does burn brush. Mr. Werner stated he feels the neighbor is a chronic complainer and reviewed some of the issues that have come up over the years. As for the headlights, that would be him coming from the house to the shop. He has no employees; it is just him and his trailer. He did try to talk with the neighbor about concerns and even changed the times he drives down to his shop. Nothing has even been mentioned before tonight about burning anything beyond cleaning up of trees and dead brush on the property.
- C. No public comment.
- D. Daleiden questioned the neighbors comment regarding run off. It appears this area is blacktop and has been for some time, so why an issue now? Bravinder – what type of business. Werner – metal roofing. Bravinder agrees, not sure what the comment is regarding runoff for that type of business. Daleiden asked how long the applicant has lived at the home. Werner – 7 years. The neighbor has complained about the noise of a chain saw when he is cutting up dead tress to having a campfire. She consistently has a complaint and so he has given up trying to appease her on everything. He changed the time he comes and goes from the shop to help with the headlights. He also tries to keep all business items and vehicles in the shop just to avoid the possibility of hearing from her.
- E. Mol questioned if the applicant has the ability to build additional accessory structures. Rhineberger – at 10 acres in size the limit is 15% building coverage. Mol – if allowed to build another building there is the ability to continue to put all items inside. Werner stated this is a temporary location. There is talk of sheds being built in Delano that he would like to get into. His goal is to move out onto a different property for the business. He has been doing this for 22 years and is not planning to grow or take on

employees. Mol asked about deliveries. Werner stated roughly once or twice a month he will have a delivery. He has to plan his schedule around a delivery for unloading, so he is present during those times.

- F. Bravinder – a fence was mentioned in the staff report as a possible condition. Rhineberger stated that he added some potential options for conditions that are based on discussion that tends to happen with contractor yards. The Commission can decide if they want to include a fence as part of the conditions. Bravinder – does not see the need for a fence. Mol was going to ask if it would a possibility for a fence around the parking area and up against the property line. Bravinder – looking at the driveway and the neighboring house he struggles with the idea of a fence as there also appears to be a lot of brush and trees. Felger – agrees with no need for a fence.
- G. Daleiden moved to approve a conditional use permit for a non-commercial contractor's yard in accord with the discussion, plans, and description held on file, with the following conditions: 1) all work must be done off site and materials must be stored inside the building. Exterior storage shall be limited to one truck, two trailers, and no more than 2 employee passenger vehicles; 2) Township to review the request in two years, at which time it can be revoked; 3) any change in use or expansion would require an amended CUP. Seconded by Greninger.

DISCUSSION: Bravinder – regarding the revoked part of the motion. At the Township meeting in 2 years can they actually revoke the permit? Rhineberger – no, the Township does not have the ability to revoke a permit. Only the Planning Commission can revoke a permit. The Township can ask for a new hearing at which time the applicant would come in and reapply.

- H. Daleiden moved to modify condition two to read 2) Township to review the request in two years and provide any additional information to Planning & Zoning. Modification seconded by Greninger.

Mahlberg questioned condition number one related to 2 employee passenger vehicles. There are currently no employees or plans for employees. This would be inconsistent with the narrative held on file. Rhineberger – if there is a surge in work and employees are taken on this condition would allow the applicant to continue without being in violation. This is a way of trying to avoid violations that could possibly occur. Daleiden stated his thought is that this would give the opportunity to take on additional help, even if just for a short time.

VOTE: CARRIED UNANIMOUSLY

5. **DANIEL ZEER**- New

LOCATION: xxxxx 115th Street SE – Lot 04, Block 01 of Franklin Ridge in Section 35, Township 118, Range 25, Wright County, MN (Franklin Twp.) Tax # 208-326-001040 Property Owners: Daniel Zerr & Maureen Zeer

Petitions for a Conditional Use Permit to amend an existing Conditional Use Permit for platted subdivision approved in 2022 by changing the house/septic location on Lot 4 as regulated in Section 155.029, 155.050, & 155.059 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Daniel Zeer, Paul Otto with Otto Associates

- A. Rhineberger displayed the proposed site plan and reviewed the property. The property was part of an AR/PUD that was approved by the Commission in March of 2022. A requirement was stated that house placement generally be in line with what was shown as part of the preliminary plat. In this case the applicant is looking to change the location from the front roadside corner to the rear, where the septic system was shown on the original plat. The proposed plan was displayed and reviewed. The driveway would come across the drainage and utility easement, that protects a drain tile and crosses an overland drainage area to a house location in the rear of the property, closer to the wetland area. Franklin Township did approve with no neighbor responses. New soil borings were received for the revised house location with a site plan depicting before and after topography.
- B. Otto – Mr. Zeer did not like the house location up front and ideally would like to get back into the lot for a better view of the pond and get off of the road. The driveway does come across the tile. The plan is to fill over the tile, with the easement present to address repairs. The “s” curve in the driveway is better than coming in on the west property line. The driveway is designed at the same elevation as the property line, so if culvert failed any ponding would happen on the applicant’s property and driveway before affecting neighboring properties. Also, the number of bedrooms went down from 5 to 4 so that the septic system could be tucked back in the corner. Rhineberger questioned if the depth of the tile is known. Otto stated he does not know the depth. There was discussion at the Township, and they didn’t not know either. During discussion at the Township, it was brought up that theoretically the driveway over the tile might drive the frost down, but the plan is to fill about a 1.5 feet over the tile. The wetland is 6 ft. lower than where they will be crossing so he would guess the tile is possibly 4 ft. deep in that area. Rhineberger questioned if the tile diameter is known with Otto stating he did at one time but does not remember that number.
- C. Mol stated that the freezing of the tile wasn’t as much of a concern as being crushed with construction vehicles and concrete trucks. If it is not deep enough it could be crushed.
- D. Daleiden questioned the type of tile. Otto – does not believe it is a clay tile. Beacon aerial was displayed with contours. On the south side of the road there is a large basin where the water runs from, that will quickly become more wet if the tile is crushed. There are 2 intakes in the field so he believes it might be newer tile. Mol – did a site inspection with the plat and it was brought up that the tile needs to stay in working order or the neighbor to the south would be affected. The problem is if you drive over the tile and now it breaks and the neighbor to the south has issues and possible struggles. Otto – if the tile is not crossed the drainage to the west would be affected. Mol – no problem going over the tile but to make

sure the tile is protected, and everyone is aware the tile is there. If something happens to the tile the applicant/landowner would be held responsible. Otto –the contractor could pothole and determine depth of the tile and decide if more needs to be done to protect the tile. Mol agreed that would be wise. Daleiden – if the depth is determined and it isn't deep enough, they could take the time to insert a more sturdy material in that area. Otto agreed that would be easier to do upfront.

- E. Felger – discussion had been had in the past on plats regarding the location of the proposed home site for a plat. He requested what the threshold is for this applicant needing to come to the Commission for a request such as this. Is it relative to the drainage issue? Believes past discussion was if an individual wants to build on a lot in a location other than where a proposed house site was shown on the preliminary plat, they could do so. What triggered the need for this request? Rhineberger – the verbiage in the preliminary plat approval included the statement that house locations are generally in line with what was presented and any significant change in house location may require a revised or amended CUP. In this case it is a number of factors. The distance, drainage, tile, and septic locations played a role. When it comes to septic locations this site is tight. As stated, they actually reduced the number of bedrooms in the house to make sure they have room for 2 sewer sites. This is something he feels the Planning Commission needs to hear and decide if they want to allow movement of the house site and should not be an administrative decision. There could be ones where an owner is asking to move the house site 100 ft. and the septic borings adjusted slightly, with no other concerns. In that case he could see making an administrative approval. In this case it is about the distance, tile, and the drainage, which was heavily discussed during the plat process. This change could also involve some land alteration and therefore it was felt the Planning Commission needed to review and make a determination. Felger addressed Mr. Otto with a question if new soil borings were done for the new site. Otto – used old borings that were done in that area. They had to make the design smaller and turn slightly to fit into the location.
- F. No public comment.
- G. Mahlberg – on the preliminary plat a condition was stated that if development on lot 1 or 4 was near the wetland Soil and Water Conservation District would need to review. Does this trigger a review? Rhineberger – no, the actual distance to the wetland and utility easement is not a whole lot different than the original request. Mahlberg confirmed a condition for SWCD review would not be necessary.
- H. Felger – on the plat there is there an approximate location of the drain tile or is there a written easement. Otto – there is an easement dedicated on the final plat that was not there prior to the plat. The easement is a best guess to where the tile is. Felger questioned how a dedicated easement works if the actual location of the tile is not known. Otto – if the tile is not there the easement allows for the tile to be put there. The other option is to work it out with the property owners, as was done prior to the recorded easement. Felger – so the tile isn't physically found during the process. Mahlberg – that wouldn't change anything. They would have their prescriptive rights to be there now and another corridor to go through if the tile area was missed. If the tile is broken the benefits of the tile will be knocking on the owners door so it is in the best interest of everyone to protect that tile. Otto – intent of the easement was looking at the south and if something were to happen at a worse case a new tile can be installed in that new established corridor.

- I. Motion made by Bravinder to approve the request to amend the building location on Lot 4, Block 1 Franklin Ridge according to Exhibit "A", prepared by Otto Associates, dated 11-16-22, Project No. 22-0414, with the following conditions: 1) all setbacks, erosion control, and land alteration standards be met; 2) any substantial deviations of the plan will have to come back for a land alteration review; 3) previous conditions in original CUP are not changed by this action and remain in effect. Motion seconded by Greninger.

DISUCSSION: Daleiden questioned if a condition should be added regarding damage to the drain tile. Rhineberger – that would be a legal issue that this Commission would not address. Mahlberg – historically this Commission has been discouraged, by counsel, to shift burdens of private landowners with decision from this Commission.

Bravinder questioned why with solar farm CUPS a request is made for the tile to be located. Is that different than what is presented today? Mol – thought is that with solar they have no clue where the line is. This request has been discussed at length and it is known there is tile there. In this case he does not feel there is a need to locate the tile. In a solar farm the fields are larger in area and the tile location isn't always known. Rhineberger – the difference is also with a solar farm they are driving posts that could more greatly have a chance of affecting the tile.

VOTE: CARRIED UNANIMOUSLY

6. ACTION TO ACCEPT THE FINAL PLAT OF PHEASANT ADDITION (APP Properties LLC.)

On a motion by Daleiden, seconded by Bravinder, all voted to approve the final plat of Pheasant Addition and authorize the Chairman's signature.

DISCUSSION

Member Daleiden thanked the Members and Staff for all that they do serving on the Planning Commission and stated what a joy I has been working with everyone. Mol in turn thanked member Daleiden for serving on the Planning Commission as well as all of his years serving as a County Commissioner.

Meeting adjourned at 8:30 p.m.

Respectfully submitted,

Barry Rhineberger
Planning & Zoning Administrator

BR:sd

cc: Planning Commission
County Board of Commissioners
Kryzer
Twp. Clerks
SWCD