

WRIGHT COUNTY PLANNING COMMISSION
Meeting of: August 10, 2023
MINUTES

The Wright County Planning Commission met on Thursday, August 10, 2023, 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 members present: Ken Felger, Pat Mahlberg, Jan Thompson (arrived after action on minutes), Jeanne Holland, Dan Bravinder. Absent: Sandy Greninger. Barry Rhineberger, Planning & Zoning Administrator, represented the Planning & Zoning office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

ACTION ON July 20th, 2023, MINUTES

On a motion by Bravinder, seconded the Holland, all voted to adopt the minutes for the July 20, 2023, meeting as printed.

VOTE: CARRIED UNANIMOUSLY

Jan Thompson arrived after action was taken on the minutes.

PUBLIC HEARINGS:

1. **RODNEY HEBRINK** – Cont. 7/20

LOCATION: xxxx Endicott Ave NW – Part of Government Lots 2 and 3, Section 17, Township 121, Range 26, Wright County, Minnesota. (Millstone Lake - Silver Creek Twp.) Tax # 216-000-173100 & - 172401 Property Owners: Rodney W. Hebrink & Carol J. Hebrink Joint Revocable Trust

Petitions to rezone from General Agriculture (AG) with a Residential-Recreational Shoreland District Overlay (S-2) to Agricultural/Residential (A/R) with a Residential-Recreational Shoreland District Overlay (S-2) as regulated in Sections 155.028, 155.047, 155.048 & 155.057, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: No representative present.

- A. Rhineberger stated the applicant had some issue arise and is working through some concerns the Township had so he has requested continuation to the August 31st meeting.
- B. Felger moved to continue the item to the August 31st meeting, at the request of the applicant. Motion seconded by Holland.

VOTE: CARRIED UNANIMOUSLY

2. **ARBOR CREEK HOLDINGS LLC** – Cont. 7/20

LOCATION: xxxx 78th St NW – Hannahs Landing Lot 6 Block 1, Section 27, Township 121, Range 28, Wright County, Minnesota. (E. Sylvia – Southside Twp.) Tax #217-084-001060 Property Owners: Hannah's Arrival LLC

Petitions for a Conditional Use Permit for a land alteration of approximately 16,798 cubic yards within the shoreland and amending an existing Conditional Use Permit for a platted subdivision to allow a home to be built lakeside of a bluff as regulated in Section 155.029, 155.051, 155.057 & 155.101, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: No representative present.

- A. Rhineberger stated the applicant is looking at revising plans and has requested continuation to the September 21st meeting, so they have time to meet with the Township and review revisions.
- B. Holland moved to continue the item to the September 21st meeting, at the request of the applicant. Motion seconded by Thompson.

VOTE: CARRIED UNANIMOUSLY

3. **JOE BARBELN** – New

LOCATION: 844 Barton Ave NW – Part of Lot 12 & 13, Block 1, Westcliffe in Sections 35, Township 120, Range 26, Wright County, Minnesota. (Chatham Twp.) Tax # 203-028-001131. Property Owners: Joe & Liawni Barbeln

Petitions for a Conditional Use Permit for an after-the-fact land alteration to restore clear-cutting done by the previous landowner and stabilize a pathway that was cut into the bluff. The clear-cut area will be restored with native plantings. The path will be stabilized with boulders and an erosion-resistant surface. Invasive species will be removed. as regulated in Section 155.029, 155.049, 155.057 & 155.101 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Joe Barbeln

- A. Rhineberger displayed property details as he reviewed the proposed request. The property is 2.18 acres in the Westcliffe development on Buffalo Lake. This request is for an after-the-fact land alteration permit with the alterations done by the previous owner. This owner is looking to clean up and fix up the property with the goal to bring it into a better condition than what it is currently there. Plans submitted were included in the staff report. A lot of the work was done in and down the bluff to gain an access path. Beacon photos were displayed and reviewed. Presented plan is to clean up the access path and install erosion control. Approval from the Township was received, noting that the cliff needs to be stabilized and restored to prevent erosion.
- B. J. Barbeln and public had no comment.
- C. Felger asked to see aerial photos of the property prior to the work being done. Rhineberger – displayed the 2015 and 2021 aerial photos as well as the Spring 2023 pictometry photos. Felger questioned how the issue came to the attention of Planning & Zoning. Rhineberger – contractor made contact and questioned what needed to be done to complete the proposed work. It was noted at that time work was completed without proper permits.
- D. Thompson – when staff spoke with the contractor regarding the upgrades, it was noted there is a plan to bring property back to its original state. Is that so? Rhineberger – the path will remain with some tree planting and fixing of the slopes along the path. Before work was done there was an opportunity to apply for what has been done. That permit was not applied for, and it would have been up to this Commission on what would have been allowed. The path will not go away, but you also cannot get back to how the property looked before the work was completed. Intent is to keep the path to the lake, but it will be modified and improved so that it does not erode as much. Plans provided by landscape contractor are in the staff report. Thompson questioned degree of slope. Rhineberger – estimated over 30%, which is considered a bluff.
- E. Bravinder moved to approve a conditional use permit for land alteration according to the plans and description as outlined in the application, with the following conditions: 1) Access path may not be used by passenger vehicles and is limited to ATVs, UTVs, and similar; 2) RVs, fishhouse, or any other structure or equipment that is designed for habitable or sleeping space is NOT allowed below the bluff unless all setback requirements are met or the appropriate variance is granted; 3) Access path must be constructed in a manner that will address water run-off and erosion.

DISCUSSION: Felger questioned the applicant how long he has lived at this home. J. Barbeln – 5 weeks. Felger – will there be a need for a vehicle to pull out the dock? J. Barbeln – dock in photos is prior owner's dock, but he does believe he will need at least an ATV to get his dock out. Felger – condition #1 states path would be limited to ATVs, UTVs or similar; would that cause a hardship versus a four-wheel drive truck? J. Barbeln – if he has an ATV, he does not feel a four-wheel drive vehicle would be necessary. Questioned if the condition is stating that he cannot drive a vehicle down the path. Felger – the way the condition reads is that no passenger vehicles would be allowed. J. Barbeln – if that is the way, it has to be he is okay with that. He would like the opportunity to use a truck for the dock as well as if he built a boathouse, he would like to be able to haul material to the lake. Does not intend to drive a truck up and down the hill.

Felger moved to amend Condition 1) to allow for a four-wheel drive vehicle, once in the spring and once in the fall to use the path for dock removal.

Further discussion on the path access: Bravinder questioned how that will be monitored. Felger stated it won't. The County is not dock removal police, and it will be left up to the property owner to abide by the condition.

Mahlberg seconded the amendment to the motion with Mol calling for a vote on the amendment to Condition 1) that four-wheel drive vehicles will be allowed down the path once in the spring and once in the fall for dock removal.

VOTE: IN FAVOR: Felger, Bravinder, Holland, Thompson, Mahlberg. NAY: Mol
MOTION CARRIED

Mol questioned the members if there was any additional discussion on the original motion, which will include the added amendment regarding the use of a four-wheel drive vehicle once in the spring and once in the fall for dock removal. Hearing none, called for a vote.

VOTE: CARRIED UNANIMOUSLY

4. **BRUCE KARVONEN** – New

LOCATION: 3809 Colbert Ave NW – The NE 1/4 of the NE 1/4 as well as the northern portion of the NW 1/4 of the NE 1/4...in Sections 10, 14, and 15, Township 120, Range 26, Wright County, Minnesota. (Maple Lake Twp.) Tax # 210-000-151101, 210-000-15110, 210-000-104300 & 210-000-142207.

Property Owners: Bruce D. & Barbara F. Karvonen

Petitions for an Interim Use Permit to have a non-commercial contractor's yard to store business equipment, materials, and shipping containers related to the applicant's contracting business on the property as regulated in Section 155.003(30), 155.031 & 155.048 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Bruce Karvonen

- A. Rhineberger displayed property photos and reviewed the request. The property is four parcels that total roughly 73.52 acres. There is a house division that is currently owned in common. The property is currently zoned AG-General Agricultural but is designated in the Northwest Quadrant (NWQ) Land Use Plan as Rural Residential. Today's request is for a non-commercial contractor's yard to store business equipment, materials and shipping containers related to the applicant's business. The applicant's write-up on the business is in the staff report. Maple Lake Township did provide approval based on information provided at their meeting.
- B. Karvonen – feels he keeps getting portrayed as a contractor's yard, and he does not feel that is what it is. He owns a contracting business that has a yard in Loretto. He does bring equipment home to do work on the property. The property is unique and has suited his family well, but when purchased the property needed a lot of work that he does use his work equipment for. The reason he chose the location and use of the storage containers is to keep stuff inside and not unsightly sitting around the yard. Hopes that when kids move out, he can take the entire storage container area and remove them. Plan is that anything of business-related will move out with the kids. Right now, he needs a location to put items used in the sustainable farming that they are doing. Three years ago, solar was installed, and when that permit was applied for, he was questioned by Planning & Zoning about a business run on the property. At that time, he spoke with staff. It was recommended to obtain a contractor's yard permit, but through additional conversation, it was agreed, that permit was not needed. Recently he applied for a garage addition, and the conversation came up again, and it was mentioned that the storage and equipment appeared to have intensified. Through discussion with staff, it was determined he should apply for a non-commercial contractor's yard, and the property would be in compliance. Wants to be clear that he does not feel he is running a contractor's yard.
- C. No comment from the public.
- D. Bravinder – in Cokato, he sees this situation all the time, but they call it a farm. Asked Rhineberger to explain why the need for a non-commercial contractor's yard permit. Rhineberger – business-related equipment coming and going from a site is by definition a contractor's yard. For staff, it is difficult to decide if coming to site for personal use. If that is not the case, 100 % of the time, staff is left interpreting what is the use. As this site sits there are dump trucks and equipment that are used by a contractor. Understands that there is a farm aspect, but based on the level of activity, this equipment appears to be moving a lot and is contracting equipment. There is another part that shipping containers are prohibited as storage for residential properties. The only place this can be done is in a contractor's yard in relationship to an approved IUP. If the applicant is certain he does not want to go

with this IUP, for the non-commercial contractor's yard, then the shipping containers need to be removed. It was also mentioned an employee occasionally visits the site, which would leave staff to interpret what that means and how often. The decision was that this route would allow legal operation and avoid the discussion coming up every time the applicant comes to Planning & Zoning for a building permit. Bravinder – 30 years from now when property transfers to a kid, does this need to be rehashed? Kryzer – yes. B. Kavonen stated when gone that would be for them to figure out. Reason for the container location is because there is no one that can see the area. He grew up farming and does not want his place looking like some of those sites.

- E. Mahlberg stated he drives the road plenty, and this is the first he realized there is anything like this on the site. This is a good location to have these containers.
- F. Felger questioned the zoning. Rhineberger – currently AG. Felger – certain activities are allowed on AG properties, and there are sites that are junky but are allowed to be this way. What makes the applicant's request different? Rhineberger – type of request and use of the property. B. Karvonen – understands where Rhineberger is coming from. He does own a contracting company, and he is farming with construction equipment. As it was stated, there is remodeling work being done, and if he needs a backhoe or other equipment, he has an employee drop off the equipment at his home, so you will see a company truck come on the property. A benefit of owning his own company is the personal use of the equipment. Rhineberger – this route seems to be the best fit to cover what is taking place. B. Karvonen – he agreed that he would apply but wants to be clear he is not running a contractor's yard. The storage containers were contentious, and this would allow those to stay. He does not want to build a storage building, so these work temporarily. The reason he started with the storage containers was to hold animal feed. Felger – understanding is that storage containers are not allowed per county ordinance. Rhineberger – correct, but the Planning Commission can grant as part of an IUP or CUP. Proposed motion does contain a condition that addresses the containers. Mahlberg – condition 2 authorizes use of containers but limits that there are no additional containers authorized. Felger – existing are okay in place if passed by this Commission, but no additional. B. Karvonen stated he has the storage room he needs.
- G. Mahlberg moved to approve an Interim Use Permit for a non-commercial contractor's yard in accordance with the discussion, plans, and description held on file, with the following conditions; 1) All work must be conducted off-site; 2) Exterior storage is limited to the location noted on the site plan, and no additional storage containers are allowed on the property; 3) Any change in use or expansion would require an amended IUP; 4) All parcels associated with the use must continue to be owned in common ownership and this permit shall expire upon transfer of any portion of the property where the use is being conducted, transfer of the house parcel, termination of any lease agreement, or change in business ownership or operations; 5) Township to review in one year, with subsequent reviews at an interval established by the Township. Motion seconded by Felger.

DISCUSSION: Bravinder questioned if the Township requested the review. Rhineberger – no, that is a typical condition added to IUPs, and if the Township comes back that they don't want to review anymore the file is noted, and review is closed. B. Karvonen – this means he does not run any type of a business out of his home. Stated they are working towards growing more food on the property, so what happens if there are extra raspberries that people come to pick and pay? Is that running a business? Rhineberger – that would be considered Commercial Outdoor Recreation if they are invited to pick. Allowed a seasonal produce stand at the end of the driveway, without a permit. Inviting the public onto the property to pick their own would require a permit, that is separate from the one being discussed tonight. Mahlberg – the

farm operation would not affect the granting of this IUP. Kryzer - if there is a plan to do anything where the public is invited onto the property a call to Planning and Zoning is suggested.

VOTE: CARRIED UNANIMOUSLY

DISCUSSION ITEM

Delano Sportsmen's Club

- A. Rhineberger – in 2018, when the Sportsmen's Club was approved there was a list of conditions. The first condition states, "this shooting range must comply with all statutes, rules, and regulations, and any amendments thereto, of the State of Minnesota and its various administrative departments." This year the Club began to actively prepare for the range expansion. The trap apparatus concrete has been poured, and trap houses have been built. There has been a lot of dirt work and addition of berms, but the clubhouse has yet to be started. A display of May 2023 pictometry was displayed for the Commission to see status. The Minnesota Pollution Control Agency (MPCA) did issue an administrative penalty order against the contractor because they did not file for the stormwater pollution and prevention plan or obtain proper permits from the MPCA. Proper permits have since been obtained with the response from the MPCA in the staff report. There were 4 specific corrective actions that were required in the letter that was sent to the president of the Sportsmen's Club. Those correction actions were completed, and the Club was issued a fine of \$2,745. The question that came to Planning & Zoning is that the first condition states all State rules are followed, so technically, condition number one was violated. Staff is looking for direction from the Planning Commission on if the revocation process is warranted.
- B. Mahlberg – in terms of the violation, it was issued to Delano Sportsmen's Club. Was this an issue where a contractor was hired, and it was the contractor that did not secure the permit? Rhineberger – correct. Mahlberg – during review, was anything found beyond not obtaining a proper permit they were trying to screw around. Rhineberger – not that he could tell. Mahlberg questioned how did this come to Planning & Zoning. Rhineberger – it was a concerned citizen complaint. Mahlberg – other than failure to obtain a permit the work being done is consistent with what was authorized by this Commission. Rhineberger – correct. Mahlberg – would assume a stormwater permit of this type is one where you make an application, and the issuance is basically automatic and in effect. Rhineberger stated he does not know the MPCA requirements. Mahlberg – this is not an exotic permit, and wonders why the contractor did not pull a permit. The Sportsmen's Club most likely has a member that should have been sure what needed to happen was happening, but it is not the most egregious offense. To him, this offense is not a huge deal.
- C. Felger – noted that all 4 violations have been corrected. It does not appear the holder of the CUP had willfully done a malicious act; the issue was rectified, and a fine was paid. He feels the CUP holder and contractor did what was needed to correct the issue. Does not see this meeting the threshold of considering a revocation hearing.
- D. Bravinder – agrees with member Felger. Privately or as a business when you hire a contractor, and they have in the bid they will obtain all permits one doesn't check to ensure all permits are obtained as it was stated that it would be addressed. He does not feel the Sportsman's Club is liable, and it was not done maliciously. The Club has worked with this Commission on issues and does what is asked of them. He does not feel this is close to calling for a revocation of the CUP. Thompson stated she is in agreement.
- E. Mol – agrees that when you hire a contractor that they would be responsible to pull permits but it is also still on the property owner to ensure proper permits are obtained. Not saying this is worth revocation because issues were addressed. The Sportsman's Club president and members are still responsible in making sure the contractor is following through with proper permits.

- F. Holland – agrees with that statement. The Commission sets rules and doesn't believe this is a case for revocation, but a strong message should be set that if there are conditions and rules, they should be abided by. This message should be relayed to the Delano Sportsman's Club, and that as they progress, they are being watched and are responsible for ensuring rules are followed. Mol – at the very least believes that Planning & Zoning should put into a letter that the condition was not met, and it is understood fines were paid and the issue was addressed, but the Commission is keeping an eye on the property.
- G. Felger moved that the Planning Commission take no further action and does not recommend that staff take action with a revocation hearing. Planning Commission does recommend staff to inform, by letter, to the holder of the CUP concerns discussed. Motion seconded by Bravinder.

VOTE: CARRIED UNANIMOUSLY

Meeting adjourned at 8:32 p.m.

Respectfully submitted,



Barry Rhineberger
Planning & Zoning Administrator

BR:sd

cc: Planning Commission

Kryzer

Twp. Clerks

Applicant/owners