

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: JUNE 27, 2024

Minutes

The Wright County Planning Commission met on June 27, 2024, 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: Dan Mol, Jeanne Holland, Ken Felger, Sandy Greninger, Jan Thompson, Dan Bravinder absent was member Pat Mahlberg. Barry Rhineberger, Planning & Zoning Administrator, represented the Planning & Zoning office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

ACTION ON JUNE 6, 2024 MINUTES

Greninger called out a correction on page 2 where it was noted that *Thompson stated she voted against all the way through, beginning to end, and called for the vote*. This should read that she called for the question.

On a motion by Bravinder, seconded Thompson all voted to adopt the corrected minutes for the June 6, 2024, meeting.

PUBLIC HEARINGS:

1. MATHEW WITSCHEN – New

LOCATION: xxxx Armitage Ave NW – part of the SW 1/4 of the SW 1/4, Section 36, Township 122, Range 26, Wright County, MN. (Silver Creek Twp.) Tax #216-100-363302 & 216-100-354400 Property Owner: MATHEW W & KATRINA A WITSCHEN

Petitions for a Conditional Use Permit (CUP) for a two-lot unplatted subdivision, as regulated in Sections 155.029 & 155.051, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances and Subdivision Regulations.

Present: Matt Witschen

- A. Rhineberger reviewed the request as various maps and the site plan were displayed. The property is 40.11 acres and consists of two parcels in Silver Creek Township. The property is zoned Suburban Residential-R2a with a designation of Residential Large Lot in the Northwest Quadrant (NWQ) Land Use Plan. The property has seen quite a few changes over the years. Most recently, in December 2018, the Planning Commission approved a new CUP that allowed a change in lot lines of the 2015 3-lot unplatted subdivision. This 2018 approval is the current configuration of PID 216-100-363301, PID 216-100-363300, and the third lot, which is the current property that is before the Commission. Today's request is for a two-lot unplatted subdivision with both proposed lots meeting the minimum R2a zoning requirements. Proposed Parcel A would be a 5.06-acre lot and Parcel B a 35.05-acre lot. The R2a zoning district requires each Parcel to be a minimum of 5 acres in size with 300 feet of lot width/road frontage and 300 feet of depth along the road frontage. Silver Creek Township has recommended approval of the request. Wright County Planning & Zoning has yet to receive any other comments.
- B. No comment from Witschen.
- C. Public comment opened.
 - Brittany Jorgensen – recently moved to the area and would like to know if further expansion is possible. Fear is this starts as two parcels and developments continue to come. Rhineberger – given the zoning of the property there is a possibility but with that new roads would need to be built. Other neighboring properties would be dependent on where they are in the Land Use Plan for development.
- D. With no comment from the Commission Chairman Mol asked if anyone was prepared to make a motion.

- E. Bravinder moved to approve a conditional use permit for a two-lot unplatted subdivision in accord with the survey completed by Otto Associates, dated 4/3/2024; project number 24-0173, with the following conditions:
1) If required by Silver Creek Township, access permits must be obtained prior to any construction activity commencing; 2) Per the Feedlot regulations, R2a parcels will be allowed 1/2 animal unit per acre and are limited to less than 10 animal units regardless of parcel size. Seconded by Felger.

VOTE: CARRIED UNANIMOUSLY

2. **ZACHARY ARENS** – New

LOCATION: 2268 County Road 37 W – part of the NW 1/4 of the SE 1/4, Section 27, Township 120, Range 26, Wright County, MN. (Abbie Lake - Chatham Twp.) Tax #203-000-274201 Property Owner: STEVE J PAROBOK & INGRID LANGSETMO

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: Ingrid Langsetmo

- A. Rhineberger displayed the proposed site plan and reviewed the request. The 37.05-acre property sits between County Road 35 W, Crofoot Avenue NW, and County Road 9. The Property is currently zoned General Agriculture-AG, with part of the property falling within the Residential-Recreational Shoreland Overlay District -S2. The applicant is requesting to rezone the entire property from General Agriculture-AG with a Residential-Recreational Shoreland District Overlay-S2 to Agricultural/Residential-AR with a Residential-Recreational Shoreland District Overlay-S2. The property is in the Land Use Plan as "Rural Residential." If the rezoning is approved, the applicant would apply for a 2-lot unplatted subdivision. Chatham Township has no concerns with the request.
- B. Langsetmo had no comment.
- C. Public comment opened with Mol mentioning comments during the meeting need to be kept to 4 minutes.
 - Tim Pawelk – neighbor across the road. Concerned the plan is to add more residential housing. Questioned the number of animals that would be allowed. Allowing only 5 horses with a 20-stall barn could cause the parcel to not sell. Rhineberger – the rezoning process would allow for one home on the west property and the east parcel has an existing home. Further development would require another hearing, similar to this, to reduce the size even more. The Animal Units (AU) in AR zoning are not allowed to reach more than 10 AU's. The County Feedlot Officer tracks this type of thing very closely and related conditions can be assigned at the subdivision phase. Pawelk questioned if there was someone in mind to purchase. Rhineberger believes the applicant wants to purchase the property. In the end, it does not matter who purchases. If approved there is an ability to build a home. Pawelk stated he would rather see the land remain pasture.
 - Adam Jorgensen – moved to the area in December of this year from Rogers. Their home in Rogers was surrounded by farmland that was sold and in a matter of a year they were surrounded by townhomes. They moved to this area and the privacy was one of the big reasons they purchased the home. The main concern is they will once again be swallowed by development. Questioned if this would be two homes with barns or if it would turn into a bigger development. Rhineberger – the Land Use Plan (LUP) guides this parcel for "Rural Residential", which primarily is rezoning to AR and a 10-acre lot minimum and even with that the County has a 1-acre lot minimum. The high-density development seen in the cities is not what one would find in the townships.
- D. Bravinder feels the property is consistent with the surrounding properties with Suburban Residential and Agricultural/Residential on either side. Everything being requested is well within the Land Use Plan.
- E. Felger questioned the west parcel having access off of Crofoot. Langsetmo stated Zach (Arens) did speak with the County Highway Dept. and it shouldn't be an issue.

- F. Felger moved to recommend approval to the County Board of Commissioners to rezone PID 203-000-274201, from AG-General Agriculture and part S-2 Residential Recreational Shoreland to AR-Agricultural/Residential and part S-2 Residential Recreational Shoreland, because it finds the property is aligned with the goals and policies of the Northwest Quadrant Land Use Plan. Seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

3. **ZEB HANEY** – New

LOCATION: 11126 Eastwood Avenue SE – The NW 1/4 as well as part of the NE 1/4 lying westerly of Rice Lake in Section 35, Township 118, Range 25, Wright County, MN. (Rice Lake - Franklin Twp.) Tax #208-200-352102, -352100, -351201. Owner: David Lubben Trust

Petitions for a Conditional Use Permit for a platted 15-lot residential Planned Unit Development subdivision, as regulated in Sections 155.028, 155.029, 155.047, 155.057 & 155.059, Chapter 155 and Chapter 154, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances and Subdivision Regulations.

Present: Zeb Haney and Marty Campion as Project Engineer

- A. Rhineberger displayed the proposed plan and reviewed the request. The 102 acre property sits along Eastwood Ave. SE and 110th Street SE in Franklin Township, with the property's eastern boundary being lakeshore along Rice Lake. In April 2024, the County Board approved rezoning the property from General Agriculture (AG) with a Residential-Recreational Shorelands District Overlay (S-2) to Agriculture/Residential (A/R) with a Residential-Recreational Shorelands District Overlay (S-2) and establishment of a Rural Planned Unit Development overlay district. Tonight's request is for a 15-lot residential Rural Planned Unit Development (PUD) subdivision with one Outlot. Fourteen of the 15 proposed lots range in size from 3.0 to 8.6 acres. However, Lot 6 is proposed as 31.4 acres of restricted lands, which is the existing horse farm. The creation of restricted lands is an integral part of the Rural Planned Unit Development overlay district with the purpose being to preserve productive agricultural land while providing for clustering of residential sites on non-productive land. During the review by staff, it was noticed that the preliminary plat sheet 4 has the proposed property lines for the lakeshore lots not drawn to the Ordinary Highwater Mark (OHW) nor the lot area shown calculated to the OHW. This is a vital part of calculating the park dedication fee and does need to be corrected. The Township has met with the developer and reviewed the preliminary plat and plan sheets that have been submitted to the County. The Township requests the developer look at the removal of the existing cul-de-sac and extension of the road. The Township requests that the Township Engineer review the plans. One neighbor has provided written comments, which were included in the staff report.
- B. No comment from the applicant.
- C. Bravinder referred to the Township's comment regarding the use of a temporary entrance off of 110th St. as a construction entrance and questioned the discussion around fencing. Marty stated fencing discussion was in reference to the existing fencing. Bravinder asked if the temporary entrance was for the development of the lots and road. Marty – yes, the construction of the subdivision and once completed the home construction would use the existing and new road.
- D. Public Comment.
- Keith Butcher – 4019 115th St SE – there have been numerous ups and downs with the progression of the development and several important concerns brought forward, such as public safety, police and fire rescue times, lot sizes, and no through street. At the March meeting, the Planning Commission made it clear that a development proposal vote, at that time, wasn't promising and the item was tabled for the next meeting. At the April 4th meeting the development was proposed with minor changes but passed without hesitation. This felt like some of the concerns were forgotten. At that meeting, Mr. Vanderlinde stated several times a road extension to 110th Street was not feasible because of the cost. Butcher questioned if anyone has seen a proposal or bid to verify the claim. Residents have realized they won't stop the development but hope their concerns will be heard and addressed. In speaking with the Township, the proposed road would cost \$209,000 to build and a through street would add an additional \$323,000, which is a far cry from the \$1.1 million Mr. Vanderlinde claimed. At the April 4th meeting there was discussion regarding ordinance section 154.32 (B) which relates to a cul-de-sac over 500 ft. in length. This concern was dismissed as Mr. Vanderlinde mentioned several developments in the area with a cul-de-sac over 500 ft. The neighboring Cedar Lake development made the list but in review of the aerial photo one would see a swamp prevents a through street. At that meeting Planning Commission member Mahlberg stated this

ordinance is there for a reason and allowing a change requires valid reasoning and he felt that they had not been presented with reasoning beyond a want to save money. There has been quite a bit of talk about the homestead and barn remaining untouched so it can be sold for maximum dollar, which is being done. If you add onto that the sale of the lots the current property owner is looking at a significant profit.

- Amy Warner – 4251 115th St – owns the restricted-use farm in the Rice Lake Retreat development and recently learned that their farm has restrictions, which were not disclosed at the time of purchase. In speaking with Planning & Zoning she is now aware they are currently restricted to the single building entitlement but with changes occurring around them, there could be a possibility to remove those restrictions. At the March meeting the restrictions on the horse farm were discussed with questions on whether restricted use would allow for a horse boarding facility, riding stable or would new owners be under the assumption that they can further divide their lot. Section 155.059(J) states that *in general, the creation of restricted lands shall be for the purpose of preserving productive agricultural land while providing for the clustering of residential sites on non-productive land*. In this case, the developer is taking the only Ag-productive land and clustering 11 of the 14 new homes. Warner stated that she doesn't understand how restricted use applies to the horse farm, it only makes the farm larger and provides a larger return for the farm. The ordinance also states *reasonable restrictions upon such lands shall be stated by the Planning Commission at the time of preliminary development plan approval and said restrictions shall be recorded with the final development plan*. She is concerned that the horse farm is currently listed for sale with the seller not disclosing any restricted use. Section 155.059(G)(2)(f) states at this point of the process the developer should have provided *agreements, provisions or covenants which govern the use, maintenance, and continued protection of the planned unit development and any of its common open areas or restricted lands*. Warner questioned if that is available and if there will be a Homeowners Association (HOA) created. Her understanding is that a HOA was created when the Rice Lake Retreat was formed and at the time included the farm but then the owners of the farm later removed themselves from the HOA so they could continue to operate their farm without the same residential restrictions. She believes having designated open space and not including the horse farm is the best way to proceed as the restricted use only benefits the developer. She would like to see the agreements that govern the use, protection of the wetland and setbacks to Rice Lake be provided before proceeding.
- Courtney Bragg – 4308 115th St. – looking at the plans it seems that they are showing the minimum standard for the house pad locations. The 11 homes off of Eckert Ave are shown centered along the road at the required 65 ft. setback. As a buyer of a 4-10 acre lot, the likelihood of all homes at the minimum 65 ft. setback is unlikely and it is her belief this will cause the Commission to review 11-14 variance requests which leads to excessive work and impacts the stormwater management plan. Bragg asked for the Commission to look at the home locations for a more realistic location that would be in harmony with the existing development. Identifying new home locations would allow for a more successful water management plan and lessen the chance of a variance requests. It is her understanding that Section 155.059(G)(2) requires the developer to provide a development schedule with approximate dates for each stage of the project. As far as she is aware that has yet to be provided. At the March 7th meeting there was a comment by Mr. Haney that a home build should take 10-14 months. As someone who lives in the neighborhood, they are interested in how long it takes from the point the first piece of equipment is brought on site until the last subcontractor leaves the 14th home. They are looking for a timeline from start to finish. The construction of 5 homes on 115th St. will have taken around 4 years and now there is discussion of 11 new homes. A schedule will help understand the timeline.
- Joy Pieper – 11540 Eckert Ave – concerned that a large number of trees will be removed and what that will do with water flow onto her property. Wondering why this development is connected to the existing development as it is inconsistent with the current neighborhood. There is no way the type of community they currently enjoy will be available in this space, due to the size difference in properties. With the high water mark and potential for flooding the homes will have to be quite a bit smaller than what is existing in the neighborhood. If a temporary road can be installed for construction, then why can't the entire subdivision be separate from what is existing and the road become permanent. The proposed development really is a different neighborhood.

- E. Campion stated there is no intention to develop an HOA with the project as there is nothing that an HOA would need to manage. Related to the comment about setbacks and the need for variances; the proposal needs to show a house can meet the required setbacks as well as support a primary and alternate septic system. The house pad locations shown on the plan are conceptual and he wouldn't expect to see all of the houses where proposed but they would be required to meet the established setbacks. With the grading plan displayed Mr. Campion reviewed the plan and addressed the concern of water running towards the south. Most of the draining that runs north to south will be intercepted by a pond and slowed. This property, from the south, rises in elevation as you move north with all of the homes quite a bit above the OHW and will be meeting the separation requirements. The development schedule for the subdivision is to start as soon as practical after approval and getting bids. The homes will be built as the market dictates and they sell.
- F. Bravinder questioned if there would be a culvert near the holding pond. Campion – a culvert in the west road ditch will run towards the east pond and drain tile will release into the ditch on the east side of Eckert. Thompson questioned where the water would end up. Campion – water will go where it currently goes, not sure if that is the lake but would assume. Most of the water, because of being diverted into the pond, will go onto the east ditch of Eckert Ave. Thompson questioned where the water will stop. Campion – assume the lake but is not positive. Water will be released at a lesser rate than what is currently occurring. Rhineberger used the displayed grading plan to review the direction of water flow. Mol questioned the amount of rainfall the plan is designed to manage. Campion – designed for the 2, 10, and 100-year storm events. Holland questioned if anyone has gone to the site to see how things look and if flooding is occurring in the area. Campion stated he had not been at the site during a rain event. Rhineberger stated county staff has not been to the site and it is his understanding that the area is not at 100-year floodplain levels. The proposed plan does include the 100-year flood elevation as a marked line. During the rezoning request, the flood zone and elevations were reviewed and compared to the most recently adopted floodplain maps.
- G. Greninger – she would assume the Township reviewed the same drawings present tonight. The Township mentioned concern on sheet 5 with the cul-de-sac being flat and they want to see it crowned as well as questioned a few other things in their response. Greninger questioned if she is correctly assuming they have concerns with the drawings reviewed tonight. Campion – yes, they had concerns but the plans shown tonight have been revised per those comments and are not the ones shown at the Township. The Township Engineer is currently reviewing the revised plans. Greninger – no response yet? Rhineberger – the Township won't meet until the first week of July.
- H. Felger questioned the nature of the restriction for lot 6? Campion – would suspect that it can't be re-subdivided. Rhineberger – that lot will be restricted land with the Commission setting the restriction. In general, limited to no none agriculture uses. The Commission, if approved, will set the restrictions within the conditions. Felger – at an earlier meeting there were two proposals, one with a common Outlot and the other similar to this proposal. Felger questioned the applicant why this proposal was chosen over the other plan. Campion – lot size and no real good reason for the Outlot as a common open space. Feeling was that it would be better to increase the lot sizes and personally if he owned a parcel that butted up against the common open space, he would perceive it as his backyard and not be fond of people using it. He didn't find value in in the common open space so he suggested it be removed.
- I. Mol – the Commission has yet to discuss a through road and it was again brought up by the residents. Campion – they have been to the Township three (3) times with the proposed plan and this is what they have approved and what they will be moving forward with. Felger questioned if the Township was adamantly opposed to a through street. Campion stated they did not propose a through street with the Township. The residents brought it up but the Township didn't have anything to review and they didn't ask so it was not provided.
- J. Mol questioned the Commission on how they wanted to proceed. Greninger stated she isn't comfortable voting until they see what the Township Engineer has to say. Mol – the County is also asking for revisions related to the OHW.
- K. Thompson – it was mentioned the proposed lot sizes are different than the existing neighboring development. Campion – he feels all lot sizes are comparative or a number were larger. Thompson – do existing lots have more

road frontage than being proposed? Campion stated he did not know. Rhineberger – they appear to have 300 ft. or more. Beacon aerial was displayed as lot sizes in the area were looked over and discussed that it is a mix of lots same size, larger and smaller. Campion – they have not asked for a reduction in lot width and meet the requirements. Rhineberger – minimum width is 300 ft. but with a PUD the Commission can approve less, which is common with PUD's.

- L. Bravinder moved to continue the matter to the July 18th meeting so the applicant can work through review and revisions with the Township and prepare and provide an updated preliminary plat sheet. Seconded by Holland.
VOTE: CARRIED UNANIMOUSLY

4. **MICHAEL & DARCY SJOMELING** – New

LOCATION: 345 Cty Road 30 SE & xxxx Ahern Ave SE – the South 1/2 of the SE 1/4 of Section 18, Township 118, Range 25 as well as parts of the NE 1/4 of the NE 1/4 and the NW 1/4 of the NE 1/4 in Section 19, Township 118, Range 25, Wright County, Minnesota. (Franklin Twp.) Tax Parcel ID #: 208-200-184300, 208-200-191200, 208-200-191100 & 208-200-184400 Owners: MICHAEL & DARCY SJOMELING and MARK A & LAURIE K MOTZKO

Petitions for an Interim Use Permit for a Commercial Agricultural Tourism use that includes the review of their pre-existing operation, known as Fall Harvest Orchard, and to allow the expansion the existing operation to include alcohol sales and a new commercial slide, as regulated in Sections 155.003(25), 155.031, 155.048 & 155.109, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Michael & Darcy Sjomeling

- A. Rhineberger displayed several site maps of the property as he reviewed the request. The Fall Harvest property consists of two parcels with a total of roughly 41 acres. Fall Harvest Orchard has been operating as an outdoor commercial agricultural tourism use with apple orchards and pumpkin patches long before the Sjomelings purchased the property in 2015. Operations are thought to have been started in the early 1980s and the Wright County Planning and Zoning Office has no record of a conditional or interim use permit. Last year, the Sjomeling's submitted a copy of their business plan so that a baseline of activities could be established and memorialized. At that time the Sjomeling's were put on notice that any expansion or change in use would require an interim use permit. This request is for an interim use permit for a commercial agricultural tourism use which includes reviewing their pre-existing operation and expanding the existing operation. The expansion will introduce new elements into the operation, including alcohol sales and a new commercial slide. Today's request includes additional parking areas located on portions of the neighboring Motzko property. Franklin Township has approved the orchard as it exists, with the addition of alcohol sales.
- B. M. Sjomeling – purchased the property in 2015 and have since continued the tradition of an orchard.
- C. Mol asked the applicant to give thoughts on the plan for alcohol sales. M. Sjomeling – very limited. There are a lot of orchards in the area and metro that have alcohol available and they are trying to keep up with the competition. They are open 10 am – 6 pm and a family orientated place so this will not be a party atmosphere and more of people just having one unique beverage. There is no plan to distill on the property and the plan is to have commercially available alcohol. Kryzer questioned what type of liquor license will specifically be applied for as the County rules are very restricted in what can be issued. D. Sjomeling – packaged beer, wine, and minor alcohol. They do want to include Sunday sales. M. Sjomeling – looking at something like an apple cider with a little alcohol. Kryzer – townships are very limited in what can be issued compared to cities. Bravinder questioned what the Cokato County Club has for a license. Kryzer believes they would fall under the Fraternal Order exception, which than allows a bar.
- D. No public comment.
- E. Felger questioned when the property was purchased. M. Sjomeling stated this will be their 10th season. Felger asked what a typical day, hours, months, or season looks like. M. Sjomeling – generally open up the end of August and are open Thursday – Sunday from 10 am to 6 pm. Closing for the seasons usually happens right around Halloween. Season is generally 10 weeks and open about 40 days. Felger – what occurs in the off season? M. Sjomeling – maintain the property crops and trees. Felger – besides the addition of liquor this is more of a house keeping item to bring the applicants up to compliance. Rhineberger confirmed.
- F. Rhineberger questioned if there has been times that they maybe have wanted to stay open past Halloween. The seasons dates are likely to be set tonight so he wants to ensure time frames for days, length of season and hours are thoroughly discussed so that there isn't a need to come back in a few years for an amendment. Mol

questioned if November 10th would be a reasonable date, this would allow being open over Halloween. D. Sjomeling stated they would appreciate the flexibility. Mol questioned what is the earliest they could open. M. Sjomeling – mid-August would be a good option and helpful to have the flexibly.

- G. Kryzer stated that in looking at the liquor license statute the County is limited to giving on-sale licenses to a hotel, restaurant, bowling center or clubs. S. Sjomeling – they are working through the process with the State related to their standing food trucks as they are licensed with the Dept. of Health. Kryzer – that would be the restaurant provision but nothing on the site plan shows restaurant or food being served. Rhineberger displayed a site plan that does show the food truck locations and explained the food trucks are mentioned in the narrative.
- H. Rhineberger – he would suggest August 1st – November 30th. They don't have to be open those dates they just can't be open earlier or later than those dates.
- I. Thompson questioned if the liquor license or insurance would increase in cost with the extended season. M. Sjomeling stated his understanding is they have to buy the insurance and license for an entire year.
- J. Mol – November 15th or 30th will give flexibility. Greninger and Holland agreed on August 1st – November 30th. Holland questioned the applicant if they are okay with the 10 am – 6 pm. M. Sjomeling – yes, they like to be done prior to dark.
- K. Felger asked if parking has been adequate. M. Sjomeling – they have been cognizant of parking and make a lot of effort to keep parking off the road and parking has been adequate.
- L. Mol – asking for 4 days. Could they be allowed to be open 6 or 7 days? Rhineberger – generally, with seasonal operations the months, days and hours are usually specified within the conditions. Mol stated he would like to see the motion allow for at least 5 days a week, maybe Monday and Tuesday off. This would allow ability to open up that one more day without coming back to this Commission. M. Sjomeling – would appreciate adding Wednesday. Labor Day Monday should be taken into account as well. Greninger – questioned the Wednesday prior to MEA. M. Sjomeling stated that is one day they get calls on questioning if they are open but they do not want to be open that day. Field trips have been increasing so it would be helpful to have Wednesday to book those days. Mol questioned adding Tuesday as he wants to make sure this is done right so that they aren't back here in 2 years. Greninger reminded the applicant they don't have to be open but have the option to be open. Rhineberger – as of now the known impact is primarily Thursday – Sunday and opening up more than what is existing could have additional impact to the area. The more the operation is opened up the more it is expanding past what is a known impact.
- M. Thompson stated she has mixed feelings with extending the operation. The Township stated they approved the orchard as it exists now and the addition of alcohol sales. M. Sjomeling stated the days of operation did not come up at the Township. Thompson – extending days would be an addition to the operation and she feels that the 4 days allows other days to address what else is going on.
- N. Rhineberger – the Township didn't ask for a review but he would suggest a Township to review in one year, with subsequent reviews scheduled at an interval as deemed appropriate by the Township. This would allow the ability to address concerns that come up within that 1st year. Concern is still there that if the Township extends out their review for 5 years and the process to bring back before this Commission isn't as friendly.
- O. Mol at the very least, to be compliant, the addition of Labor Day needs to be included. Bravinder stated he was in favor of adding Wednesday with Holland and Greninger agreeing.
- P. Rhineberger addressed the required lease agreement for the additional parking on the Motzko property and that the agreement must be recorded prior to allowing parking in the overflow lot.

- Q. Greninger moved to approve an Interim Use Permit for Commercial Agricultural Tourism for Fall Harvest Orchard, to include alcohol sales and a new commercial slide, in accord with the business plan, noted as Exhibit A, description held on file, and the discussion, with the following conditions: 1) Operations shall be seasonal in nature and are limited operations August 1st through November 30th; 2) Days and Hours of operation are limited Wednesday through Sunday from 10 am to 6 pm, plus Labor Day Monday; 3) In addition to the indoor handicapped bathrooms, portable toilets must be provided for the maximum number of daily guests expected, in accord with the letter dated February 2, 2023, from the Wright County Environmental Health Supervisor; 4) Parking on public highways, streets, or roads is prohibited; 5) A long-term parking lease agreement shall be recorded with the Wright County Recorder's Office prior to allowing the overflow parking shown in the narrative as Appendix 3; 6) Township to review in one year, with subsequent reviews scheduled at an interval as deemed appropriate by the Township; 7) Any change in use or expansion requires an amended Interim Use Permit hearing; 8) This permit shall expire upon transfer of the property, termination of any lease agreement, or change in business ownership or operations. Seconded by Holland.

VOTE: CARRIED UNANIMOUSLY

5. **DONAVON DESMARAIS** – New

LOCATION: 419 72nd St NW & xxxx Ames Ave NW – both parcels are in part of the SW 1/4 of the SE 1/4 of Section 25, Township 121, Range 26, Wright County, Minnesota. (Black Lake – Maple Lake Twp.) Tax Parcel ID #210-100-254302 & 210-100-254304 Owners: AARON GREFSRUD & DAKOTAH GREFSRUD AND DAVID J & CLAUDETTE A PRYBILLA

Petitions for a Conditional Use Permit for a land alteration to exceed 50 cubic yards of material in a shore impact zone to construct a boat ramp, as regulated in Section 155.029, 155.047, 155.057 & 155.101, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Donavon DesMarais

- A. Rhineberger displayed the proposed site plan as we reviewed the request. This request is for a land alteration to construct a private boat launch on Black Lake. The development was approved in 2023 as an unplatted subdivision with the proposed access on an easement going through two lots. The plan has roughly 338 cubic yards of total cut, 48 yards of gravel, 5 cubic yards for ramp excavation and clear rock at 5 cubic yards. Easement rights will be granted to the properties owners of the lots that were created through the development process.
- B. DesMarais – this concept was mentioned to all parties who purchased the lots as part of the 9 lot subdivision. In addition to those 9 lots, Mr. Robinson, who is at the elbow of the access, is included as one of the private residents that will have access. This site is the former Black Lake public boat launch that was used until around 1986, currently there is no public boat launch on the lake. Using the aerial image DesMarais explained the launch area and proposed plan. Improvements will be a gate at 72nd St. as a field approach with the drive staying natural until closer to the lake. At the lake there will be a gravel turnaround with the boats and trailers not allowed to stay parked. A Maintenance Agreement will state this is more for seasonal drop-in versus daily use. This is similar to what was done in 2021 on Birch Lake. Mr. Bedell, with the MN DNR, stated all looked good and unlike the Birch Lake site he did not need to visit the site. Soil and Water Conservation District (SWCD), MN DNR, and Army Corps have all reviewed as well as Maple Lake Township.
- C. Felger – it was stated no parking will be allowed so is he to assume there will be a dock or anchorage sites. DesMarais – there is no intention to install a dock. This is more intended for those that have lakeshore lots to have access for seasonal launching and those without lakeshore access for day use. It is intended that vehicles and trailers won't be parked at the launch. Felger – benefits those that purchase lots along Armitage? DesMarais – there will be 4 parcels along 72nd St. and 5 along Ames Ave. Felger questioned if people will be parking at the lake. DesMarais explained that the Maintenance Agreement will specify there will be no parking allowed.
- D. Bravinder questioned if the Birch Lake access was also a grass drive and if it works. DesMarais – yes it does. It is not an everyday drive with people coming and going daily. It gets a lot less use than a public landing and is more about the opportunity to get to the water. This drive will be a flat and gradual grade.
- E. Thompson stated that her family has a similar situation with the deed providing access. Questioned if the 10 lots using the property are legal owners with shared ownership? DesMarais – not a share in ownership their title will state an easement is attached to their property with a recorded Maintenance Agreement, which specifies the exact details and requirements. Thompson questioned if that will require an obligation to help with maintenance. DesMarais – confirmed, that if they sign the maintenance agreement. If they choose to not participate in the maintenance agreement then they will not be granted use of the easement and access to the lake. Rhineberger questioned the 10 lots involved. DesMarais – there are the 2 deed restriction lots, 7 lots that are part of the development and Mr. Robinsons home parcel.
- F. Public Comment.

- Gail Isaak – feels that if people had understood what this request was about there would have been a lot more people present. Everyone she spoke with in the neighborhood is not happy that those not on the lake will be granted access and that nothing was mentioned during the development discussion. This is a very small Natural Environment lake that is very shallow with average depth of 7 ft. and often covered in algae bloom. It does not make sense to have another 7 lots of residents able to access this lake when it is not a recreational lake and not intended to be. If the landing was for the 3 owners that have lakeshore access, then that would be acceptable. She spoke with Mr. Bedell, the MN DNR Hydrologist, and he stated he did not realize only three of the lots are on the lake. The Birch Lake comparison is different in that all 7 of those lots were on the lake. In this case the people being given access don't have a vested interest in caring for the lake like those that live on it. She is concerned about access control. Aware there is a gate at Birch Lake but how will the access be controlled and use monitored? Allowing this would increase the opportunity for AIS (Aquatic Invasive Species) to be introduced and wake impact is also a concern. She is all for canoes and fishing boats but does not feel it is fair the 7 other people, that are not paying for lake property and lake taxes, would have the right to go on the lake at any time. Felger questioned if Isaak recalls when the DNR access was abandoned. Isaak stated that she does not recall the access being public. Her recollection is the Robinsons used the access but she does not recall it being a public access. Felger – is there AIS in the lake? Isaak – not aware of AIS and there is hardly ever anyone on the lake. Felger questioned typical watercraft seen on the lake and if there are fish with Isaak explaining duck hunters in the fall being about the only boats and there could be some but she is not fully sure.
 - Johnathan Bondhus – 7336 Aladdin Ave – used a power point presentation as part of his statement. His main concerns are the ecology of the lake, limiting access to the boat ramp and how access going to be controlled. He already has issues with people trespassing to gain access to the lake and allowing a boat access will increase this problem. This is a Natural Environmental lake and recreational use will significantly disrupt this wildlife refuge. Trespassing is already an issue and with the proposed boat launch not being visible from the homes there is no way to monitor. The medium depth of lake is 7 ft. with significant water vegetation. An image of the algae bloom was displayed and explained that most of the lake is covered in algae as well as the cattail mats float around the lake. He feels that the ecology of the lake would be impacted significantly. Access to the boat ramp and limited access is a concern. The notice did not mention 10 people being granted access and he feels that proper notice was not received and that the item should be continued.
- G. Rhineberger – the request is for the land alteration. The easement can be established without coming to this Commission or getting approval from the County. Access can be granted to as many property owners as they choose without actually getting any approval from Planning & Zoning as there is no control of private easements over private property. This request is solely related to the land alteration and the impact of that land alteration to the property and lake. The easement, ability, and desire to grant access is not for this Commission to decide. If the land alteration isn't approved that doesn't mean a lake access easement can't be granted. Mol – this Commission is looking at the land alteration. If not granted, the driveway can still be established. The permitting process with the DNR for the boat launch is complete and again not for this Commission review or make a decision on. This Commission is strictly dealing with the land alteration within shoreland. Bondhus stated he understands.
- H. Thompson questioned who owns the easement. DesMarais – the easement will overlay the two properties, there is not a new landowner. Thompson – they are aware of this request and that neighbors are concerned with number of people that are non-lakeshore owners having access? DesMarais – yes. He would like to note that the MN DNR lake finder has the lake listed with 52 ft. depth directly in front of the boat landing and the use of the lake is governed by the DNR not the landowners. People can go on the lake with kayaks or paddle boards and what this does it gives them a means to legally to access the lake.

- Tracy Provo – owns property next to the lake and grew up on the lake. Her recollection is that there was never an access to the lake. Her father owned all the property and sold to the Robinsons, who at the time lived across 72nd St. There used to be cattle that would go down the path to the lake and out to pasture. The access that was there at the time was always the Robinsons access and not a public access. Provo questioned if this will be grass going to the lake. Mol – plan shows grass driveway and about 300 yards of gravel material near the lake and a ramp going into the lake. Provo – there is a slope going to the lake and she is not sure how people will access and pull back up on grass. Mol – this is an easement and the Commission has nothing to do with the easement. Provo feels that people purchased their lot knowing they were buying by a swamp or marsh. Where does this end? They were allowed to build and she feels that should be sufficient and they were aware of what they were buying. You can't take a country lake and make it Lake Minnetonka. She is concerned for the wildlife.
 - Johnathan Bondhus stated the lake depth is 52 ft. at the deepest point but vast majority of the lake is 6-7 ft.
- I. Felger – this is a land alteration request only but last month this Commission had a land alteration on Lake Sylvia. When these land alteration requests come to this Commission, he doesn't feel it is necessary to leave as just an alteration request because in every previous request there has always been a plan of what will be done. He feels the Commission needs to look at this as a boat launch as the intended use and not just land alteration. This is going to be a boat ramp and he is not crazy about that. There will be people accessing the lake that are not part of the plat and not directly living on the lake. DesMarais – the application doesn't require that he state the easement is for 10 people. He was required to show construction plans and that is what he did but went a step further and provided more information than asked. This access could be for the 3 people on the lake and they could grant access to 50 people if they so choose. The easement is not part of this conversation.
- J. Holland questioned if the Township approved with DesMarais confirming.
- K. Holland moved to approve the request for the creation of a boat access, according to the plans submitted, with the following conditions: 1) The access is not to be used for the general public and is only to be used for the specified residences within the development; 2) The boat access shall comply with all DNR regulations; 3) Erosion control measures must be taken for the creation of the turnaround and driveway. Seconded by Bravinder.

DISCUSSION: Kryzer stated that yearly he receives an easement, such as this, where a person is trying to extinguish the agreement under the MN Marketable Title Act. He has litigated to the MN Supreme Court and here this Commission is creating an issue that will most likely have someone trying to litigate in 40 years when they don't want the boat launch. It is not an issue but he just wanted to ensure notice is made. Mol – this Commission is not creating the easement. Kryzer confirmed.

Thompson – lives on a river with 30 acres and she is allowed to have a few more homes due to the acreage. Could she use portion of the ordinance and say she was making a land alteration from her driveway and give 3 people easement access to the river and those 3 people in turn grant 10 friends easement? Kryzer – what is being said is an easement can be granted to anyone someone chooses and there is no County regulations involved. An easement is a private matter between private citizens. Thompson questioned if she could go to the County and legally apply for 4 homes and request a land alteration to make a new lot. Kryzer – would be allowed a land alterations up to the permitted limits and once over that limit a CUP application would be required. In shoreland that limit is up to 50 cubic yards. Thompson – there is no problem with this request, from a legal standpoint. Kryzer – from a legal standpoint he sees no inability to defend.

Felger questioned if an easement is marketable. Kryzer – it can be sold but the holder of the easement cannot further divide and it can only be sold as part of the land. Felger suggested the motion include the development be

named or the proposed individuals that will benefit. Rhineberger – it is an unnamed development. Holland – this Commission has nothing to do with the easement. Felger – the motion mentions an access not strictly land alteration in the motion. Kryzer – this is a private access to the lake; it cannot be opened to the general public and not posted on the DNR site as a public boat launch.

Rhineberger recommended striking out everything in Condition 1, after the word public. The proposed motion that was provided in the staff report was taken from a past item. He would suggest Condition 1 read that the access is not to be used for the general public or not be opened to the general public. Holland – to her this would be like someone having a shared driveway and there is no jurisdiction from this Commission on who can use a shared driveway. Here we are allowing a shared driveway to be created and land altered as per the plan. The Commission can't dictate who uses the lake and who uses a personal driveway. Kryzer – correct. Holland it can be used as a boat access as it is their property.

Mol – this Commission is not creating the access. The access has already been created and is there, this is allowing the movement of 300 cubic yards of dirt with in the shoreland. In his mind this has all been created, all the approvals have been given and the permission being requested is the movement of over 300 cubic yards of dirt. Greninger – the current motion states approval of the request for the creation of a boat access. Rhineberger explained the proposed motion provided in the staff report for the Commission to reference was from a prior request and it would be his suggestion the current motion on the floor be withdrawn and a new motion presented.

Holland and Bravinder agreed to withdraw the motion.

- L. Holland moved to approved a conditional use permit for a land alteration in accord with the plan submitted, prepared by Otto Associated, project number 23-0116, dated 08-29-23, with the following conditions: 1) All MN DNR regulations and conditions must be followed; 2) Erosion control measures must be taken for the creation of the turnaround and driveway. Seconded by Bravinder.

DISCUSSION: Thomson asked for clarification on the new motion with Kryzer stating Condition #1 from the original motion was not included. Thompson questioned if people can still access the lake. Mol – yes, with an easement. Felger asked if the easement will be recorded. DesMarais stated the easement will be recorded subject to approval of the land alteration.

VOTE: Mol, Bravinder, Greninger & Holland NAY: Thompson & Felger

MOTION CARRIED

6. **DUININCK, INC.** – New

LOCATION: NW ¼ of NE ¼; S ½ of NW ¼ & NW ¼ of SW ¼ & Gov't Lot 2; also Part of W ½ of SE ¼, all in Section 28, Township 121, Range 25, Wright County, Minnesota. (Slough-Monticello Twp.) Tax Parcel ID #213-100-281200; 213-100-282300 & 213-100-283400 Owners: Joseph & Janice Holthaus & Patricia Holthaus

Petitions to convert and amend the existing Conditional Use Permit for mining, granted in 2004, into an Interim Use Permit and to allow the expansion of hours of operation for “night-time hauling” for an Interstate 94 project, as regulated in Section 155.031, 155.048, 155.057 & 155.100, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Lucas VanEps & Dennis Klug with Duininck

- A. Rhineberger displayed the proposed site map and reviewed the request. The request is to amend the existing CUP for a property that has gone through several permits, extensions, and expansions over the years. The most recent permit was in 2022 for a hot-mix plant. Tonight's request is to allow the expansion of operation hours for “night-time hauling” for the Interstate 94 project. The applicant has submitted the MnDot bid sheet, which states the project will start July 2024 and continue through September 30, 2026. The applicant is asking for an amendment to the mining and extraction portion of the ordinance, which does allow for night hauling and operations outside of the 7 am to 7 pm timeframe as part of a state approved contract. The Township has approved. One neighbor supports the request and another is asking that the haul route be limited to the most direct access to State Highway 25 and avoid Cameron Ave.
- B. VanEps stated the haul route is planned as State Highway 25. Klug – with the proposed operating hours this route is easier and less impactful than daytime hours.
- C. No public comment.
- D. Mol questioned if there really were no other comments received. Rhineberger – there were phone questions and comments with most regarding the haul route. There are also not a lot of residences close to this operation.
- E. Bravinder questioned if Highway 25 is supposed to be worked on within that same time. Holland stated she thought the roundabout at Highway 25 and County Road 37 was going to happen. Klug – proposed, not yet approved. This is also a three season contract so this fall the lanes will widen and bulk of hauling will be this year. Bravinder stated his concern is if all of a sudden Highway 25 isn't accessible due to construction. Klug – preliminary plan he saw was traffic routed to County Road 131. He doesn't foresee it being an issue.
- F. Rhineberger – this contract is only for hauling material out; nothing will be coming back and no hot-mix. Klug confirmed.
- G. Greninger moved to approve the conversion of the existing CUP for mining and extraction into an Interim Use Permit and allow temporary night hauling of materials and operations in the pit from July 22, 2024, to December 31, 2026, for operations specific to the Interstate 94 road project, State Project No. 8680-189, with the following conditions: 1) Night hauling for any other project is strictly prohibited; 2) The Petitioners are authorized to conduct nighttime hauling between the hours of 7 pm and 7 am. Nighttime operations are not allowed from Friday at 7 pm to Sunday at 7 pm; 3) Only loading or unloading of material is allowed. Extracting and processing is prohibited outside of the standard 7:00 am to 7:00 pm hours; 4) This permit ONLY applies the movement of aggregate material and does not include the operation of a hot-mix plant or moving of hot-mix out of the operation; 5) Trucks are prohibited from entering or exiting the pit from the West on Cameron Ave; 6) All adequate measures must be taken to restrict loud trucks from operating without mufflers and other required sound equipment. Engine, dynamic, or jake braking is prohibited for all vehicles and trucks coming into and inside of the pit during nighttime hauling and signage be posted to remind haulers;

7) Back up alarms shall be disabled on all the loaders and dozers used inside of the pit during night operations. The Petitioners are directed to use strobe lights as an alternative method for backing up; 8) Any nighttime illumination of the pit shall be directed away from neighboring properties; 9) A signed contract or other form of approval from MNDOT, along with any subcontracts allowing work on the TH 94 project, must be provided prior to night operations commencing; 10) The conditions established by previous Conditional Use Permit approvals shall remain in place, with the exception of the night hauling provisions granted herein; 11) Any change or expansion in use will require a new interim use permit; 12) This permit shall expire upon transfer of the property, termination of any lease agreement, or change in business ownership or operations. Motion seconded by Bravinder.

DISCUSSION: Rhineberger point out that there is a condition requiring the signed contract be received prior to operations commencing as well as any other subcontracts.

VOTE: CARRIED UNANIMOUSLY

7. **KEVIN BURSCH** – New

LOCATION: Part of the East ½ of the SE ¼, Section 21 & W ½ of the W ½ of SW ¼, Section 22, all in Township 121, Range 25, Wright County, Minnesota. (Monticello Twp) Tax #213-100-214100 & 213-100-223200 Property Owner: Joseph & Janice Holthaus

Petitions to convert and amend the existing Conditional Use Permit for mining, granted in 2021, into an Interim Use Permit and to allow the expansion of hours of operation for “night-time hauling” for an Interstate 94 project, as regulated in Section 155.031, 155.048, 155.057 & 155.100, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Joe Holthaus

- A. Holthaus – Duininck has material coming off of the Interstate 94 project that they would like to use for reclamation of the existing pit. This would be sit specific to the job that Duininck was just approved for.
- B. Rhineberger displayed site location map and gave additional details. One item not present is the state contract so the parameters for the conditions are not known as they were with the last request. At this point he is not sure the contract number would be the same, even though related to the same state project. Holthaus – this would be for the material coming back. That is if the job is awarded. Rhineberger – Kevin (Bursch), with Valley Paving, would be hauling into the pit. Holthaus confirmed and they would want the approval site specific to the Interstate 94 project.
- C. Bravinder questioned if this would be the same job number. Rhineberger stated he is not sure how the state runs their contracts. The motion could just reference the Interstate 94 project and not a specific job number. A signed contract should be required before hauling can commence.
- D. Public Comment.
 - Dennis Klug with Duininck Inc. – confirmed they will be hauling back what comes out of the Interstate site. It is the same contract and because it is a federal contract the award won’t officially happen until after July 1st.
- E. Rhineberger – the plan sounds like the trucks will make a loop between the haul in and haul out pits, both of which are using Highway 25 as the main haul route.
- F. Greninger moved to approve the conversion of the existing CUP for mining and extraction into an Interim Use Permit and allow temporary night hauling of materials and operations in the pit from July 22, 2024, to December 31, 2026, for operations specific to the Interstate 94 road project, with the following conditions: 1) Night hauling for any other project is strictly prohibited; 2) The Petitioners are authorized to conduct nighttime hauling between the hours of 7 pm and 7 am. Nighttime operations are not allowed from Friday at 7 pm to Sunday at 7 pm; 3) Only loading or unloading of material is allowed. Extracting and processing is prohibited outside of the standard 7:00 am to 7:00 pm hours; 4) This permit ONLY applies to the movement of aggregate material and does not include the operation of a hot-mix plant or moving of hot-mix out of the operation; 5) Trucks must enter or exit the pit from the access to State Highway 25 ONLY, and may not enter, exit, or otherwise use County Road 106 west of State Highway 25; 6) All adequate measures must be taken to restrict loud trucks from operating without mufflers and other required sound equipment. Engine, dynamic, or Jake braking is prohibited for all vehicles and trucks coming into and inside of the pit during nighttime hauling and signage be posted to remind haulers; 7) Back up alarms shall be disabled on all the loaders and dozers used inside of the pit during night operations. The Petitioners are directed to use strobe lights as an alternative method for backing up; 8) Any nighttime illumination of the pit shall be directed away from neighboring properties; 9) A signed contract or other form of approval from MNDOT, along with any subcontracts allowing work on the TH 94 project, must be provided prior to night operations commencing;

10) The conditions established by previous Conditional Use Permit approvals shall remain in place, with the exception of the night hauling provisions granted herein; 11) Any change or expansion in use will require a new interim use permit; 12) This permit shall expire upon transfer of the property, termination of any lease agreement, or change in business ownership or operations or on the designated expiration date of December 31, 2026. Motion seconded by Holland

VOTE: CARRIED UNANIMOUSLY

Meeting Adjured: 10:04 pm

Respectfully submitted,



Barry Rhineberger
Planning & Zoning Administrator

BR:sd

cc: Planning Commission
Kryzer
Twp. Clerks