

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: January 19, 2023

MINUTES - (Informational)

The Wright County Planning Commission met on January 19, 2023, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Commission members present: Dan Mol, Pat Mahlberg, Ken Felger, Sandy Greninger, Jeanne Holland & Dan Bravinder. Absent was Jan Thompson. Barry Rhineberger, Planning & Zoning Administrator, represented the Planning & Zoning office; Greg Kryzer, Assistant County Attorney, was legal counsel present.

ORGANIZATIONAL ITEMS:

1. First meeting of the year was opened by Administrator Rhineberger, acting as Chairman pro-tem at 7:30 p.m. First order of business was to call for nominations for a Chair: Bravinder nominated Mol as Chair, seconded by Greninger. Rhineberger called three times for any further nominations, hearing none, a unanimous ballot was cast for Mol as the 2023 Chair.

Mol assumed the Chair and called for nominations for a Vice-Chair: Mahlberg nominated Felger as Vice-Chair, seconded by Bravinder. Mol asked if there were any further nominations, hearing none a unanimous ballot was cast for Felger as Vice-Chair for 2023.

2. Mol asked if the Commission received and reviewed the suggested meeting dates for 2023 with a time of meetings to be set at 7:30 p.m. Holland questioned if 7:00 p.m. would be a better time to meet, as she had heard the meetings can go late into the night. Mol stated that with farming the 7:30 p.m. start time works well. Bravinder agreed that the 7:30 p.m. start time works well with this schedule. Greninger feels that for many with other commitments the 7:30 p.m. meeting time works well. Felger moved to adopt the 2023 meeting calendar as presented with a start time for meetings of 7:30 p.m. Mahlberg seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. Rhineberger explained to the Commission the County Board set Per Diem for 2023 at \$120 for all meetings and site inspections, which is the same as it was for 2022.

ACTION ON DECEMBER 15, 2022, MINUTES

On a motion by Bravinder, seconded by Greninger, all voted to approve the minutes of December 15, 2022, meeting as printed.

PUBLIC HEARINGS:

1. **DUSTIN PARKER** – Cont. 11/17 & 12/15

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: Dustin Parker and Crystal Lawrenz

- A. Rhineberger displayed the site plan while reviewing the property details. The 4 parcels equal about 1.8 acres of B2-Genearl Business zoned property in Silver Creek Township. The site was once the old Hasty Saloon, which is the location of the proposed bar and restaurant. In 2012 the property was granted a Conditional Use Permit to operate a winery with tasting room, retail sales and outside functions, which was never opened. The applicant is looking to reopen the bar and restaurant with a proposed business plan of being open Sunday thru Saturday from 11 a.m. to 1 a.m. and seating for roughly 100 people. With the parking plan on display, Rhineberger reviewed the parking ordinance requirements related to the proposed plan. Ultimately, a detailed parking plan will need to be submitted prior to operations commencing at the site. The Township did approve of the request, noting if approved they had some conditions they would like to see in place. They would like to see an annual review, which would include a review of the daily operating hours. Another condition would be no parking allowed on the parking right-of-way, with “No Parking” signs installed at the applicant’s expense and outdoor events be limited to a maximum 100 people at any given time. Regarding the outdoor events, this request does not include outdoor events with the business plan indicating that would be a 3-5 year goal. At the time outdoor entertainment is wanted the applicant would need to request a CUP amendment.
- B. Mol asked the applicant the goal or timeline for opening and to review the business plan. Parker stated they are looking for a conditional use permit and green light from the County that the bar can operate in this location, similar to the bar in Silver Creek. Timeframe depends on the cost of material.
- C. Mol asked for public comment. No public comment was offered.
- D. Bravinder – in looking through the Township comments it was stated end of 2023 ready to open or start construction. He is looking for more details from the applicant on the business plan. Parker – all is dependent on funds for materials with plans to start construction when frost is out. Planning really depends on approval from the County, when that is provided, he can start to plan for construction.
- E. Felger questioned the parking lot material. Parker – Class 5. Felger – would Class 5 affect impervious? Rhineberger – any driving or parking surface is considered impervious. Felger – intent to get full parking area built well before operation of the business is started. Parker – correct.
- F. Mahlberg – across the street appears to be residential, has there been any communication or feedback from those neighbors? Parker – he is the resident as well as his grandparents.
- G. Mol – the Commission was in this area for a site inspection related to another CUP that is located right on CSAH 75, up and to the north of the location in question. If the Commission will recall, this area is not densely populated with quite a lot of farm fields and open areas. The area around Up The Creek Bar and Grill, in Silver Creek, is a much more populated area. This plan is to resurrect an establishment that was there in the 70’s and 80’s.

- H. Bravinder – Township notes stated many years ago the location was approved as a wine bar. Rhineberger – approved in connection with a winery as a wine bar, that was never fulfilled or opened.
- I. Mol – the Township also asked for no parking, is the applicant okay with that? Parker – confirmed he was aware and okay with that condition. Mol asked how the Township meeting went, as far as residents attending. C. Lawrenz – the Township was concerned with the long hours and wanted to be able to review after a year of operating and discuss how the hours were working out.
- J. Bravinder moved to approve the request for a bar and restaurant in accord with the plans and narrative submitted and the discussed at the hearing, with the following conditions: 1) yearly Township review, 2) any outdoor activities will require an amended CUP, 3) parking is prohibited on public rights-of-way, with "No Parking" signs placed at the applicant's expense, and 4) hours of operations are 11 am to 1 am, Sunday through Saturday. Motion Seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

2. **TATE KOENIG** – New

LOCATION: 4463 Agate Ave SE – Part of the S 1/2 of NE 1/4, Section 30, Township 119, Range 25, Wright County, Minnesota. (N. Fork Crow - Franklin Twp.) Tax #208-300-301402 Property Owners: Scott B Steinle

Petitions for a Conditional Use Permit to operate a seasonal storage facility as regulated in Section 155.003 (129a), 155.029, & 155.048, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Tate Koenig and Cody Essig

- A. Rhineberger displayed the property photo and site plan while reviewing the request details. The property is a 68.37-acre AG-Agricultural zoned parcel with an existing homestead and accessory buildings in Franklin Township. The North Fork of the Crow River borders the very northeast portion of the property with County State-Aid Highway 25 (CSAH 25) also boarding the east side. The request is for a seasonal storage operation which will include five newly constructed 68 ft x 175 ft storage buildings with a possible future sixth storage building of 68 ft x 175 ft, intended for seasonal storage. Being seasonal storage, the actual buildings wouldn't have the individual doors, as mini storage buildings, but instead large overhead doors at either end. The definition of Seasonal Storage is the use of an accessory building for the purposes of renting or leasing indoor storage space for the storing and removal of personal property, where the facility is open to the public in the spring and fall on a limited seasonal basis. A Conditional Use Permit for Seasonal Storage shall be required for such use. The accessory structure must meet all requirements of the Minnesota State Building Code and outdoor storage shall be prohibited. When reviewing this use, one issue staff has is that there are no performance standards. The only item to judge an application by is the definition and that the property must be located in the AG-Agricultural zone, as that is the only zone this conditional use is allowed in. There is a lot of room for interpretation. What does seasonal mean and when would spring or fall start and end? In this business plan the request is more or less for year-round access to the facility, with changing hours depending on the season. Without any true performance standards and the vagueness to what seasonal means it did not feel appropriate to deny the application out right but instead allow the Commission to review and determine their interpretation as to what seasonal means. The Commission can decide if this is a use that fits into the Seasonal Storage category. Franklin Township has approved the request, with no other notations. A storm water management plan was included with the request and provided to the Commission. The closest building to the North Fork of the Crow River is 200 ft., which is the minimum required setback. Access is proposed off of CSAH 25, which will not be a shared access with the residential house site. The house access is on the opposite end of the property on a township road. The house is roughly 1,300 ft. from the closest proposed building. According to the business plan, the applicant, Tate Koenig, will reside at the homesite.
- B. Koenig – access to the site will be controlled by appointment and gated. The customer will have to call staff, which will most likely be him, and will then be provided an access code. They will not be allowed to access the buildings, that will be only staff. A customer will park their trailer and staff will put the item into the building. This is more of a controlled situation than a mini-storage facility.
- C. Public Comment
- Teresa Schumm – boards the property to the south – asking if there is a possibility of requiring a berm to protect their view. Did the proposal include a berm or maybe row of trees? Mol stated he did not see screening in the proposed plans, but it is something that can be discussed. T. Schumm asked what aggregate will be used around buildings for drainage, the area is all river bottom. Mol – proposed water management plan is displayed which shows retention ponds and water being directed there.
 - James Sandell – lives on Agate Ave. – biggest worry is the traffic on Agate Ave. Recognizes access off CSAH 25 but is worried people will still come down Agate Ave. to access the buildings. Agate Ave. is a tiny dead-end road, and he doesn't want people looping through. He wants to keep the residence and business separate. No problem with the business itself but does not want to see business traffic on Agate. Mol

questioned if the road is a township road or private. Sandell – township road that ends right before a ditch or creek that then turns into a private driveway up to the residence. Questioned if it could be a thing to eliminate the current driveway and bring the driveway to the residence off of CSAH 25 as a combined business and resident access. He is just asking the Commission to make sure the area around Agate Ave. stays as a residential road with low traffic.

- Dale Willard – concern is traffic. There are 6 huge buildings that will be occupied so every time there is a call Mr. Koenig will need to go on Agate Ave. to meet a customer. He would like to see a road from the residence to the business buildings and keep traffic off of Agate Ave. Agate Ave. is a dead-end road and the very edge of the Township, so regarding road maintenance they get the last of the help from the Township. They are the last to see a road grader or snow removed. No problem with the business side of things, as long as the EPA, river and retention ponds are taken care of. Questioned if the property will be gated or fenced all around. As a neighbor is wondering who actually currently owns the property.
 - T. Schumm – a road was brought up to run from the residence to the new buildings. The ideal area for a road is behind their home and considered flood plain and backwater for the Crow River. The DNR would not allow fill in that area. Klayton Schumm – behind their home there is not a lot of land that would not be swamp. Not sure how close a road could go to the property line. T. Schumm – understand their concern, Agate Ave. is a very small road and the issues of the caretaking through the Township Road but to put a road in this backwater area does not seem feasible.
- D. Koenig – the entrance to the property off CSAH 25 will be gated and fenced 40 ft. in one direction and 20 ft. in the other. Remaining property will not be fenced due to wildlife, wetlands, and an area of the County Park that people still access to camp. Regarding access to property using Agate Ave., there will be no ties for people to come down Agate Ave. to access the business. Per rules of the Township, a business of this nature is not allowed to be accessed from a township road. That is a stipulation that the Township did make clear. Mol – there would be no access to the buildings from the township road, strictly off CSAH 25. Koenig – confirmed. Currently there is a small ATV trail from the residence going to the field area. Does not think he will want to expand the trail and does not want to make a vehicle road or increase size to haul trailers down it. It is a wetland and a protected area that he does not want to disturb.
- E. Essig – there is a current berm along CSAH 25, the river on the north side and also many areas of wetlands so there aren't means to access anyway besides the proposed gate location. Koenig – adding trees or shrubs along the south boarder is a conversation they are willing to have. Plan to add cedar trees along CSAH 25 to match what is there.
- F. Rhineberger – improving the area from the house to the business site is designated flood plain and therefore no fill can be brought in without an approved conditional use permit. It doesn't prohibit ATV travel, but flood plain rules do prohibit fill within a flood plain.
- G. Felger asked to have Agate Ave. pointed out. Rhineberger used the Beacon aerial photo as he described the location of Agate Ave. and the general neighborhood as old lots of record. Felger – Rhineberger was asked to display and explain a pervious slide that showed parcels 1, 2 3 and 4. Rhineberger – displayed the storm water management plan slide. The parcels indicate where areas of water will be directed as well as the adjustment of the topography. Details of the management plan were reviewed and explained how the water will flow and retention ponds used. Felger – this is a 67-acre parcel with a residence located to the west of the Schumm property, is that the applicant's residence? Koenig – he plans to live in the home and currently has a purchase agreement in place that is contingent upon approval for these buildings. Felger – purchase agreement for the 67-acres with the home. Koenig – correct. Felger – how is the home currently accessed? Koenig – off Agate Ave. with the end of Agate Ave. as the driveway. Beacon aerial displayed and driveway reviewed.

- H. Mahlberg – struggles with the seasonal term. The definition states seasonal storage and he is struggling to see how he can approve of something that is presented as open year-round. Koenig – initially they wanted to ask for as much as they can and understand there could be some paring it down. Open to conversation as far as running the business with some flexibility without defining as a specific day of start and end. Someone might end their summer in September, and another might end in the middle of November. Again, they are asking for some flexibility. Mahlberg – hearing they would be okay if a motion was made that sought to approve as a spring and fall seasonal business, appreciating the comments regarding flexibility. Would they be okay with the business confined, within reason, so that people are using on a seasonal basis, as the ordinance suggests? Koenig – yes, open to conversation as they are looking for winter seasonal items as well. They are looking to allow snowmobiles to be stored as well. Someone might trade out a camper in the summer for a snowmobile in the winter. Essig – besides spring and fall with the rest of the year will be very calm with maybe a single vehicle a day, on average. There are seasonal but what determines seasonal. There are different seasons and related items that people want to store, what would the Commission consider reasonable. Mahlberg – issue isn't that it is just seasonal storage. In the definition of Seasonal Storage it states spring and fall. Struggling that if this were a flexible CUP, that would be one thing, but the County Board passed a fall and spring seasonal storage ordinance. Has lived in Minnesota long enough to know there are 4 seasons.
- I. Bravinder – has a different interpretation of seasonal storage. The winter storage toys go into storage in the spring and are taken out in the fall with campers and boats put into storage in the fall and taken out in the spring. That is the way he looks at seasonal storage, not something that you are taking in and out all the time at will. Looking at this request his thought is that this is the direction it is going. The applicant was asked what their goal is and who will be the customer base. Koenig – mid-income residential neighborhoods, where a person isn't allowed to store RV's or campers outside or parked in a driveway for more than 24-36 hours. Seasonal storage wise, the goal is to accommodate the boats and snowmobiles. Bravinder – campers would be allowed to come in every other week. Koenig – no, limited access is the plan. They do not want to be an in/out service. Mahlberg asked for clarification of in/out service. Koenig – every weekend a person could come to get their boat for the weekend and drop it back off Sunday night, that is not part of their business plan. Essig – there will be people that have an RV and use it 3-5 times a year, so yes, they would like to be able to accommodate them. Or if someone doesn't want their boat out until July 4th weekend, they don't want to not be able to accommodate them because it isn't in the spring.
- J. Greninger questioned if automobiles, such as classic cars, will be stored. Koenig – cars are not their intention. Trailered recreation vehicles are what they are wanting. Not planning to allow snowmobiles or ATVs off of a trailer. Essig – during the winter season if someone wants to store a classic car or other vehicle during the wintertime, that would be allowed, but not during the summer as an in/out situation. Rhineberger – the definition doesn't reference whether the item is seasonal. The definition is specific to the facility being open to the public in the spring and fall on a limited seasonal basis. What is stored is whatever someone would want to store. Greninger – knows there is a need for storage for toys that are not allowed to be parked in a driveway.
- K. Mol – what would be the capacity and how many different owners are they thinking will be using the business. With such large buildings there could be 100's of people storing items or with larger items only 10 customers. Koenig – size does make a difference in the projected numbers. If all items were 21' runabout boats on a single axel trailer there would be roughly 50 boats per building, so 250 in the 5 proposed buildings. The 6th building is only a proposal and possible future plan. Essig – estimated vehicles during the busy seasons at roughly a dozen vehicles per day and during the non-busy times more like 1-2 per day. At the Township, the estimated number of vehicles visiting the site is not a number that will affect the area. Mol questioned Rhineberger if there is anything in Wright County that compares to this and is not in Industrial zoning. This is agriculture land in the General Agricultural (AG) zoning district. Is it in the Land Use Plan to be Industrial or similar zoning? Rhineberger – this property is not in the Plan to be anything other than AG. The Commission has permitted a few seasonal storage facilities in AG. Mol – knows there are seasonal storage facilities in the County but has anything been built brand new? Most have been old farm sites with old sheds being used for seasonal storage. He would like to know if in the AG district there have been any approved as brand new buildings that was not attached to an existing or old agriculture operation. Rhineberger – that would be up to the Commission to determine. Beacon was used to display a CUP approved site that had 2 new buildings built with some existing buildings being used for seasonal storage. It is his opinion that what is being

proposed tonight is not the same as what was approved at the site displayed. What was approved is part of the farm site, without a distinct difference between storage buildings and farm use buildings. Looking at the aerial view, it is not clear that this site is being used for seasonal storage. The northern building, which is the newest building was approved with an amended CUP and has hay bales sitting next to it. His understanding of the Seasonal Storage Ordinance is that it came about to allow those situations where existing buildings were being used for seasonal storage. A complaint would come to Planning & Zoning and the only option was to require the entire operation to cease. There became a desire to create a way for seasonal storage to be legal and provide these existing farm sites with these large buildings to utilize the space. The proposed request is not the same as those approved in the past and it is up to the Commission to determine if the request meets the definition. The Commission has permitted seasonal storage with new buildings on a site with existing buildings. There is at least one other CUP, in the AG district, that was permitted with all existing buildings.

- L. Felger questioned the applicant if all 6 buildings will be completed on a phase basis or all at once. Koenig – proposing 5 at once with the 6th phased in.
- M. Mahlberg – business plan lists hours of 7 a.m. – 10 p.m., running a trailer out at 9:45 p.m. seems late. Essig – that would be the busy time of year, as extended hours and by appointment only. Koenig – otherwise confined to 6 p.m. Essig – looking at 2 months in the spring and 2 in the fall as those extended hours. Mahlberg – is it common to have a person bring their boat in at 9:45 p.m.? Koenig – he has been in seasonal storage for over 20 years. The current company he works for will start to pull in boats the weekend after July 4th and it does not stop until the 2nd week in November. There can be a select few that come in the 1st week of December. There is such an open-ended season to boats and even winter toys. The use is very dependent on the weather conditions as well as snow, lake, and ice conditions. Essig – late night drop-off or pickup is not common but there are people that have late work schedules that do not allow to drop off by 6 p.m. and is why during those busy months they are looking to extend the hours.
- N. Mol asked the Commission if anyone has more comments or questions. Would the Commission like to do a site inspection and see if 5 or 6 buildings fit in this area? As a Commission he feels the business plan needs to be taken into consideration and that the request in agriculture land. Bravinder – regarding the agriculture land, the comment from Franklin Township stated this is not usable agriculture land but is zoned that way. The intent of AG zoning is to preserve usable agriculture land. Mol – this Commission has disussed the interpretation of agriculture land and someone talking wildlife and swamp could say it is agriculture land with another person stating a plowed field is agriculture land. Personally, he is going to go with a plowed field as agriculture land but there are people that will protect the swamp more than someone else will protect the plowed field. According to Wright County this parcel is defined as agriculture land.
- O. Bravinder – feels the impact on CSAH 25, and around the business, will be very minimal. The business plan is proposing spring as April – May and fall September – October. During those times estimating 15 people a day, as a high. In the off season roughly 2 per day as the average. There is a seasonal storage west of Waverly that came through the CUP process and part of it is a similar operation and the other is not. He drives by there all the time and very seldom sees people coming and going. Agrees with the Township that this is a good use of the land.
- P. Mol – what assurance is there that boats won't be stored outside? This has happened to a location in Clearwater Township. Koenig – does not feel it is acceptable for a boat to be left outside. It is not in their plan or an acceptable practice. Essig – they do not want to have outdoor storage and that is why they are proposing the buildings they are so that the area is nice and clean looking.
- Q. Rhineberger questioned if there is a plan for exterior lighting. Koenig – plan for exterior lighting is 2 per building on the sides and one on each end, with shielding to keep all light down. They do not want to project any light towards CSAH 25 or neighbors. Rhineberger – will the entire site be fenced? Koenig – only the entrance area. The berm along CSAH 25 does prevent a person for accessing around the gate. Essig – cedar trees will also be added to increase density and prevent people driving on the property.

- R. Essig – regarding the agriculture comments. Understands the determination is somewhat made by the user. The Franklin Township supervisor stated he has watched that parcel be farmed for over 20 years, since the gravel pit was reclaimed, and every crop has struggled because there is no topsoil. Last week they did some soil borings to see what soil was present and found 4-6 inches of a clay and sandy soil with no good topsoil besides a small area near the river. Mol – how much of the property was mined and reclaimed? Rhineberger – much of the area where the buildings will be going, as it really is the only high ground. Mol – did read in the plan that it was a gravel pit so the future use is limited but still struggling this is AG zoning and looking at the entire County it could be setting up as a precedence. But also sees that going into a reclaimed gravel pit could be a factor. Essig – there was quite a bit of asphalt millings found at various depths and at times roughly 24-36 inches of millings. Mol – will that be a problem to get building permits? Rhineberger – possibly. The Building Official would need to be involved in a conversation to review what would be required for the building footings. There could very well be engineered plans required. Looking at the plans, there likely will be fill brought in to raise the site, which also could affect the footings. Essig – they have started talking with the excavator and contractor of the buildings and will ask them to talk with the Building Official.
- S. Felger – asked Mr. Essig to explain the area of the asphalt millings. Essig – with Beacon aerial and site plan displayed reviewed the location of millings as mainly where the north half of northern buildings would be located. Felger – suspect that would be remnants from the mining operation. Essig – yes, all very fine ground up clay dirt but could see small specks of asphalt. Rhineberger displayed a 1997 mining site plan diagram, which showed the mining limits. The operation encompassed much of the high ground or what is now the hay field.
- T. Bravinder moved to continue the petition to the February 16, 2023, meeting for a site inspection. Greninger seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **CHARLES WEBB** – New

LOCATION: 6769 & 6747 Pilger Ave NW - Part of Government Lt 3 plus Part of Lot 1, Alvah Bull Addition Number 1 and Government Lot 4 of Section 18, Township 121, Range 25 of Wright County, MN (W. Sylvia - Southside Twp.) Tax # 217-000-331207, 217-000-332402 & 217-011-000012 Property Owner: Duane D. Sparks & Mary D. Sparks.

Petitions for a Conditional Use Permit to rezone a northern 50-foot strip of the property from R-1 Urban/Rural Transition to R-2 Suburban Residential as regulated in 155.028, 155.049 & 155.050 Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Bernie Miller with MSTs

- A. Rhineberger displayed the aerial map with property lines displayed and reviewed the proposal. This request, as well as the next request are codependent on each other. Without one being approved you cannot have the other, so he would like to talk about them as one but in the end treat them separately. There are three parcels involved in the request. In 1980 the northern parcel, tax # 217-000-331207, was re-zoned to R-2 Suburban Residential and granted 2-lot unplatted subdivision. The two southern properties are tax # 217-000-332402 and #217-011-000012, both zoned Urban/Transition-R-1. The request is to rezone a northern 50-foot strip of southern parcel # 217-000-332402 from R-1 Urban/Rural Transition to R-2 Suburban Residential and attached it to the northern parcel (#331207). Because of different requirements between the zoning districts the 50 feet would need to first be rezoned from R-1 to R-2 in order to connect the two parcels. If the Commission agrees with the attachment, which is part two of the request, they also need to be okay with the rezoning. If they are not okay with both rezoning and 50 ft. division than the requests cannot move forward. Situations have come up like this in a platted subdivision, but the rezoning portion is not present. If the rezoning is done first that is a quasi-judicial decision by the County Board that is more or less absolute, once the County Board approves of a rezoning the property is officially rezoned. If the subdivision is then not approved, that creates an odd situation that we cannot have, and why these are being requested together. The applicant was not able to meet with the Township and generally this Commission does not like to make a decision without Township input, though it is not required.
- B. Miller – in the end a representative, himself, was not able to attend the Township meeting due to the weather and road conditions that evening. For all these parcels, he has been involved with the recent variance requests and is very familiar with the properties. The underlying question is why the owner would want to go through this for 50 ft. There is an approved home addition variance for the northern property, which will be their forever home. The owner wants to build a shed on the property. The property is large, but near the lake there is not a place that a shed can be located and still be near the house. Beacon aerial, with contours, was displayed. There is a natural ridge that runs between the two properties, near the lake, and the other area of the property is considerably low. The open grass area is fairly low with the addition going in along a ridge that follows the lake. Soil borings were done on the property and most areas would require soil corrections and helical piers. The proposed shed location is really the only suitable area and reason for the requests. Rhineberger – when the Board of Adjustment approved the home addition variance there was a site plan that displayed a shed meeting all requirements. The site plan was displayed and reviewed that there is the ability to build a garage that meets the required 10 ft. setback. Miller – that proposed shed is smaller than what the owner now wants and still is within the size limits of the property. There is just not an ideal spot with the ridge and maple trees towards the lake. The owner doesn't want to go closer to the lake or take down any of that screening. The same type of trees are along the driveway and near the road, the presented area is an open natural location for the shed. The feeling is that this 50 ft. will make the proposed shed much more usable and accessible. Mol – by removing the 50 ft. from the one lot, will that create any future challenges for that lot with setbacks? Miller – that was looked at when planning. The variances were initially granted to build a new house on the southern property. After being given approval, the owners wife decided she didn't want to move from the existing home on the northern property and a new variance was requested for an addition to the home and approved. The variance still stands for the southern property. With this adjustment it does change the property size and line so when planning they did look at what would be affected. In the end a septic system can still be installed and if someone wants to build the same house the building

and impervious coverage continue to meet the required limits. If a person wants to build that exact same house, they will not meet the north property line setback. Owner intends to keep ownership of all properties.

- C. No public comment.
- D. Felger asked for clarification on the nature of the southern parcel variance. With the site plan displayed Miller went on to explain there was a small portion, of the proposed home that went into the bluff and approved at 61 ft. from the ordinary highwater mark. Rhineberger – addressed Mr. Miller and asked the distance from the approved house to the northern property line. Miller – 58 ft. Rhineberger – the adjustment would affect the variance and make that variance null and void, because there would need to be another variance from a newly established property line. Miller – if the person wanted to build the exact same house. Rhineberger – this house is what was approved so any major alteration to what was approved needs to be heard by the BOA. Any changes in the plans to what was approved would need to be thoroughly reviewed and could possibly need a new variance. Miller – the variance will expire 3 years from being approved and he has no plan to even sell. Mol – he does not feel taking off 50 ft. will hinder the southern lot as it is a large lot with plenty of room to build a home. Rhineberger – from an R-1 standpoint the minimum requirement is 1 acre and 50 ft. in width.
- E. Mahlberg questioned what would be the downside of the request? These are large lake lots with 50 ft. in question. Rhineberger – if there was anything wrong with the request, the applications would not be accepted. The request is not doing anything wrong it simply requires being heard by the Commission for approval due to different zoning districts. Mol – sat on the BOA and was part of the variance hearings. Feels that what is being asked is zoning issues that need to be cleaned up and with sitting on both the BOA and Planning Commission, he is okay with the request. Rhineberger – the one downside is the creation of an additional tax parcel. One parcel is currently Torrens, and the new parcel will be Abstract, these two types of properties cannot be combined into one. Situations like this can be messy when a property is sold, or a mortgage foreclosure is involved. Additional documents will be required but the potential is still there to have issues with 2 parcels that must be owned in common.
- F. Mol asked the Commission if they feel they want to wait for the Township or with discussion that has been had is the Commission comfortable moving forward with a decision. Bravinder – will the subdivision request be done after the zoning is approved by the County Board, or can all be done tonight? Rhineberger – Township review has not been received so the Commission could continue for that information. Or in a case like this, that is minor, the Commission could move forward if they don't want the Township response and are comfortable with both the rezone and subdivision. If the Commission wants to move forward, his suggestion would be to recommend the approval of the rezoning and approve the subdivision with the condition that the County Board first approve of the rezoning.
- G. Felger moved to recommend the approval of the rezoning of the north 50 ft. of tax parcel 217-000-332042 from R-1 Urban/Rural Transition and S2 Shoreland to R-2 Suburban Residential and S2 Shoreland to the County Board because the Commission feels it meets the requirements laid out in the Northwest Quadrant (NWQ) Land Use Plan. Seconded by Bravinder.

DISCUSSION: Mahlberg questioned the last time the Commission made a decision without Township input. Mol – it has been a while, can't give exact, as it has been done but very few and far between. Greninger – can the motion be amended to included provided approved by the Township? Rhineberger – timing would prohibit that. The County Board meets in the morning of the 1st Tuesday of the month and the Township meets the 1st Tuesday of the month in the evening. Kryzer asked what the construction timeline looks like. Miller – the house is getting started with the shed being started this summer. Mahlberg – in the past, advice from counsel has been to not recommend a motion based on township approval. Kryzer confirmed. If the Township approves it could be recommended to the applicant and representatives that they would not need to be in attendance at the February meeting. Mol – there is a motion and a second on the floor. Felger – is basing his motion based on hearing how cut and dry this request is and simple it should be. To him, he is convinced the request looks simple however, the Township has not responded and that is somewhat concerning. Knows that in the past they have acted without Township approval and therefore he would like to keep the motion as presented.

VOTE: Holland, Felger, Bravinder NAY: Mol, Greninger, Mahlberg MOTION FAILED

H. Greninger moved to continue the petition to February 16, 2023 to allow time for Township response. Mahlberg seconded the motion.

VOTE: CARRIED UNANIMOUSLY

DISCUSSION: Mol addressed Mr. Miller and stated that if the Township approves there is no requirement that a representative attend the February meeting. Greninger – because this item is continued, the next item will also need to move to the February meeting. Rhineberger confirmed a similar motion would be required for item #4.

4. **CHARLES WEBB** – New

LOCATION: 6769 & 6747 Pilger Ave NW - Part of Government Lt 3 plus Part of Lot 1, Alvah Bull Addition Number 1 and Government Lot 4 of Section 18, Township 121, Range 25 of Wright County, MN (W. Sylvia - Southside Twp.) Tax # 217-000-331207, 217-000-332402 & 217-011-000012 Property Owner: Duane D. Sparks & Mary D. Sparks.

Petitions for a Conditional Use Permit to amend an existing Conditional Use Permit for an unplatted subdivision approved in 1980 by adding an additional 50 ft. to a lot as regulated in 155.029, 155.050 & 155.057, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

A. Greninger moved to continue the petition to February 16, 2023 to allow time for Township response. Bravinder seconded the motion.

VOTE: CARRIED UNANIMOUSLY

5. **ACTION TO ACCEPT THE FINAL PLAT OF COUNTRY ESTATES 2ND ADDITION (James Freebersyser)**

- A. Rhineberger stated staff had thought the mylars would be ready for this meeting but in the end the mylars have not yet made it to the County Surveyor and therefore are not ready to be reviewed or signed by the Commission. No action is required at this time and the item will be added onto a future hearing.

ADMINISTRATIVE DISCUSSION

Addressing the Commission, Rhineberger requested time to discuss the Conditional Use Permit revocation process and policies. Related policies were included in the staff report as well as a document regarding the Juston Dooley CUP for the Ice Palace.

- A. Rhineberger – regarding the Juston Dooley CUP for the Ice Palace, notification has been received from the County Highway Department that a notice of violation was sent to Mr. Dooley for not receiving access permit approval for the access that is being used for the Ice Palace, which is a direct violation of his CUP. Since the Commission did specifically condition the access permit there is concern from staff of a CUP violation. In looking at the revocation policy, the way it is spelled out is that the Zoning Administrator determines if there is a significant violation. If they feel a significant violation is present the item is brought to the Planning Commission for discussion, which is what this discussion is. If at that point the Planning Commission wants to move forward with the revocation process, a formal public notification is distributed for a public revocation hearing. Rhineberger stated that he is bringing this up now because since he has been on the job, for just over a year, this is the third CUP he has had discussions with the Commission and is finding the process difficult to work with. Getting to this point and having an open discussion on potential violations while in a public meeting setting feels to be a different dynamic and he would like to first discuss with a few members of the Planning Commission and make the determination if there is enough to bring to the full Planning Commission during a public meeting. There seems to be a better way to move through the process. He has sent Mr. Dooley a letter stating what needs to be corrected but this letter was sent without knowing how the Commission feels and if they even want to move forward with the revocation process. He would like a little more direction from Planning Commission before getting into writing letters. Thought is to set up a process where Planning and Zoning is notified of a problem and the situation is reviewed by staff to determine if there is a problem that possibly needs to be addressed. If there is a problem, it would be nice to have a subset group of Planning Commission members that have a discussion to determine if they feel the full Commission should be included in a more formal discussion. Basically, looking for a little more input from Commission before talking on the public record.
- B. Kryzer – looking to possibly create an advisory committee of the Planning Commission that would consist of 2-3 members who could meet to review a matter. Three members does not require a posting and does not need to be a public meeting.
- C. Felger asked what would be the steps after the advisory committee discusses an issue. Kryzer – anticipate advisory committee to advise the Zoning Administrator that there is enough evidence for the revocation process to move forward and start the process by going to the Commission at the next meeting. The advisory committee could also feel there is not enough there to start the revocation process and review the reasoning's with the Commission at the next meeting.
- D. Holland – feels it would be reasonable for an advisory committee to be formed, with members elected by the Commission.

- E. Mol – he would suggest a 3-person advisory committee. With 3 members, there is the ability to have a majority ruling on the decision to move forward or not with the revocation.
- F. Mahlberg – addressing counsel, it was asked if there could be issues with an advisory committee making findings, that are presented to the Planning Commission, causing a worse situation in the case of an appeal. Kryzer – the advisory committee would not determine a violation; they would be more of determining if there is reasonable suspicion to move forward with the revocation process. Mahlberg – are we being asked to formally revise the procedure? The current procedure has a standard that if the Zoning Administrator or majority of the members of the Planning Commission preliminary determines there are substantial violations then a revocation hearing is set up. He wants to make sure when this committee is set up, the decision is as bullet proof as it can be on the backside. Kryzer – agrees, and the policy should be looked at and determined if revisions are warranted. Mahlberg – the first order of business, for those elected or appointed to the advisory committee, could be to review the policy so that it is consistent.
- G. Felger asked if the committee would or could be tasked with other issues? Kryzer – they could review ordinance amendments. Does not want to circumvent what happens at the Planning Commission. There are also staff level ordinance amendments, not ones that come from applicants, that could use some discussion prior to going before the Planning Commission. Felger – revocation of CUP's would be the main task of the committee and what comes out of that discussion would be recommendation to the full Planning Commission. Rhineberger – correct, revocation initiation is where this advisory committee will function. Currently Planning and Zoning gathers information on a possible violation and determines if there is truly a violation and at what level, there are a number of steps that go into the process. First is a notice of violation or complaint is received, which could come from staff, township, or any number of sources. From there the Zoning Administrator, sometimes with input from other staff, needs to make a determination that the violation is substantial enough to bring forward to the Planning Commission. The determination of the violation severity is all placed on the Zoning Administrator. This advisory committee will be a more informal piece in determining whether or not a violation exists and if it is substantial enough to seek revocation. The whole process just takes quite a bit of time and counsel is not able to pursue action until the CUP has been revoked. If such an atrocious violation is present, the matter could be brought to the County Board with a remedy request. It would be nice to have some input from the appointed advisory committee to say this is a minor violation and they do not see it equating to a revocation but possibly directs the Administrator to try a more informal letter of notice to the applicant. Currently the Zoning Administrator sends a letter stating if items that are in direct violation of CUP conditions are not remedied there is a chance of revocation. An example would be letter provided to the Commission that was recently sent to Mr. Dooley. Felger – this advisory committee would simply act only after staff has done all their due diligence and taken every step to remedy the situation, prior to calling in the advisory committee. Rhineberger – in the vast majority of situations, yes.
- H. Mol – in the past, other CUPs had issues brought up where the Zoning Administrator thought there was a need to talk about revocation and this Commission basically shut that down and asked staff to do more and give more time. Those were either heard later or the issues went away. There was a dog kennel in Clearwater Township that addressed the issues and kept their CUP. Appears that staff is looking for guidance so that when it comes to the Commission all avenues have been exhausted and is at a point it needs to be addressed by the Planning Commission. Holland – government and waiting for monthly meetings does slow the process. In this case and future cases this would help having some feedback before having to wait for a meeting and will move at a better pace. Rhineberger – the advisory committee would recommend steps for the Zoning Administrator to address the issues. There are many complaints that come in, but the CUP does require input from the Commission.
- I. Mahlberg – feels that in the past there might have been personalities on the Commission that asked staff to try more and do more before revocation. There might not have been numerous letters and documents showing the steps staff has already taken to try and remedy the issue. He appreciates seeing documentation as to what steps staff has already

taken. Kryzer – traditionally, the process of even getting to the point of the revocation hearing could take 2-3 months. This advisory committees review could speed up the process and go right to what he calls the order of show-cause hearing. Mahlberg questioned if the order to show-cause hearing would be needed if the advisory committee has discussion. Kryzer – that hearing takes care of 99 % of the issues. By just setting the hearing it helps show the applicant things are serious.

- J. Greninger – with recommendation from counsel and staff, this advisory committee will speed the process and make it easier for them. She feels this committee should be considered.
- K. Bravinder – similar process is with the Gravel Workgroup or Solar Workgroup. These groups work on ordinances and bring the recommendations to the Planning Commission. This is different but, in a way, kind of the same process where the advisory committee will not make a decision, they will just provide a recommendation with reasons.
- L. Rhineberger – since this policy was adopted, in roughly 2005, there have been 3 (three) CUPS get to the actual revocation hearing. In his short time as Zoning Administrator, he has had 3 (three) get to this stage and has another nearing this point and is at the point of writing a letter. Historically, the letter sets the stage for the item to be heard by the Commission. He would like to have the advisory committee review the issues prior to him writing a letter, as he is writing a letter based on his opinion not that of the Planning Commissions and it feels almost like an empty threat.
- M. Mahlberg – would counsel attend the advisory committee meetings? Kryzer – yes.
- N. Mol – asked the Commission what they would like to do and if they would want to set up an advisory committee?
- O. Greninger moved to set up an advisory committee of the Planning Commission to work with Planning and Zoning staff, that consist of 3 (three) Planning Commission members.

DISCUSSION: Discussion amongst the members was had on if they would be appointed or volunteers. Member Felger stated he would volunteer. Greninger as well stated she would volunteer and feels that being a newer member she would have a different perspective of other members. Felger commented that the Planning Commission deals with township issues, that affect townships. He has had this deep-rooted feeling that even the members of the Planning Commission should be of the township setting but does not want to dismiss the expertise that is at the city level. He has been thinking about this and maybe some discussion should be had. Greninger – she does not have township experience but does have over 24 years of city related experience and does not feel that takes away from her knowledge for this Commission. Felger - as far as the advisory committee, he feels that those that represent cities have CUP experience as well as revocation situations.

- P. Mol asked for a second to the presented motion with Bravinder making a motion to second.

VOTE: CARRIED UNANIMOUSLY

DISCUSSION: Mol suggested member Greninger, Mahlberg and Commissioner Holland be appointed to the advisory committee. Mahlberg suggested member Felger in place of himself. He looks at members Holland, Felger and Greninger being a well-diversified set of opinions and backgrounds. Mol confirmed appointed members as Holland, Felger and Greninger. Rhineberger stated that if an item comes up, he will reach out to the committee members.

- Q. Greninger questioned if the Dooley matter needs any further action by the Commission. Kryzer – he applied for the access permit with the Highway Department, and they are placing a lot of conditions on him. Rhineberger – feels this item is on hold as he was not aware an access permit had been applied for. Kryzer stated he will be obtaining a

verbatim transcript of the December Planning Commission hearing, as he feels Mr. Dooley was told exactly what needed to be done prior to operating the Ice Palace.

SITE INSPECTION

Commission scheduled a site inspection for Monday, February 6, with members to meet at the Government Center at 8:30 and the site at 8:45 a.m.

Meeting adjourned at 9:53 p.m.

Respectfully submitted,

Barry Rhineberger
Planning & Zoning Administrator

BR:sd

cc: Planning Commission
Twp. Clerks
Applicants/Property owners