

WRIGHT COUNTY PLANNING COMMISSION

Meeting of: March 16, 2023
MINUTES – (Informational)

The Wright County Planning Commission met on Thursday, March 16, 2023, in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Dan Mol, called the meeting to order at 7:30 p.m. with members present: 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.

ACTION ON FEBURARY 16, 2023 MINUTES

On a motion by Bravinder, seconded the Holland, all voted to adopt the minutes for the February 16, 2023, meeting as printed.

Rhineberger addressed the Commission with a request to add discussion regarding the Mining and Extraction Ordinance to the end of the meeting, with the Commission agreeing to do so.

PUBLIC HEARINGS:

1. **KYLE ASHWILL** – Cont. 2/16

LOCATION: 15405 US Highway 12 SW – Pheasant Addition Lot 7, Block 1 of Section 33, Township 119, Range 28, Wright County, Minnesota. (Cokato Twp.) Tax #205-023-001070
Property Owners: APP Properties LLC.

Petitions for a Conditional Use Permit to operate a contractor's yard on a newly created parcel in the I-1 General Industry zoning district as regulated in Section 155.029, 155.055 of Chapter 155 Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: John Parks with Ashwill Companies

A. Rhineberger displayed the site plan and reviewed the request. Property is a 16.61 acre site in a platted industrial subdivision, known as Pheasant Addition. The Planning Commission and County Board approved this plat in December 2022. This parcel is located at the end of a cul-de-sac road. The request is to allow a commercial contractor's yard and utilize existing buildings within the I-1 General Industry zoning district. The applicant is looking to operate an excavation and concrete construction business from the site. The existing buildings were not permitted for commercial use and a conversation with the Wright County Building Official will be needed to determine if alterations are required. As part of the plat approval the City of Cokato did require a Developer's Agreement which stated certain approved business could operate, and this is one that is on that list. Both the City of Cokato and Cokato Township have approved of the request.

- B. No comment from Parks or the public.
- C. Mol stated that this commission is aware of this company through the process of working on the platted subdivision.
- D. Bravinder moved to approve a conditional use permit for a commercial contractor's yard to operate an excavation and concrete construction business in accordance with the narrative and site plan on file with the following conditions: 1) Signage on site must be in accordance with the County sign regulations; 2) Wetlands must not be disturbed, altered, or filled unless proper approval has been received by the Wright County SWCD; 3) Building permits, required inspections, and approval by the Wright County Building Official to convert the buildings to commercial use must be obtained prior to the buildings being used for commercial use. Motion seconded by Greninger.

VOTE: CARRIED UNANIMOUSLY

2. **TATE KOENIG** – cont. 1/19 & 2/16

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. Mol reminded the Commission, applicant and public the public hearing was closed at the February meeting.
- B. Rhineberger – previous hearing was continued for staff to draft a motion consistent with the discussion. Discussion was fairly broad but staff was able to create a motion with a list of conditions the Commission can use as a guideline. It should be noted the date format in the proposed motion should be used but the dates themselves can certainly be changed and were simply showing the preferred format.
- C. Felger questioned the gating portion of prior discussion. Rhineberger – the applicant indicated there would be a gate. There is not any specific gate requirement unless the Commission wants to add that as part of a condition.
- D. Felger moved to approve a conditional use permit for seasonal storage in accord with the plans submitted with the following exceptions and conditions: 1) Facility to be seasonally open to the public as described below; 2) A one-time placement of a winter storage item or items may occur during the period from September 15th through December 15th. A one-time retrieval of winter storage item or items may occur during the period from March 15th through June 15th; 3) A one-time placement of a summer storage item or items may occur during the period from March 15th through June 15th. A one-time retrieval of summer storage item or items may occur during the period from September 15th through December 15th. Campers and/or RV's, but not watercraft, may be allowed to be taken in and out on a limited basis during the summer; 4) Except as provided above the public is not allowed on site outside of these periods; 5) During the above noted open periods, public access shall be limited to 7:00 am to 10:00 pm; 6) Outdoor storage is prohibited; all items must be placed inside the structures; 7) Proper permits are obtained for the structures and final inspections are completed prior to the business operating; 8) Stormwater management plan, as designed, must be installed prior to operations commencing; 9) Entrance gating is required along with judicious use of exterior lighting; 10) Township to review in one year, and as designated by the Township for following years.

Mol called for a second three times and hearing no response the MOTION FAILED.

- E. Bravinder moved to approve a conditional use permit for seasonal storage in accord with the plans submitted, with the following exceptions and conditions: 1) Facility to be open to the public from March 15 to June 15 and September 15 to December 15. The public is not allowed on the site outside of these periods; 2) During the above noted open periods, public access shall be limited to 7:00 am to 10:00 pm; 3) Outdoor storage is prohibited, all items must fit inside the structures; 4) Proper permits are obtained for the structures and final inspections are completed prior to the business operating; 5) Stormwater management plan, as designed, must be installed prior to operations commencing; 6) Township to review in one year, and as designated by the Township for following years. Motion seconded by Greninger.

DISCUSSION: Holland questioned what happens if a customer needs to get an item on July 4th or between the dates not open to the public. Could there be a 'by appointment' provision added? Rhineberger – in previous discussion it was mentioned appointments is a type of condition that is extremely difficult to enforce. Easier to enforce specified times public is allowed or not as he does not have the ability to ask if they have an appointment. The applicant could pick and pull out an item for a customer, there are options. The other item is determining what constitutes an emergency and acceptable exception. Holland – if the customer contacts the facility and requests their vehicle the item can be brought off site for pickup. Rhineberger – conditions mentioned limit public at the site. There is no limitation on employees being on the site moving vehicles or working on things.

Rhineberger stated the dates presented in the staff report were simple place holders and not necessarily intended to be exactly what the Commission follows. Mahlberg indicated there are a few dates he would like to capture. He would like to have the July 4th holiday and the Labor Day weekend captured. He would suggest open from the Tuesday after July 4th, as the end of spring, and the Thursday before Labor Day the beginning of the fall season. He is not in favor where the public has access other times, even on a limited basis. The Ordinance doesn't allow for an interpretation for public on property on a limited basis. They might have to have a business plan where they make deliveries.

Bravinder – amended his motion to read: Facility to be open to the public from March 15 to the Tuesday after July 4th and the Thursday after Labor Day to December 15. The public is not allowed on the site outside of these periods.

Mol – before a vote he asked if allowing an additional few weeks would the Commission want to in turn shorten up the spring and fall dates. Right now, the motion is at 6 months, so half the year. With the amended motion open to public would be more like 7 months, with the added 2 weeks. Could the time be shortened one week in the spring and fall? Bravinder stated he is reluctant. Mol – agree the time is needed around July 4th and Labor Day. Greninger questioned if there would be that much traffic in December. Mol – looking at setting precedence. Bravinder – suggested until December 1st. Discussion continued among the members with what dates they would like to see.

Bravinder – amended his motion to read: Facility to be open to the public from March 22nd to the Tuesday following July 4th and the Thursday before Labor Day to December 1st. The public is not allowed on the site outside of these periods. Greninger seconded the amended motion.

DISCUSSION: Mahlberg asked if there are exterior lighting standards or would that need to be included in the motion. Would like to see downward facing lights that do not impact the neighbors. Rhineberger – lighting is addressed in the nuisance section of the ordinance and is fairly weak. Might suggest requiring all lights be directed towards the interior of the property line. Mahlberg – not a lighting professional, but there is a common commercial light that points down. Bravinder – statement could be along the lines of, can only light the property. Usually they are called directional lights, not flood lights. There is a church across the road from him and the requirement was that the lighting was not impacting the neighbors around them from a direction standpoint. Rhineberger – the glare provision of the ordinance was reviewed as well as fully read. Bravinder questioned if they could include a condition that they must comply with Wright County Ordinance, related to lighting. Mahlberg – feels the ordinance will capture the point to not affect the neighbors.

Bravinder – amended his motion to include condition: 7) Lighting must be in accord with Section 155.080 of the Wright County Code of Ordinances. Greninger seconded.

Mol called for a vote.

VOTE: CARRIED, Felger Nay

3. **MELISSA BEAUDRY** – Cont. 2/16

LOCATION: 9859 Clementa Ave NW – part of the East 1/2 of the Northeast 1/4 of Section 15, Township 121, Range 26, Wright County, (Silver Creek Twp.) Tax #216-000-151400 Property Owner: BGL Property Holdings LLC

Petitions for a Conditional Use Permit for Commercial Ag Tourism to operate a wedding venue on the existing horse farm as regulated in Section 155.003(25), 155.029, 155.047(D) & 155.109 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Melissa Beaudry

- A. Rhineberger – item was continued from the February meeting to allow time for a site inspection. In the interim an additional neighbor comment came in with a request that the music and events end by 9:00 p.m., the same as the conditions for the riding academy. All other information is the same as it was at the prior meeting.
- B. Beaudry – if limited to 9:00 p.m. that limits having receptions at all and defeats the purpose of having any kind of celebration. She had gone off of another wedding venue and the ordinance. The loudspeaker for the horse events is a louder and sharper noise. Asking for what others have been doing at their venue.
- C. No public comment.
- D. Mahlberg asked to be reminded of the conditions placed on Deer Lake Orchard related to wedding receptions and events. Rhineberger – staff report includes talking points of potential conditions pulled from a different venue. Mahlberg – just looking if 10:30 p.m. is the standard cutoff for these events. Mol – thought 11:00 p.m. was a cut off with everything done at that time. Bravinder – there is one in Chatham Township with that limit. Beaudry – received details from staff when she was working on the application. Holland – 9:00 p.m. seems early. Kryzer – the Findings for Deer Lake Orchard state 10:30 p.m. for music ending.
- E. Bravinder – no amplified music statement is traditionally included. Some of the music that is outside is difficult to do without some sort of amplification. Is this all amplification or electric instruments? Rhineberger – Webster’s Dictionary states amplified music is anything with a speaker or increases sound. If a condition states no amplified music the definition as commonly seen would need to be referenced. Greninger – anything you will play music on will be amplified on. Rhineberger – from staffs standpoint, there is no definition of what amplified means other than what Merriam-Webster defines as amplified. There is nothing else that specifies a stereo or other equipment. Greninger – what about a decibel reader? Rhineberger – that gets into the ability to enforce. If a stereo is played at a level the neighbors do not complain, staff isn’t going out to check compliance for no reason.
- F. Mahlberg questioned members if they remember ever allowing outdoor amplified music.

- G. Mol asked the applicant what the intentions are for having amplified music. Will the receptions be in the arena? Beaudry – receptions need to be outside or in a tent. She can face the music to the long side of her property, which would be south and east. Music will be on a speaker, as most will be with a DJ. Questioned what most wedding venues are allowed.
- H. Felger recalls the Commission has more or less restricted amplified music to within an enclosure. Mol – that is his recollection. Felger – even at Norms Wayside the compromise was restricted to inside only and for all amplified music to be in an enclosure.
- I. Kryzer – found amended Findings for Deer Lake Orchard, which states wedding/wedding reception shall cease by 11:00 p.m. and music associated with wedding/wedding reception to cease by 10:30 p.m. on Friday and Saturday nights and at 6:30 p.m. on Sunday evenings. As far as the music, the condition was that amplified acoustic music is permitted outdoors only during a wedding ceremony. All other music, including amplified music must be inside of a wedding tent with the sides fully dropped down and secured. The speakers on amplified music must not be erected more than 6 feet off the ground and the speakers must be pointed towards the interior of the property and away from neighboring parcels of property.
- J. Rhineberger – when it is 90° in the middle of August will the tent doors be dropped? Beaudry – that could be dangerous. Rhineberger – not dropped, condition is not being met.
- K. Holland – at the site visit there appeared to be a side of the property where amplification could be directed and not impact on neighbors. Beaudry – there is a thick grove of trees on the west side of the property. Rhineberger – in general there looking beyond this particular property. Within roughly the same distance there are neighboring properties on 3 sides, there could be a possibility of coning the noise away from one neighbor but towards another. If just conditioned one side allowed open there isn't accounting for the issue itself, which is the music and potential impact to neighboring properties.
- L. Mahlberg – Deer Lake Orchard went through a lot of discussion. He is a fan of staying consistent, where they can, and out in the country amplified music on a Friday and Saturday is not what is expected. Likes what was motioned with Deer Lake Orchard, it seems to work and has a similar neighborhood. Inclination is to go with what was approved for Deer Lake Orchard. Beaudry asked those conditions. Mol stated those were the details read by Mr. Kryzer and is in agreement with the comment from member Mahlberg.
- M. Bravinder – in a tent you will still need entrances open. He would agree with comments regarding the conditions on Deer Lake Orchard.
- N. Kryzer asked if the Commission would like a motion drawn up tonight or would they like to continue the item to April's meeting to allow time for staff to draft a motion.
- O. Bravinder motioned to direct staff to draft conditions consistent with approval to the April 13, 2023, meeting. Motion seconded by Greninger. VOTE: CARRIED UNANIMOUSLY

4. **JOHNSON MATERIALS, INC.** – New

LOCATION: 14650 – County Road 75 NW – Part of Gov't Lots 3 and 4 lying north of road; Part of NE ¼ of NE ¼ Section 21; and also, Part of the W ½ of the NW ¼ Section 22, all in Township 122, Range 26, Wright County, Minnesota. (Silver Creek Twp.) Tax #216-100-211101 & -222300
Property owner: Russell V. Martie Homestead Tr.

Petitions for an amendment to the existing Conditional Use Permit to expand the current mining operation by 6.51 acres, for a total of 38.27 acres, to include mining, screening, crushing, washing, and recycling of concrete and asphalt materials, as regulated in Section 155.029, 155.48(D) & 155.100 of Chapter 155, of Title XV Land Usage of Wright County Code of Ordinances.

Present: Jeff Johnson and Adam Ripple

- A. Rhineberger displayed the property aerial photo and proposed site plan. The property is commonly known as the 'Martie pit', located on County Road 75 off of I-94. The request is to expand the current mining operation by roughly 6.5 acres, for a total of 38.27 acres. The request is just for that expansion and would include mining, screening, crushing, washing, and recycling of concrete and asphalt materials; all which are already permitted. The Township has approved. Soil Water Conservation District (SWCD) indicated they believe a wetland is in the area where the expansion will take place. Additional comments from seven neighbors were received and are included in the staff report. With the proposed site plan displayed Rhineberger reviewed the location of the possible wetland that is labeled clearing. The mining plan does show that area to be mined, which would be a wetland violation. SWCD is asking for a delineation, which is delayed due to the weather. Aerial plans displayed, which show the different areas of the pit along with a map showing where SWCD believes the boundary of the wetland would be.
- B. Ripple – previously Mr. Johnson met with staff at a resubmittal meeting. Unfortunately, the wetland came up within the last week or so. Mr. Johnson has experience in dealing with wetlands in other situations and understands the process takes significant time. They understand the wetland is potentially an issue and would be happy to work through the process. Know that with the wetland they won't be able to do a delineation until at least May and if identified as a wetland would start the process of wetland mitigation. They would like to request a phased type approval, so they could move forward but stay out of watershed identified by SWCD. The watershed map was displayed and reviewed by Mr. Ripple indicating the area they would stay out of until approved by SWCD. There is roughly a 3-acre area that Mr. Johnson would like to start mining this summer.
- C. Mahlberg questioned the 3 acres that wouldn't be affected and could be mined. Where would that area be? Johnson – the west side. Ripple – upper northwest corner. The material east of that potential wetland is the extent of aggregate. That area would be left until the wetland issue is addressed.

D. Mol opened comment to the public.

- Kristen Todd, neighbor 1/2 mile from location – concerns with noise, the sound of rock crushing goes on consistently throughout the summer. It sounds like train going by all day. Took a tour of the site last summer. In talking with the attendant, he explained the huge pile of crushed granite isn't from the site. Granite is brought to the site to be crushed. She was under the impression they were mining local materials and when done the site will be done. Material brought in from the outside to process is disheartening and feels like the site won't end. Concerned that an Environmental Assessment Worksheet (EAW) has not been done on this site. Questioned why an environmental study has not been done on this property. The public did ask for one in the past and it was not done, she is here asking for a study. Concerned the employee said they had mined all they could on the current footprint and would like to move through the wooded area. This incremental approach of asking for 6.25 acres might turn into a few more acres and a few more acres. If the entire plan is disussed it would be a lot bigger deal. Keep in mind this incremental report is sneaking in more and more acreage. It affects the neighbors and in order to have an objective discussion about the facts of the site it would be helpful for all parties to have an EAW.

E. Mol asked where does the gravel moratorium stand and fit with this request. Rhineberger – moratorium did not prohibit the application of amendments or expansions of existing pits.

F. Mahlberg – this is not a mandatory EAW category. Kryzer – no, this does not meet the 40-acre threshold for a mandatory EAW, it would be discretionary. A petition requesting an EAW has not been received. Rhineberger – a EAW is accumulative. If at some point the pit exceeds 40 acres the EAW automatically kicks in.

G. Rhineberger questioned the applicant if the proposed elevation at bottom of pit is accurate. Map B, sheet 2 of 3, states proposed elevation at bottom of pit. Johnson – indicated that figure was not accurate. Ripple – addressed Map A, where they indicate sediment basin as a more accurate figure. Rhineberger – Map C has the same typo. The draftsman should make the correction and present to Planning & Zoning. Continued conversation was had regarding the potential ordinance amendments and restoration plan requirements.

H. Greninger asked for clarification if when a neighbor response is received from the same household is that considered 1 or 2 responses. Rhineberger – each response is a response and the households are not looked at.

I. Mol – on an expansion like this, the Commission might want to consider a site inspection.

- J. Felger asked how long has brining in outside material been going on and how long may that continue. Johnson – rock is brought in to meet specs. There is more rock needed for Class 6 material. The rock makes it so the material in the pit can be consumed faster. Ripple – the material in the pit is not turnkey. Felger – granite is an ingredient that pit material is supplemented with. Bringing in granite as long as the pit is operating, is that accurate? Johnson – the granite is not being mined and will be gone in about a year. He would not have any more to bring in at that point. Mahlberg – unless it is found somewhere else. Felger – is the granite brought in as a waste product? Johnson – it is a blasted rock product intended for crushing. They are helping a contractor make their sit developable by removing the rock. Ripple – contracted to provide removal of granite on a different site. Felger – without the crushing of the granite would that slow the operation? Johnson – yes, it would. Ripple asked Mr. Johnson to share the timeframe of how long the expansion would operate. Johnson – believes this is the final expansion. The material to north and east has a clay hard pan that comes almost to the surface. Felger – is this in the expansion area? Johnson – no, the proposed expansion area is the only spot left to mine. Ripple – material runs out beyond the expansion area. Johnson – to the north and east there is no material. Discussion with the proposed expansion area continued to where the north and east boundary area is and where material is left. Felger – current pace when will the mine be done? Johnson – current pace should be done in 10 years.
- K. Mahlberg questioned the applicant if he owns the property to the north. Johnson – property is owned by Russ Martie. Mahlberg asked if tests have been done throughout that property and determined it is not minable. Johnson – correct. Mahlberg – how many years would be left without the approval of the expansion? Johnson – estimated 5 years.
- L. Rhineberger – for clarification what is the bottom of the pit? Plan from the 2018 permit shows end use plan at 950'. Johnson – at 950', but the Ordinance says water level has to be at least 10 ft. deep, so probably at 940'. Rhineberger – looking to excavate another 10 ft. of nonmarketable material to create the pond. Johnson – it is not considered non-marketable. Rhineberger – end use plan shows elevation at 950'. Johnson – that is the top of the water. Ripple – would the County Ordinance Amendment would allow for something less than 10 ft.? Rhineberger – 10 ft. depth is only if there is going to be water on the site. If reclamation plan includes water the water itself has to be 10 ft. deep, it doesn't not require you have to do a pond. Cannot say what gets approved with the amendment but preliminary discussion will include more leeway for the Commission to approve end use plans that do not require 10 ft. of water.
- M. Felger – looking at the contour lines and elevations on the floor of the pit and in the proposed area there are contours of 975' and 970'. The bottom of the floor of the existing pit is not much different in elevation, would that be to assume there isn't much depth of the proposed mining. Johnson – used the proposed plan, on display, to explain there is a part of the floor that has not been mined. Felger – saying there is more to go to meet the floor of the existing pit. Johnson – correct, in portions. Felger questioned what percentage of the pit has floor that needs to be

further excavated. Johnson – roughly a third. Felger – near I-94 there is a large embankment that is still be mined. Johnson – correct. Felger questioned how much material will be mined from the expansion area. Johnson – roughly 40 ft.

- N. Mahlberg – hearing 5 year and 10 year mentioned when most of the time the applicant is coming in within a year or 2 before running out. Hearing 5 years before running out of material in the current pit. Asked for explanation why the need to go into another area when there is still material. Johnson – need more rock to make certain material. Would have applied for this with the first permit but at that time there were factors that did not allow for mining in this proposed area. Circumstances have since changed and they are now able to move into the proposed area. There will not be another expansion. Mahlberg – different kind of material cannot get in any other area of the current pit, during the next 5 years is why the expansion request. Johnson – correct, there is some courser material.
- O. Bravinder moved to continue the hearing to April 13, 2023, to allow time for a site inspection.
- P. Mol – before asking for a 2nd had some questions. Questioned if the site would be accessible or should the inspection and hearing be moved to the May meeting. Johnson – feels they will be able to see what is needed for the April meeting.
- Q. Ripple – no opposition to the site visit and working with staff on the wetland issues. He would like feedback from the Commission on a phased approach. The wetland process is a large unknown, not unheard of to go a year or longer. Would the Planning Commission consider a phased approach? Mol – can't speak for the Commission but after a site visit, he feels it is something that could be considered. Mahlberg – is the idea of phased approach meaning some approval that says can go mine this 3 acres now? Ripple – the wetland process is expensive so they would like some assurance of ability to do work in area not impacted by wetland restrictions. Kryzer – if that is what is wanted an updated map, with updated proposed mining areas and updated reclamation plans, would be in order for the Planning Commission to see what is proposed. Ripple – would that require going back to the Township? Rhineberger – does not feel that would be needed. In this case the Township approved as submitted so there would be no change or expansion of the area already approved by the Township. Mahlberg – when the Commission approves, they usually reference plans and specifications on file, currently that is not on file. Something more concrete would be more informative. Ripple – the Commission has approved based on other items needed, stormwater or mine safety issues, would suggest the wetland is still some additional obligation fulfilled with SWCD before the land could be mined.
- R. Mol – would like member Bravinder to finish his motion. Bravinder stated his motion still stands to continue the item to the April 13th meeting for a site inspection. Mol called for a second.
- S. Felger seconded the motion presented by Bravinder to continue the hearing to April 13, 2023, to allow time for a site inspection.

DISCUSSION: Felger there was discussion related to the wetland issue taking up to 3 years to be resolved. There has also been discussion that there are 5 years of mining left before the proposed expansion area would be touched. Question is if a phased in process is not important? Johnson – there is more desirable material in the expansion area they would like to mix in with the lower material to move the operation along faster. Felger – makes sense that material is not the same throughout the area. Johnson – another location had a permit approved where they had several conditions set that they could start in a certain area and had to meet all the state and federal guidelines before moving into another portion. Felger – what is being done to keep dust control down? Johnson – water roads and put chloride down. Run water on the crusher, as needed. Felger – questioned if he feels dust, is a problem. Johnson – the only problem a lot of gravel pits have to deal with is when there is a high wind and material is blown off stockpiles, where a water truck can't reach. They are doing what they can to control the dust.

Mol called for a vote.

VOTE: CARRIED UNANIMOUSLY

5. **TERI DICKINSON** – Cont. 2/16

LOCATION: XXXX County Road 8 SW – Part of the North 1/2 of the Southeast 1/4 of Section 6, Township 119, Range 26, Wright County, Minnesota. (Marysville Twp.) Tax #211-000-064102 Property Owners: LeRoy Jelen and Susan Jelen

Petitions to rezone approximately 70.27 acres from AG General Agriculture to A/R Agricultural-Residential as regulated in Section 155.028, 155.047 & 155.048, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Jim Dickinson, representing Teri Dickinson

- A. Rhineberger displayed the proposed site plan as he reviewed the request. The item was continued from the February meeting to allow time for a site inspection. Since that meeting the Highway Department responded they would allow a change in use of the existing access from a field to residential access. Additionally, the applicant's representative and a neighbor have provided material related to the request, both have been included as addendums to the staff report.
- B. J. Dickinson stated he submitted a packet of information he would be willing to review. The request is to rezone approximately 70 acres from General Agriculture to Agriculture/Residential for the purpose of one residence and to continue farming. The proposed residence would be in an area minimally impacting current tillable land with intent of disturbance just to access the residence from County Road 8. The packet provides information that gives application background, responses to the Planning and Zoning report, addresses the Land Use Plan goals and addresses the code of ordinance criteria for granting a zoning amendment. Mol asked that if so choosing to review the details it be kept concise. J. Dickinson – the reason for the application is rezoning. They do acknowledge this is a restricted parcel and with rezoning the property they would obtain an entitlement. The applicant is following the Zoning Ordinance prescribed process to remove a deed restriction by requesting rezoning and adhering to the Land Use Plan principals. Code does state proposals that conflict with the Land Use Plan will only be approved in extraordinary circumstances, but when unique reasons justify departure and basic principles and intent of the Land Use Plan are not compromised will they be looked at. The current Land Use Plan also states it is not meant to be totally inflexibly, where rare and unusual circumstances may justify departures. Relative to zoning definitions, he believes that this parcel falls closer to Agriculture/Residential versus Agriculture. The character and circumstances of the property limit long term agriculture use of the property. This is largely due to steep slopes, with a drop from 60-70 ft. from the east to west and the river valley. The property is in close proximity to the North Fork Crow River, which is a sensitive natural resource area that needs to be protected. The property is incumbered by a county ditch. The property is in close proximity to and bordering the Wright County Tactical Center. That public land has received significant development since the Land Use Plan was adopted with an increased size of the Tactical Center, parking areas, a stockpile and mining location for the Highway Department. He feels the character of that area has significantly changed and was not done through the zoning code, as it was exempt from zoning. Details were provided in the packet related to this. There

is a State Statute that indicates the shooting range does need to adhere to zoning, unless there is some other reason, which he would assume would relate to the County and Official Map provision under Chapter 150.01. The placement of the proposed residence is strategically placed to not compromise the basic principles of the Land Use Plan and not significantly impact tillable acreage and to preserve the “preservation” status of the property. The applicant is committed to limiting the prime farmland impact, preserving the sensitive natural resources and cognizant of the steep slopes. Rezoning to A/R does limit animal impacts, having a large number of animals on this sensitive property is probably not a good thing. A/R zoning also removes some intense impacts currently allowed on the property. The applicant acknowledges where the Tactical Center is located and feels they can properly buffer the property. At the February meeting there was concern with future development. Further development is controlled by the County and Township by requiring additional public hearings. Development of the property beyond a single residence is not practical due to several unique characteristics of the property. There is only enough road frontage for a single lot and the Wright County Highway Department indicating they would not permit a Township Road along the applicant’s road frontage. The current private access is all that they would allow. There is only access to the property to the East off of County Road 8. The applicant does acknowledge the property is restricted. Feels the Township did not give any real consideration, only stating if they approve, they need to approve for everyone. Feeling was that the Township did not want to discuss the merits of the proposal. The Land Use Plan does provide the map and the “1 per 40” designation provides that there is options to change zoning in unique situations and through a process being following by the applicant. The Township only concern about setting precedence. A denial based on precedence is an empty argument. The Land Use Plan provides guidance with rezoning allowed on a case by case basis, so denial should have a substantive argument. Applicant is asking the Planning Commission to review the request based on merits. The applicant disagrees with a number of the public comments mischaracterizing the current property owners past motivations and actions. Applicant feels that the definition of Rural Residential closer meets the applicant’s property with the full definition read to the Commission. The applicant believes the A/R definition of providing a “buffer between agriculture and other uses” is an appropriate buffer to the bordering sensitive natural resources and public property. Addressing comment in the staff report regarding “spot zoning” and scattered residential subdivisions; the applicant is not proposing subdividing the property. The applicant’s property is 70 acres, not 1 acre. Many of the “spot zoning” court cases are not generally related to 70 acre parcels in a township. Portions of the property are under the Conservation Corridor, borders public lands, close to a county ditch and has steep slopes. The applicant is requesting A/R zoning and the parcel will continue to be primarily agriculture. The use of “spot zoning”, in this situation, appears to target limiting review of the rezoning request. There is no detriment or negative impact to the neighboring properties and the applicants property does not cast reciprocal setbacks to the neighboring properties farm operations or limit active agricultural operations. The Land Use Plan does guide Rural Residential less than ½ mile from this property and borders a high intensity use public property. Regarding Resource Land and the guidance related to the Land Use Plan development appears that the process indiscriminately allowed property owners to request their land be removed from the designation, even though their properties meet the criteria as Resource Land. At that time property owners of neighboring

parcel were allowed to pull out of the Resource Land designation, which could be looked at as “spot zoning”. J. Dickinson continued to address the displayed Land Use Plan and reviewed neighboring properties pointing out which properties were allowed to pull from the Resource Land designation. The applicant acknowledges the neighboring properties are zoned AG and that the road frontage is on a hill. In the staff report there is repetitive comment the request is “spot zoning” and this appears to be used to limit the discussion on an application that has a basis. The applicant is presenting a case for reasonable use of the property and the applicant is following the zoning code prescribed process to remove a deed restriction. The Land Use Plan states it is not totally inflexible and will be reviewed on a case-by-case basis. The applicant does not dispute there may be many restricted parcels throughout the County. The applicant is presenting a case for reasonable use of the property and following the prescribed process requesting rezoning of the property. Written comments were provided to the Commission addressing how the proposal tried to comply with each goal, some were not possible. Addressing the County Code of Ordinance criteria for granting a zoning amendment it is stated that amendments should not be issued indiscriminately. He would be of the opinion that by allowing property owners the ability to request their parcel be pulled out of Resource Land changed how land uses are looked at on the presented parcel. The applicants proposal acknowledges the parcel is sensitive, it is a resource land and should be treated as such. The Zoning Ordinance provides that amendments to the map should be reviewed on a case-by-case basis. His belief is that the applicant has demonstrated unique characteristics and circumstances that impact the property for rezoning consideration is warranted. Provided for the Commission is the code provisions related to the Public Land uses as they feel it relates to the Tactical Center property. In the end the applicant is proposing to use a portion of a 70 acre parcel for a single residence. Portions of the 70 acre parcel are in the Conservation Corridor, borders Public Lands, contains a County Ditch, and has steep slopes; all items indicate the property is not suitable in those areas for long term agriculture. The applicant’s placement of the home is in a strategic location to not negatively impact sensitive natural resources.

- C. Bravinder questioned the applicant regarding the comment that the Highway Department stated there would never be a road put into the property. J. Dickinson stated he asked the County Highway Department if they would permit a road and they stated ‘no’. Bravinder – the township is the road authority for township roads. J. Dickinson – the County stated they would not permit an access to the County Road. Bravinder stated he is a township official and this is something he has not heard before. J. Dickinson – the statement was made it would not meet spacing guidelines and there was mention of sightlines. A neighbor submitted documentation that indicated the same. He is not disputing the sightline being a concern but it is a good access point for a single residence.
- D. Mol opened to public comment with a reminder comment time would be limited to 3-4 minutes.
 - Karolee Withers – owns the 10 acres in the northeast corner that was part of the original parcel. This 80 acre parcel originally had 2 allotments that were both sold. Now the applicant is asking to put in an extremely large driveway that will bisect usable farmland

for a single home. The request is also for rezoning of 70 acres of property to A/R for one home. Concern is once the zoning is changed for this entire property it will open up to further potential requests for a different land use there. Currently that land is farmed. Feels strongly farmland should be protected and continued to be farmed and a long driveway bisecting the farmland will hinder that.

- Randy Bednar – owns property immediately to the south. He helped install the current driveway of the property in question. The intent of the driveway was for accessing the field. Ten years ago, the County Highway Department provided approval for a field access entrance. At that time, he recalls the highway inspector stating concerns with the site and access but by law they cannot deny farm access sites so a field access permit was granted. This permit was included in the documents provided with his response. In the process of obtaining a copy of the access permit he spoke with Highway Department staff and they indicated there is no way the property would qualify for a regular residential driveway, due to safety. However, if the zoning allows a right to build a home, then they are legally obligated to approve an access permit. Comment from the neighbor that lives across the road from the property has stated they have had a number of close calls with traffic. Years ago, the prior owner also stated concern with accessing the County Road. Feels there is a lot of legalese, what ifs and exceptions but in the end, it boils down to a safety factor and not enough sightline to meet requirements. Under General Provisions of the Ordinance 155.001(F) it states intent is to protect agriculture areas. Bednar went on to read the General Agriculture (AG) 155.048(A) statement. Marysville has the 40 acre per entitlement requirement, it has been this way for decades, and is existing to preserve the farm way of life. There are a lot of agriculture farmers and dairy farmers that need the land for their crops. Relative to these two areas he feels that the property doesn't even come close to meeting Wright County regulations.
- Joe Hickman, Marysville Supervisor – 5-10 years ago the Township received a map from the County that is on display for anyone that comes to the Township building can see the Land Use Plan. Everyone can see areas of growth and where the Township wants to see growth. The Township closely follows this map. The parcel in question had the entitlements sold off, which is currently happening all around the Township. If approved this will allow 1 home per 10 acres. Jim and Teri do not own the property, they have a purchase agreement, which he feels falls under the same category as a developer approaching any farmer. The precedence will be set to allow anyone that sells an entitlement off to come back asking to build on the property. Marysville Township is seeing this all over. The statement that Marysville Township won't build a township road is easily addressed with a turn lane installed. If the map is deviated from then the gloves are off and developers will come knocking. Personally, he has had three developers question the status of this request. This isn't just Marysville with the issue it will be every township. The new farmer mentality is to buy property and sell the home off because that is the only way they can afford to farm the property. This is happening with farms all over Wright County, not just Marysville. Mahlberg – the Commission needs to look at the rare and unique nature of the property, not the circumstances. Believes what he is hearing Mr. Hickman say is that with his position and experience he doesn't view this

property as rare and unique or contain such characteristics that it is different from all the others. Hickman – this is a man-made problem that was purposely created. Had they visited with the Township or the County they would have been told it was not in the future expansion of anything. This parcel is actually almost at the farthest corner of where the Township wants growth. This is why it is still “1 per 40” in AG. The key is if allowed to be rezoned to “1 per 10” no matter what Jim or Teri state, they do not own the property. They could decide they don’t want to move forward with the purchase but the zoning was already changed and a new developer comes in and is allowed “1 per 10”. Marysville Township is dealing with an 80 acre parcel that is zoned “1 per 10” and not where the Township agreed it should be split. Through the process the Township is now required to take over a road for multiple homes an 80 acre parcel. Consequently, because he sees more township people there are more and more townships frustrated on what is happening at the county level with the changes that occur with the map that they try to not deviate from. Mahlberg – the value of precedence is important, but at the same time the Ordinance does state if a person wants to get things changed there are standards that need to be meet. What he is hearing being said is that “1 per 40”, preservation of open areas and agriculture are more important at a township level. Hickman – more important if a person lived and farmed a parcel their entire life and when ready to retire it would be unique to allow them to sell the farm. Mahlberg – that is not unique, that happens to farmers. He is trying to understand what is unique with the application before them. The farmer that needs money or the person that wants a beautiful place to live in the country and can only do so with rezoning are not unique. Hickman – what is unique is the property has not even been owned for 2 years. It was just purchased and the house site split of and now coming back to develop. Mahlberg – not concerned about the idea of sneaking in a 15 lot development. Personally, more concerned what rare and unique circumstances means. If that is not established and followed than there is concern that anyone is going to come in and want to be allowed rezoning as well. Hickman – that is exactly what is happening or is going to happen. Concern is if the Commission approves the precedence will be set if they can’t determine this is more unique than others. To him a more unique situation would be if they lived here and farmed the land their entire life and now that they wanted to retire and sell the farm as one piece or little pieces. To him that would be more unique. Mahlberg – that is a common story. You can’t have a common story be the unique circumstances that justify a zoning decision. Hickman – that is why the farmers are selling as one big piece, because they can’t split into 10 acre pieces. The original owner would have sold as 10 acre lots if they could have. Mol – hearing Mahlberg ask; as a Township Supervisor, that lives in the Township, is there anything that makes this property rare and unique that would warrant rezoning. Hickman – to him no. Mol – is there anything different or that stands out compared to other properties within the Township? Hickman – if you look around the Township there are 100’s of pieces like this, so more and some less acreage. There was another parcel off of Little Waverly Lake, that wasn’t far from lakeshore, close to 150 acres that started this process but he isn’t sure how far it actually made through the process. This request made it further than most requests. No, there is nothing unique about this property versus any other properties in the Township.

- Susan Jelen, owner – purchased the property with the intent to remain in agriculture so they could enjoy the piece, solitude, and beauty of the location. They had to sell the 10 acre lot for health reasons. They completed some work to the home and improvements to the property but determined they could no longer physically live there, that is why they sold. It was never their intention to flip the property. The property will remain farmland. Yes, they purchased 2 years ago but it has always been a dream to put a small house back in the corner, away from the farmland because it is beautiful and peaceful. Felger – understanding at one point 80 acres was owned. S. Jelen – 70 acres, there was 2.5 acre lot already sold. Felger confirmed newly created 10 acre lot in the northeast corner was where the house was located. Questioned S. Jelen if when the home was sold, last year, they were aware the remaining property would be restricted with no further building entitlements. S. Jelen – confirmed that they inquired with Planning & Zoning on several occasions. Felger – so fully aware of the fact that they would be rendering the 70 acres without an entitlement? S. Jelen stated she was not sure she understood the statement. There was never any intention to develop. Felger – originally there was 80 acres with the “1 per 40” rule applied equaled the 2 building entitlements. A 2.5 acre parcel was divided off and included 1 entitlement and once the 10 acre parcel was sold the remaining entitlement went with that. The question is if they were aware that after these 2 parcels were created the remaining 70 acres was a restricted parcel, without a building entitlement. S. Jelen – confirmed, that is what they understood. Also told there would be a possibility to get a building permit for the northwest corner. Felger questioned if it was the County that made that statement. S. Jelen stated it was neighbor, not the County.
- Randy Withers – owns the 10 acre parcel. Commented he was present when the flipping comment was made. Questioned a peaceful quiet place to retire location next to a gun range, to him that would not be the place to build.
- Joe Hickman – believes the County has allowed people to purchase entitlements from a neighboring farm, which would be an ideal circumstance in this situation.
- Teri Dickinson stated she is under contract for deed, with her parents, to purchase the property. They did try to purchase entitlements from several neighboring owners, with no luck. Since they were not able to find an entitlement to purchase the rezone request was the next option. Farmland protection and preservation is very important and it is their intent to build only a single home, not a development. Mahlberg questioned what makes this property rare and unique. There is a reason for the “1 per 40” rule and a reason people are not selling entitlements, they like having the open space and being alone, the Land Use Plan respects and promotes that. Why is this circumstance unique? T. Dickinson – feels the ditch is a reason and how it comes in and out of the property in two locations. Appreciates that the Township and Commission do a great job at discussing the item and taking the time to review the situation.
- J. Dickinson took over the question from member Mahlberg. The rare and unique would be the ditch, property is in the Conservation Corridor and to the west the lands were

originally in Resource Land, though some land was taken out as he feels indiscriminately. Mahlberg – that was done at a time when the map was being prepared and input was being sought. Struggling to see a connection between landowners wishes, at the time map was created, and how that is similar to this situation or the opposite of this situation. J. Dickinson – when the Land Use Plan started the focus was agriculture and then started to introduce other parts of property that were also identified as valuable, such as tree stands and pastures. The US Highway 12 Corridor states the intent for this district is to highlight resource lands that bring special unique and worthy protection for future generations while protecting and enhancing the rights and values of current property owners. Mahlberg – what he hears being said is that people were able to raise their hand to get out of the Resource Land designation and that somehow has a bearing on this applicant. J. Dickinson – rather than saying surrounded by AG, you have land that needs to be protected. Proposal identifies they want to protect those lands that elected to not be included. Asked what the difference is in the property to the southwest and those directly west. Stating that there is absolutely nothing different, they have the river and ditch and need to be preserved. Mahlberg asked how can the adjacent properties being absolutely the same with no differences and argue that the applicant's property is rare and unique. J. Dickinson – this parcel is adjacent. The southwest corner is part of that area. The A/R zoning designation stated agriculture is still important within the A/R areas. Their proposal for the 70 acres but a very small area will be used for a single residence, there will be close to 50 acres still farmed. The parcel has a ditch, that comes in and out twice. Mahlberg questioned how that is unique, what does it do for the property. J. Dickinson – the ditch adds restrictions to the property, relative to setbacks. Kryzer asked how that is applicable when the property is being farmed. Mahlberg – hearing the ditch makes it so not a lot of homes will go on the property. J. Dickinson – confirmed. Mahlberg – question is not related to a lot of homes. He is struggling why two ditches is a rare and unique feature of the property when talking about a single home, there are judicial ditches a lot of places. Taking the ditch out of the equation what else about the property makes it rare and unique? Requests have come up in the past related to riparian lands especially suited for development. This Commission has had lengthy discussions on what especially suitable means. He is trying to understand why this property is rare and unique. J. Dickinson – the parcel is identified in an aggregate location, there is a steep slope location and located in the Conservation Corridor. Looking at the county, most parcels are not in Conservation Corridor. Generally, it follows the creek, ditches, and rivers. In the provided report there are maps that identify the Conservation Corridor. There is a ditch on the north side and the property borders a property to the west that needs to be preserved, as it should be labeled as Resource Land. Rhineberger – questioned if the applicant is suggesting this is rare and unique because more closely resembles Resource Land. J. Dickinson – yes, portions of the land represent Resource Land. Rhineberger – in the Land Use Plan a provision of Resource Land is that the property should not go beyond “1 per 40”. Exceptions were granted for lands that were designated as Resource Land and already in as a more dense district, but also limited to what those could be as well. As the Land Use Plan for the Resource Land is part of the justification the Plan states Resource land should not be more than “1 per 40” unless they fall under the special exception. These parcels are limited to no Planned Unit Development, larger than 10 acre

lots and minimum road frontage. J. Dickinson – back to the definition of Resource Land, this parcel has large wooded area that fits A/R definition. There is non-prime farmland on the property. The property has pasture and other lands not suited for long term agriculture uses. The drop from the road to the back corner is about a 60 ft. fall. Those are what is unique about the property. They are looking for a single residence. The driveway would meander to the back, not through the middle of the farm field. Important to recognize the loss of opportunity for certain intense farming operations. Mahlberg – those are not rare and unique. J. Dickinson – identifying how this property is closer to A/R than AG zoning. Mahlberg – understands the point that this property could fit under A/R zoning. Why should it be allowed to go from AG to A/R? J. Dickinson – in the northwest corner is the Wright County Tactical Center/Highway Facility that changed the condition of this area. That alone impacts the entire area and changes the conditions. When looking at rare and unique discussion is had about if the area has changed, this area has changed. Mahlberg – statement is made that the entire area has been changed, the circumstances has changed this entire area and this parcel. There is a need to have something that is rare and unique to this parcel. J. Dickinson – that has been laid out in the provided report. Mahlberg – read the report, it was very thorough. J. Dickinson – the Tactical Center changes the condition of the area. This parcel has Conversation Corridor, it has close proximity to the river area, it has a ditch, steep slopes. This parcel can be farmed and yet still be enjoyed as signal family residence. The parcel meets the definition quite well and he feels he has laid out, in his provided report, that it is rare and unique.

- Randy Bednar – addressing the rare and unique comment related to “spot zoning”, it does not have a building entitlement.
 - LeRoy Jelen, owner – purchased the property and soon after could not physically navigate the property and home. He wanted to keep the property for his daughter and her family. Never mentioned flipping the property. Mol reminded the attendees of the meeting that the flipping comment does not pertain to the criteria and rules related to rezoning or the Ordinance in question.
- E. Mol – understands what the owners want to do but at the same time when they are stating they will not put any more than a single house on the property and 70 acres is rezoned; that full 70 acres is rezoned and 30 years from now a new owner could develop the property. Strongly believes if a precedence is set there are a lot of other locations under pressure of heavy growth. The Ordinance is there to protect the agriculture land and agriculture land isn't just tilled land being farmed as row crops, it can be river bottom and treed lots. Personally, he feels the Ordinance needs to be maintained. There are no other A/R lots touching the property and he finds it hard to go along with the rezoning request.
- F. Mahlberg – goes back to conversations regarding riparian lots on shorelands especially suited for residential development. Personally, he has yet to find those especially suite for residential development lots. Many times, those come to the Commission as small lots on tiny lakes, wetlands or marsh areas and they make nice homesites, but for the Ordinance. To him this is a beautiful spot for a home and there are all sorts of beautiful spots in the country

where people want to live, but for the Ordinance. He does not see that the ‘beauty in the eye of the beholder’ can morph into each property being rare and unique. This is one of a thousand pieces of beautiful property that a home cannot be built on.

- G. Bravinder – he has used rare and unique a few times with this Commission. There was a rezoning request Corinna Township located next to federal land or a wildlife refuge and on the other side was a A/R property. To him that was a rare and unique situation because the A/R zoning would never touch the property in question. Mahlberg clarified the land in question is a Conservation Area on Highway 24. Bravinder – another property that he felt was rare and unique was an applicant that wanted to put up a seasonal storage facility, that was approved tonight. He felt the property was rare and unique because it was not farmable, was an old gravel pit and the best use for the land was seasonal storage. When he looks at this property as rare and unique, he thinks of French Lake Township. There are 40 properties like this in French Lake Township all with the ditches and waterways. That does not make this property rare and unique. He needs to honor the Township’s decision. He was involved in the original Land Use Plan, as were other members, and given a map and the County came to every single township spending time reviewing and giving opportunity to make changes because the township was closer to the land that they governed. He feels it was a good process. Resource and Aggregate Resource Lands were identified with that process. This land is not identified as Resource. He will agree with the Township on this request. If this property is rezoned to A/R there are 4 other properties that touch the sides of this land that will be opened to rezone to A/R. The AG property to the north is next to A/R but they are not here with a request.
- H. Holland – explained how her family had a similar situation. They were well aware of the Ordinance related to entitlements. It would have been great if they could have kept the land in the family but because they always knew the “1 per 40” Ordinance existed they didn’t proceed with trying. Questioned if the rezoning doesn’t go through could a camper go on the property or are there ordinances related to camping? Rhineberger – there are ordinances related to RV’s and travel trailers as being used as a dwelling, which is not allowed. There are restrictions to the number of days an RV can be used in a calendar year and is required to meet other standards. The park model types are prohibited and there are no restrictions to using a tent. Rhineberger addressed the term entitlement. Entitlements by definition are only assigned to AG zoned properties. Rezoning would give the property the right to build and or potentially subdivide, with those divisions given the right to build. Holland – feels bad this beautiful piece of property is rendered not having an entitlement.
- I. Felger – hearing mentioned that rezoning shall be considered on a case-by-case basis, which is true. He does not recall the Commission ever taking a restricted parcel and rezoning, such as proposed. Also, does not feel that this proposal meets the rare and unique standard threshold for the rezoning of AG parcels. He would have to abide by what the Township is stating. There is a “1 per 40” rule at both the Township and County level. He cannot support this request. Rhineberger stated it is a common occurrence to rezone a restricted parcel that is in the Land Use Plan. Quite often rezonings heard are situations where they have the ability to rezone, based on the Land Use Plan, and in a lot of instances they first use the entitlement

and then come back to rezone. Even those are on a case-by-case basis. Felger – recalls that as accurate. Does not recall taking a raw piece of restricted AG land and rezoning.

- J. Greninger moved to close the public hearing to further oral and written comment and direct staff to draft findings consistent with denial. Recommendation to the Wright County Board of Commissioners will be to deny the rezoning of approximately 70.27 acres from AG General Agriculture to A/R Agricultural-Residential. The hearing will be continued to the April 13, 2023 meeting to review the findings. Motion seconded by Holland.

VOTE: CARRIED UNANIMOUSLY

Mol called for a break and reconvened at 10:15 p.m.

6. **LANE R. HOVLAND**– New

LOCATION: 5834 Fairhill Dr. SE – Part of S ½ of NE ¼ Section 12, Township 119, Range 25, Wright County, Minnesota. (Rockford Twp.) Tax #215-100-121300

Petitions for a Conditional Use Permit to amend an existing CUP to allow amplified music to an existing Commercial Agricultural Tourism operation as regulated in Sections 155.029, 155.048, & 155.109, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Lane Hovland

- A. Rhineberger displayed the property photos and site plan. The 75.93-acre property was granted two conditional use permits. Initially a CUP was approved for Commercial Outdoor Recreation allowing weddings and large events, all proposed outdoors. In 2021, a CUP was approved for Commercial Agricultural Tourism to allow public events and group activities to occur in the existing barn. As part of that the property owners have gone through the process of getting all the building permits and updates done to the existing barn so it can be used for events. The request before the Commission is to amend the 2021 Commercial Agriculture Tourism CUP to allow for amplified music. A condition of the 2021 CUP states, “2020 CUP is still enforced for the parameters of the large events and outdoor events including music being allowed only on weekends, no amplified music is allowed and all music must cease by 10:30.” The property is currently on the market with discussion had regarding what does no amplified music mean. The applicant is requesting to allow amplified music until 11:00 p.m. on Friday and Saturday night and 10:00 p.m. Sunday through Thursday night. Rockford Township has approved with the following condition. “The Town Board will review in one year unless three complaints are filed and then a review would be done prior to one year.” One neighbor strongly objects to this request on the basis of additional noise in the area.
- B. Hovland – did not know there was a complaint. Had spoken with the neighbors letting them know she would be attending the meeting and reason behind the request. In 2020 when they started the venue they interpreted amplified music as loud music, so they have always used speakers. During an event they would drive around the roads assessing the noise level and adjust as they felt needed. Have never had a complaint from a neighbor. Spoke with the closest one last week and they did not have a problem with anything being done. Has tried to work with the neighbors and not create issues. Looking for parameters what amplified music will look like moving forward. Did include with her application decibel level information. They are selling the property and looking for the new owner to be aware parameters as to what amplified music looks like. Looking at their property the barn is located in front a large wood area, so there is some buffer for sound. Do not want to impose on any of the neighbors and their enjoyment of their own property.
- C. Rhineberger – clarification the request is also to extend hours Sunday – Thursday from what is currently limited to 6:00 p.m. and wanting an end time of 10:00 p.m. Hovland – has only

had one wedding on a Thursday. Rhineberger – in this case if the wedding is a large event those are only allowed Friday & Saturday. Hovland – in the permit comments about the music states, “outdoor events, including music, be allowed only on weekends.” She feels she missed the whole amplified music and didn’t think about the speaker aspect.

- D. Mahlberg – understands the hours portion of the request but is it being asked for amplified music outdoors and outside of tent setting? Hovland – within the barn, not tents. Originally had the tents because the barn was not useable. Now strictly indoors.
- E. Mol – is purchase contingent on this request being approved? For him, he knows how well the business has been ran but nervous about how a new owner will run the operation. Hovland – agrees, so setting a parameter is good. Sale is not contingent but someone probably wouldn’t want to run a wedding venue if they can’t have amplified music.
- F. Mol opened to the public.
- Greg Michalko – neighbor to the north. Original CUP was approved for 20 large events, defined as 40 people or more with a maximum of 200, during the months of May – October. No amplified music and music must stop by 10:30 p.m. with activities ceasing by 11:00 p.m. Eight months later another CUP was granted, going from 20 events a year to 40 events a year and increased maximum occupants to 250. Condition #4 of the 2021 CUP states that the 2020 CUP is still in force for the parameters of large vents and outdoor events, including music being allowed on weekends; no amplified music allowed and music must cease by 10:30 p.m. Smaller weekday events are 40 people or less with operating hours 8:00 a.m. – 6:00 p.m. Now they are asking to be allowed to play amplified music Friday and Saturday until 11:00 p.m. and Sunday – Thursday until 10:00 p.m. That would be every day and evening. If small events are to stop at 6:00 p.m. Monday – Thursday, why do they need amplified music to run until 10:00 p.m. Monday – Thursday? Everyone has been to a wedding and know the celebration that goes with a ceremony. They live in a quite area where in the evening you can hear nature but when the music starts the celebration gets much louder. When that happens why they live in the country goes away. Lives about 375 yards north of the wedding barn. Depending on the wind direction the noise can get very loud. Music is generally loud and runs past 10:30 p.m., they have not yet complained. From May – October there is an opportunity for 52 large events. Most likely parts of early May and end of October will not have events so the number would be more like 44 better weekends of the summer. There could be weddings every Friday and Saturday mid-May to October. Understands property is for sale with the potential buyers wanting the CUP amendment approved prior to moving forward. No idea what future intentions are of the potential owner but one can assume they will have intentions of maximizing revenue. Requesting of the

- Commission to take into consideration the neighbors before granting additional days and hours for amplified music.
- G. Greninger questioned if the sale is contingent on this. Hovland – they want to continue as a venue so probably would not want to purchase the property, but sale is not contingent. They do want to continue with the Ag Tourism and the wedding venue will continue but with no amplified music doesn't make sense. Greninger – do the buyers currently have a vineyard? Hovland – not that she is aware of.
- H. Mahlberg – unsure of the statement that people with these types of venues are not going to want to do it if they cannot do it without amplified music. Currently there are places with restrictions to amplified music. Hovland – because of the need of the use of speakers. Their understanding was amplified music was loud. Microphones are used for speeches, vows, and music. Mahlberg – under the current setup there has been amplified music in tents, outside. Hovland – admitted they have not been careful with always closing the barn doors. There is A/C in the barn, so doors can be shut. Aerial photos, building photos and building plans of the barn displayed while Hovland explained the position of the barn and location of windows and doors on the barn. Discussion continued with the layout of the barn in relationship to neighbors, trees, and slopes. Hovland stated she normally keeps the doors to the east open, and there is a hill on that side. The decibel exercise she provided in her report was done to see where the noise comes from and how it travels. Conversation continued on the surroundings of the barn, elevation views of the barn and noise. Mahlberg – sound carries in the country. Amplified is not necessarily something everyone is going to enjoy, no matter the decibels.
- I. Felger asked if the lower level of the barn is used for dining? Hovland – no, that is a social gathering area. Dinner is served in the upper area. The opportunity is given to have the dance in the upper or lower level. Felger – doors on the west and east sides? Hovland – only side without doors is the south side.
- J. Mol – understand what is being asked. He is nervous about allowing amplified music without knowing how the new owner will run the business. Hovland – suggested a decibel limit, there is an application for your phone that can be used. Mol – that is hard to enforce and regulate. Hovland – the owner can be the one to regulate. Mol – currently a great owner but the next one may not be. Hovland – in the permit that follows the property they would have to follow the same parameters. Mol – if keeping the property indefinitely it would be easier for him to put different stipulations on the CUP. The thought of someone else coming in with a whole different plan and running the business makes him nervous. Not allowing amplified music gives the County a little bargaining chip to make sure the business is run well, fits in the neighborhood and surrounding community.

- K. Felger – this subject came up with an earlier item. The request is not unusual so not sure what the concern is. Treat like the other wedding venues, where there is a time limit and only allowed indoors. Mol – applicant is not the one that will be running the business. Felger – is approval given by personalities or what is allowed on a property? Does not think this applicant should be held hostage because of something that might occur with the next operator. The township does have concerns regarding complaints. In favor of incorporating the township comments as well as allow amplified indoors with a time limit of 10:30 p.m.
- L. Kryzer – working on a proposed motion which he feels incorporates comments. Suggested motion would be to amend condition number 4 on the July 22, 2021, Condition Use Permit to allow amplified music in the barn from 12:00 noon to 10:30 p.m. provided the amplified music does not leave the property and the doors and windows on the barn are fully closed and to require township review in one year and on a schedule thereafter as required by the township. All other conditions remain unchanged and in full force and effect. The planning commission notes and reaffirms that the use must be in conjunction with an agricultural use as stated in the previously approved plan and submissions on file with the Office of Planning and Zoning.
- M. Felger – the Township was more specific about 3 instances. Rhineberger – could state township review in one year or sooner if requested by the township. Felger – there was a request to lengthen hours, was that addressed? Rhineberger – the hours were as specified but days they could occur didn't change, so the 10:30 p.m. would still be only Friday and Saturday.
- N. Mahlberg – in the staff report the request is to allow amplified music until 11:00 p.m. on Friday and Saturday and 10:00 p.m. Sunday - Thursday. Is it currently allowed until 10:00 p.m. Sunday - Thursday? Rhineberger – no. Mahlberg – the motion read by Mr. Kryzer would in effect deny the request for Sunday – Thursday, because it does not address it. Mr. Felger was asked if that was the intent? Felger – that would be his interpretation and acceptable.
- O. Felger motioned to amend condition number 4 on the July 22, 2021 Condition Use Permit as follows: 1) to allow amplified music in the barn from 12:00 noon to 10:30 p.m. provided the amplified music does not leave the property and the doors and windows on the barn are fully closed and to require township review in one year or sooner if requested by the township and on a schedule thereafter as required by the township; 2) All other conditions remain unchanged and in full force and effect; 3) The planning commission notes and reaffirms that the use must be in conjunction with an agricultural use as stated in the previously approved plan and submissions on file with the Office of Planning and Zoning. Motion seconded by Bravinder.

VOTE: CARRIED, Mol Nay

7. **JEREMY JURMU** – New

LOCATION: 737 80TH Street NW – East 465.83 feet of the West 1854.91 feet of the North 1/2 of the NW 1/4 of Section 25, Township 121, Range 26, Wright County, Minnesota. (Maple Lake Twp.) Tax #210-100-252207 Property Owner: Tina L Jurmu & Jeremy P Jurmu

Petitions to rezone the northeast 10-acre portion of the property, as seen on the survey, from General Agricultural (AG) to Agricultural/Residential (AR) as regulated in Section 155.028, 155.047 & 155.048, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Jeremy Jurmu

- A. Rhineberger displayed the property details as well as the proposed site plan. The property is 15 acres located on County Road 106 in Maple Lake Township and created in 1977, therefore a lot of record. The parcel is currently zoned General Agriculture (AG), with a designation of Rural Residential in the Land Use Plan. The request is to rezone the northeast 10 acres from General Agriculture (AG) to Agricultural/Residential (A/R), leaving the remaining 5 acres as AG. If the Commission is looking to recommend approval staff would suggest requirement of the deed restriction to be filed after a recommendation of approval to rezone from the Planning Commission to the County Board and before the County Board could approve the rezone. The idea is to prevent a split zoned parcel. Maple Lake Township stated they approve of the rezoning request. The County Highway Department indicated that they would allow one shared access for both parcels.
- B. Jurmu and public had no comment.
- C. Felger questioned the lot of record size, current zoning and requested zoning. Rhineberger – currently 15 acre AG zoned lot of record and in the Land Use Plan to be A/R. Must meet the minimum requirement of 10 acres with 300' road frontage and depth. Felger – request is to rezone 10 acres to A/R with the remaining 5 acres to stay AG, which would be noncompliant related to lot standard requirements. Rhineberger – the entitlement division, while still zoned AG would take place. If the rezoning is not approved the applicant does not want to divide off the 5 acres. The provisions in the AG district allow for a lot of record to have a division.
- D. Bravinder confirmed survey shows shared approach not the entire driveway. Jurmu – yes, just the 60' deep access area is shared.
- E. Mol – the parcel is in the Land Use Plan but how much around it has already been rezoned? Rhineberger displayed the Land Use Plan and reviewed. There is large lot residential in the areas as well, that is where a lot of Suburban Residential (R2) zoning has already occurred. There is no real reason to rezone, if the plan is to keep at 15 acres, these parcels are lots of record and already entitled to a home. There could be a possibility for a more dense zoning with a public road built.

- F. Mahlberg – appears a little leap froggy but a neighboring property to the east is a flag lot. Rhineberger – in researching and reviewing the request there appears to be some developments that are a bit dated and did not meet the road standards when approved.
- G. Mol questioned the Commission if they would like a site visit or are they okay with the details received. Felger and Bravinder agreed that they did not feel they needed to visit the site.
- H. Bravinder moved to recommend approval of the rezoning from General Agricultural (AG) to Agricultural/Residential (AR) for the northeast 10 acres, in accord with the plan submitted, noted as Exhibit “A”. Greninger seconded the motion.

DISCUSSION: Kryzer – staff will table the item and work with applicant until the “entitlement” divisions are done. Submission of approval to the County Board will be done once the deed restriction is filed for the 5-acre division of the homesite.

VOTE: CARRIED UNANIMOUSLY

8. **JAMES JURMU** – New

LOCATION: 1342 80th Street NW – Part of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 of Section 23, Township 121, Range 26, Wright County, Minnesota. (Maple Lake Twp.) Tax #210-100-234300 Property Owner: RJ Holdings LLC

Petitions to rezone 8.93 acres from AG-General Agriculture to R2-Suburban Residential as regulated in Section 155.028, 155.0548 & 155.055, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: No representative present

T. Rhineberger explained the applicant requested the matter be continued to the April 13th hearing.

U. Mol opened the floor to the public.

- Carol Hable – owns the 10 acre parcel to the east. Questioned with the rezoning what is the minimum acreage they can rezone the property to. Rhineberger – request is R2-Suburban Residential zoning with a minimum lot size of 2.5 acres. Hable – feasibly there could be 4 house on that 8.93 acres. Rhineberger displayed the concept plan for review. Original plan involved another property with the idea to gain 1.07 acres from the property to the rear so they could go with 5 acre lots at R2a zoning. During discussion and reviewing the requirement details it was decided to go for R2 zoning and stick with smaller lots. The site plan presented will be altered before the next meeting date. The Highway Department will be limiting the number of residential accesses, so there will need to be a shared access. There could be three 3 acre lots here but because of the restrictions the Highway Department is stating there will not be ability for more than 2 lots. Hable – confirmed not allowed 3 lots unless there is a Township Road built. Rhineberger – in theory, there is nothing specific from the Highway Department. It would be highly unlikely due to road access but there is a chance it could occur but would be difficult. Hable – once rezoned there is always a chance. Rhineberger – in this case with R2, which is the request, there is an ability to move the dividing property line west so a new access does not need to be built. Hable – there would be one entrance onto Count Road 106. Rhineberger – confirmed it would be similar to her driveway but a quicker break near the road.

V. Greninger moved to continue the hearing to the April 13, 2023, at the request of the applicant and allow time for a site inspection. Seconded by Bravinder.

VOTE: CARRIED UNANIMOUSLY

9. **MATT BRUMMER**– New

LOCATION: 1605 Highway 55 NE – Part of the W 1/2 of NE 1/4 & the West 2 rods of Gov't Lot 3 north of public road, Section 32, Township 120, Range 25, Wright County, Minnesota. (Buffalo Twp.) Tax #202-000-321300 Property Owner: The Trust Agreement of William and Arlys LaPlant

Petitions for a Conditional Use Permit to operate a self-storage facility as regulated in Sections 155.029 & 155.055(B), Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: Matt Brummer & David Heil

- A. Rhineberger displayed the site plan and reviewed the property details. This 17.51-acre property in Buffalo Township is currently split-zoned, due to some shoreland regulations related to I-1 zoning within the shoreland area. The property is General Agriculture (AG) within the 1,000 ft. shoreland area of Lake Mary and General Industry (I-1) in the portion of the property outside the shoreland. The parcel is designated as Transition Area. Three different CUPs were approved to co-locate within and around the existing commercial building on the property. A used car dealership with repair shop, production business for dog training products and a granite fabrication shop were approved for different portions or different times in this building. The car dealership and granite fabrication businesses were allowed outdoor storage. In October 2012, a sales business for docks, lifts, trailers, fish houses, sheds, and kayaks, was approved to replace the car dealership, but not the repair shop. Most recently a gluten-free wholesale distribution business existed in the building. Tonight's request is to operate a self-storage facility on the portion of the property within that area that is zoned I1-Industrial. Plans do show all components of the self-storage outside the 1,000 ft. radius of the shoreland. The proposed plans does show the layout of buildings as well as the stormwater management plan for the site. Rhineberger questioned the applicants if they had contacted Wright County Soil and Water Conservation District (SWCD) as it does appear the 2nd building is over what is likely a wetland. Brummer – confirmed they did provide a preliminary delineation, which is the outline on the plan, but due to weather have yet been able to complete the full delineation. They would ask for approval pending the delineation. Rhineberger – SWCD has not provided a formal response. Buffalo Township has approved, they are hoping for an IUP not a CUP. Currently the Ordinance does not include IUP language. MN Dot response indicated the access would remain the same, there are existing turn lanes on Hwy 55. The City of Buffalo has provided comment, recommending denial of this request. Those comments and recommendations are in the staff report. The City of Buffalo Fire Department provided comment that is in the staff report for review and a neighbor commented they would like to see a denial.
- B. Heil stated they have developed several properties in the metro area. Currently operate under Gopher State Storage with 30 other facilities that are locally owned and operated. They upkeep drive lanes, lighting, security and take great pride in the presentation. They have an engineering team that created and designed the site to make sure the land is preserved. If there is wetland,

they are already forward thinking about purchasing credits. Feel this property has room for improvement but it would be a good fit with adjacent properties and bring value to the property. The area can support a facility like this. Kryzer – earlier in the meeting there was mention of a possible wetland and it was stated by the representing attorney that going through mitigating and purchasing of credits could take over a year. Going through a sequencing analysis will take quite some time with an uphill road. Questioned if the presented proposal is still what they are wanting to move forward with or would they like to present a plan that doesn't impact a possible wetland? Heil – they would like to do a phase development with a condition that this could be broken up into 2 phases to allow time to formally submit and analyses that wetland area. They do not have plans to set up 10 buildings immediately. They would do some ground prep and landscaping, where they can. Comfortable with the submission of this master plan and if they do come into wetland issues, they would halt development in that area of property. Brummer – went through a similar situation in Prior Lake and it took 3 months to get through all phases to purchase credits for a wetland area this size. If you visit the property, it is not a wet area.

C. Mol opened the floor to the public.

- Bill LaPlant, owner – no live water on the property. If it was it is ditched. There is a swamp across Highway 55 with a tile that comes under the railroad and goes to Buffalo Lake. All of the water runs out of the property through tile. There is a berm in the back of the property, where the homes will be built. There is quite a lot of ground blacktop on the property, where the RV's are currently parked. Mol stated they might do a site inspection and would be able to see what is being described.

D. Mahlberg stated he would like to visit the site. Has some questions about the railroad that can wait until the next meeting.

E. Felger asked if they have had a conversation with the railroad. Brummer – engineer needs to reach out to discuss the requirements for expanding the crossing. Heil – would need to be a few extra feet wide. By the mentions of other uses of the property there have been several clients in and out and they feel their usage is pretty low compared to mechanic and RV Storage. They work closely with their engineer and civil designers to address safety concerns. They have put up 100's of buildings and learned a lot of lessons. Mahlberg – the railroad issue may take longer than the SWCD issue.

F. Greninger moved to continue the hearing to April 13, 2023, to allow time for a site inspection. Motion seconded by Holland.

VOTE: CARRIED UNANIMOUSLY

10. **DISCUSSION**

- A. Rhineberger stated staff will need a motion to set the public hearing for the consideration of the amendment to the Mining and Extraction Ordinance for the April 13th Planning Commission Hearing.
- B. On a motion by Bravinder and seconded by Greninger the Wright County Planning Commission will be reviewing and discussing proposed amendment to the Mining and Extraction Ordinance at the April 13, 2023, hearing.

VOTE: CARRIED UNANIMOUSLY

SITE INSPECTION

Commission scheduled site inspections for Monday, April 3, 2023. Commission members to meet at the Government Center at 8:30 a.m.

Meeting adjourned at 11:39 p.m.

Respectfully submitted,



Barry Rhineberger
Planning & Zoning Administrator

BR:sd

cc: Planning Commission
County Board of Commissioners
Kryzer
Twp. Clerks
Applicant/owners