

## PROCEEDINGS OF THE STEARNS COUNTY PLANNING COMMISSION

A regular meeting of the Stearns County Planning Commission was held on Thursday, December 21, 2017 in Room 121 of the Stearns County Service Center, 3301 County Road 138, Waite Park, MN at 7:00 p.m.

Members Present: Jeff Bertram, LeRoy Gondringer, Ken Massmann, Jody Kapphahn, John Krehbiel, Shawn Blackburn, Mike Proell and Commissioner Joe Perske (ex-officio member).

Staff Present: Jennifer Buckentine, Dave Nett, Chelle Benson and Tammy Moulzolf from Environmental Services.

Chair LeRoy Gondringer opened the meeting at 7:00 p.m.

The Pledge of Allegiance was recited.

Introduction of Planning Commission members.

1. To consider a request to **amend the subdivision agreement** for **“Wildwood Park Addition”** submitted by **Wildwood Ranch LLLP**, St. Joseph, MN; **Doreen Honer**, St. Joseph, MN, **Myra and Thomas Schrup**, St. Joseph, MN and **Orchard Creek Properties LLC**, Sartell, MN according to Stearns County Subdivision Ordinance #230. The request is to remove the requirements to construct the road and stormwater facilities. “Wildwood Park Addition” is located in part of the NE1/4, lying southerly of County Road 51 in Section 18 of St. Joseph Township (124/29).

Tom and Ben Carlson of Orchard Creek Properties LLC were present representing the application.

Jennifer Buckentine reviewed the staff report. Ms. Buckentine stated this plat was recorded in 2010 and the proposed replat would keep Lots 3 and 4 of Block 3 and the remaining property would be described as Outlots A, B and C. Tom Carlson stated that by replatting Lots 1 and 2 of Block 2, Lots 1, 2, 5 and 6 of Block 3 and Outlots A, B and C, Lots 3 and 4 would be accessed through the existing driveway and there would be an easement thru Lot 3 to access Lot 4 and vice versa. This would result in abandoning the cul-de-sac because it would no longer be needed. Chair Gondringer asked how the building entitlements would be handled and Ms. Buckentine responded they would be lost through the replat. Jeff Bertram asked Mr. Carlson if the property was too expensive to develop. Mr. Carlson stated the lots were for sale for a while and did not sell so he purchased them to keep them in the family.

Chair Gondringer opened the public hearing and no one was present to speak at the meeting. Motion was made by Commissioner Proell, seconded by Commissioner Krehbiel and carried unanimously to close the public hearing.

Motion was made by Commissioner Bertram, seconded by Commissioner Blackburn and carried unanimously to **recommend approval** to the County Board to **amend** the subdivision agreement of “**Wildwood Park Addition**” with the following **3 conditions**:

- A. The revised plat shall not be recorded until the documents vacating Danielle Court and vacating the drainage and utility easement is recorded.
- B. The revised subdivision agreement and transfer of development rights restriction shall be recorded immediately preceding the new plat that eliminates the need for the road and stormwater facilities.
- C. If the above conditions are not met by January 9, 2019, then this approval to amend the subdivision agreement is null and void.

2. To consider a **Conditional Use Permit** application for a **Major Shoreland Alteration submitted by Benjamin Drewes** of Sartell, MN, according to the requirements of Sections 10.2.11 B. (3) (a) and (b), 10.2.14 I. (2) (c) and 10.2.14 J. (1) (a), (b) and (c) of Stearns County Land Use and Zoning Ordinance #439 to construct three new natural fieldstone boulder retaining walls, construct a new landing and stairway and to place sand within the shore impact zone. The property under consideration is located at 17367 Big Fish Lake Rd., Cold Spring, MN 56320, on Lot 2, Block 1, North Sand Addition AND part of Lot 1, Block 1, North Sand Addition in Section 20, T124N, R30W, Collegeville Township.

Benjamin Drewes was present representing the application.

Dave Nett reviewed the staff report. Mr. Nett stated that applicant has met with Wetland staff and read comments from Greg Bechtold in Environmental Services.

Ben Drewes stated he arrived at his request so the shoreline would not be disturbed. He said his request involves 2 levels due to the slope of his property and to slow down water runoff into the lake. Chair Gondringer asked if Mr. Drewes knew how many years were attached to the grant used to plant native grasses. Mr. Drewes stated he found it was a 10 year grant which started in 2005 through Prairie Restorations. Chair Gondringer questioned where the native grasses were planted which Mr. Drewes proceeded to explain the location. Commissioner Perske inquired about any excavation work that would be performed and Mr. Drewes stated he has worked with staff so wetlands would not be disturbed. Commissioner Perske also asked if the existing buffer of vegetation would remain and Mr. Drewes verified that it would along with the natural buffer on the hill. Commissioner Bertram asked if a staff member explained the sand blanket limitation and why it is important not to have too much sand. Mr. Drewes assumed it was to maintain water quality, prevent runoff into the lakes and to maintain a natural look. Commissioner Bertram said the allowance for a sand blanket is 10' x 30' and he felt it was unreasonable to ask for 21' x 47'. Mr. Drewes stated it visually seemed this was small compared to the majority of what was on Big Fish Lake.

Chair Gondringer opened the public hearing and no one was present to speak at the meeting. Motion was made by Commissioner Bertram, seconded by Commissioner Kapphahn and carried unanimously to close the public hearing.

Mr. Drewes asked if he could make additional comments. He stated he would consider altering his plans and if there would be something to make his plan more acceptable, he was open to it. Commissioner Kapphahn asked if there was a better alternative for the rock retaining wall because it would come in contact with the water. He suggested bio-logs. Mr. Nett explained that a bio-log is a netting made of different materials which spikes into the bank and lake bed. It is degradable over time as it becomes part of the shoreline bank compared to having a vertical wall made out of hard rock. Mr. Drewes stated his concern is it would prevent ease of access to the lake. Commissioner Krehbiel said he is not totally for the sand blanket but is interested in compromising. Chair Gondringer asked if the board walk could be extended and therefore reducing the sand blanket. Mr. Drewes said he is not opposed to that idea. After more discussion regarding the board walk, Commissioner Bertram stated he did not feel comfortable with all the changes discussed and asked if Mr. Drewes would consider re-doing his plans. Mr. Nett stated Mr. Drewes would not have to re-apply for a permit and could make adjustments to his current plan. Commissioner Krehbiel requested to have the changes the Planning Board wants verified as follows: reducing the size of the sand blanket, consider options of shoreline whether it be bio-logs or a rock wall and the size of the board walk. Mr. Drewes commented that the boat house on the property is only used for storage and is not aware of any problems with ice coming to shore in the spring. Motion was made by Commissioner Bertram, seconded by Commissioner Kapphahn to **continue the request at the January 18, 2018 Planning Commission meeting**. On roll call vote, Commissioner Bertram voted Yes; Chair Gondringer, Yes; Commissioner Massmann, Yes; Commissioner Kapphahn, Yes; Commissioner Blackburn, Yes; Commissioner Proell, Yes, and Commissioner Krehbiel, No. **Motion passed 6 to 1.**

3. To consider an **After the Fact Conditional Use Permit** application for a Major Shoreland Alteration submitted by **Thomas Brummer** of Montrose, MN, according to the requirements of Sections 4.15, 4.15.2 and 10.2.14 I. (2) (c) of Stearns County Land Use and Zoning Ordinance #439 to leave as constructed, two concrete block retaining walls. The property under consideration is located at 18586 Cedar Lane, Richmond, MN 56368, on part of Government Lot 3, Section 31, T123N, R30W, Wakefield Township.

Thomas Brummer was present to represent his application.

Dave Nett reviewed the staff report.

Tom Brummer stated he installed a new septic system in 2012 and inquired about a retaining wall at that time. He recalled he was told if he stayed so many feet above the water level, he could put in a retaining wall so he was not aware he needed a permit. Commissioner Bertram questioned why there was an easement on the neighbor's

property. Dave Nett responded it was so the retaining wall can remain over the property line. Commissioner Perske asked if any work done was in violation of the ordinance. Mr. Nett stated only for the retaining wall being over the property line and failure to obtain a permit. Commissioner Bertram questioned the durability of the retaining walls and Mr. Brummer stated the walls were sturdy due to the weight of the blocks. Chair Gondringer asked how the lower levels were accessed in which Mr. Brummer replied there were steps going down to the lake.

Chair Gondringer opened the public hearing and no one was present to speak at the meeting. Motion was made by Commissioner Bertram, seconded by Commissioner Blackburn and carried unanimously to close the public hearing.

Motion was made by Commissioner Bertram and seconded by Commissioner Massmann to **recommend approval** to the County Board on the **After-the-Fact Conditional Use Permit with 3 conditions** with the understanding that any steps can be no more than 4 feet wide. On roll call vote, Commissioner Bertram, Yes; Chair Gondringer, Yes; Commissioner Massmann, Yes; Commissioner Kapphahn, Yes; Commissioner Krehbiel, Yes; Commissioner Blackburn, Yes; Commissioner Proell, No. **Motion passed 6-1.**

The following conditions apply:

- A. If After the Fact work is recommended for approval, payment of \$525 After the Fact fee is to be submitted by January 2, 2018.
- B. If After the Fact approval is not granted, complete restoration of the slope (wall removal, seed and blanketing of the slope) must occur by June 30, 2018.
- C. In order to maintain the upper retaining wall across the eastern property boundary, applicant must obtain a usage easement agreement with neighboring property owner. It must be notarized and recorded for the permit to be valid. Easement agreement must be recorded by March 1, 2018.

The Planning Commission established the following **After the Fact Findings**:

- A. The unpermitted alteration was done to improve aesthetics and control erosion. Controlling the erosion would then protect the water quality.
- B. The applicant failed to obtain an alteration permit before commencing work because they were informed by someone that they didn't need a permit for the work.
- C. The applicant was required to obtain an erosion control permit from the Sauk River Watershed District. He did not obtain said permit.
- D. The unpermitted retaining walls are within the sensitive area of the shore impact zone and the lower wall is within the 100 year flood hazard zone.
- E. The unpermitted alteration is very visible from the public waterbody.
- F. The unpermitted alteration is a detriment to a neighboring property as it crosses the eastern boundary.
- G. The unpermitted alteration did not reduce or eliminate an existing buffer and the drantile behind the walls will slow down the stormwater.
- H. The unpermitted alteration improved the aesthetics of the shore as viewed from the public water, it did not change the character of the neighborhood and shoreline,

the vegetative buffer was only eliminated in the locations where the walls are, it did not change or damage a stormwater management device or system, it did not change or damage fish or wildlife habitat or water quality.

- I. The applicant could not restore the site without causing even more damage or problems.
- J. The minimum benefits to the county are far outweighed by the detriment the applicant would suffer if forced to restore because it would compromise the shore if removed.

4. To consider a request for a **Conditional Use Permit** submitted by **Innovative Power Systems**, Roseville, MN on behalf of **Dean and Karen Meyer**, Melrose, MN according to Sections 4.8, 6.51 and 9.2.5T of Stearns County Land Use and Zoning Ordinance #439 to construct a 300KW community solar garden on approximately 3 acres in the Agricultural 80 zoning district. The property under consideration is part of the SE1/4 NW1/4, Section 29, lying westerly of State Highway 4 in Section 29 of Grove Township (125/33).

Evan Carlson of Innovative Power Systems and Dean Meyer were present representing the application.

Jennifer Buckentine reviewed the staff report.

Evan Carlson reviewed the capacity of grid in relation to the request. Chair Gondringer asked if there is a possibility for another solar farm in that area since the solar grid will be at capacity. Mr. Carlson responded it would be unlikely because it wouldn't be cost effective due to the upgrades needed for the grid. Commissioner Bertram questioned where the substation was located since solar gardens generally locate near substations. Mr. Carlson responded that the substation is within a mile of the proposal. Mr. Carlson also stated the size of the solar garden has been reduced due to the capacity of the grid. Dean Meyer stated there is a small tract of land to the west of the proposed solar panels he would like Innovative Power Systems to acquire as a part of the project because it is not conducive to farming due to the large size of farm equipment and the odd shape of the property. Commissioner Bertram questioned if the water that runs through the area will stay intact. Mr. Meyer confirmed that the ditch will stay in its current place. Commissioner Perkse questioned what would happen to the small tract of land to the west of the proposed solar panels. Mr. Meyer stated he assumed it would be fenced in and native plants and pollinators would be planted. Mr. Carlson agreed. He stated there is a certain number of solar panels that are needed to get the project off the ground and the final plan with panel locations and boundaries is not complete. Mr. Carlson said there is a possibility that Innovative Power Systems would pay rent on this piece of property and it would not become part of the solar farm. Commissioner Bertram stated he wanted something planted on the property in question so it is not just weeds.

Chair Gondringer opened the public hearing and no one was present to speak at the meeting. Motion was made by Commissioner Kapphahn, seconded by Commissioner Blackburn and carried unanimously to close the public hearing.

Motion was made by Commissioner Proell, seconded by Commissioner Krehbiel and carried unanimously to **recommend approval** to the County Board on the request for a **Conditional Use Permit** for the solar garden with the following **4 conditions**:

- A. A qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards prior to issuing a construction site permit.
- B. A financial guarantee in the form of a letter of credit meeting the County letter of credit requirements in the amount \$15,000 shall be submitted prior to issuing a construction site permit to ensure proper decommissioning of the solar garden.
- C. The applicant shall install and establish ground cover meeting the beneficial habitat standards consistent with Minnesota Statutes, section 216B.1642 and guidance as set by the Minnesota Board of Water and Soil Resources. A letter of credit meeting the County letter of credit requirements in the amount of 125% of the cost to vegetate the project area is required for a minimum of 5 years. The Solar Site Pollinator Habitat Assessment Form shall be completed to show that the beneficial habitat standard is met and submitted with the construction site permit application.
- D. An approach permit is required from the MN Department of Transportation prior to issuing a construction site permit.

The Planning Commission established the following **Findings of Fact**:

- A. The proposal is consistent with Land Use and Zoning Ordinance #439, specifically Sections 9.3 and 6.51. Solar farms are an allowed use in the A-80 zoning district.
- B. There are 4 conditions the proposal must meet.
- C. The proposal is compatible with present and future land uses in the area. It is adjacent to the GEM sewer system and there are no residential dwellings adjacent to it. Screening is not necessary.
- D. Environmental impacts are being addressed through the conditions and the permitting process.
- E. The proposal will have no impact on property values in the area.
- F. There will be traffic generation impacts during construction of the solar farm. Once construction is complete, there will be no impact to public health, safety or traffic generation.
- G. The proposal will have no impact on the general health, safety and welfare of the residents.
- H. The proposal conforms to the County's Comprehensive Plan, specifically with Chapter 4, Natural Resource Plan, Goal 2 Objective 4.
- I. The proposal will have no impact on existing public services and facilities.
- J. A financial guarantee for decommissioning and vegetating the site are required.

5. To consider a request for a **Conditional Use Permit** submitted by **Larry and Mary Gutknecht**, South Haven, MN according to Sections 4.8, 7.32.1 and 9.3.5T of Stearns

County Land Use and Zoning Ordinance #439 to locate a driveway on land that has a land evaluation and site assessment (LESA) score of 65 or higher. The property under consideration is Government lot 2, lying west of 4<sup>th</sup> Ave E and east of Lynden Lake, in Section 20 of Lynden Township (122/27). Property address is 16475 4<sup>th</sup> Ave E, South Haven, MN.

Larry and Mary Gutknecht were present representing the application.

Jennifer Buckentine reviewed the staff report and summarized a letter received from Lynden Township. The letter stated their zoning ordinance prohibits more than one driveway access and a driveway access requires a permit which was not obtained so therefore they are opposed to the Conditional Use Permit

Larry Gutknecht stated there was an existing field road where the driveway is now and would like to continue to use this driveway. Mary Gutknecht commented if they move the driveway, crop land will be reduced. Chair Gondringer questioned if one of the driveways was always there or if they built it when their home was constructed. The Gutknechts replied it was always there and they put some base down so they wouldn't get stuck. Commissioner Massmann asked if the area contained more than one field. Mr. Gutknecht commented most likely it was one field before the house was constructed. Commissioner Krehbiel asked if a Conditional Use Permit would have been required if the Gutknechts requested the other driveway up front. Ms. Buckentine replied that the southern driveway option would have required them to come before the Planning Commission for a Conditional Use Permit. Commissioner Krehbiel asked Mr. Gutknecht if he knew he had to go through this process if he wanted to change the driveway location. Mr. Gutknecht responded he knew in the beginning but didn't realize it again until several conversations with Environmental Services staff.

Chair Gondringer opened the public hearing and no one was present to speak at the meeting. Motion was made by Commissioner Bertram, seconded by Commissioner Massmann and carried unanimously to close the public hearing.

Chair Gondringer stated he didn't understand why Lynden Township was opposed to the Conditional Use Permit. Commissioner Krehbiel stated only one driveway per parcel is allowed. Mr. Gutknecht commented he added the northern driveway and contacted Jerry Finch on the Lynden Township Board and was told the only requirement was to use a steel pole for the 911 sign. Commissioner Bertram expressed the need for someone from both Lynden Township and Stearns County to communicate and come to a recommendation. After some discussion, motion was made by Commissioner Krehbiel, seconded by Commissioner Kappahn and carried unanimously to **recommend approval** of the **Conditional Use Permit** to the County Board with the following **2 conditions**:

- A. The property owner shall obtain a new 911 address from the County and work with the Township to obtain a new 911 sign.
- B. Remove the northern culvert and approach and restore the northern driveway to agricultural land by June 1, 2018.

The Planning Commission established the following **Findings of Fact**:

- A. The proposal is consistent with Land Use and Zoning Ordinance #439. The southern driveway is a shorter route and takes up less agricultural land than the northern driveway. However the southern driveway does separate a tillable field.
- B. There are two conditions the proposal must meet, including to remove the northern approach and culvert and restore the driveway to agricultural land by June 1, 2018.
- C. The proposal is compatible with present and future land uses in the area.
- D. There are no potential environmental impacts from the proposal.
- E. The proposal will have no impact on property values in the area.
- F. The requested driveway location improves the safety of the landowner, as it is shorter, straighter and flatter than the northern driveway location.
- G. The proposal conforms to the County's Comprehensive Plan, specifically with the Land Use Plan Goal 4, Objective 1.
- H. The proposal will not impact existing public services and facilities including schools, parks, streets and utilities.
- I. The property owner shall work with the Township on permission to use the southern driveway approach rather than the northern approach.

6. To consider a **rezoning** request submitted by **Verna & Arlen Salmela**, South Haven, MN on behalf of **Vanessa Salmela**, South Haven, MN to rezone approximately 5.44 acres from the Agricultural 40 zoning district to the Residential 1 zoning district in accordance with Section 4.10 of Stearns County Land Use and Zoning Ordinance #439. The property under consideration is part of the NE1/4, lying north of County Rd 44 in Section 5 of Fairhaven Township (121/28). Property address is 5288 and 5290 County Rd 44, South Haven, MN.

Verna Salmela and Vanessa Salmela were present to represent their application.

Jennifer Buckentine reviewed the staff report. It was discovered that there was an error in the public notice. It should have indicated rezoning to Rural Townsite, not Residential 1. Therefore, **no action was taken** and a re-notice will be published for the January 18, 2018 Planning Commission.

7. To consider a **rezoning** request submitted by **Cindy Stelten** on behalf of the **Hurtle Family Trust** dated March 9, 2000, Clearwater, MN to rezone approximately 20 acres from the Agricultural 40 zoning district to the Residential 10 zoning district in accordance with Section 4.10 of Stearns County Land Use and Zoning Ordinance #439. The property under consideration is part of the SW1/4 SE1/4, lying north of County Rd 146 in Section 2 of Fairhaven Township (122/28). Property address is 2606 County Rd 146, Clearwater, MN.

Cindy Stelten and Steve Merten were present to represent the application.

Jennifer Buckentine reviewed the staff report.

Steve Merten stated the original property containing 20 acres was split and the house along with 10 acres was sold. It is their hope to have the remaining property rezoned and acquire a building entitlement. Surrounding property owners have no use for the parcel that is split without the home. Jennifer Buckentine stated the County ordinance does allow transferring building entitlements from adjacent property owners. Chair Gondringer asked if this option was explored and Mr. Merten stated they did. Commissioner Bertram clarified that they would be willing to purchase the building rights from the adjacent property owners. Cindy Stelten stated they would like to purchase the building entitlement from her brother but he has not expressed interest in giving it up. Commissioner Bertram commented that the house should have been sold with the 20 acres because there is too much spot zoning in this area.

Commissioner Krehbiel asked the Planning Board to take into consideration if this request is spot zoning. Commissioner Bertram stated in his opinion this request is spot zoning. Mr. Merten stated by granting the rezoning request, this would be a perfect property for a house instead of the property being purchased for other means such as a gun range.

Chair Gondringer opened the public hearing. Shannon Bollman, 2717 County Road 146, Clearwater MN, came forth to speak and stated her property is located to the south of the rezoning request. She considers the request spot zoning and wants the rezoning request denied. Betty Jurgens, 18935 Deerfield Road, Clearwater, MN, stated her concern is spot zoning and hopes the rezoning request is denied. After no further testimony, motion was made by Commissioner Bertram, seconded by Commissioner Blackburn and carried unanimously to close the public hearing.

Motion was made by Commissioner Krehbiel and seconded by Commissioner Massmann to recommend approval to the County Board of the rezoning request. On roll call vote, Commissioner Bertram voted No; Chair Gondringer, No; Commissioner Massmann, Yes; Commissioner Kapphahn, No; Commissioner Krehbiel, Yes; Commissioner Blackburn, No and Commissioner Proell, Yes. Motion failed 3-4.

Motion was made by Commissioner Blackburn and seconded by Commissioner Kapphahn to **recommend denial of rezoning** request to the County Board. On roll call vote, Commissioner Bertram voted Yes; Chair Gondringer, Yes; Commissioner Massmann, No; Commissioner Kapphahn, Yes; Commissioner Krehbiel, No; Commissioner Blackburn, Yes and Commissioner Proell, No. **Motion passed 4-3.**

The Planning Commission established the following **Findings of Fact:**

- A. The proposal does not conform to the County's Comprehensive Plan, specifically, Land Use Plan Goal 3 Objective 2 and Objective 3. Additionally, this is in the Agricultural District on the County's Future Land Use Map and the Agricultural/Limited Growth area on the Policy Area Map.  
Goal 3. Manage the impacts of growth and development on the County's rural character.

Objective 2. Identify appropriate areas for commercial, industrial, and non-farm rural residential developments.

Objective 3. Deter premature development in rural areas and in urban expansion areas around cities.

- B. The proposal is and is not compatible with the present and future land uses in the area. There are several small residential lots in this neighborhood.
- C. Environmental impacts will be addressed through the platting and permitting process.
- D. No information was provided regarding the impact of the proposal on property values in the area.
- E. The proposal will not impact public health, safety or traffic generation.
- F. The proposal will have no impact on existing public services and facilities.
- G. The property owner has the option to transfer a building entitlement from a contiguous parcel or sell the entire 20 acres with the home.

#### 8. Recommendations for 2018 Planning Commission representative appointments to Platting Committee and Parks Commission.

The Planning Commission recommended Commissioner Bertram to serve on the Platting Committee and Commissioner Massmann continue to serve on the Parks Commission.

#### 9. Minutes of October 19, 2017

Motion was made by Commissioner Krehbiel, seconded by Commissioner Massmann and carried unanimously to approve the minutes of the October 19, 2017 Planning Commission Meeting.

#### 10. Minutes of November 16, 2017

Motion was made by Commissioner Kappahn, seconded by Commissioner Krehbiel and carried unanimously to approve the minutes of the November 16, 2017 Planning Commission Meeting.

Chair Gondrich thanked Commissioner Krehbiel for his years of service on the Planning Commission.

#### Adjournment

Motion was made by Commissioner Krehbiel, seconded by Commissioner Proell and carried unanimously to adjourn the meeting at 10:05 PM.