

SHERBURNE COUNTY
PLANNING ADVISORY COMMISSION MEETING
MINUTES
JANUARY 17, 2019

The Sherburne County Planning Advisory Commission met at the Sherburne County Government Center in the Emergency Operations Center (E.O.C.) Room, in Elk River, Minnesota on January 17, 2019 to hold a public hearing for all unincorporated areas of Sherburne County in which the County has zoning and land use authority, along with the Township of Big Lake, the Township of Baldwin and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Schlingmann called the meeting to order and advised that the Planning Advisory Commission is a recommending body to the County Board of Commissioners which will hear the agenda items on February 5, 2019 in this same location at 9:30 AM. He also went over the meeting procedures and noted that the hearings are being recorded.

Roll call was taken. The following members were present: Vice-Chair Jeff Schlingmann, Haven Township; Roger Nelson, Blue Hill Township; Lila Spencer, Livonia Township; Stephen Demeules, Palmer Township; County Board Commissioner Raeanne Danielowski; Bryan Adams, Orrock Township; Bruce Aubol, Big Lake Township; Terrence Vandereyk, Clear Lake Township; David Jehoich, Santiago Township; Staff present: Zoning Administrator Nancy Riddle, Assistant Zoning Administrator Lynn Waytashek, Solid Waste Officer Dave Lucas, Planner Marc Schneider, Zoning Specialist Mitch Glines, Secretary Judy Weber.

Not present: Chairperson Bryan Lawrence, Baldwin Township;

Spencer moved and Aubol seconded to approve the agenda for the January 17, 2019 public hearing. The motion carried.

Demeules moved and Aubol seconded to approve the minutes of the December 20, 2018 Public Hearing. The motion carried unanimously.

6:02 ELECTION OF 2019 PLANNING COMMISSION OFFICERS

A call was made for the nomination of Chairperson of the Sherburne County Planning Advisory Commission for 2019.

Roger Nelson nominated Bryan Lawrence for Chairperson. There were no other nominations. Nelson moved and Spencer seconded to appoint Bryan Lawrence as Chairperson for the Sherburne County Advisory Commission for 2019. The motion carried unanimously.

A call was made for the nomination of Vice-Chairperson of the Sherburne County Planning Advisory Commission for 2019.

Schlingmann said he would like to withdraw his name from any nomination.

Spencer nominated Bruce Aubol for Vice-Chairperson for 2019. There were no other nominations. Spencer moved and Adams seconded to appoint Bruce Aubol as Vice-Chairperson to the Planning Advisory Commission for 2019. The motion carried unanimously.

A call was made for the nomination for Secretary to the Planning Advisory Commission for 2019.

Spencer nominated Judy Weber for Secretary to the Planning Advisory Commission for 2019. There were no other nominations. Spencer moved and Aubol seconded to appoint Judy Weber as the 2019 Secretary to the Sherburne County Advisory Commission.

6:05 PM (Continued Item) A public hearing was continued at the request of **ANDREW P. AND JOLENE R. THELEN** for a **Conditional Use Permit (CUP) for a Riding Stable and Horse Boarding Facility** PID # 10-302-1200 Property address: 20395 Co Rd 73 NW, Big Lake MN Legal Desc: Th SE1/4 of NW1/4 (full legal on file) Sec 2, Twp 33, Rge 28 Big Lake Township 34.24 acres Located in the General Rural District *Note: On December 20, 2018 this item was tabled by the Planning Commission. The public hearing for this request will be continued at the January 17, 2019 meeting.*

Jehoich moved and Nelson seconded to take this item off of the table and to continue the public hearing. The motion carried unanimously.

Lynn Waytashek presented the request including the packet attachments, comments and recommendations if approved. She noted at the last meeting there was discussion that Mr. Thelen was going to apply for a Variance to the setback requirements. Since that time Mr. Thelen moved back the proposed structure so that he was able to meet all of the required setbacks and will move forward with what is being presented this evening.

BOARD’S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Written Explanation of Request
- C. Site Plan (Dated 1-8-19) – showing stable, riding arenas, manure compost site & parking
- D. Site Plan showing future house location
- E. Building Plans (E1 – E3)
- F. Manure Management Plan (date stamped 12-20-18)
- G. Ronald Siepel Comments received via email on 12-14-2018

BIG LAKE TOWNSHIP COMMENTS: Board of Supervisor’s feel this location would be a good fit for the business. Recommend approval.

OTHER DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer (Nov. 7, 2018) – Public Works Engineering has no concerns with the proposed improvements. An access permit will be required to ensure proposed location, including utilizing existing access, if desired, meets County standards. Coordinate with Public Works Permit agent.

PLANNING & ZONING STAFF COMMENTS:

1. The MPCA has stated that the indoor and outdoor riding arenas are not considered feedlot. The stable is considered a feedlot. Both the stable and manure storage/compost pile must meet a 200 ft setback to non-feedlot residences. The stable and manure storage/compost pad area need to meet a 300 foot setback to any wetland. The site plan submitted 1-8-19 shows all proposed structures meeting required setbacks.
2. Proposing a boarding stable with a maximum of 25 horses boarded. In addition, they will have 4 horses of their own. They will also have riding lessons, equine massage, and therapy. They will have an indoor arena and an outdoor riding arena. There are 12 indoor stalls in the stable. The remaining horses will be out in the pasture. They are proposing to construct a new home south of the proposed stall barn.
3. They are proposing to allow people to rent an outside area on this property to store horse trailers. They would like to have up to 8 horse trailers stored outside on the property. The trailer parking area is shown on the plans on the east side of the proposed stable structure. The applicant has stated that there are existing trees along the property line. They do not plan on putting up a fence to block the view of the trailers. The trees are located further to the north and the trailers appear to be visible to the neighbor. Zoning staff comment that either trees be planted along the property line or a fence be put up to reduce visual impact to neighbor.
4. Public restrooms meeting American Disability Act requirements will need to be built. The structure is considered commercial, therefore, it will need architectural plans and occupancy levels determined. Applicant has stated that he is only proposing a holding tank, not a drainfield due to anticipated low restroom use and that there will be a horse washing bay and horse hair entering a drainfield would potential cause problems.
5. Facility is proposed to be open 24 hours a day, 7 days a week. Applicant has stated that boarders will gain access from a keycode access on the doors.
6. Pursuant to the Sherburne County Solid Waste Ordinance, Section 19.10 “Animal manure shall be classified as a solid waste when they are accumulated, stored or stockpiled on the ground surface . . . within 200 ft of a residence located on neighboring property.” Therefore, any manure stock pile(s) must be located at least 200 ft from any neighboring residences. The Manure Management Plan (date stamped Dec 20, 2018) must be followed (plan is attached), must follow MN Pollution Control Agency – Manure Stockpiling –Technical Guidelines Fact Sheet#8.06. Pasture areas must be fenced around wetlands areas so that horses cannot access open water on site. Must be compliant with MN Rules Chapter 7020 – Feedlot rules. Staff recommends that bedding and manure be composted to minimize the impact to the pasture area.
7. Indoor arena may be rented to animal associated organizations (i.e. 4H) or for animal associated classes (clinics). The applicant has stated that a maximum of 20 people would participate in this type of event.
8. No events larger than 20 people is proposed. If in the future they would like to hold an event larger than 20 people they would need to apply for an Occasional Special Event – Interim Use Permit and go through the approval process.
9. Applicant has stated that all users of facility will stay on this property to ride their horse. They will not go out onto public roads. If they want to trail ride they will be able to ride around the perimeter of this property which Mr. Thelen stated is approximately 2.5 miles.
10. There were on site solid waste issues. All solid waste has been cleaned up.
11. The Planning Commission needs to articulate findings that this proposed CUP meets Section 18, Subdivision 5.3 of the Sherburne County Zoning Ordinance.

Schlingmann asked the applicant to come forward.

Andrew Thelen, 22583 206th St NW, Becker, came forward and said after working with Dave Lucas and County Staff and the MPCA, they have met their setback requirements and are ready to move forward with their proposal.

Schlingmann asked if anyone from the audience wished to come forward.

There were no comments.

Aubol moved and Demeules seconded to close the public hearing. The motion carried.

The public hearing was closed.

Waytashek read thru the staff's recommended conditions:

1. A maximum of 30 horses will be located on this property including property owner's own horses.
2. A maximum of 8 horse trailer parking spaces may be rented for outdoor storage. Trailers may not be located so as visible from County Road. ***Should fencing be required to reduce neighbor's view?***
3. Pursuant to the Sherburne County Solid Waste Ordinance, Section 19.10 "Animal manure shall be classified as a solid waste when they are accumulated, stored or stockpiled on the ground surface . . . within 200 ft of a residence located on neighboring property." Therefore, any manure stock pile(s) must be located at least 200 ft from any neighboring residences. The Manure Management Plan (date stamped Dec 20, 2018) must be followed (plan is attached). Must follow MN Pollution Control Agency – Manure Stockpiling –Technical Guidelines Fact Sheet #8.06. Must also follow University of MN Extension – Managing and Composting Manure Fact Sheet. Pasture areas must be fenced around wetlands areas so that horses cannot access open water on site. Shall maintain compliance with MN Rules Chapter 7020 – Feedlot rules and County ordinances. Bedding and manure shall be composted in accordance with manure manage plan dated December 20, 2018 and to minimize the impact to the pasture area.
4. The stall barn, riding arenas, and manure storage/compost site shall maintain required setbacks as depicted on Site Plan dated January 8, 2019. Manure storage/compost site and stall barn must be located at least 300 feet from wetland and at least 200 feet from any residence.
5. Compost pad must have concrete under it and concrete sides. It must be covered with a tarp to control moisture. It must be sloped toward the back to ensure containment and prevent spillage. Upon construction of the compost pad there will be a six month review of its effectiveness to properly mitigate against odors and other nuisances.
6. Animal mortality will be addressed off site. No animals may be buried on site in accordance with the Sherburne County Solid Waste Ordinance, as amended.
7. No events larger than 20 people is allowed. If in the future HOPE Stables would like to hold an event larger than 20 people they would need to apply for an Occasional Special Event – Interim Use Permit and go through the County's approval process.
8. All persons riding horses from this property must trail ride on this property. They may not trail ride on public road right-of-ways.
9. Facility hours will be _____.

10. Must meet all parking and loading regulations as listed in the Sherburne County Zoning Ordinance, Section 17, Subdivision 2.
11. Building must meet commercial building code and accessibility code standards. Architectural plans must be submitted and occupancy levels determined.
12. The property owner shall permit the County to inspect the property during normal business hours.
13. Must meet all federal, state and local regulations.

Schlingmann questioned if the County can restrict horse-riding in the public road right-of-way.

Waytashek explained the issue came up at the last meeting when a concern that was raised from a citizen. At that time she said the applicant stated that they had 2.5 miles of trail around the circumference of the property and they would not be having their people go out onto the public roads for safety reasons. She said that is why she incorporated that as a condition.

Schlingmann said he understands the reason, however he did not think that the County could actually enforce this condition.

Discussion followed on the difficulty of enforcement and the ability to prove where the horses were coming from.

Schlingmann suggested removing the condition.

Commissioner Danielowski commented that the applicant is opening a business where he will be attracting a good number of people into a neighborhood area. She suggested that there has already been a concern raised and she would think that the applicant would like to make sure that their horses stay within their boundaries.

Thelen said they could definitely post it as one of the rules of the barn. He said it is a valid concern and he would prefer to address it under their regulations for their boarders.

Adams referred to condition # 9 regarding the hours of operation. He said he was confused because he thought this was a 24 hour operation.

Thelen explained that people board their horses with them because they can't use their own property. They are allowed to come to the facility using the key-pad to enter at all times and go check on their animals. He said he is assuming that the facility hours is referring to the active office hours of the barn itself and the riding arena, which at this time is sun up to sunset. He said it really hadn't been brought up as a concern.

Adams asked why this condition was added.

Waytashek explained that their plan had listed a 24 hour operation and she simply wanted the Commission to be aware of that in case they had any concerns.

Riddle asked if sun up to sundown would be acceptable for the facility hours.

Thelen replied if we are talking events, those would be during regular business hours.

Riddle said she understood they would be having events where people come to watch. She asked about the amount of traffic and how late that would be.

Schlingmann reminded that if they are having an event with over twenty people, he would have to apply for an Occasional Special Event I.U.P., as listed under condition # 7. He said the hours could be limited at that time.

Waytashek said her understanding is that there are no bleachers or stands, so there will not be big events.

Adams clarified that the definition of a facility would be the riding arena and the customer riding area.

Aubol said he found it hard to have facility hours limited with the key-pads and people's schedules. He said he didn't think they should try to restrict the hours.

Waytashek read thru the findings of fact from Sec 18, Subd 5 Item 3 of the Zoning Ordinance and Commissioner Aubol provided the answers to the questions:

No Conditional Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

1. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The C.U.P. will not be injurious, the activity is not something that is going to upset anyone's ability to live in their home or outside of their home.

2. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

Do not believe it will impede because the facility will have the proper setbacks, they won't impede anyone's access to their land and it should not affect the neighboring parcels.

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

The site plan is all laid out for placement and location and the purpose and use have all been addressed.

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Adequate measures have been addressed.

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Aubol asked Thelen if they will have lighting in the outdoor arena.

Thelen replied no, not at this time. The only lighting will be indoors and over the outdoor access doors like any home would have.

Commissioners are satisfied with the 25 vehicles per day entering the property and that adequate measures have been taken to prevent or control any nuisances.

Aubol moved and Adams seconded to approve the request for a Conditional Use Permit (CUP) for a Riding Stable and Horse Boarding Facility with the following thirteen (13) conditions including a change to Condition # 8 by removing the second sentence “They may not trail ride on public road right-of-ways” and adding to Condition # 9 Facility hours will be 24 hours:

- 1. A maximum of 30 horses will be located on this property including property owner’s own horses.*
- 2. A maximum of 8 horse trailer parking spaces may be rented for outdoor storage. Trailers may not be located so as visible from County Road.*
- 3. Pursuant to the Sherburne County Solid Waste Ordinance, Section 19.10 “Animal manure shall be classified as a solid waste when they are accumulated, stored or stockpiled on the ground surface . . . within 200 ft of a residence located on neighboring property.” Therefore, any manure stock pile(s) must be located at least 200 ft from any neighboring residences. The Manure Management Plan (date stamped Dec 20, 2018) must be followed (plan is attached). Must follow MN Pollution Control Agency – Manure Stockpiling –Technical Guidelines Fact Sheet #8.06. Must also follow University of MN Extension – Managing and Composting Manure Fact Sheet. Pasture areas must be fenced around wetlands areas so that horses cannot access open water on site. Shall maintain compliance with MN Rules Chapter 7020 – Feedlot rules and County ordinances. Bedding and manure shall be composted in accordance with manure management plan dated December 20, 2018 and to minimize the impact to the pasture area.*
- 4. The stall barn, riding arenas, and manure storage/compost site shall maintain required setbacks as depicted on Site Plan dated January 8, 2019. Manure storage/compost site and stall barn must be located at least 300 feet from wetland and at least 200 feet from any residence.*
- 5. Compost pad must have concrete under it and concrete sides. It must be covered with a tarp to control moisture. It must be sloped toward the back to ensure containment and prevent spillage. Upon construction of the compost pad there will be a six month review of its effectiveness to properly mitigate against odors and other nuisances.*
- 6. Animal mortality will be addressed off site. No animals may be buried on site in accordance with the Sherburne County Solid Waste Ordinance, as amended.*
- 7. No events larger than 20 people is allowed. If in the future HOPE Stables would like to hold an event larger than 20 people they would need to apply for an Occasional Special Event – Interim Use Permit and go through the County’s approval process.*
- 8. All persons riding horses from this property must trail ride on this property.*
- 9. Facility hours will be 24 hours.*

10. *Must meet all parking and loading regulations as listed in the Sherburne County Zoning Ordinance, Section 17, Subdivision 2.*
11. *Building must meet commercial building code and accessibility code standards. Architectural plans must be submitted and occupancy levels determined.*
12. *The property owner shall permit the County to inspect the property during normal business hours.*
13. *Must meet all federal, state and local regulations.*

The motion carried unanimously and is recommended to the County Board for approval.

6:26 PM A public hearing was held at the request of **INDEPENDENT SCHOOL DISTRICT 727:** for an **Interim Use Permit by Amending the conditions of the existing I.U.P. # 56040** (Document # 838676) for a Recreational Activity (Recreational Athletic Fields for use by the Big Lake 727 School District PID # 10-120-1100 Legal Description: NE1/4 of NE1/4 (full legal on file) Sec 20, Twp 33, Rge 27 Big Lake Township 40 acres General Rural District

Marc Schneider presented the request to the Commissioners including Board packet attachments, comments and history of the request and recommended conditions if approved:

BOARD'S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Copy of Minute from 02/15/2018 Planning Commission (Pages 1-11)
- C. 2018 Aerial Photo with proposed improvements
- D. Civil Plans (Pages 1-8)
- E. Photos of site (Pages 1-2).
- F. Letter from Neighbor

BIG LAKE TOWNSHIP COMMENTS: The Board sees no reason to install curbing around the gravel parking lot and fees the use of a portable, public address system is appropriate for the current use of the area. The Town Board recommends amending the current IUP so curbing is not required and the use of a portable P/A system is allowed.

STAFF COMMENTS:

1. On February 2, 2018 the Planning Advisory Commission heard a request made by the Big Lake School District to amend their Interim Use Permit for Recreational Activities to remove the following conditions: 8. (*Install curbing around the edge of the parking lot*) and condition 10. (*No use of a permanent or portable Public Address System*). The Planning Advisory Commission made two recommendations to the Sherburne County Board. The first was to approve the amendment to remove the concrete curbing the second recommendation was to deny the request to allow a portable or a permanent public address system within the area that is governed by the IUP. For reference a copy of the Planning Commission's Minutes from this meeting have been included in the Board Packet as Attachment B.
2. On March 13, 2018 the County Board heard this request and recommended tabling the request so the School District could see if they could work with a neighboring landowner on the use of a public address system. The School District was able to work with the neighboring landowner Scott Adcock

17533 205th Ave NW regarding the public address system. Mr. Adcock provided the County with a letter dated 04/30/2018 stating he is not in objection to the District's desire to use a portable public address system provided it is done during daylight hours once a month and are District sponsored events (Attachment C).

3. On December 19, 2018 the School District's Superintendent, Steve Westerberg, provided revised plans for the Big Lake Recreational Athletic Fields (Packet Attachment C). These plans included paving the gravel parking lot with bituminous, installing chain-link fencing between the parking area and the playing fields and the installation of parking and informational signs. All these improvements will help delineate the parking area from the playing fields and stormwater ponds and alleviate concerns with dust.
4. The Planning Commission needs to articulate findings that this proposed IUP meets Section 18, Subdivision 6.4 of the Sherburne County Zoning Ordinance.

STAFF RECOMMENDED CONDITIONS IF APPROVED:

~~Stricken~~ = Conditions and language to be deleted from existing Interim Use Permit approved on 05/02/2017.

Underline = New Conditions proposed.

1. All access to property must be from the west through the existing school parking lot access. No access will be permitted from the north to 205th Ave NW. A barrier must be in place so the public does not exit events though the east field roads that access 205th.
2. No wetland fill is permitted. proposed. ~~A storm water pond is proposed between the existing wetlands. The Wetland Technical Evaluation Panel will require that the property owner obtain a no loss certificate through the wetland conservation act. This may be obtained by contacting Zach Guttormson in the County Zoning Department. (Complete)~~
3. ~~Must obtain a Storm Water and Erosion Control Permit from the County Zoning Department prior to commencing work on the site (Complete)~~
4. ~~Must provide the County Zoning Department with a copy of the NPDES permit prior to commencing any work on the site. (Complete)~~
5. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the IUP.
6. The IUP holder and/or property owner shall permit the County to inspect the property during normal working hours.
7. Adequate restroom provisions and garbage pick-up services shall be provided by the school district.
8. The improvements identified in the 12/17/2018 civil plans prepared by Larson Engineering, Inc (e.g. bituminous pavement of the parking and driveway, curbing, 4-foot chain link fence on the south side of the parking lot, all parking and information signs) are installed and maintained. Install curbing around the edge of the parking lot.
9. No lighting allowed.
10. The use of a portable public-address system may be used during daylight hours (dawn until dusk) for one event each month. Each event may last up to three (3) consecutive days. These events need to be District sponsored and ran. ~~No use of a permanent of portable Public Address System.~~
11. The Findings in the Zoning Ordinance under Section 18, Subdivision 6.4 have been made.

Schlingmann asked the applicant to come forward.

Chad Barthel, Buildings and Grounds Manager for the School District came forward.

Nathan Nohner, Design Engineer for Larson Engineering, Inc. also came forward and acknowledged they were in agreement with report and the recommended conditions presented by Schnieder.

Schlingmann opened the public hearing.

Schneider said he had received one e-mail from Scott Adcock, an area resident who was not able to attend this public hearing. This e-mail was entered into the record. Adcock was the neighbor who initially had concerns with the audio and lighting of the project. He said in this newest e-mail that he had no objection to the construction work however, he does have concerns about the landowner and the contractor conducting this activity in a professional manner as they install the fencing and the surface area.

There were no other comments from the public.

Spencer moved and Danielowski seconded to close the public hearing. The motion carried and the public hearing was closed.

Adams questioned why this request has been before this Commission three times now and why there have been so many changes. He asked why the first representative is not present to address this new application.

Barthel said he could not speak for that first representative and acknowledged that he is no longer employed by the school district.

Adams asked what events will take place on these fields.

Barthel replied there would be soccer events on weekends. The portable system will make these events run quicker and smoother.

Aubol said the ability to pave all or a portion of the parking area, and curbing and the installation of fencing were discussed at the school board meetings. He said he believed those would be big improvements to the project.

Schneider read thru the findings of fact from Sec 18, Sub 6, Item 4 of the Zoning Ordinance and Commissioner Aubol provided the answers to the questions:

No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The use of the land fits the purpose of the school, and it went from being an Ag field to an athletic field so there is no impact to the neighboring residential properties.

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

All the surrounding properties are agricultural and it will not upset any development of any kind.

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Yes they are definitely part of the plan.

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

Yes they are certainly being provided for in the plan.

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Adequate measures have been taken care of and should not be an issue.

Aubol moved and Adams seconded to recommend approval of the request for an Interim Use Permit by Amending the conditions of the existing I.U.P. # 56040 (Document # 838676) for a Recreational Activity (Recreational Athletic Fields for use by the Big Lake 727 School District and with the following eight (8) conditions:

1. *All access to property must be from the west through the existing school parking lot access. No access will be permitted from the north to 205th Ave NW. A barrier must be in place so the public does not exit events through the east field roads that access 205th.*
2. *No wetland fill is permitted.*
3. *Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the IUP.*
4. *The IUP holder and/or property owner shall permit the County to inspect the property during normal working hours.*
5. *Adequate restroom provisions and garbage pick-up services shall be provided by the school district.*
6. *The improvements identified in the 12/17/2018 civil plans prepared by Larson Engineering, Inc (e.g. bituminous pavement of the parking and driveway, curbing, 4-foot chain link fence on the south side of the parking lot, all parking and information signs) are installed and maintained.*
7. *No lighting allowed.*
8. *The use of a portable public-address system may be used during daylight hours (dawn until dusk) for one event each month. Each event may last up to three (3) consecutive days. These events need to be District sponsored and ran.*

The motion carried unanimously and is recommended to the County Board for approval.

6:40 PM A public hearing was held at the request of **LJS TRUCKING INC:** (Property owners are Leon and Julie Slattery) for an **Interim Use Permit for a Medium Contractor's Yard** Property

address: 22665 Co Rd 15 NW, Elk River, MN PID # 10-522-0105 Legal Description: Tract A Registered Land Survey No 26 Sec 3, Twp 33, Rge 27 Big Lake Township 14.79 acres General Rural District

Mitch Glines presented the request to the Planning Commissioners including the Board packet attachments, comments and recommended conditions if approved. He noted that the parcel is adjacent to CSAH 15 but accesses from 227th Ave.

BOARD'S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Applicants Description of Operations
- C. Proposed Site Layout and Screening
- D. Distance to Neighbors
- E. Site Photos (1-2)

BIG LAKE TOWNSHIP COMMENTS: The Town Board of Supervisors recommend the address of the property be corrected to reflect the access of the home is on 227th Ave. Sherburne County GIS recommends the parcel be addressed as 16299 227th Ave. Town Clerk will send a letter to Elk River US Postal office making this correction. The Board has no other changes or concerns to the IUP application and recommend approval.

OTHER DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer: Has no concerns with the IUP.

Ken Halverson, Fire Chief of Big Lake: If this is a trucking company, what are they going to have on their property (i.e. gas tankers, Hazmat tankers)?

PLANNING & ZONING STAFF COMMENTS:

1. On March 1, 2018 the Zoning Office received a complaint about an alleged business being ran from the property located at the address above.
2. An inspection from County Staff of the property confirmed that a business was indeed being ran from the property. A Notice of Violation was sent to the property owner with a correction action to either cease operating the business from the property or apply for an IUP to operate a business from this property.
3. LJS Trucking Inc. is a trucking company which provides hauling services for various companies. The applicant is the contractor for equipment companies that need their equipment moved. At times he brings back equipment and stores it on his property.
4. Two existing detached accessory buildings are located on property. One building is 32' x 60' (1,920 sq. ft.) and the other building is 36' x 50' (1,800 sq. ft.).
5. Per the applicant, there are currently two full time employees both of whom are the owners of the property.
6. Per the applicant, the employee's semi-truck and trailer typically leaves the property at 7:00 a.m. depending on the job location and returns between 7:00 p.m.
7. The vehicles maintained on the property are owned by the applicants.

8. The equipment and attachments proposed to be located on the property are bulldozers, backhoes, loaders and tractors, etc. The attachments would be backhoe buckets and rippers along with supplies for drilling footings (casing pipe and augers).
9. Per the applicant, the average amount of equipment stored on the property would be 12 or less (20 is the maximum per the ordinance).
10. The area of the property that the applicant is proposing to use for the contractor's yard is approximately .5 acres of the 14.79 acre parcel (Attachment C).
11. The surrounding area for the equipment is heavily wooded with earth berms and is adequately screened from neighboring properties.
12. Per the applicant, they only have one semi-truck and the truck does not have back up beepers. Equipment stored on the property could have back up beepers.
13. Per the applicant, they do not have any bulk storage onsite (fuel or oil) to pose an issue and they also do not transport hazardous materials.
14. The applicant anticipates that the maximum number of employees could be as many as twelve (12) and the maximum number of pieces of equipment could be as many as twenty (20).
15. Big Lake Township Clerk sent a request to the Elk River Post Office to update the mailing address per comments from the Town Board Meeting regarding access to property coming off of 227th.
16. The Planning Commission needs to articulate findings that this proposed IUP meets Section 18, Subdivision 6.4 of the Sherburne County Zoning Ordinance.

RECOMMENDED CONDITIONS IF APPROVED:

1. There may be one non-illuminated sign totaling no more than 4 sq. ft. in size located on the property, but outside of the public right-of-way.
2. Days & hours of operation shall be Monday thru Sunday, 7:00 AM - 7:00 PM.
3. There may be a maximum of twenty (20) licensed motorized or non-motorized vehicles associated with the Contractor's Yard (includes trucks and trailers).
4. All outside storage shall continue to be screened by preserving the heavily wooded surrounding area.
5. There may be a maximum of twelve (12) employees (FTE) working onsite. This includes employees who are on-site to pick up and drop off materials and equipment.
6. No gas, oil, fuel and other hazardous materials may be stored on the property.
7. The contractor's yard and all related activities must be setback a minimum of 150ft from all property lines.
8. All work associated with the contractor's yard must be done in the delineated area identified as "contractor yard" on Board Attachment C - Site Layout.
9. The IUP is issued to Leon and Julie Slattery and shall expire with a change in ownership of the property.
10. The property owner shall permit the County to inspect the property during normal business hours.

Schlingmann invited the applicants to come forward and asked them how long they have been in operation.

Leon and Julie Slattery, 22665 Co Rd 15 NW, Elk River, stepped forward and said they have been operating since 2015.

Schlingmann opened the public hearing.

Dale Ziebarth, 16280 227th Ave NW, Elk River addressed the Commissioners and said he lived across the street from this property and they have been in their house for 22 years. Ziebarth said they made it known to the applicant from the beginning that they were not in support of this type of business. He cited instances where the ground shook excessively as they moved their large equipment, the loud noises and smoke from their burning. He said all of this has restricted them from having their windows open in the summer or even sitting outside. He questioned why the applicant continues to expand when he is in violation and expressed concern on what this would do to his property values.

Dave Gryczkowski, 16230 227th Ave NW, Elk River came forward. He said he also lives across the street and has been in his house for 22 years. He voiced the same concerns with the noise and said they moved into the area to get away from all of that. Gryczkowski pointed out that CSAH 15 was recently upgraded and he felt the community should be concerned with the large trucks and equipment using that road from this property.

Steven Thal, 16170 227th Ave, Elk River said he has rented the property across the road from this site for the last 8 years. He said he enjoys the area and hates to see any changes especially the loss of so many trees as they cleared a large driveway and parking area for their business.

Gerald Kritzeck, 22555 159th St NW, Elk River and his brother-in-law James Ryan came forward to say they co-own twenty acres of vacant land immediately east of the subject property. He said they are concerned about the future value of their property. After being noticed that the Slattery's were wishing to expand their business and possibly employ up to twenty people, they began to get concerned and wondered if this is something that will be happening now, or at a later date.

James Ryan stated that right now their property is not developed but it may be in the future. He said he shares the previous concerns and asked if there would be additional lighting installed on the property. Ryan said he would like to see the aspects of this community preserved. He also asked if there are any weight limits on 227th and CSAH 15 that they should be concerned with.

Schlingmann asked Andrew Witter, Sherburne County Public Works Director, if he could add anything regarding the weight restrictions on 227th Ave verses CSAH 15.

Andrew Witter stated that CSAH 15 is designed as a 10-ton road.

Aubol guessed that 227th Ave would be in the range of a 7-ton road and that changes when weight restrictions come on.

Kritzek commented that the Medium Contractors Yard appears to allow expansion within 150' of the boundary and this would be another concern of theirs along with the twenty employees and twenty pieces of equipment that could be allowed.

Glines replied that setback is correct and he noted that the applicant is requesting to have up to twelve employees, which is set as one of the conditions. He explained if this permit were approved, that condition could not be changed unless the applicant came back in to amend their permit.

Kritzek asked what the procedure would be if the applicant wanted to amend their permit to add more employees.

Schlingmann replied it would be the same procedure as this evening and the neighbors would get notification once again of the request.

Adams asked Witter what the chances would be for allowing the Slattery's access to come out onto CSAH 15 instead of 227th Avenue.

Witter replied that typically, when there is an opportunity to come off of a township road, that would be preferred due to safety concerns and the ongoing management of accesses to the County Road System. He said they could take a look at it, but CSAH 15 is considered a high speed route and they would be reluctant to allow that access.

Schlingmann asked how staff would characterize the general area around the subject property. Glines stated it is a residential area and is located about 2000' from Birch Lake. He said the lots become more recreational and seasonal the closer you get to the lake.

Glines recapped the history of this application by saying he received a complaint in the spring of 2018 about some vibration and noise. He followed up on the complaint with a site visit and was told by Slattery that the large equipment belonged to someone else that was in need of a temporary storage location while they were in between projects. Glines said he did not believe the applicant was aware of the violation that he created until the site visit and the violation letter that was sent out. Glines said Slattery worked to remove the equipment and a follow-up visit showed that significant improvement had been made to the property. Since that clean-up, Glines said he had not heard another complaint and he felt that the person that complained was satisfied with the improvements that had been made.

Glines stated since that time he worked with the applicant to look for an option under the Ordinance that would allow Slattery a way to move forward to bring equipment back to store on his property and that is how we ended up with the Medium Contractor's Yard.

Schlingmann reminded that he was in violation of the Ordinance because he did not have an Interim Use Permit. He asked what the difference is between a small contractor yard and a medium contractor yard as far as employees.

Glines explained that the small contractor's yard allows two full-time employees that report to the parcel other than the people residing on the premises and it allows up to four pieces of equipment motorized/non-motorized.

Schlingmann asked how many employees he has now.

Glines stated the last time he was at the site in November, he had about eight pieces of equipment and two employees, both residing on the property.

Schlingmann said that personally, he believed this is a good example of an industrial use that is not compatible in a residential area.

Spencer agreed and recalled an instance in Livonia Township where there was a mechanic shop in a residential area that had to relocate to a commercial area due to the conflicts.

Schlingmann said he will vote no because even though they have fourteen acres, this is a residential area and people have their livelihoods tied up in their property and they also need some protection on their investments. He said it is nothing against their business, but they need to move it into an industrial area.

Kathleen Ziebarth, 16280 227th Ave NW, Elk River spoke against the business and noted that vibrating and the noise will continue if this permit is granted.

Julie Slattery explained that the vibration was mainly when they put their driveway in and had to pack it down tight.

Leon Slattery said that there is equipment on the site but is only there temporarily until it moves out. He said all they own is a truck and three trailers. He said the vibration from the equipment is worse in the winter with the ground froze and he felt that in the summer you would not notice it and added that there isn't much movement of equipment in the winter months. Slattery said the whole point of this permit is to be compliant in case they needed to temporarily store other people's equipment. He said they are not running a construction company because they only have two employees that live at the home and one truck that they run in and out with.

Schlingmann said the application appears to ask for a fairly significant expansion as far as the number of employees coming in and out of your facility. Going to twelve employees and twenty vehicles is a significant change to what you have now.

Adams asked, based on what he is saying, would he be better off applying for a Small Contractor's Yard.

Waytashek suggested the application before us is for a Medium Contractor Yard, which can be restricted if the Commission chooses, down to four vehicles and no more than two employees, similar to what a Small Contractor Yard requires.

Schlingmann agreed and said we would have to go thru the whole hearing process again to apply for a Small Contractor's Yard.

Daniel Welch, 9987 245th Ave., Zimmerman, asked if the County approved this permit would they consider reducing the property taxes of the surrounding property owners.

Schlingmann said that is unlikely.

Nelson moved and Jehoich seconded to close the public hearing. The motion carried and the public hearing was closed.

Glines read thru the findings of fact from Sec 18, Sub 6, Item 4 of the Zoning Ordinance and Commissioner Schlingmann provided the answers to the questions:

No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

The proposed use is not compatible with the general use of the surrounding property which is smaller lot residential. It would diminish the quality of life in that area.

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

It will impede the development because we have heard testimony on undeveloped property adjacent to this property and there would be some impediments that would occur from this use.

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Their access road is currently onto a 7 ton township road and most likely the heavy equipment from the business that travels the road now is in violation.

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

The applicant has sufficient acreage to accommodate the proposed request.

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

The property is already operating as a contractor's yard and there has been testimony that those issues are already present so an expansion of that use would only exasperate the situation.

Schlingmann asked if Glines had anything to add.

Glines said the recommended conditions for approval could be altered at this time if the Commissioners wished to do so.

Schlingmann called the question.

Adams moved and Spencer seconded to recommend denial of the request for an Interim Use Permit for a Medium Contractor's Yard based upon the Findings of Fact that were made.

The motion carried unanimously and is recommended to the County Board for denial.

7:15 PM A public hearing was held at the request of **KERRY P. KRAUS:** (Property owners are Kerry P and Rhonda Kraus) for an **Interim Use Permit for a Home Business in an Accessory Building (Small scale Auto Repair Business)** Property address: 18912 149th St NW, Elk River PID # 10-435-0350 Legal Description: Lot 10 Block 3 Riverside Sec 25, Twp 33, Rge 27 Big Lake Township 2.6 acres General Rural District

Mitch Glines presented the request to the Planning Commission including the Board's packet attachments, comments and recommended conditions if approved.

BOARD'S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Applicant's Proposed Business Plan (1-2)
- C. Applicant's Responses to Staff Review Letter (1-2)
- D. Big Lake Township's Additional Screening Placement
- E. Proposed Site/Garage Layout (1-2)
- F. Site Photos (1-2)

BIG LAKE TOWNSHIP COMMENTS: Board recommends Mr. Kraus contact Gina Hugo with the Sherburne County Soil & Water Conservation District (SWCD) to find out what type of tree/shrub would make the best natural screening plant and install a two – three deep line of those plants along the south east line of his property for additional screening of vehicles stored outside. Aside from this comment, the Board has no other concerns recommending approval of this application for an IUP.

OTHER DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer: Has no concerns with the IUP.

Fire Chief of Big Lake: No comments received.

County Attorney Office: No comments received.

PLANNING & ZONING STAFF COMMENTS:

1. On October 8, 2018 the Zoning Office received a complaint about an alleged business being ran from the property located at the address above.
2. An inspection from County Staff of the property confirmed that a business was indeed being ran from the property. A Notice of Violation was sent to the property owner with a correction action to either cease operating the business from the property or apply for an IUP to operate a business from this property.

3. Kerry Kraus Automotive has been operating at the property and is independently owned and has one employee per the business plan submitted.
4. Mr. Kraus is requesting an IUP to do auto repair, however, it will be engine, transmission, computer reprogramming, steering and suspension repair and climate control. No rebuilding of frames or body work will occur.
5. Hours would be Monday – Friday 8AM – 5PM. No repairs are scheduled to occur on weekends or holidays.
6. Compact vehicles to light trucks are proposed to be worked on.
7. Scrap metal will be disposed of once the trailer that hauls the material is full. Materials to be disposed of at Lake State Recycling in Elk River.
8. There was a solid waste violation on the property that has since been cleaned up and the property has been brought into compliance.
9. The applicant has spoken with Gina Hugo, County Forester, at SWCD and Gina has recommended Norway pine trees to be staggered along the road right of way per the location that was requested by Big Lake Township (Attachment D).
10. The Planning Commission needs to articulate findings that this proposed IUP meets Section 18, Subdivision 6.4 of the Sherburne County Zoning Ordinance.

Schlingmann asked the applicant to come forward and explain what he is requesting to do.

Kerry Kraus, 18912 149t St NW, Elk River, came forward to address the Commission. He said he is basically trying to do just a little more than what everyone else is doing in their garages in an evening or on a weekend as far as car repair. He said he has been a mechanic his whole life, and lived at this same address for close to thirty years. Kraus explained that it has only been over the last couple of years since he was employed in Fridley and worked for someone who was very flexible, that he could work his job and also do some side work out of his garage at the house. He said the last couple of years his business has steadily increased until it has come to this request.

Schlingmann asked if this has come forward due to a complaint.

Glines replied that is correct.

Kraus inquired if there is a way to find out what the nature of the complaint was.

Schlingmann said he would have to talk to staff about that.

Demueles asked Kraus how many hours a day or how many days is he working on cars.

Kraus said ideally he would like to work five to eight hours a day.

Schlingmann asked if parts are delivered to the house.

Kraus said he typically goes out to get the parts, but on occasion a delivery truck may be used, but no more than the usual UPS, Fed-Ex or Speedy Trucks that go thru the neighborhood now.

Schlingmann asked how many vehicles he has waiting for repair.

Kraus said it fluctuates but on an average day it would be about three or four cars, sometimes it has been higher. He said it depends upon what season it is.

Schlingmann asked if there is a lot of maintenance such as oil changes.

Kraus said that he tries to stay away from the oil changes because of the hassle of doing them. He said a lot of what he does is internal engine repair but his preference is computer and electrical work and engine replacements. He said he does not get into any engine re-building.

Adams asked when an engine is replaced, what is done with the old one.

Kraus explained when he purchases a motor, he pays an amount for the rebuildable core. He does not store any of those cores because they go back immediately.

Danielowski asked why Kraus is not choosing to move to a business area. She commented that he is going to compete against other businesses that are properly zoned.

Kraus said there is a convenience of working at home.

Danielowski asked Kraus if he considered looking into an area where he would be properly zoned to run his business so he is bearing the same costs as those other businesses are bearing. She suggested he was putting a lot of pressure on businesses that go into the properly zoned areas.

Kraus disagreed with that and said if you run a good, honest and trustworthy business, you will stay busy.

Danielowski said she understood, but they cannot compete against you because their overhead is greater. She acknowledged that Kraus will be paying more commercial tax, but not what these other businesses have to pay.

Kraus said for his small business of 1200 square feet and one lift, he felt that he was perfectly competitive with anyone that is working within that size. He said he is not asking for a 12-stall garage.

Schlingmann pointed out that his overhead is very low and he is competing against people that have larger operating costs than he does.

Kraus replied that he has chosen to be small and not have any employees or to advertise. He said he wished there was something available in the area for this type of small business, but there just isn't anything out there yet.

Kraus entered into the record a letter from one of his neighbors in support of his business.

Glines received the letter.

Schlingmann opened the public hearing.

Ken Nolte, 19000 149th St NW, Elk River came forward to say he was one of the first homes in that area built back in 1986 and he is three houses down from Kerry. He said he doesn't see a problem with

what he is doing and said he hears more noises coming from other neighbors out on their decks in the evenings. Nolte said there are plenty of guys working on race cars, outboard motors and snowmobiles and that is just the way it is in their neighborhood. He said he is retired and at home all day and he doesn't even know Kerry is out there. Nolte said Kerry is just a fella trying to make ends meet and a lot of his business is from neighbors, friends and family. It's not a big place and he doesn't even have any signs or do any advertising and is not trying to put anyone out of business.

Terry Zerwas, 18949 149th St NW, Elk River said they have been in the neighborhood since 1987 and he lives right next to Kerry. He said if you drive around you will see that this is a working neighborhood. Kerry is neat and clean and you don't even know when he is working in his garage. He has always been there to help the little guy and all he's trying to do is make a living. Zerwas said he's doing a service for their neighborhood and is not a bother to anyone and asked that the Commission approve his request.

Glines read into the record the letter from Ted and Kristen Nagorski, 19056 149th St NW, Elk River, stating that his business has never been an issue with them, they are in support of this request and also stating that the Kraus's are upstanding neighbors.

Robert Stenlake, 14919 191st Ave NW, came forward to say he agreed with all of the other neighbors and said he has no problem with what Kerry is asking for. Regarding the point on unfair competition, he said Kerry does no advertising and he did not see any reason he should have to move elsewhere.

Dennis Trushenski, 14940 191st Ave NW, Elk River, said they have lived in the neighborhood for thirty years and he concurs with what everyone else has said. He said he drives by the Klaus's house everyday and he runs a nice little clean business. Trushenski told a story about working for his church and the whole dashboard went out in their old truck. He said they took it to Good Year in Anoka and they said it would cost \$4500. He called Kerry and he said to bring it over. It was a fifty cent fuse, and Kerry fixed it and never charged a dime. Trushenski repeated that Kerry is there to help the little guy and anybody would be glad to have him live in their neighborhood.

Heather Furlong, 15110 191st Ave NW said she used to babysit the Klaus's children and she has known Kerry her entire life. She gave instances when he helped her out with her car when she was a teenager and then again ten years later as a single mom when she couldn't afford to pay what a regular auto shop would charge. She said he's not out to compete with the big shops and he's clean and quiet and she asked the Commission to let him continue to do what he does best.

Mark Peterson, 18891 149th St NW, said their property is directly across the street from Kerry, and he looks at his house and garage every day of his life. He said he moved there in 1990 and is a retired deputy sheriff from Anoka County. He said over his thirty year career he has investigated dozens of noise complaints and he attested that there is no noise across the street to merit such a complaint. Peterson stated that Kerry is a good neighbor and he runs a clean operation. It is a one guy shop and he's not out to compete with anyone. His mechanic skills have evolved to a point where he can do a home business verses working for someone else. Peterson said he does not believe that this application in any shape or form would lower his property values or affect the livability of his home and he believes the other neighbors would agree.

Gregory Kern, 19035 151st St NW, said he lives just around the corner from Kerry and has known him since they moved there in 1988. He said he does not bother anyone and he supports what he is asking to do.

Nelson moved and Demeules seconded to close the public hearing. The motion carried and the public hearing was closed.

Jehoich had questions regarding the recommended conditions particularly regarding the waste license from the MPCA and the tree screening.

Kraus answered as far as screening, he has talked to Gina Hugo from the SWCD and she gave him recommendations regarding the different types of trees that would work best. He said he has not contacted the MPCA yet but he has no problem doing that. Kraus also noted that any oil that comes in also goes out the next day because he does not store any bulk oil.

Adams asked Kraus if he has read and is agreeable with all thirteen conditions.

Kraus said he has read and understands them. He said he will not need a sign, and he doesn't want any lighting because he has no desire to live in an industrial setting either, that is not why he moved there.

Glines proceeded to read the findings of fact from Sec 18, Sub 6, Item 4 of the Zoning Ordinance and Commissioner Aubol provided the answers to the questions:

No Interim Use Permit shall be approved or recommended for approval by the County Planning Commission unless said Commission shall find:

1. That the Interim Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity.

Do not believe that will be a concern to the neighborhood and also this is an I.U.P. and if there is a concern it can be addressed.

2. That the establishment of the Interim Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.

Not a concern, it appears that this development is fully developed.

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

Yes they are provided with roads, ditches and drainage.

4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

According to the plan there is parking area where class 5 will be hauled in when the weather permits

5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Don't see this as a concern, all of those things are being managed.

Jehoich moved and Spencer seconded to recommend approval of the request for an I.U.P. for a Home Business in an Accessory Building (Small scale Auto Repair Business) with the following thirteen (13) conditions:

- 1. There may be one non-illuminated sign totaling no more than 12 sq. ft. in size located on the property, but outside of the public right-of-way.*
- 2. Days & hours of operation shall be Monday thru Friday, 8:00 AM - 5:00 PM.*
- 3. There may be a maximum of five (5) vehicles on-site (not owned by the property owner) either waiting for repair or waiting to be picked up.*
- 4. Any solid or liquid waste must be handled and disposed of according to any applicable County or State regulations. If hazardous waste license is required by the MPCA, a copy of the license shall be provided to the County upon request. All fluids will be contained in a non-flammable steel container and brought to the proper recycling facility.*
- 5. There may be no more than two (2) employees (FTE) other than a member of the household residing on the premises.*
- 6. Vehicles outside must be parked on compacted Class 5 material (Attachment E-1).*
- 7. Excessive noise, glare, odors, traffic or other nuisances may be justification for the County to revoke or modify the terms of the Interim Use Permit.*
- 8. There shall be no sandblasting or spray painting.*
- 9. There shall be no rebuilding of frames or body work to vehicles.*
- 10. Vehicle parts must be stored inside building or in an enclosed trailer that will be used to transport the parts to the recycling facility. Vehicle parts cannot be stored on the ground outside.*
- 11. Must install minimum 6' coniferous trees outside the road right of way (as shown in Attachment D). The trees must be planted staggered in two rows no more than 16' apart. Must be maintained and watered as necessary for the duration of the permit. Any dead trees must be replaced on a yearly basis. Trees must be planted by June 1, 2019.*
- 12. The IUP is issued to Kerry and Rhonda Kraus and shall expire with a change in ownership of the property.*
- 13. The property owner shall permit the County to inspect the property during normal business hours.*

The motion carried unanimously and is recommended to the County Board for approval.

7:40 PM A public hearing was held at the request of **AURENA INVESTMENTS LLC** for Residential Preliminary Standard Plat approval of **“WH Cates Pondsides Estates Second Addition”** consisting of 2 lots PID #s 30-493-0010 and 0020 Legal Description: Outlot A and B WH Cates Pondsides Estates Sec 25, Twp 34, Rge 26 Livonia Township 15.83 acres General Rural District

Glines presented the request to the Planning Commission including the Board's packet attachments,

comments and recommendations for approval.

BOARD'S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Survey (date stamped Oct 16, 2018)
- C. Preliminary Plat (date stamped Nov 26, 2018)
- D. Preliminary Grading Plans (date stamped Nov 26, 2018)

LIVONIA TOWNSHIP COMMENTS: (received on October 24, 2018) Hass made the motion to approve the preliminary plan for W H Cates Pondsides Estates 2nd Addition with the following stipulations: the wetland impact requirements are successfully completed; Livonia Engineer Anderson is involved in the construction of the shared driveway through the wetland impact area with site visits and input as needed; that the Developer follows all requirements agreed upon in the Developer's Agreement including a preconstruction meeting with the Township Engineer and Town board Representative as outlines in the Developer's Agreement.

Nicholas Anderson (Bogart, Pederson & Associates, Inc), Livonia Township Engineer (December 19, 2018) All comments have been addressed, approval of the Preliminary Plat and Plans is recommended.

OTHER DEPARTMENT/AGENCY COMMENTS:

David Roedel, Deputy County Engineer (October 11, 2018) Sherburne County Public Works has no concerns with the proposed Plat Application. The development does not abut a County Road.

Russ Heiling, County Surveyor (Oct 10, 2018)

- 1. There are multiple fence lines on the property, who is claiming interest in these fences? The fences could be potential property disputes.
- 2. The proposed lot split line is not shown on the survey, acreages and mathematical closure cannot be verified from the drawing.
- 3. The aerial photo does not show the roadway completed through W. H. Cates Pondsides Estates. How is this going to affect this plat?

Staff and I will do a more comprehensive review when the plat is submitted for final plat review.

Amy Rowan, County Auditor's Office (Oct 2, 2018) – No ditches. Taxes must be paid in full.

Mike Lindenau, Co Ditch Inspector (Oct 2, 2018) – No issues, does not benefit from county ditch.

PLANNING & ZONING STAFF COMMENTS:

- 1. W H Cates Pondsides Estates received final plat approval in 2000 and consisted of five (5) lots. The road was not built at the time of final plat approval.
- 2. The developer has obtained a stormwater permit from the County in 2018 to start construction on the road for the W H Cates Pondsides Estates plat.
- 3. The proposed lots will require a shared driveway that will need to cross a wetland. The developer has obtained approval from the Wetland Conservation Act to obtain wetland replacement credits.
- 4. The proposed 2nd addition consists of Outlots A & B of the original plat. Existing Outlot A will become Township road right of way. Outlot B is proposed to be split into two (2) lots.
- 5. Per the applicant, the boundary fence is owned by the developer. Per the survey, the fence appears to be on the survey line or on the proposed lots to be developed.

6. Lot 1, Block 1 is proposed to be 8.16 acres and Lot 2, Block 1 is proposed to be 7.05 acres. In response to County Surveyor, Russ Heiling's comments dated October 10, 2018, the minimum lot size is 2.5 acres in the General Rural District. The proposed lots are much larger than what is required for the minimum lot size. Final Plat will be submitted on a survey from a licensed surveyor.

Schlingmann invited the applicant to come forward.

Scott Dahlke, Civil Site Engineering, Monticello, MN and Fred Stelter, one of the owners of the property at 14505 43rd Ave No Plymouth, Mn, came forward.

Vandereyke asked if there has been any consideration of a cul-de-sac in the construction plans.

Dahlke answered that after working with Livonia Township over the last year, the topic of ending with a cul-de-sac or allowing it to continue to the adjacent property line for future development was discussed. He said the decision at the township was that it should be allowed to continue to the adjacent property.

Schlingmann asked if the applicant has seen and agrees with the recommended conditions.

Dahlke replied that they have and they agree with the conditions.

Schlingmann opened up the public hearing.

Daniel Welch, 9987 245th Ave., Zimmerman, said he lives on the east side of the proposed road and he gave a bit of the history of the first phase that was approved in 2000. He noted at that time they were not going to extend the driveway between the ponds on the south end. Welch said back in the early 90's the land past the two ponds were deemed unbuildable by the Minnesota Fish and Wild Life. The previous owner put in a culvert between the two ponds and kept his cattle back there and now they are asking for a wider road to access those thirteen acres. He was concerned that it could be developed into even more lots in time. Welch said he is not against development but fears that the effects of installing this road will impair his quality of life because the way the road jogs, the car headlights will go right into his living room.

Glines clarified by saying that there are only two lots being proposed, one 8.16 acre lot and a 7.05 acre lot. He explained that their access is not a road, but a shared driveway. The lots have taken up all of the available road frontage.

Welch noted that they will have to expand that culvert between the two ponds.

Glines said this project has been reviewed for wetland impact and all necessary approvals have been given.

Welch said he has been there for thirty years and he suggested a berm could be installed to minimize the intrusion of those headlights from across his pond.

Waytashek said she thought Welch lived further north of this plat and the road he is talking about is part of the first phase that was approved back in 2000, and they are just developing it now. She reminded that this evening they are only looking at the two new lots being proposed at the south end and they may not have a lot of say on the road that is being developed from that first phase.

Schneider pulled up the aerial photo and the Board tried to figure out where headlights would affect the Welch property.

Welch again asked if the developer of that road would install a berm so he had a little more privacy from the traffic and the headlights.

Spencer said it appeared that he had quite a few trees.

Welch replied not at the corner of his pond.

Schlingmann commented that tonight we are looking at the plat with the two proposed lots and we cannot take the construction of the road from the first phase into consideration at this time.

Welch said that was fair enough, however he did have a question on exceeding the maximum 1400' cul-de-sac length.

Waytashek explained that the Township has approved the extended length because it is going to a property line for possible future road connection to the west if that property owner chose to develop.

Aubol moved and Demeules seconded to close the public hearing. The motion carried.

The public hearing was closed.

Spencer moved and Adams seconded to recommend Residential Preliminary Standard Plat approval of "WH Cates Pondsides Estates Second Addition" consisting of 2 lots and with the following six conditions:

- 1. Wetland impacts may not occur until wetland replacement credits are purchased. Credits must be purchased before Zoning will sign the plat mylars.*
- 2. Developer shall enter into a Developer's Agreement with the County Attorney's Office, if needed.*
- 3. An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval.*
- 4. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to being scheduled for final plat approval. No ground disturbance may begin prior to the Zoning Dept issuing the Stormwater & Erosion Control Permit.*
- 5. Erosion control best management practices must be installed to prevent incidental filling of the wetland.*
- 6. The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.*

The motion carried unanimously and is recommended to the County Board for approval.

Nelson moved and Adams seconded to adjourn.

The motion carried and the meeting was adjourned.

7:58 PM Meeting Adjourned.

Respectfully Submitted by:

Judy Weber, Secretary