

SHERBURNE COUNTY
PLANNING ADVISORY COMMISSION MEETING
MINUTES
May 17, 2018

The Sherburne County Planning Advisory Commission met at the Sherburne County Government Center in Elk River, Minnesota on May 17, 2018 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.

Lawrence 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 June 12, 2018 in this same location at 4:30 PM. He also went over the meeting procedures and noted that the hearings are being recorded.

Roll call was taken. The following members were present: Chairperson Bryan Lawrence, Baldwin Township; Roger Nelson, Blue Hill Township; Lila Spencer, Livonia Township, County Board Commissioner Ewald Petersen; Bryan Adams, Orrock Township; Bruce Aubol, Big Lake Township, Terrance Vander Eyk, Clear Lake Township.

Staff present: Zoning Administrator Nancy Riddle, Zoning Specialist Mitch Glines, Planner Marc Schneider, Assistant County Attorney Tim Sime, Secretary Judy Weber.

Not present: Jeff Schlingmann, Haven Township; Stephen Demeules, Palmer Township; David Jehoich, Santiago Township.

Nelson moved and Aubol seconded to approve the minutes of the April 19, 2018 Public Hearing. The motion carried unanimously.

Aubol moved and Adams seconded to approve the agenda for the May 17, 2018 public hearing. The motion carried.

1. 6:30 PM A public hearing was held at the request of **CLYDE LEWANDOWSKI**: (Property owners are Clyde and Connie Lewandowski) for a Conditional Use Permit for a Personal Storage Structure PID # 25-034-1300 Legal Desc: S1/2 OF SW1/4 OF NE1/4 (full legal on file) Sec 34, Twp 35, Rge 30 Haven Township 20 acres Agricultural District

Mitch Glines presented the request to the Planning Commission including the following:

BOARD PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Site Plan
- C. Building Plans (1-2)
- D. Applicant's Written Explanation for Request

E. Site Photo

HAVEN TOWNSHIP COMMENTS: Positive comment.

OTHER DEPARTMENT /AGENCY COMMENTS: None

STAFF COMMENTS:

1. The applicant is requesting a 36ft x 48ft (1,728 sq. ft.) personal storage structure. The proposed location of the building will be 250ft from the centerline of 50th Ave SE and 240ft from the south property line.
2. The applicant owns a house on Pickerel Lake. The applicant is looking to build this personal storage to park and store boats and a camper.
3. The property currently has no structures on it.

Glines said he had also supplied the applicant with the following recommended conditions if approved:

RECOMMENDED CONDITIONS IF APPROVED:

1. The applicant must comply with County's Zoning Ordinance and the 2015 Minnesota State Building Code.
2. The Personal Storage Structure cannot be used as dwelling unit or for any business purpose.
3. The Personal Storage Structure is not permitted to have plumbing or a floor drain.
4. A maximum height of the structure is 25 feet from the ground to the peak.
5. The findings in Sect 18, Subd 5.3 of the Zoning Ordinance have been made.

Lawrence asked the applicant to come forward.

Clyde Lewandowski, 6525 47th Ave SE, Haven Township said he had nothing more to add and he was in agreement with the recommended conditions.

Lawrence opened the public hearing.

There were no comments.

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

Lawrence read the findings of fact into the record.

Nelson moved Spencer seconded to recommend approval of the request for a CUP for a Personal Storage Structure with the following five conditions:

1. *The applicant must comply with County's Zoning Ordinance and the 2015 Minnesota State Building Code.*
2. *The Personal Storage Structure cannot be used as dwelling unit or for any business purpose.*
3. *The Personal Storage Structure is not permitted to have plumbing or a floor drain.*

4. *A maximum height of the structure is 25 feet from the ground to the peak.*
5. *The findings in Sect 18, Subd 5.3 of the Zoning Ordinance have been made.*

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

2. 6:35 PM A public hearing was held at the request of **DAVID M. AND CARLA MERTZ** for a Text Amendment to the Sherburne County Zoning Ordinance Section 5 (Definitions) AND Section 8 (General Rural), Subdivision 4 (Interim Use) AND Section 16.2 (Interim Use Permits) Subdivision 5 (Conditions) to establish Rural Retail Tourism as an Interim Use Permit in the General Rural Zoning District. A full copy of the proposed Ordinance Amendment is on file in the Sherburne County Zoning Office from 8am to 4:30pm Monday thru Friday.

Marc Schneider presented the Amendment request along with the following Board Packet Attachments, Township Comments and Staff Comments to the Planning Commission:

BOARD PACKET ATTACHMENTS:

- A. Ordinance Amendment Application
- B. Text of the Ordinance Amendment, submitted by the Applicant (2 pages).
- C. Letter from Applicant related specially to their property and their proposed use (4 pages).
- D. Zoning Staff's Draft for Rural Retail Tourism and the Subsequent Sections of the Zoning Ordinance to be amended.

TOWNSHIP COMMENTS:

Baldwin, agrees with the proposed Ordinance Amendment with the following comments:

1. Establish Event Frequency
2. Concern of hour of operation
3. Establish use of tents (no overnight stays)
4. Traffic, impact on services, patrols necessary for exiting.
5. Light, noise nuisance issues.

Big Lake, agrees with the proposed Ordinance Amendment with no additional comments.

Blue Hill, agrees with the proposed Ordinance Amendment with no objections.

Livonia, agrees with the proposed Ordinance Amendment with the following comments.

1. Several concerns should be addressed for this amendment depending on the type of Rural Retail Tourism desired. These consideration should include the following:
 - a) Acreage requirements needed to facilitate the activity.
 - b) Input from neighbors particularly regarding noise and traffic concerns.
 - c) Adequate buffer from neighboring properties for noise and visual disturbance.
 - d) Traffic, Parking and road access.
 - e) Noise expectation and control and hours of operations.
2. The Concerns should be detailed in the Ordinance with parameters depending on

type of tourism desired. The Town Board indicated that the concept is good, but there are a lot of considerations to address to avoid future issues.

Orrock, agrees with the proposed Ordinance Amendment with the following comment:

1. Language edits as the County Planning and Zoning see fit.

STAFF COMMENTS:

The Sherburne County Planning and Zoning Department has received a request to amend the County's Zoning Ordinance. David and Carla Mertz with Iron Shoe Farms are requesting the County adopt a new Interim Use Permit for Rural Retail Tourism in the General Rural Zoning District. Applications for Ordinance Amendments from the public are not common, but the County's Zoning Ordinance Section 18, Subdivision 4 provides that opportunity to the public.

The Mertz's approached the Planning and Zoning Department to request a permit to host weddings and other events on their farm in Baldwin Township. The County informed them hosting weddings and other events was not a permitted use in the General Rural Zoning District and that the County's Zoning Ordinance does not have a Conditional or Interim Use that fit their request.

To move forward with their plans the only option they had was to propose an amendment to the County Zoning Ordinance to establish a new land use in the General Rural Zoning District. The Mertz's have submitted an ordinance that would establish, an Interim Use Permit for Rural Retail Tourism in the General Rural Zoning District of Sherburne County.

The ordinance submitted by the Mertz's is not unique. The same ordinance has been adopted by other counties in recent years (e.g. Chisago, Isanti, Meeker and Wright). Zoning Staff has reviewed the applicant's ordinance and felt it did not have sufficient application submittal requirements or performance standards to meet the requirements under Section 18 (Administration and Enforcement), Subdivision 6.4 (Interim Use Permit, Findings).

To respond to Staff's concerns and the comments from Livonia and Baldwin Township, Zoning Staff has drafted an alternative ordinance for Rural Retail Tourism. This ordinance requires an applicant to submit detailed information and plans for their proposed use and establishes additional criteria for the Planning Advisory and County Board to consider when hearing a request for a Rural Retail Tourism Business.

If the Planning Advisory Commission chooses to make a positive recommendation on the Applicant's request, Zoning would request the Board consider using the Ordinance Drafted by Zoning Staff (Attachment D).

Schneider explained that the version of the amendment that is being submitted by Staff has already been reviewed by the Administration and is the County's preferred version. The applicant is aware of the new language and they have been given a copy.

Lawrence suggested that some of the Township concerns could be addressed when the applicant applies for the I.U.P. under the proposed ordinance.

Schneider explained that the conditions listed under the proposed Interim Use Permit would be required, however the Township and the Planning Commission could establish additional conditions such as the days and hours of operation. The applicant will also be required to specify what their project use is going to be. Schneider said this is a broad ordinance and it could include something similar to the haunted trail, as we had in Livonia Township a few years ago. He said that event was called a seasonal occasional special event, however they were proposing to have it annually. It probably would have fit better under this proposed “Rural Retail Tourism” category.

Tim Sime said he has reviewed with Marc his proposed ordinance and the concern he has is with the broad language. He cautioned that the County cannot simply pick and choose who can or cannot do something. In other words, when you draft the Use Permit, you are essentially saying that in these areas, these uses that we list, are generally okay. There may be instances where it is not okay on a particular property, but generally it is okay.

Sime said that one of the things they discussed for example, was in the applicant’s version of the amendment where it refers to music festivals. In general, you could say it was okay to have a broad use that would allow them every weekend of the year, but there may be instances where that would not work on a particular property and you will have to be very specific in the application process about your reasons why an applicant will not be allowed to do what the ordinance says is allowable. He went on to explain that this is not a license we are giving them, so the tighter you make the requirements the easier your job will be. If someone comes in with a unique proposal it can always be added to the ordinance later on. If there is a Use that may not fit within the General Rural District, it shouldn’t be included in this amendment proposal. When you add a Use, you should have a good idea of what is OK in the General Rural District, and not just open it up and then decide later if it fits.

Schneider pointed out that when you compare the two proposed amendments, the applicant had a much broader list of Permitted Uses. Schneider noted that his proposal reduced the number quite a bit and in addition to having the applicant submit very specific information, he tried to add additional constraints that the Board would have to review when processing one of these requests. He referred to Sec 16.2 18.A.B & C. of his proposal.

Spencer questioned if the amendment would allow for example, Mertz to have something on their property 365 days per year.

Schneider replied, that potentially it could.

Adams noted that 18. C. 7, talks about existing building codes. He asked if he also had a concern with the electric codes?

Schneider replied that our office does not inspect the electrical because that is done by the State of Minnesota. He said they would still have to comply with all state requirements.

Adams asked if that should be added to this condition.

Schneider answered they could add that all applicable state and local standards were met, just like it is listed under 18.C.10 in regards to food or beverages.

Adams asked Sime if the detailed submittal information and the additional conditions added by Marc alleviates most of his concerns.

Sime replied that it does. Most of his concerns were directed at the original draft amendment that was submitted by the applicant because the more uses you add on the front end, the harder time when you deal with a specific application.

Adams asked, so are you saying it is better not to list any uses?

Sime said no because then you are essentially doing something similar to what we have with the occasional special event permit.

Adams asked what Sime recommended as an alternative.

Sime replied that he is not saying yes or no to what Marc has drafted, just that if you are not okay with one of these uses in the General Rural District, it should be taken out. He said Marc has done a good job with tightening up the conditions.

Schneider said he tried to narrow down the uses by adding some constraints such as limiting them to General Rural single family properties, keeping them outside of a platted subdivision and on parcels more than five acres. He said he also tried to be respectful of the wishes of the applicants.

Riddle commented this is a new use and it is defined pretty broadly. It could be just an occasional use or it could be happening daily. It also could be one of those things that disrupt a neighborhood, due to high traffic or excessive noise etc., or other issues that we were not expecting. She noted that there are already instances of these types of uses where the office is continuously getting calls by upset neighbors.

Riddle reminded that in the General Rural there is a lot of development in some areas and you may have a metes and bounds tract that is right next to a populated residential subdivision. She said they would really have to look at the broad picture and try to think ahead of what the affects could be on the residential areas.

Spencer asked what "Day Visits" are.

Schneider gave an example of an Association of Township group that wanted to go on a bus tour to look at a winery for a day or possibly having a school class come out to visit a farm site.

Riddle suggested that it could be better defined since everyone has their own way to interrupt what a Day Visit could be. She also said it is difficult to know what uses in this amendment should be better defined.

Adams asked if there should be conditions regarding minimum insurance coverage.

Schneider said he normally runs into the need for minimum insurance coverage when he deals with more hazardous operations such as gravel mining.

Sime said they do not normally require it for businesses, however, he would not have a problem if the Board wanted to consider it.

Spencer asked if this amendment could include go-cart or bike tracks.

Schneider suggested that would fall under the Recreational Activity I.U.P.

Lawrence said, the way he reads it, if it is not listed, it is not a permitted use.

Lawrence invited the applicants to come forward.

Carla and David Mertz, 31548 136th St Princeton, Mn came forward. She said they currently have a selling relationship with Rockwoods Bar and Grill in Otsego, MN where they produce and sell micro grains, beef and chicken to their restaurant. Mertz said they were approached about a year ago by Rockwoods , because they wanted to extend an offering to their customer base to be able to offer an off-site host location for events such as weddings and small family or business events. They saw it as a great fit and contacted Marc in the Zoning Office because they had seen other counties doing this. She said they take great pride in their farm and Marc has done a wonderful job in helping them work with the ordinance.

Lawrence noted he believed there has been other similar inquiries in this County.

Schneider commented that the Mertz's have been very serious about what would have to be done with the property as far as meeting the building code and septic compliance rules, but they were up against the fact that there was nothing in our Ordinance that addressed this type of use. Schneider said his job deals with conflict on land use issues and he had a fair amount of reservation with this request.

Nelson asked if they had checked with other counties.

Schneider answered that Mille Lacs County allows destination weddings, and they put it under the use called Agri-Tourism. The ordinance that the Mertz's used for an example came from Chisago County where they viewed and promoted it as an economic opportunity and the Zoning Administrator had positive things to say about it.

On the other hand, Schneider said Isanti County had to deal with law suits as a result of denying them. He remarked that this is not a simple or easy land use, but he tried to draft an ordinance that would eliminate some of those conflicts.

Adams said there is a big difference between a destination wedding for 50 people and one for 500. He asked how they make a distinction where one is going to create noise and traffic and the other is not.

Sime pointed out that Marc addressed the fact that they will need adequate space for parking. The Planning Commission will have to consider the noise and the usual nuisances according to the listed performance standards. Sime said you will also have to look at the specific property as an application comes forward.

Schnieder said the amendment gives some discretion to the Planning Commission and County Board under Sec 16.2 C.1 when hearing the request. The applicant will also need to be very specific on their application.

Sime reminded that the actual property would have to be evaluated, because sometimes the standards cannot go strictly by the number of guests. He said they have run into trouble thru no body's fault, that the original proposed use became more successful than they thought.

Riddle said, many times the capacity can be determined by the size of the building, however, if they are going to have outside tents, the function could end up being more successful than anticipated and they could end up with 1000 people on the property with more traffic in the neighborhood than anyone anticipated. Unfortunately, the more successful, the bigger problem it becomes.

Schneider said he tried to address this under the Submittal Section B.10 where the applicant needs to explain upfront, what their intentions are. They would also have to specify what buildings are being used and for what purposes. These buildings would also have to comply with the building and fire code requirements, and may need to be certified by an architect.

Sime suggested that a site plan should be added as a requirement and part of their business plan.

Schneider replied that C.12 addresses a site plan, which will also provide us with a mechanism for enforcement.

Adams asked if we adopt this Amendment, will the Mertz's need to come before this Board again.

Schneider explained that once the ordinance is adopted, the Mertz's will need to make an application for the specific use they are requesting.

Spencer asked, depending upon the property, is there any need for turn lanes or by-pass lanes.

Schneider answered that the Public Works Department will have the opportunity to comment on an application and make their recommendation.

Lawrence asked the Mertz's if they had any comments.

Mertz replied that the revised amendment seemed reasonable to them. Mertz also commented that Marc has done a great job of communicating with them and explaining the ordinance and the changes he has proposed on their behalf.

Lawrence opened the public hearing.

There were no comments.

Nelson moved and Adams seconded to close the public hearing. The motion carried.

The public hearing was closed.

Adams moved and Aubol seconded to approve the County's version of the Rural Retail Tourism Amendment with the addition to Sec 16.2 18. C.7 by adding to "compliance with current structural building and electrical standards".

Riddle requested clarification for the record that the motion is to approve the version that Schneider and the Zoning Staff had drafted and not the version submitted by the applicant.

Adams and Aubol confirmed that the motion was to approve the County's version.

Marc recapped that the proposal includes amendments to Sec 5 Definitions and Rules of Language Construction, Sec 8 that establishes as an Interim Use in the General Rural District, and Sec 16.2, which includes the conditions and standards.

Nelson asked if they have to consider alcohol sales.

Schneider stated that alcohol sales is listed under C.10 which states that any on-site preparation and handling of food or beverages must comply with all applicable Federal, State or Local Standards."

Alex Lewer, general manager at Rockwoods in Otsego said as long as they have a Catering Service Permit under the State of Minnesota, their current liquor license for the establishment will also cover them when they go off site.

Lawrence called the question.

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

Nelson moved and Aubol seconded to adjourn.

Motion carried.

6:58 PM Meeting Adjourned.

Respectfully Submitted by:

Judy Weber, Secretary