

# SHERBURNE C O U N T Y



*Sherburne County  
Planning Advisory Commission Meeting Minutes  
July 20, 2023  
6:00pm*

The Sherburne County Planning Advisory Committee met in the Board Room at the Sherburne County Government Center in Elk River, Minnesota on July 20, 2023, 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 and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Adams called the meeting to order, and roll was taken.

The following members were present:

Chair, Bryan Adams, Orrock Township; Vice Chair, Bruce Aubol, Big Lake Township; Terrance Vandereyk, Clear Lake Township; Steve Demeules, Palmer Township; Francine Larson, Blue Hill Township; Butch Hass, Livonia Township; Kathi Sims-Kosloski, Haven Township; David Jehoich, Santiago Township.

The following staff members were present:

Lynn Waytashek, Zoning Administrator; Zach Guttormson, Assistant Zoning Administrator; Marc Schneider, Senior Planner; Mitch Glines, Planner; Dave Lucas, Solid Waste Administrator; Carrie Winter, Secretary

Adams stated that the meeting was being recorded. Adams added that the Planning Commission is a recommending body. These items heard tonight at the Planning Commission Public Hearing will be heard by the County Board of Commissioners on August 15<sup>th</sup>, 2023, at 9:00am.

Demeules made a motion to approve the minutes from the June 15, 2023, Public Hearing. Aubol seconded. Motion carried and the minutes were approved for the June 15, 2023, Public Hearing.

Larson made a motion to approve the Public Hearing Agenda for July 20, 2023. Aubol seconded. The motion carried and the Public Hearing Agenda for July 20, 2023, was approved.

Assistant County Attorney, Tim Sime then joined the meeting.

**Agenda:**

1. **Leasing Express LLC** Requesting to amend Interim Use Permit #68924 (Large Contractor’s Yard) by deleting the first sentence of Condition Number 3.
2. **Judy Abrahamson** Requesting Preliminary and Final Residential Simple Plat approval of “**Bernies Farmstead**” consisting of one (1) lot.
3. **Karen Okeson** Requesting Preliminary and Final Residential Simple Plat approval of “**Okeson Acres**” consisting of two (2) lots.
4. **John Cielinski** Requesting Preliminary and Final Residential Simple Plat approval of “**Woodlands Retreat**” consisting of three (3) lots.
5. **Professional Mechanical** (PD Enterprises LLC) Requesting a CUP Office and Light Industrial
6. **Elk River Landfill, Inc. and Capital Land Group LLC** Request to Amend the Comprehensive Land Use Plan from Rural Residential to Heavy Industrial.
7. **Elk River Landfill, Inc. and Capital Land Group LLC** Request to Rezone property from General Rural to Heavy Industrial.
8. **Capital Land Group LLC** Request to Amend the County’s Comprehensive Land Use Map property from Rural Residential to Business and Industry.
9. **Capital Land Group LLC** Request to Rezone property from General Rural to Industrial.
10. **Comprehensive Land Use Plan Update**
11. **Planning Commission Bylaws**

**Agenda Item # 1 -6:02pm**

**Leasing Express LLC** Requesting to amend Interim Use Permit #68924 (Large Contractor’s Yard) to delete a portion of Condition #3 to allow phased development.

PID 25-016-3105 Address 3825 32nd Street SE St. Cloud, Section 16, Haven Township 9.16 acres in the Industrial District.

Application Deemed Complete: January 24, 2023

60-Day Deadline: Extended by Applicant through 60-Day waiver to August 15, 2023

Marc Schneider, Senior Planner, stated that this item had been previously tabled at the February 17, 2023, Planning Commission Meeting and the Public Hearing was opened and was not closed and then he requested that the item be taken off of the table.

Demeules made a motion to take the item off of the table, Larson seconded, the motion carried, and the item was taken off of the table.

Schneider presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**PLANNING COMMISSION PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. State Fire Code reference from Fire Chief
- C. Written Description of Business
- D. Project Phase Summary 2 pages (date stamped 06/05/2023)
- E. Preliminary Building Plans
- F. Preliminary Plans for Site, Grading, Drainage, Erosion Control, Utilities and Landscaping 13 pages (date stamped 06/05/2023)
- G. Hydro Calculations and Stormwater Report

**HAVEN TOWNSHIP COMMENTS: (January 23, 2023)** There were no issues on this from the Township, it is sent to Sherburne County with a positive comment.

**PLANNING & ZONING STAFF COMMENTS:**

1. Leasing Express was granted an Interim Use Permit to operate a Large Contractors’ Yard on a 9.16-acre parcel in Section 16 of Haven Township in June of 2022. Leasing Express LLC. owned by Mustafa Mayani, is a trailer leasing, sales, parts and service company for semi-trailers. This business is currently located in Grand Rapids, MI and is in the process of moving this business to Haven Township.
2. This application was tabled at the February 16, 2023, Planning Commission at the request of the applicant. They wanted to look into revising their proposed schedule for development, by eliminating the process of completing in phases and try to find a way to complete the entire project in one step, as was required under the conditions of the current IUP. After reviewing the cost and practicality of completing this in one step, the business owner has made the determination that

being allowed to develop the project in phases is the path they need to pursue to keep their project within their original budget.

3. The applicant is proposing to complete the development in 2 phases. Phase 1 in 2023, they are proposing to construct the parking lot, building pad, and fence to allow the business to start the storage of leased trailers. Phase 2 in the spring of 2024, they will start constructing a 16,000 sq. ft. maintenance building with expected completion in the fall of 2024.
4. On June 5, 2023, Leasing Express submitted a revised written narrative of the proposed phases of development for this project (Board Packet Attachment D) and Preliminary Civil Plans for Site (Board Packet Attachment F). A summary of the key points from the newly submitted information are provided below:
  - a. Phase 1, the applicant is proposing to develop 50% of the parking lot, approximately 3.5 acres to allow parking for up to 53 trailers on the south side of the property. The applicant has asked the Board to consider allowing them to develop the entire parking area under Phase 1.
  - b. Phase 1 development improvements can be seen on Page 8 of Board Packet Attachment F. Work included during Phase 1 includes: driveway access, parking area, lighting, fencing and stormwater work.
  - c. Operations under Phase 1 will include the storage of trailers and the ability for clients to pick up and return trailers.
  - d. No onsite maintenance work on the trailers is proposed during Phase 1. Leasing Express has a process in place where clients can bring their trailers to partnered shops that can complete the necessary maintenance and inspection work.
  - e. Under Phase 1 traffic will be minimal. It is anticipated there will only be 2-4 vehicle trips within a 2-week time frame. Customer's access to the site will be limited to 9am-3pm M-F. Leasing express and their service contractors will have access to the shop 24/7, but anticipated use will likely be limited to 8am-8pm M-F.
  - f. Phase 2 will involve the full development of the parking lot (if not permitted under Phase 1) and within 12 months of completing Phase 1, the applicant intends to submit final plans for the remaining development of the property as represented on Board Packet Attachment D
5. The 3<sup>rd</sup> Condition of the existing IUP prevents the applicant from doing this project in phases. As it is currently written no business or land improvements will be allowed until all building, septic, fire suppression and County and State permits are obtained.
6. The applicant is requesting to amend the existing IUP by modifying the 3<sup>rd</sup> Condition by striking the first part of the sentence, to allow them to proceed with development of this property in phases.
7. Existing IUP condition with proposed amendment by applicant: ~~Condition 3. Prior to any business or land disturbing activities on this property, t~~ *The applicant must obtain the following permits and approvals:*
  1. *A building and septic permit from the Planning and Zoning Department. All building plans must be prepared by an architect or structural engineer to certify the structure complies with MN Building Code.*
  2. *Submit a Fire Suppression Plan to the Township Fire Department to include exterior hydrant access serviced by a high volume well of 500 gallons per minute. System design review subject to Fire Department final review.*
  3. *Approval from St. Cloud Airport for any exterior lighting.*
  4. *A Stormwater Erosion Control permit from the Planning and Zoning Department.*
  5. *A NPDES permit from the MN Pollution Control Agency*

8. No other modifications of the conditions are proposed by the applicant.
9. Zoning staff is recommending splitting Condition #3 into two separate conditions, to allow clarification when specific permits and approvals are required. Zoning staff also is recommending a new condition that limits the duration of time Leasing Express can utilize the property without completing the second phase of this project as described and permitted under the existing IUP, see recommended Condition #5 on the following page.

**RECOMMENDED CONDITIONS IF APPROVED:** (Added or modified conditions are stricken or underlined)

1. This Interim Use Permit is issued to Mustafa Mayani, Leasing Express LLC, and shall expire with a change in majority ownership of the business or sale of this property. For the purpose of operating a Large Contractor's Yard that specializes in the leasing of semi-trailers and provides light mechanical repair (i.e., brakes, lights, oil and fluid changes) on semi-trucks and trailers. Parking of semi-trucks and trailers is permitted within the parking yard south of the building (Packet Attachment F).
2. The physical and operational development of this property shall be consistent with the plans submitted and described in Packet Attachments (C. Written Description of Business, D. Phased Project Summary, E. Preliminary Building Plans, and F. Preliminary Plans for Site, Grade, Erosion Preliminary Site Plan). Deviation from these plans may require Leasing Express LLC to amend the interim use permit.
3. Prior to any ~~business or land~~ disturbing activities and/or the storage of semi-trailers on this property, the applicant must obtain the following permits and approvals:
  - ~~a. A building and septic permit from the Planning and Zoning Department. All building plans must be prepared by an architect or structural engineer to certify the structure complies with MN Building Code.~~
  - ~~b. Submit a Fire Suppression Plan to the Township Fire Department to include exterior hydrant access serviced by a high volume well of 500 gallons per minute. System design review subject to Fire Department final review.~~
  - ~~c. Approval from St. Cloud Airport for any exterior lighting.~~
    - a. A Stormwater Erosion Control permit from the Planning and Zoning Department.
    - b. A NPDES permit from the MN Pollution Control Agency.
    - c. An Access permit from Sherburne County Public Works
    - d. A building permit from Sherburne County Planning and Zoning if the fence is over 7' tall.
4. The applicant must obtain the following additional permits and approvals prior to any building or septic construction, installation of lighting improvements, or operation of any light mechanical repair, sales or retail at this property:
  - a. Approval from St. Cloud Airport for any exterior lighting.
  - b. A building and septic permit from the Planning and Zoning Department. All building plans must be prepared by an architect or structural engineer to certify the structure complies with MN Building Code.
  - c. Submit a Fire Suppression Plan to the Township Fire Department to include exterior hydrant access serviced by a high volume well of 500 gallons per minute. System design review subject to Fire Department final review.
5. Applicant may store trailers and allow clients to pick up and return trailers for a period of 24 months following the issuance of a Stormwater and Erosion Control permit, for associated with the construction of the parking lot identified in the Phase 1 improvements in Board Packet Attachment

D. The parking lot must be constructed before trailers may be stored on the property. Thereafter, Applicant may continue those business activities only after completing construction of the maintenance building and completing all other improvements and permits required by this Interim Use Permit. In the event the maintenance building and other improvements have not been constructed and other permits have not been received prior to the expiration of the initial Phase 1 24-month period, all such business activities must cease, and trailers must be removed from the property until completion of the maintenance building and the remaining requirements of this Permit.

6. Hours of operation for the service center and retail portion of the business will be M-F 8:00 AM to 5:00 PM.
7. Allow 24/7 access to the property for semis to park their trucks and trailers at the property.
8. The proposed access location to CSAH 3 will be from the west side of the site as proposed on Packet Attachment F of the Preliminary Site Plan. An access permit from Sherburne County Public Works is required for construction of the access to ensure compliance to County standards.
9. The parking yard for the trailers shall have an 8 ft tall opaque fence around the parking yard as shown on Packet Attachment F of the Preliminary Site Plan, with a security gate with coded entry only. A building permit will be required to be obtained from the Planning and Zoning office prior to construction of the fence.
10. Any signage shall comply with the County's sign ordinance and a sign permit is required.
11. All exterior lighting shall be directed away from the public right-of-way or neighboring properties.
12. The applicant shall allow the County to inspect the property during normal business hours.

**Planning Commission Discussion:**

Vandereyk asked if the County no longer requires review and approval of the drainage plans.

Schneider replied that this item went to the Township for review.

Vandereyk asked if MN Dot was involved as the documentation on drainage shows that the drainage discharges to the MN Dot Right-of-Way.

Schneider stated that MN Dot was contacted, but not specifically on drainage, stating that many times MN Dot will provide a standard comment that no drainage is to be discharged in the Right-of-Way, but he did not receive that comment.

Vandereyk stated that the drainage plans show an infiltration system along the South Boundary, but it's not showing on the Construction plans.

Schneider then referenced Board Packet Attachment F-5, which has been revised.

Vandereyk reiterated that it's showing a subsurface infiltration system in the Southeast Corner of this attachment, but the drainage plans show a NERP pond, and the construction plans don't show this.

Renard Jones, with Leasing Express, 3825 32<sup>nd</sup> ST SE, came forward as the representative of the Interim Use Permit Amendment application. He explained that they do have drainage plans that he will submit to Schneider.

Vandereyk stated that the information received from staff includes a comment mentioning a NERP pond on the South boundary line. The information submitted mentions a current infiltration system in the Southwest corner, but the subsurface infiltration system is shown in the Southeast corner. He is curious how this is managed.

Jones stated that he would need to address this with the Engineer who designed this as when everything was submitted and reviewed, it appeared to be okay.

Adams then continued the Public Hearing.

No one from the public was present nor were any written comments received.

Aubol moved to close the Public Hearing. Demeules seconded. The motion carried and the Public Hearing was closed.

Demeules stated that this area continues to become more prevalent for trucks. He is unsure if MN Dot is addressing the issue, but it's becoming more hazardous to get onto Hwy 10 from Cty Rd 3. As we continue to get more trucks and more businesses in the area, this is becoming more of an issue.

Adams asked the applicant if he is aware of the (12) Conditions and is in agreement with them.

Jones confirmed, but on page 2, Staff Comment #3, it mentions a building pad which will be a part of Phase 2.

Adams asked Vandereyk if he would like to add a condition to cover the drainage issue.

Vanereyk confirmed that he would like Condition #13 to be added.

Schneider stated that in the past, they have required the grading and drainage plans to be approved by the Township Engineer prior to construction. This way it is the applicant's responsibility to coordinate with the township and to pay the fees related to the Township Engineer Review.

Adams recommended that they add this as Condition #13.

Demeules made a motion to recommend approval of the request to Amend the Interim Use Permit for a Large Contractor's Yard to amend Condition #3 to allow phased development with the (13) recommended Conditions and Findings of Fact. Sims Seconded

**CONDITIONS:** (Added or modified conditions are stricken or underlined)

1. This Interim Use Permit is issued to Mustafa Mayani, Leasing Express LLC, and shall expire with a change in majority ownership of the business or sale of this property. For the purpose of operating a Large Contractor's Yard that specializes in the leasing of semi-trailers and provides light mechanical

- repair (i.e., brakes, lights, oil and fluid changes) on semi-trucks and trailers. Parking of semi-trucks and trailers is permitted within the parking yard south of the building (Packet Attachment F).
2. The physical and operational development of this property shall be consistent with the plans submitted and described in Packet Attachments (C. Written Description of Business, D. Phased Project Summary, E. Preliminary Building Plans, and F. Preliminary Plans for Site, Grade, Erosion Preliminary Site Plan). Deviation from these plans may require Leasing Express LLC to amend the interim use permit.
  3. Prior to any ~~business or~~ land disturbing activities and/or the storage of semi-trailers on this property, the applicant must obtain the following permits and approvals:
    - ~~a. A building and septic permit from the Planning and Zoning Department. All building plans must be prepared by an architect or structural engineer to certify the structure complies with MN Building Code.~~
    - ~~b. Submit a Fire Suppression Plan to the Township Fire Department to include exterior hydrant access serviced by a high volume well of 500 gallons per minute. System design review subject to Fire Department final review.~~
    - ~~c. Approval from St. Cloud Airport for any exterior lighting.~~
    - a. A Stormwater Erosion Control permit from the Planning and Zoning Department.
    - b. A NPDES permit from the MN Pollution Control Agency.
    - c. An Access permit from Sherburne County Public Works
    - d. A building permit from Sherburne County Planning and Zoning if the fence is over 7' tall.
  4. The applicant must obtain the following additional permits and approvals prior to any building or septic construction, installation of lighting improvements, or operation of any light mechanical repair, sales or retail at this property:
    - a. Approval from St. Cloud Airport for any exterior lighting.
    - b. A building and septic permit from the Planning and Zoning Department. All building plans must be prepared by an architect or structural engineer to certify the structure complies with MN Building Code.
    - c. Submit a Fire Suppression Plan to the Township Fire Department to include exterior hydrant access serviced by a high volume well of 500 gallons per minute. System design review subject to Fire Department final review.
  5. Applicant may store trailers and allow clients to pick up and return trailers for a period of 24 months following the issuance of a Stormwater and Erosion Control permit, associated with the construction of the parking lot identified in the Phase 1 improvements in Board Packet Attachment D. The parking lot must be constructed before trailers may be stored on the property. Thereafter, Applicant may continue those business activities only after completing construction of the maintenance building and completing all other improvements and permits required by this Interim Use Permit. In the event the maintenance building and other improvements have not been constructed and other permits have not been received prior to the expiration of the initial Phase 1 24-month period, all such business activities must cease, and trailers must be removed from the property until completion of the maintenance building and the remaining requirements of this Permit.
  6. Hours of operation for the service center and retail portion of the business will be M-F 8:00 AM to 5:00 PM.
  7. Allow 24/7 access to the property for semis to park their trucks and trailers at the property.



8. The proposed access location to CSAH 3 will be from the west side of the site as proposed on Packet Attachment F of the Preliminary Site Plan. An access permit from Sherburne County Public Works is required for construction of the access to ensure compliance to County standards.
9. The parking yard for the trailers shall have an 8 ft tall opaque fence around the parking yard as shown on Packet Attachment F of the Preliminary Site Plan, with a security gate with coded entry only. A building permit will be required to be obtained from the Planning and Zoning office prior to construction of the fence.
10. Any signage shall comply with the County's sign ordinance and a sign permit is required.
11. All exterior lighting shall be directed away from the public right-of-way or neighboring properties.
12. The applicant shall allow the County to inspect the property during normal business hours.
13. The applicant shall coordinate with Haven Township to have their Township Engineer review the Drainage Plans for this project and pay the associated fees for the review.

**FINDINGS:**

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

*Schneider read the Finding while Demeules provided the response.*

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. **YES** or **NO** WHY?

*Yes, the proposed use is in-line with existing industrial uses in the area, allowing this project to proceed in phases as proposed by the applicant, is not anticipated to diminish or impair property values.*

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. **YES** or **NO** WHY?

*Yes, the County's Zoning and Comprehensive Land Use Plan has identified this property and all the surrounding parcels for business and industrial development. The establishment of this Interim Use Permit is in line with the current and long-range plans for this area.*

3. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. **YES** or **NO** WHY?

*Yes, the applicant has provided preliminary site and stormwater plans that demonstrates adequate space can be provided for drainage, highway access and parking for the proposed business. The applicant has been made aware of the requirements to comply with State Building and Fire Code and is willing to prepare and obtain the necessary permits.*

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** or **NO** WHY?

*Yes, the applicant has enough parking and loading space to accommodate the proposed use according to the application and plans submitted. The Assistant County Engineer has reviewed the proposed project and has provided feedback related to the access improvements needed to establish access to CSAH 3.*

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. **YES** or NO WHY?

*Yes, it is not anticipated to cause offensive odor, fumes, dust, noise and vibration to the immediate area.*

*The motion carried and the Request to amend Interim Use Permit #68924 (Large Contractor's Yard) to delete a portion of Condition #3 to allow phased development is recommended to the County Board for approval, with the (13) Conditions and Findings of Fact.*

*The applicant asked; in the proposal it stated that 50% of the lot would be done, can they do 100% of the lot so the crew does not have to come back out. They would like that as an option.*

*Schneider stated that the Conditions do not place a prohibition on the entire lot.*

*Adams stated to the applicant that this is an option.*

**Agenda Item #2 -6:16pm**

**Judy Abrahamson** Requesting Preliminary and Final Residential Simple Plat approval “**Bernies Farmstead**” consisting of one (1) lot.

PID# 45-002-3100 Address: 17798 17<sup>th</sup> St SE, Princeton, Section 2, Twp 35 Rge 28, Santiago Township, 80 acres, in the Agricultural District.

Application Deemed Complete: July 6, 2023

60-Day Deadline: September 4, 2023

Mitch Glines, Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**PLANNING COMMISSION PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Preliminary Plat (date stamped 06/28/2023)
- C. Final Plat (date stamped 06/28/2023)

**SANTIAGO TOWNSHIP** (received June 15, 2023): The Santiago Town Board, having met June 14, 2023, unanimously approved “Bernies Farmstead” split with a contingency it meets all County requirements.

**OTHER DEPARTMENT/AGENCY COMMENTS:**

**Russ Heiling, County Surveyor** (July 6, 2023): All comments have been addressed.

**David Roedel, Deputy County Engineer** (June 26, 2023):

- 1. As required, Right of Way is identified at 50’ on the plat.
- 2. If a new access is proposed to be constructed, an Access Permit is required to be taken out from the Public Works Department to ensure construction according to County Standards.
- 3. You are reflecting 33’ for the access. Although, not identified in the plat, future development for the parcel would require ½ mile spacing for a full road access. The location of the access does not meet spacing requirements and would not be allowed for development. A shared access for an additional lot would be allowed.
- 4. The Sherburne County Public Works will not require park dedication fees for the 1 new lot since there is an existing house on the proposed lot.
- 5. All work shall be performed in accordance with applicable State and County standards.

**Mike Lindenau, County Ditch Inspector** (June 15, 2023): I have no issues, but the property is really close to Ditch 5. Not sure if it benefits from Ditch 5 or not.

**Bonnie Jacobs, Property Tax Manager** (June 22, 2023): This property is not benefitting from Ditch 5 in our tax system.

**PLANNING & ZONING STAFF COMMENTS:**

- 1. The applicant is proposing to create one (1) lot from a 11.62-acre parcel from an 80-acre parcel in Santiago Township. The remaining 68.38-acres will remain as a metes and bounds parcel.

2. There is an existing house on proposed lot. The septic system for the existing house was upgraded in 2011 and had a compliance inspection completed on 5/2/2023 in which it passed.

**RECOMMENDED CONDITIONS IF APPROVED:**

1. A new legal description will need to be prepared, approved and recorded at the same time as the plat for the remnant piece (68.38 acres).
2. 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.

**Planning Commission Discussion Followed:**

Paul Hans, 4777 109<sup>th</sup> Ave Clear Lake, came forward as the representative of the application.

Adams asked the applicant if he understands and can abide by the (2) recommended Conditions.

The applicant confirmed.

Adams opened the Public Hearing.

No one was present nor were any comments received.

Sims made a motion to close the Public Hearing. Jehoich seconded. The motion carried and the Public Hearing was closed.

Sims asked for clarification on the lot shape.

Hass clarified that the split portion is not being shown.

Jehoich made a motion to recommend approval of the Preliminary and Final Residential Simple Plat approval of "Bernies Farmstead" consisting of (1) lot, with the (2) Conditions. Sims seconded.

**CONDITIONS:**

1. A new legal description will need to be prepared, approved and recorded at the same time as the plat for the remnant piece (68.38 acres).
2. 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 and the Preliminary and Final Residential Simple Plat of "Bernies Farmstead" consisting of (1) lot, is recommended to the County Board with the (2) Conditions.

**Agenda Item #3 -6:21pm**

**Karen Okeson** Requesting a Preliminary and Final Simple Plat approval of “Okeson Acres” consisting of two (2) lots.

PID 01-031-3100 Section 31, Twp 35 Rge 26 Address 28014 Elk Lake Road, Zimmerman, Baldwin Township 8.48 acres in the General Rural Zoning District and with the Shoreland Overlay District of Little Elk Lake and Little Diamond Lake.

Application Deemed Complete: June 20, 2023

60-Day Deadline: August 19, 2023

Zach Guttormson, Assistant Zoning Administrator, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**PLANNING COMMISSION’S PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Final Plat (Date Stamped – August 17, 2023)
- C. Preliminary Plat (Date Stamped – June 20, 2023)
- D. Public Works Driveway Location & Vegetation Removal Map

**BALDWIN TOWNSHIP COMMENTS:** (August 2, 2022): Recommend approval.

**DEPARTMENT/AGENCY COMMENTS:**

**Russ Heiling, County Surveyor** (July 26, 2022): All survey comments have been addressed.

**David Roedel, Asst Public Works Director** (July 28, 2022):

- 1. There is a significant sight distance concern with the proposed lot split. Public Works will approve the driveway to be located only as shown on the attached.
- 2. Trees must be trimmed to 50’ for approximately 215’ to the west and 100’ to the east of the proposed driveway location and as shown on the attached. Public Works can be contacted to identify and mark the exact limits of trees required to be removed.
- 3. The Sherburne County Public Works Department will require park dedication fees for 1 lot at \$1,200. The lot with the existing house does not require park dedication fees. Park fees must be paid prior to the Public Works Department signing the plat mylars.
- 4. All work shall be performed in accordance with applicable State and County standards.

**Mike Lindenau, County Ditch Inspector** (June 16, 2022): I have no issues.

**Bonnie Jacobs, Property Tax Manager:** (June 17, 2022): No issues on my end.

**James Bedell, Minnesota Department of Natural Resources:** No comments received.

**PLANNING & ZONING STAFF COMMENTS:**

- 1. The application was received prior to Baldwin Township assuming Zoning responsibilities.
- 2. The applicant is proposing to create two (2) lots from an 8.48-acre parcel.
- 3. Proposed Lot 1 will be a 2.61-acre parcel. There is an existing residence and detached garage located on the proposed Lot 1. A certificate of septic compliance was obtained on 6/7/2023. Lot 2 is proposed to be a 4.3-acre parcel has no structures, wells or septic system on it.

4. A wetland delineation has been completed and approved for this plat. No wetlands are present on the property.
5. This property is located within the Shoreland Overlay District of Little Elk Lake (General Development) and Little Diamond Lake (Natural Environment Lake).

**RECOMMENDED CONDITIONS IF APPROVED:**

1. Park dedication fees for one (1) lot is \$1,200. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. Must obtain an access permit from Sherburne County Public Works.
3. A Development Agreement relating to the tree removal must be signed before the plat is recorded.
4. 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.

**Planning Commission Discussion Followed:**

Adams asked why the driveway location is as indicated rather than across from 242.

David Roedel, Deputy County Engineer, stated that this came in a while ago and Public Works has no issue with the lot split, they are looking at access spacing issues with the other street and a significant sight issue. They felt that the comment was necessary for a safe future access for whoever is to buy the lot.

Adams asked if they would be better off at 142<sup>nd</sup> Street NW instead of the curve.

Roedel stated that access spacing between the 2 driveways would not meet the County Access spacing guidelines.

Demeules asked how much area is there to work with, is there an exact location, or 100 ft give or take?

Roedel stated that he is looking at lining up with the driveway across the street which provides for the access spacing and this location has a hill too, this location allows for you to see the driveway to the West and allows you to see to the East for the given posted speed. They spent a lot of time on this, went into the field and marked trees to see what it would be.

Karen Okeson, 28014 Elk Lake Road East, came forward as the representative of the application. She stated that she has been working on this for a couple of years and thinks that she has met all of the requirements.

Adams asked the applicant if she understands and can abide by the (4) recommended Conditions.

The applicant reviewed the (4) Conditions and confirmed her understanding. She asked if the Developer's Agreement is on her or how this is completed.

Guttormson stated that the County Attorney will draft this prior to the County Board meeting.

Sime added that the purpose is to not require the applicant to remove the trees, etc. prior to the plat being recorded and to allow for flexibility, he is not sure if this will be done prior to County Board, but this will not hold up the Plat recording.

Adams opened the Public Hearing.

No one was present nor were any comments received.

Jehoich made a motion to close the Public Hearing. Hass seconded. The motion carried and the Public Hearing was closed.

Vandereyk made a motion to recommend approval of the Preliminary and Final Residential Simple Plat of "Okeson Acres" consisting of two (2) lots, with the (4) Conditions. Demeules seconded.

**Conditions:**

1. Park dedication fees for one (1) lot is \$1,200. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. Must obtain an access permit from Sherburne County Public Works.
3. A Development Agreement relating to the tree removal must be signed before the plat is recorded.
4. 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 and the Preliminary and Final Residential Simple Plat of "Okeson Acres" consisting of two (2) lots, is recommended to the County Board with the (4) Conditions.

**Agenda Item #4 -6:31pm**

**John Cielinski** Requesting a Preliminary and Final Simple Plat approval of **“Woodlands Retreat”** consisting of 3 (three) lots.

PID 25-023-3100 Section 23, Twp 35, Rge 30, Haven Township, 39.98 acres in the Agricultural Zoning District and with the Shoreland Overlay District of the Elk River.

Application Deemed Complete: June 30, 2023

60-Day Deadline: August 29, 2023

Zach Guttormson, Assistant Zoning Administrator, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**PLANNING COMMISSION’S PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Final Plat (Date Stamped – June 15, 2023)
- C. Preliminary Plat (Date Stamped – June 15, 2023)

**HAVEN TOWNSHIP COMMENTS:** (June 21, 2023): Haven Township approves the request with a positive comment for the request of residential preliminary and final simple plat of **“Woodlands Retreat”** consisting of 3 lots.

**DEPARTMENT/AGENCY COMMENTS:**

**Russ Heiling, County Surveyor** (June 29, 2023): All survey comments have been addressed.

**David Roedel, Asst Public Works Director** (July 28, 2022):

- 1. No concerns with the proposed plat. It is not located on a county road.
- 2. The Sherburne County Public Works Department will require park dedication fees for the 3 new lots at \$1,200 per lot, totaling \$3,600. Park fees must be paid prior to the Public Works Department signing the plat mylars.

**Mike Lindenau, County Ditch Inspector** (June 5, 2023): Does not benefit from a County Ditch.

**Bonnie Jacobs, Property Tax Manager:** (June 20, 2023): No concerns other than they would need to pay 2nd half 2023 property taxes prior to recording plat.

**James Bedell, Minnesota Department of Natural Resources:** No comments received.

**PLANNING & ZONING STAFF COMMENTS:**

- 1. The applicant is proposing to create three (3) lots from a 39.98-acre parcel.
- 2. There are currently no improvements(structures/septics/etc.) located on the property.
- 3. A wetland delineation has been completed and approved for this plat. No wetlands are present on the property.
- 4. A small area in the southwest corner of the property is located within the Shoreland Overlay District of the Elk River (Agricultural River).

**RECOMMENDED CONDITIONS IF APPROVED:**



1. Park dedication fees for three (3) lots is \$3,600. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. 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.

**Planning Commission Discussion Followed:**

Sims asked when a Park Dedication Fee is required.

Guttormson stated that a Park Dedication Fee is not required on lots that do not have improvements.

Roedel stated that if there is an existing structure, they would not be charged a park fee.

Adams opened the Public Hearing.

Bruce Cater, 3877 60<sup>th</sup> Ave SE, came forward to the podium. He stated that there are 3 lots there already and several houses, with the increasing population density, will there be an issue with access as far as the distance between driveways? Will this cause an issue with frontage road setbacks in the future. Are these lots 1 and done or can they be split again because of the size? As they are near the Elk River, is there a right of access to the river? Even though they are not directly on the river.

Guttormson stated that this is a Township Road, and the future access will be determined by Haven Township. As far as future subdivision, each new lot must have 300 ft of width in the Agricultural District and these lots are currently 400-450 ft in width so they could not be subdivided any further . As far as access to the river, the private property laws come in to play. These lot owners would have the same access to the river as anyone.

Cater clarified that this is a Township Road, and he would need to deal with the Township for his concerns on increased use of the road, or is the County involved at all?

Guttormson confirmed that he would deal with the Township as this is a Township Road.

Demeules made a motion to close the Public Hearing. Aubol Seconded. The motion carried and the Public Hearing was closed.

John Cielinski, 5538 90<sup>th</sup> Ave SE, St Cloud, came forward as the representative of the application. He stated to Cater that he has someone interested in buying the whole thing so this would be just 1 driveway from the way things look right now. He stated that he believes in the wildlife and wanted to keep this as big as possible.

Adams asked the applicant if he understands and can abide the (2) recommended Conditions. Applicant confirmed and then asked about the Park Dedication Fee as Haven Township has no parks and would rather not have any parks as far as he knows.

Adams stated that Haven is not alone as Orrock Township does not have any parks and they still collect park dedication fees.

Sime added it's statutory. The County collects a park Fee for regional parks and the County as a whole when a Subdivision is done. There are provisions for Townships who want to develop parks that they can ask for a certain amount to be set aside for that, otherwise this goes to a regional park system.

Demeules made a motion to recommend approval of the Preliminary and Final Residential Simple Plat approval of "Woodlands Retreat" consisting of (3) lots, with the (2) Conditions. Vandereyk seconded.

**Conditions:**

1. Park dedication fees for three (3) lots is \$3,600. Park fees must be paid prior to the Public Works Dept signing the plat mylars.
2. 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 and the Preliminary and Final Residential Simple Plat of "Woodlands Retreat" consisting of (3) lots, is recommended to the County Board with the (2) Conditions.

**Agenda Item #5 -6:41pm**

<b>Professional Mechanical</b> (PD Enterprises LLC) Requesting a CUP Office and Light Industrial	
PID 10-544-0120 Legal Lot 4, Block 1 Spankys Corner Sec. 24, Twp 33, Rge. 28 Big Lake Township, 2.11 acres in the Commercial District and within the Shoreland District of the Beulah Pond.	
Application Deemed Complete: June 15, 2023	60-Day Deadline: August 14, 2023

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Written Description of Business
- C. Survey with Building and Pavement proposed.
- D. Septic Design (2 pages)
- E. Building Plan (5 pages)

**BIG LAKE TOWNSHIP COMMENTS:** (June 15, 2023) The Big Lake Board of Supervisors met on Wednesday June 14, 2023, and reviewed the application for CUP for light industry. The Board recommends approval of the CUP.

**DEPARTMENT/AGENCY COMMENTS:**

**Tom Cruikshank**, MnDOT (June 24, 2023) We would have no issues with the proposed CUP.

**James Bedell**, DNR No comments received.

**City of Big Lake** No comments received.

**PLANNING & ZONING STAFF COMMENTS:**

1. The applicant PD Enterprises LLC is proposing to construct a 60'x100' (6,000 sq. ft.) building which 50% of the structure will house Professional Mechanical Services. Since 2020, Professional Mechanical Services has operated their business on the adjacent parcel to the east (PID 10-547-0105). According to the applicant their business has grown and now requires additional space to support their growth. They will use half of this building to serve as office, shop and storage space for their residential heating, ventilation and cooling business. The other half of the building will be rented to a separate tenant in the future. The applicant is aware all businesses within the subdivision of Spankys Corner are required to obtain a Conditional or Interim Use Permit because they are located in the Shoreland District of a Natural Environment Lake.
2. According to the applicant two employees will come to this property daily with the proposed days and hours of operation Monday – Friday 7AM-5PM.
3. The applicant has had the property surveyed and is proposing to have 31,200 sq. ft. of impervious surface for the building and parking lot see (Packet Attachment C). A condition of plat approval for Spankys Corner and variance Permit #40091 requires impervious surface coverage must not exceed

50% (43,700 sq. ft.) of the lot, the applicant's proposed development complies with this requirement (Note: an existing stormwater for the plat of Sparky's Corner was engineered to exceed MPCA requirements to allow additional impervious surface on each lot.)

4. The applicant's proposal has adequate parking space that conforms to the County's parking regulations.
5. The building and parking lot and proposed septic are all shown outside the 150ft setback from the Ordinary High-Water Level of Beulah Pond (see Packet Attachment C and D-2). It should be noted that the survey does not account for the septic design as they were prepared separately. According to the applicant the primary and secondary septic site are accurately shown on the septic design, by C.W Lunzer Company.

**RECOMMENDED CONDITIONS IF APPROVED:**

1. A condition of plat approval and variance (Permit #40091) for Spankys Corner requires impervious surface coverage must not exceed 50% (43,700 sq. ft.) of the lot. Impervious surfaces may include structures, driveways and parking areas whether paved, gravel, or compacted soil. The proposed impervious surface on this lot is 31,200 sq. ft.
2. A condition of plat approval for Spankys Corner requires a 150' buffer from the OHWL of Beulah Pond must be kept in its natural condition. The property owner shall obtain a Shoreland Alteration Permit from the Sherburne County Planning and Zoning Department prior to any vegetation removal or grading activities.
3. A building permit is required from the Planning and Zoning Department. All building plans must be prepared by an architect to certify the structure complies with MN Building Code for the proposed use.
4. Any signage shall comply with the sign ordinance, a sign permit is required.
5. Any solid or liquid waste must be handled and disposed of according to any applicable County or State regulations.
6. All exterior lighting shall be directed down and away from public right-of-way, and any adjacent residential use.
7. Open storage of materials or goods in any front or side yard is prohibited. Any other outside storage shall be located or screened from view from any public street or residence with landscaping, berming and/or fencing.
8. The CUP holder and/or property owner shall permit the County to inspect the property, including any buildings used for the business during normal working hours. Further, the CUP holder shall allow the County to inspect any business records for the purpose of ensuring compliance with the terms of the CUP.

**Planning Commission Discussion Followed:**

Troy Powers, 11848 180<sup>th</sup> Ave SE, Big Lake, came forward as the applicant. He clarified that it will be 12,000 sq ft and he will be occupying 6,000 sq ft.

Adams asked Powers if he understands and can abide by the (8) recommended Conditions. Powers confirmed.

Adams opened the Public Hearing.

No comments were received nor was any member of the public present for the Public Hearing.

Larson made a motion to close the Public Hearing. Vandereyk seconded. The motion carried and the Public Hearing was closed.

Aubol made a motion to recommend approval of the Conditional Use Permit for Office and Light Industrial with the (8) Conditions and Findings of Fact. Larson seconded.

**CONDITIONS:**

1. A condition of plat approval and variance (Permit #40091) for Spankys Corner requires impervious surface coverage must not exceed 50% (43,700 sq. ft.) of the lot. Impervious surfaces may include structures, driveways and parking areas whether paved, gravel, or compacted soil. The proposed impervious surface on this lot is 31,200 sq. ft.
2. A condition of plat approval for Spankys Corner requires a 150' buffer from the OHWL of Beulah Pond must be kept in its natural condition. The property owner shall obtain a Shoreland Alteration Permit from the Sherburne County Planning and Zoning Department prior to any vegetation removal or grading activities.
3. A building permit is required from the Planning and Zoning Department. All building plans must be prepared by an architect to certify the structure complies with MN Building Code for the proposed use.
4. Any signage shall comply with the sign ordinance, a sign permit is required.
5. Any solid or liquid waste must be handled and disposed of according to any applicable County or State regulations.
6. All exterior lighting shall be directed down and away from public right-of-way, and any adjacent residential use.
7. Open storage of materials or goods in any front or side yard is prohibited. Any other outside storage shall be located or screened from view from any public street or residence with landscaping, berming and/or fencing.
8. The CUP holder and/or property owner shall permit the County to inspect the property, including any buildings used for the business during normal working hours. Further, the CUP holder shall allow the County to inspect any business records for the purpose of ensuring compliance with the terms of the CUP.

**FINDINGS:**

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

*Schneider read the Finding while Aubol provided the response.*

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. **YES or NO** **WHY?**

*Yes, the proposed use will be in line with existing businesses in the subdivision there is an existing Commercial heating ventilation and cooling business permitted to the west and the applicant owns the building to the east. The applicant is not proposing any exterior storage of equipment.*

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. **YES** or **NO** WHY?

*Yes, the proposed use will not impede normal development of surrounding property. This property is zoned commercial and there are existing commercial buildings on either side of this property.*

3. Have adequate utilities, access roads, drainage and other necessary facilities been or are being provided? **YES** or **NO** WHY?

*Yes, utilities, access roads and drainage have been considered when this land was platted in 2007. The existing stormwater pond was oversized to accommodate increased impervious surface coverage on each lot.*

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** or **NO** WHY?

*Yes, the applicant has sufficient parking space to accommodate the proposed use and drainage was accounted for with the platting of this property in 2007.*

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. **YES** or **NO** WHY?

*Yes, it is not anticipated to cause offensive odor, fumes, dust, noise and vibration to the immediate area. No work will be completed outdoors.*

*The motion carried and the Conditional Use Permit for Office and Light Industry is recommended to approval for the County Board with the (8) recommended Conditions and Findings of Fact.*

**Agenda Item #6 -6:47pm**

**Elk River Landfill, Inc. and Capital Land Group LLC** Request to Amend the Comprehensive Land Use Plan from Rural Residential to Heavy Industry.

PID# 30-034-2200, 30-034-2101, 30-523-0105, 0110 and 0115 Legal Desc: (On file at the County). Sec 34, Twp 34, Rge 26. Livonia Township. 137.71 acres in the General Rural District.

Application Deemed Complete: June 27, 2023

60-Day Deadline: August 26, 2023

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Legal Description 3 Pages
- C. Reason for Amendment Request
- D. Vicinity Map
- E. Parcels within ½ Mile Map
- F. Concept Site Arrangement Map
- G. Comprehensive Land Use Map

**LIVONIA TOWNSHIP COMMENTS** (June 27, 2023): Board action for the Application Amendment to Comprehensive Land Use Plan Map: Spencer/Hiller unanimous by roll call vote to recommend approval for the request with the following comments - this Land Use change has been in discussion for over a year; the change is in the best interest of Livonia Township and the area; there is no sewer/water service near or on the parcels; the community and landfill need these changes for the Elk River Landfill to continue to function.

**DEPARTMENT/AGENCY COMMENTS:**

**Tom Cruikshank, MnDOT** (July 11, 2023) The comments that our Development Review group had was in reference to truck traffic which is already being managed with the current operations and not wanting any ROW encroachments and that no stormwater can run to the highway ROW.

**James Bedell, MN DNR** (June 27, 2023) I do not have any comments to provide at this time.

**PLANNING & ZONING STAFF COMMENTS:**

1. The applicants have requested to amend the Comprehensive Land Use Plan for 5 parcels (Total Acres of 5 parcels 233.09) owned by Waste Management and Capital Land Group from Rural Residential to Heavy Industry. Parcels 30-523-0105, 30-523-0110 and 30-523-0115 are already designated as Heavy Industry in the current Comprehensive Land Use Plan. Parcels 30-034-2200 and 30-034-2101 are designated as Rural Residential in the current Comprehensive Plan (see Packet Attachment G).
2. These parcels abut land owned by Capital Land Group to the north which is vacant and has an Interim Use Permit for Mining, south of these parcels abut the Elk River Landfill, west is the Great Northern Trail and to the east is US Hwy 169.

3. In 2003 a rezone request to convert 80 acres from General Rural to Heavy Industrial and a request for a Conditional Use Permit for a Construction and Demolition (C&D) Waste Facility were granted on 80 acres of the subject properties. This request would expand the Heavy Industry land use designation north into properties designated Rural Residential by the County's Comprehensive Land Use Plan.
4. According to the applicant the reason for the amendment is Elk River Landfill is proposing to expand the waste limits of their existing landfill into these subject properties, which is only permitted on lands Zoned Heavy Industrial. The applicant has drafted their amendment to follow the general location of the solid waste limits of the landfill which can be seen on Board Packet Attachment F.
5. The Elk River Landfill was established in 1972, it is a municipal solid waste (MSW) landfill. There have been several expansions over the years in the City of Elk River and in Livonia Township. The expansions into Livonia Township were for Construction and Demolition debris which was permitted in 2003.
6. The request for the Comprehensive Plan Amendment is one of many steps in Elk River Landfill Inc.'s effort to expand the MSW boundaries of their landfill. The steps required include an Environmental Review through the MN Environmental Quality Board (EQB), Certificate of Need from the MN Pollution Control Agency, a Conditional Use Permit for a Waste Facility from Sherburne County and Waste Licensing approval from both the MPCA and Sherburne County. To date, the Environmental Review process has not been submitted for review.
7. The hydrogeology of the area is complex. Due to the porous nature of soils, groundwater is extremely susceptible to contamination and these properties proximity to Tibbetts Brook and Rice Lake makes effective monitoring of the landfill difficult.
8. There is a known contaminant plume emanating from the existing landfill. The contamination plume extends west into Rice Lake, a Natural Environment Lake. Elk River Landfill is attempting to mitigate the contamination through monitored natural attenuation (MNA). Monitoring efforts are conducted by the Elk River Landfill and reports are submitted to the State and County. In 2024 Waste Management is to submit a report demonstrating the effectiveness of current MNA activities which will be reviewed by County Staff.
9. In 2022, an Interim Use Permit for mining was approved on parcels 30-034-2200 and 30-034-2101 with a proposed end use of open space. No plans for a landfill or industrial uses were proposed as part of that IUP process, nor was there any mention of industrial use in the Environmental Assessment Worksheet that was completed as required before the IUP could be issued. The applicant for the IUP stated in the environmental review documents that there were no anticipated future projects for these properties. The reclamation plan for the current mining use on those parcels requires that the property be restored to grassland, woodlands and waterbodies.
10. Sherburne County is in the process of amending its Comprehensive Land Use Plan in its entirety. It is anticipated that a draft plan will be completed and ready for planning commission review within the next few months. While the overall comprehensive plan review does not preclude Capital Land Group and Elk River Landfill from applying to change individual parcels, Zoning staff feels it would be more efficient and appropriate to compete the full comprehensive plan review and update process and to consider all of the associated policies that are part of a full comprehensive plan before changing land use designations on individual parcels.
11. If this amendment and the following rezone request are approved it would allow for all the Permitted uses in the Heavy Industrial and Industrial Zoning District (e.g., sexually oriented businesses, trucking terminals, and private motor sport vehicle tracks, contractors yards,



manufacturing and offices...) on these properties. These uses are permitted and do not require a conditional or interim use permit, which allows the County to place conditions to mitigate safety and environmental concerns.

**STAFF FINDINGS AND RECOMMENDATION:**

In April 2022, the County, began working with the Consulting Firm, HKGi to rewrite the County’s Comprehensive Land Use Plan in its entirety. The work to rewrite the Plan is ongoing, and further analysis and engagement with key stakeholders still needs to take place. It is anticipated that a draft plan will be completed and ready for public review along with review and recommendation of approval by the Planning Advisory Commission in the coming months. The applicant was made aware of this effort and has chosen to move forward with an application.

Completing the full Comprehensive Land Use Plan update would allow the County to consider, evaluate, and determine the need and appropriateness of future land uses within the County and the associated growth, natural resource and transportation policies that are a part of the Plan. Zoning staff believes it is important to complete that process before making changes to individual parcels. This is particularly important given that the current land use permit on parcels 30-034-2200 and 30-034-2101 requires that the property be restored to grassland, woodlands and waterbodies. Zoning staff therefore recommends that the Planning Advisory Commission recommend denial of the Comprehensive Plan amendment application for parcels 30-034-2200 and 30-034-2101 at this time.

**PLANNING ADVISORY COMMISSIONS REASONS FOR RECOMMENDING APPROVAL OR DENIAL**

Zoning staff is requesting the Planning Commission to provide their reasons for recommending approval or denial of this request.

**Planning Commission Discussion:**

Adams asked if the intent is for a Landfill.

Schneider confirmed that this is in the application.

Lynn Waytashek confirmed that this item is specific to the Comprehensive Plan Amendment.

Adams asked why this would be done prior to the Comprehensive Plan Approval, why would we interfere while this is still in the process?

Schneider stated that this is the concern of staff and much of the reason for recommending denial. This process began in April of 2022, and we are working our way through the process. We still need to work with stakeholders, we still need to do further analysis of our land use map. Similar to last month when we had an application for revisiting solar in a certain area, staff recommended denial on the basis that we are nearing the end of our Comprehensive Plan where we will have a holistic view of the County rather than a spot-by-spot approach.

Adams asked when the Comp Plan will be complete.

Schneider stated that the hope is it will be brought for public comment in the month of August then it will be brought to the Planning Commission for Public Hearing in August as well. County Board action is expected in September, depending on feedback, it could be delayed.

Sims asked if Schneider could speak to item #9 (from the Staff Comments).

Schneider stated that in 2022, Tiller and Martin Marietta obtained an Interim Use Permit for a gravel mine and prior to this process they completed an Environmental Review. The County gave a negative declaration on this EAW. Throughout this process the County had inquired on what the end use was for this property. The plan was for open space, but no restoration or industrial uses.

Sims asked about the open space and proximity to the park and open space (PID # 30-033-1100), asking if it was adjacent.

Schneider confirmed that this is County property and a part of the Great Northern Trail.

Adams asked if it's common for the Environmental Assessment to be done prior to applying for the Comp Plan Amendment or the Rezone?

Schneider stated that he can speak to some past projects, for example when Vonco II came forward for their Conditional Use Permit, they completed the Environmental Review at the same time.

Waytashek stated that there had to be a rezone when they went through this process in 2003 to expand the landfill into Livonia and the environmental review was done concurrently as well as the IUP.

Schneider stated that the previous project was expansion of the Landfill for demolition debris, and this did not meet the threshold for an environmental impact study, just an EAW and these were done at the same time.

Hass asked why staff would handcuff the Elk River Landfill and Capital Land Group if they plan to do this now. Why does the County process have to unfold first?

Schneider replied that it seems practical to allow us to complete our work on the Comprehensive Land Use Plan before we make a decision on converting land just as we did with the Solar request at the last meeting. Our analysis is not completed, we do not have approval of the plan, it seems appropriate that we follow this process through rather than making changes as we are working our way through that plan. This was communicated to the applicant in the review letter.

Sime added that the Planning Commission needs to look at this as a Comp Plan Amendment first and a Rezone next while looking at each parcel for the uses as a whole, not to be done specific to the landfill because every landfill expansion is going to require an Environmental Impact Statement. By law, the Environmental Review process must be done prior. If this is being done specific to the landfill, the Environmental Quality Board would tell you that you can't act. If this is approved at some point, a CUP would still be required and that we cannot act on until the Environmental Process is complete. This

application is not a specific improvement to the landfill, this is requesting that the county make an amendment to the Comp Plan, from rural residential to heavy industrial and in the next application, to industrial. This is a policy question and to be looked at with a broad brush. Are the uses appropriate? So, the Staff Comment is that they are about done with the policy aspect via the Comp Plan, and we would like to finish that. In terms of, this holding things up for the applicant, Sime doesn't know if the applicant is prevented from applying for state permits while we are working through this. Either way, the County still needs to work through its policies. Look at this for the broader picture for all of the allowed uses and not a specific applicant use.

Mike Miller came forward to represent Waste Management and Elk River Landfill, his address is 20721 Lake Ridge Drive, Prior Lake, MN. Also present was Mike Caron, Capital Land Group, 1093 Cty 29, Lakeshore.

Adams acknowledged a memo that had been handed out to staff, by Butch Hass, from the applicant, dated July 20, 2023. He asked the applicant what is the hurry as we are currently going through the Comp Plan?

Miller stated that it's a complicated issue and he agrees with Sime on some items but needs clarification on others. The rush is that this is not going through an EAW like in 2003, this is going through an Environmental Impact Statement with the MPCA, and these have been taking 3-4 years to go through. One of the triggers for the agency to open this and to start in on their work for the Environmental Assessment is local approval and zoning is considered a local approval. If they do not have adequate zoning and comprehensive plans for the land use of these parcels, then they do not have a clear picture with the MPCA as to if they would start in on the Environmental Review. So, for them to work concurrently on an EAW that lasts several months, this makes sense, but when we are talking about a 3-4-year EIS then it's tough to make it work concurrently.

Adams replied that it does not seem like a 2-3-month delay on our end would impact the 3-4-year process.

Miller stated that 2-3 months may not seem like a lot but can turn into 6 months or a year if there is an issue. He respects the Comp Plan process, however will there be any other land in the County that is deemed as heavy industrial when this plan is complete? According to his research, there is only 1 property owner in rural Sherburne County that has this designation and that is the Elk River Landfill. The rest fall into the various municipalities within the County. With this and the comments that staff has made about concerns with what can be done with heavy industrial zoning we fail to understand why the comprehensive planning would be developing new areas of heavy industrial zoning where we could house a landfill. We question if there will be any heavy industrial as a part of this Comprehensive Plan. Staff has said that this Comprehensive Plan is talking with the local townships and cities for their desired uses for the plan and as outlined in the memo that was sent today, we have been working with the County, Town and City of Zimmerman on this for over 2 years. Why wouldn't this fall right in line with

the Comp Plan that is going on and if this is not zoned as heavy industrial in the Comp Plan, then we will be right back here in a few months asking for the same thing.

Adams stated that you may be; but going through the process is worthwhile.

Miller stated that this is a big County, and they are just asking for a few acres to be changed. Part of this, 3 parcels, is a correction to the ordinary high water, back in 2003 an incorrect line was given to them, so they were not able to accurately permit the facility at that time. So, part of this is the correction to a bad map that was being used 20 years ago.

Adams asked if Miller could address the existing plume and monitoring through natural attenuation.

Miller replied that monitoring through natural attenuation is monitoring the water that is in this contaminated plume. First, this contaminated plume is nowhere connected to these parcels, it is to the South. It's from an old Landfill that was in existence and started taking waste in the 70s and 80s prior to liners being required. Waste Management obtained this property back in the 90s and we assumed liability from the previous owner. Through our assumption of liability, we have identified where this plume is and we are working with the MPCA, County, City of Elk River to monitor it and see if its diminishing. It took several years and extensive drilling of test holes. There are more monitoring wells around this landfill than any other landfill in the state, maybe even in the region. We know a lot about the hydrology of this region and how the water flows. It's taken a long time to get it narrowed down to exactly where it is and now that we know where it is we are sampling it and the natural attenuation is to see if it starts to diminish. The contamination is vinyl chloride, which as soon as it hits the atmosphere it volatilizes and goes away. The theory, from the MPCA and different hydrologists is that it should start to diminish.

Adams asked for clarification if they are only monitoring it at this time; no mitigation.

Miller confirmed that at this time it's monitoring to see if the plume is stable or diminishing. If the plume is moving, then the next phase would be what is needed to treat it. They discussed this with the MPCA and its natural attenuation at this time and that is what they are doing for other landfills.

Adams stated that he knows that there are some concerned citizens at the Ridges of Rice Lake that are watching this carefully.

Miller stated that they attend the Rice Lake Association once to twice a year to update them. There have not been any detections in any of the drinking wells and as a preventative measure our plan includes re-drilling for a number of residences. We test the wells and provide the residents with the reports. To reiterate, this was an acquisition and in the 80s there were 2 options, you worked with the MPCA and the local counties and developed a monitoring plan or you closed the landfill and handed it off to the state so they can take care of it.

Adams replied that either way, it's a problem that we are all stuck with.

Miller agreed, but added that Waste Management is on the hook for paying it and as of today, other than monitoring it, they have not requested or received any money from the County for doing the work on this plume.

Demeules asked about Staff Comment #9 regarding the IUP in 2022 and no future projects; what happened?

Caron stated that he was with Tiller when the Environmental Review was completed and at that time there were no agreements with the Landfill. Those all transpired after that. As a part of the process for getting the permit to mine, they had to come up with a reclamation plan and the only use was open space. That doesn't mean that it's going to be that way forever. It just so happens that another use has come along, and they are here to support that use.

Demeules stated that it doesn't seem that 2 years is a very good business plan for a company as big as Waste Management.

Sims asked who owned this in 2022.

Caron stated that Capital Land Group owned it, and Tiller leased it.

Miller stated that coming together for these agreements with all of the parties, that are large corporations is not a simple task, however initially they had come to an agreement with Livonia Township for a smaller footprint that did not include all of these parcels. This included the Township, Commissioner Fobbe, Mayor Nick from Zimmerman, they asked us not to go short on this and to give them the big picture on what we want to do. So, we talked with Capital Land Group; we were encouraged by local government to expand this into the areas where the new mining agreement was just being signed. Mr. Hass was involved and can attest to that.

Adams replied that he is not against the Landfill, it's allowing the process of the Comp Plan to be completed, this was not in the works in 2022, so why now is this urgent.

Adams opened the Public Hearing.

Kevin Hiller, 10785 261<sup>st</sup> Ave, Zimmerman, he is a Livonia Township Supervisor, and he has been at countless meetings over the last 2 + years and he doesn't understand what comprehensive land use this could be after it's been a hole in the ground. It's got to be filled with something or it's going to be a hole in the ground. He understands that the County wants to have the Comp Plan done first, but what else could possibly fit into that footprint? And if there isn't something, then what is the negative in allowing them to move forward.

Sime replied that this ties into what the applicant has stated, they have been going through a complicated process to determine their needs and what they told us in the prior permitting is that this is going to be reacquainted for open space in the future. Open space is an important aspect of any

Comprehensive Plan and future park plan etc. and as pointed out earlier, this is adjacent to an existing trail. This may not be the future designated use, but he understands why this use was looked at this way. Going through the process allows us to look at this County wide, not piece by piece. As the applicant stated, where else will you put Heavy Industrial and then the comment that it's been a hole in the ground and now what can you do with it. You can do Agricultural. Large Contractors yards are permitted in heavy industrial. We are going to have to look at this and what types of buffer uses if the landfill were not able to get State approvals, for example. Once you zone it, then you have permitted uses that you lose control over for permitting. So, what types of uses are appropriate. That is what we are getting at when we talk about the Comprehensive Plan. The applicant has raised many good points, but this is what we are looking at on the County end.

Adams stated that we all have detailed plans that we need to go through.

Paula Dare, 12266 239<sup>th</sup> Ave NW, Elk River, she is upset about how things have been done behind Livonia township. She lives right behind the dump and smells the methane gas, now that they are taking down more trees. She feels like she is on the freeway with the sound. They have Rice Creek there. She has a lot of health issues. When they bought the land, we bought in a residential area and prior to purchasing the land, we asked Sherburne County and Don Sherper who was on Livonia Township, is it going to be closed. They were told that once the landfill was full, they could not add on. Looking at the Livonia township meeting minutes, nothing has been on prior to them finding out in 2020 or 2022 that they are trying to do this. As a resident of Livonia Township, who lives right there, they should have been the first to be talked to about it. Livonia Board is hired by Livonia Township, and this should not have been hidden from us. When they put in methane gas, we were told that they wanted to hear about it if there were any smells. She has spoken with Debbie a couple of times about the terrible smell. She can't even be outside during the summer, it smells terrible. There are plastic bottles everywhere. They have cut trees down. You talk about open space; it could be open for the environment. Do we have to cut down every tree to accommodate something else?

Schneider stated that an email comment was received today and emailed to the Board members in advance of the meeting today, he then read this into the record:

Dear Zoning Board,

My husband Fred and live at 13925 277th Ave NW in Livonia Township. We are writing to voice our objection to the proposed zoning changes proposed by Elk River Landfill and Capital Land Group LLC from current to heavy industrial. Prior to any change, Sherburne County should have their master land use/ environmental plan completed and all environmental impact assessments should be completed. The landfill already has potential for significant impacts to our ground water, air quality, and further degradation of habitat that exists around the current boundaries.

We recommend voting in opposition to this proposed change in zoning.

Best Regards,

Heidi and Fred Street

Larson moved to close the Public Hearing. Vandereyk seconded. The motion carried and the Public Hearing was closed.

Adams stated that speaking for himself and his perspective, he would like to see this delayed for 2-3 months. Let us complete the plan and then come back. Let us do your planning just as you are doing your planning. When we look at the Findings for these items, the first Finding asks if the proposed rezoning is consistent with the Comprehensive Plan, and we have to say no. He's unsure of how the rest of the Board will vote, but do you want to back off on this a bit and sign a 60-day waiver to give us some time? He believes that this is the best for both parties.

Hass stated that we are handling this wrong, and he wants to know if 2 months is reasonable for the Comp Plan. He does not believe that it is. If it is going to be done, then he doesn't have an issue, but he doesn't see that it will be done.

Schneider stated that we are trying to accomplish this in 2 months, but he doesn't have a definitive. The plan is August for the Public Hearing and County Board Action in September. There are things that can impact it.

Sims stated that it has been a long time and it's been a lot of work. She would like to respect the amount of effort that has gone into this. A lot has changed since 2011 and the previous Comprehensive Plan and she would like to respect the residents that get a voice with the comprehensive plan. She would like to respect the work that has gone into this and see it play out, at this point she would say no and would go with the recommendation of those that have boots on the ground.

Hass stated that he doesn't totally disagree, but when he worked as a professional, there were deadlines that had to be met. We've all worked hard and postponing this without a sunset date is wrong.

Sims stated that it's the voice of the people too.

Sime gave a reminder that the applicant is entitled to see these applications go forward if this is what they want to do.

Adams asked the Board if they are ready to move forward with a vote, what is the desire?

Sims made a motion to recommend denial of the Request to Amend the Comprehensive Land Use Plan from Rural Residential to Heavy Industrial, with the Findings. Adams Seconded.

Hass again asked for a sunset date.

Adams asked Hass for his proposal.

Hass stated that he wants to see the timeline of August for Public Hearing and September for County Board.

Adams stated that Schneider doesn't have the capability to say that it will be done.

Waytashek stated that one of the items on the agenda later this evening is for policy as a part of the Comprehensive Plan. Depending on these comments, the intent is to have the Public Hearing in a month. If we get many comments and need to bring it back, it may be that we won't have the Public Hearing next month, but the intent is to have that Public Hearing in August.

Miller asked if he could request to table this item for 60 days in addition to the other items that are to be heard tonight.

Sime replied that this can be done, if both applicants are in agreement to extend the 60-day timeline, then the Planning Commission can table this and bring it back. A couple of issues, that do not prevent this action, but things to think about. The Public Hearing has been closed for this application. Presumably the public will voice their comment in the Comprehensive Plan hearing.

Adams asked for clarification, that the Public Hearing is closed.

Sime stated Yes.

Miller added, for this one application.

Sime added that this could be done with all (4) applications, you can open the Public Hearing for the other items, keep it open until a certain date and table the items. If you would like to do this, we can talk about a date now and put it in writing.

Miller suggested that these items be extended to the September Planning Commission meeting.

Waytashek added that this would then go to the County Board in October, and we would want to allow ourselves time for the Findings and follow up after the County Board meeting and still meet statutory rules.

Adams asked for clarification on the process.

Sime stated that the Public Hearing is closed for this particular item, and the item can still be tabled. For the others, the Public Hearing can be opened and then tabled along with the item.

Miller asked for a date, if the one discussed, doesn't work, then what date would sit better?

Winter confirmed that items for the September 21<sup>st</sup> meeting will be heard by County Board on October 17<sup>th</sup>.

Waytashek asked Sime if this would be enough time.



Sime asked the applicant if they would agree to allow the County to act upon these actions by October 31<sup>st</sup>?

Applicant agreed.

Sime added that it will be up to the applicant at that time, on whether the items are continued.

Applicant agreed.

Adams and Sims withdrew their prior motions.

Demeules made a motion to Table Agenda Item #6 to the September 21, 2023, Planning Commission Meeting. Sims seconded.

The motion carried and Item #6 has been tabled to the September 21, 2023, Planning Commission Meeting.

Caron asked if they should withdraw the applications and then sign the agreement?

Sime stated that they do not need to withdraw them, all we are doing is extending the deadline to act on the application.

**Agenda Item #7 -7:42pm**

**Elk River Landfill, Inc. and Capital Land Group LLC** Request to Rezone property from General Rural to Heavy Industrial.

PID# 30-034-2200, 30-034-2101, 30-523-0105, 0110 and 0115 Legal Desc: (On file at the County). Sec 34, Twp 34, Rge 26. Livonia Township. 137.71 acres in the General Rural District.

Application Deemed June 27, 2023

Complete 60-Day Deadline August 26, 2023

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Legal Description 3 Pages
- C. Reason for Rezone Request
- D. Vicinity Map
- E. Parcels within ½ Mile Map
- F. Concept Site Arrangement Map
- G. Zoning District Map

**LIVONIA TOWNSHIP COMMENTS** (June 27, 2023): Board action for the Application to Rezone property: Hass/Hiller unanimous to recommend approval for the request with the following comments - no one wants a landfill in their backyard; however, Elk River Landfill has done a good job with managing the existing landfill. It is in a good location and is the best location for the area and Sherburne County. The expansion area that requires these changes is the best location for landfill expansion.

**DEPARTMENT/AGENCY COMMENTS:**

**Tom Cruikshank, MnDOT** (July 11, 2023) The comments that our Development Review group had was in reference to truck traffic which is already being managed with the current operations and not wanting any ROW encroachments and that no stormwater can run to the highway ROW.

**James Bedell, MN DNR** (June 27, 2023) I do not have any comments to provide at this time.

**PLANNING & ZONING STAFF COMMENTS:**

1. The applicants have requested to rezone 5 parcels (Total Acres of 5 parcels 233.09) owned by Waste Management and Capital Land Group from General Rural to Heavy Industrial. Of the total 233.09 acres on all five parcels, the applicants are requesting to rezone 137.71. The difference in acreage is because a portion of parcels 30-523-0105, 30-523-0110 and 30-523-0115 are already zoned Heavy Industrial. The remaining acreage on those parcels was not previously zoned Heavy Industrial because industrial uses are prohibited within the shoreland setback from Rice Lake, a Natural Environment Lake.

2. Elk River Landfill hired a licensed/certified surveyor to identify the Ordinary High Water Level location of Rice Lake. The survey showed a different location of the OHWL, further from the property boundary. Zoning staff understands that the DNR has reviewed the survey and found it to be acceptable. As a result, the Applicants are now requesting to rezone the portion of parcels 30-523-0105, 30-523-0110 and 30-523-0115 that are no longer within the Shoreland Overlay District of Rice Lake. The Applicants are not requesting to rezone any portion of those parcels that are still within the Shoreland Overlay District. A survey and legal description of the areas of parcels 30-523-0105, 30-523-0110 and 30-523-0115 that the Applicants would like rezoned is included in the Board Packet B.
3. The other two parcels included in this rezone request (parcels 30-034-2200 and 30-034-2101) are zoned Rural Residential and guided for Rural Residential in the current Comprehensive Land Use Plan. Applicants have requested that the Comprehensive Land Use Plan be amended for these two parcels to designate them as Heavy Industry (see Agenda item #6).
4. The reason for the proposed rezone is Elk River Landfill proposes to expand the waste limits of their existing landfill into these subject properties, which is only permitted on lands Zoned Heavy Industrial. The applicant has drafted their amendment to follow the general location of the solid waste limits of the landfill which can be seen on Board Packet Attachment F.
5. In 2003 a rezone request to convert 80 acres from General Rural to Heavy Industrial and a request for a Conditional Use Permit for a Construction and Demolition (C&D) Waste Facility were granted on 80 acres of the subject properties. This request would expand the Heavy Industrial land use designation north into properties designated Rural Residential by the County's Comprehensive Land Use Plan.
6. The Elk River Landfill was established in 1972, it is a municipal solid waste (MSW) landfill. There have been several expansions over the years into the City of Elk River and into Livonia Township. The expansions into Livonia Township were for Construction and Demolition debris.
7. The request for the rezone is one of many steps in Elk River Landfill Inc.'s effort to expand the MSW boundaries of their landfill. The steps required include an Environmental Review through the MN Environmental Quality Board (EQB), Certificate of Need from the MN Pollution Control Agency, a Conditional Use Permit for a Waste Facility from Sherburne County and Waste Licensing approval from both the MPCA and Sherburne County. To date, the Environmental Review process has not been submitted for review.
8. The hydrogeology of the area is complex. Due to the porous nature of soils, groundwater is extremely susceptible to contamination and these properties proximity to Tibbetts Brook and Rice Lake makes effective monitoring of the landfill difficult.
9. There is a known contaminant plume emanating from the existing landfill. The contamination plume extends west into Rice Lake, a Natural Environment Lake. Elk River Landfill is attempting to mitigate the contamination through monitored natural attenuation (MNA). Monitoring efforts are conducted by the Elk River Landfill and reports are submitted to the State and County. In 2024 Waste Management is to submit a report demonstrating the effectiveness of current MNA activities which will be reviewed by County Staff.
10. In 2022, an Interim Use Permit for mining was approved on parcels 30-034-2200 and 30-034-2101 with a proposed end use of open space. No plans for a landfill or industrial uses were proposed as part of that IUP process, nor was there any mention of industrial use in the required Environmental Assessment Worksheet. The applicant for the IUP stated in the environmental review documents that there were no anticipated future projects for these properties. The reclamation plan for the

current mining use on those parcels requires that the property be restored to grassland, woodlands and waterbodies.

11. Sherburne County is in the process of amending its Comprehensive Land Use Plan in its entirety. It is anticipated that a draft plan will be completed and ready for planning commission review within the next few months. While the overall comprehensive plan review does not preclude Capital Land Group and Elk River Landfill from applying to change individual parcels, Zoning staff feels it would be more efficient and appropriate to complete the full comprehensive plan review and update process and to consider all of the associated policies that are a part of a full comprehensive plan before changing land use designations on individual parcels.
12. If this rezone and the preceding amendment are approved it would allow for all the Permitted uses in the Heavy Industrial and Industrial Zoning District (e.g., sexually oriented businesses, trucking terminals, and private motor sport vehicle tracks contractors yards, manufacturing and offices...) on these properties. These uses are permitted and do not require a conditional or interim use permit, which allows the County to place conditions to mitigate safety and environmental concerns.

**Planning Commission Discussion:**

Adams opened the Public Hearing.

Demeules made a motion to Table the Public Hearing and the agenda item to the September 21, 2023, Planning Commission meeting.

Waytashek added, with the understanding the applicant is okay with extending the deadline to October 31<sup>st</sup>.

Applicant agreed.

Sims seconded. The motion carried to Table the Public Hearing and the agenda item to the September 21, 2023, Planning Commission meeting.

**Agenda Item #8 -7:43pm**

**Capital Land Group LLC** Request to Amend the County’s Comprehensive Land Use Map property from Rural Residential to Business and Industry.

PID# 30-027-3300, 3301, 3202, 3303 and 30-028-4410. Legal Desc: (On file at the County). Sec 27 and 28, Twp 34, Rge 26. Livonia Township. 48.95 acres in the General Rural District.

Application Deemed June 27, 2023

Complete 60-Day Deadline August 26, 2023

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Legal Description 2 Pages
- C. Reason for proposed Amendment
- D. Vicinity Map
- E. Parcels within ½ Mile Map
- F. Concept Site Arrangement Map
- G. Comprehensive Land Use Map

**LIVONIA TOWNSHIP COMMENTS** (June 27, 2023): Board action for the Application Amendment to Comprehensive Land Use Plan Map: Hass/Hiller unanimous to recommend approval for the request with the following comments - the request makes sense, residential development would not be allowed or desired this close to the Landfill; the change is good use for the land; the change can strengthen the township; the change keeps options open for future needs.

**DEPARTMENT/AGENCY COMMENTS:**

**Tom Cruikshank, MnDOT** (July 11, 2023) The comments that our Development Review group had was in reference to truck traffic which is already being managed with the current operations and not wanting any ROW encroachments and that no stormwater can run to the highway ROW.

**James Bedell, MN DNR** (June 27, 2023) I do not have any comments to provide at this time.

**PLANNING & ZONING STAFF COMMENTS:**

1. The applicant has requested to amend the Comprehensive Land Use Plan for 5 parcels (Total acreage of 5 parcels 52.05) from Rural Residential to Business and Industry. Portions of these parcels are within the Shoreland Overlay District of Rice Lake, a Natural Environment Lake. The Applicant is only asking to amend the Comprehensive Plan land use designation for the portions of the parcels that are outside of the Shoreland Overlay District, since industrial uses are prohibited in shoreland areas. A survey and legal description of the areas of the parcels where the Applicant would like to amend the Comprehensive Plan is included in the Board Packet Attachment B.
2. These parcels abut land used for residential and commercial to the north, Elk River Landfill to the south, Great Northern Trail to the west and US Hwy 169 to the east.

3. The reason for the proposed amendment according to the applicant is to begin the long-range planning process for future end-use development of these parcels that are in alignment with the lands to the south that have been requested to be rezoned to Heavy Industrial. The applicant feels Business and Industry designation is the most suitable use of the properties given their location along US Hwy 169 and the proposed landfill development to the south.
4. There is a known contaminant plume emanating from the existing landfill. The contamination plume extends west into Rice Lake, a Natural Environment Lake. Elk River Landfill is attempting to mitigate the contamination through monitored natural attenuation (MNA).
5. The hydrogeology of the area is complex. Due to the porous nature of soils, groundwater is extremely susceptible to contamination and these properties proximity to Tibbetts Brook and Rice Lake.
6. In 2022, an Interim Use Permit for mining was approved on these parcels with a proposed end use of open space. No plans for a landfill or industrial uses were proposed as part of that IUP process, nor was there any mention of industrial use in the Environmental Assessment Worksheet that was completed as required before the IUP could be issued. The applicant for the IUP stated in the environmental review documents that there were no anticipated future projects for these properties. The reclamation plan for the current mining use on those parcels requires that the property be restored to grassland, woodlands and waterbodies.
7. The County is already in the process of amending its Comprehensive Land Use Plan in its entirety. It is anticipated that a draft plan will be completed and ready for planning commission review within the next few months. While the overall comprehensive plan review does not preclude Capital Land Group from applying to change individual parcels, Zoning staff feels it would be more efficient and appropriate to complete the full comprehensive plan review and update process and to consider all of the associated policies that are part of a full comprehensive plan before changing land use designations on individual parcels.
8. If this amendment and the following rezone request are approved it would allow for all the Permitted uses in the Industrial Zoning District (e.g., private motor sport vehicle tracks contractors yards, manufacturing and offices, ministorage) on these properties. These uses are permitted and do not require a conditional or interim use permit, which allows the County to place conditions to mitigate safety and environmental concerns.

**RECOMMENDED FINDINGS BY PLANNING & ZONING STAFF:**

On April 15, 2022, the County, signed a contract with the Consulting Firm HKGi to rewrite the County's Comprehensive Land Use Plan in its entirety. The work to rewrite the Plan is ongoing, and further analysis and engagement with key stakeholders still needs to take place. It is anticipated that a draft plan will be completed and ready for public review along with review and recommendation of approval by the Planning Advisory Commission in the coming months. The applicant was made aware of this effort and has chosen to move forward with an application.

Completing the full Comprehensive Land Use Plan update would allow the County to consider, evaluate, and determine the need and appropriateness of future land uses within the County and the associated growth, natural resource and transportation policies that are a part of the Plan. Zoning staff believes it is important to complete that process before making changes to individual parcels. This is particularly important given that the current land use permit for these parcels requires that the property be restored to grassland, woodlands and waterbodies. Zoning staff therefore recommends that the

Planning Advisory Commission recommend denial of the Comprehensive Plan amendment application at this time.

**PLANNING ADVISORY COMMISSIONS REASONS FOR RECOMMENDING APPROVAL OR DENIAL**

Zoning staff is requesting the Planning Commission to provide their reasons for recommending approval or denial of this request.

**Planning Commission Discussion:**

Adams opened the Public Hearing.

Paula Dare, 12266 239<sup>th</sup> Ave NW, Elk River, MN asked what it means to change it from Residential to Heavy Industrial. It means big trucks, a lot of movement, lots of noise. How do we stop this? We want to stay residential; we don't want the noise. Our property taxes are going up. When they were mining, she was run off of the road twice.

Adams stated, this is why we are going through the Comprehensive Plan.

Larson made a motion to Table the Public Hearing and the agenda item to the September 21, 2023, Planning Commission meeting.

Sims seconded. The motion carried to Table the Public Hearing and the agenda item to the September 21, 2023, Planning Commission meeting.

**Agenda Item #9 -7:46pm**

**Capital Land Group LLC** Request to Rezone property from General Rural to Industrial.

PID# 30-027-3300, 3301, 3202, 3303 and 30-028-4410. Legal Desc: (On file at the County). Sec 27 and 28, Twp 34, Rge 26. Livonia Township. 48.95 acres in the General Rural District.

Application Deemed June 27, 2023

Complete 60-Day Deadline August 26, 2023

Marc Schneider, Senior Planner, presented the request to the Planning Commission including the Board Packet, Attachments and Comments.

**BOARD PACKET ATTACHMENTS:**

- A. Aerial Photo
- B. Legal Description 2 Pages
- C. Reason for Rezone Request
- D. Vicinity Map
- E. Parcels within ½ Mile Map
- F. Concept Site Arrangement Map
- G. Zoning Map

**LIVONIA TOWNSHIP COMMENTS** (June 27, 2023): Board action for the Application to Rezone property: Hass/Hiller unanimous to recommend approval for the request with the following comments- the changes make the most sense while having a buffer between the landfill and existing homes. The Landfill expansion location will likely be in operation for 20- 25 years at which time needs can be reassessed.

**DEPARTMENT/AGENCY COMMENTS:**

**Tom Cruikshank Tom Cruikshank, MnDOT** (July 11, 2023) The comments that our Development Review group had was in reference to truck traffic which is already being managed with the current operations and not wanting any ROW encroachments and that no stormwater can run to the highway ROW.

**James Bedell, MN DNR** (June 27, 2023) I do not have any comments to provide at this time.

**PLANNING & ZONING STAFF COMMENTS:**

1. The applicant has requested to rezone these 5 parcels (Total acreage of 5 parcels 52.05) from General Rural to Industrial. Portions of these parcels are within the Shoreland Overlay District of Rice Lake, a Natural Environment Lake. The Applicant is only asking to rezone the portions of the parcels that are outside of the Shoreland Overlay District, since industrial uses are prohibited in shoreland areas. A survey and legal description of the areas of the parcels that the Applicant would like rezoned is included in the Board Packet Attachment B.
2. These parcels abut land used for residential and commercial to the north, Elk River Landfill to the south, Great Northern Trail to the west and US Hwy 169 to the east.



3. The reason for the proposed amendment according to the applicant is to begin the long-range planning process for future end-use development of these parcels that are in alignment with the lands to the south that have been requested to be rezoned to Heavy Industrial. The applicant feels Business and Industry designation is the most suitable use of the properties given their location along US Hwy 169 and the proposed landfill development to the south.
4. There is a known contaminant plume emanating from the existing landfill. The contamination plume extends west into Rice Lake, a Natural Environment Lake. Elk River Landfill is attempting to mitigate the contamination through monitored natural attenuation (MNA).
5. The hydrogeology of the area is complex. Due to the porous nature of soils, groundwater is extremely susceptible to contamination and these properties proximity to Tibbetts Brook and Rice Lake.
6. In 2022, an Interim Use Permit for mining was approved on these parcels with a proposed end use of open space. No plans for a landfill or industrial uses were proposed as part of that IUP, nor was there any mention of industrial use the required Environmental Assessment Worksheet that was completed. The applicant for the IUP stated in the environmental review documents that there were no anticipated future projects for these properties. The reclamation plan for the current mining use on those parcels requires that the property be restored to grassland, woodlands and waterbodies.
7. The County is already in the process of amending its Comprehensive Land Use Plan in its entirety. It is anticipated that a draft plan will be completed and ready for planning commission review within the next few months. While the overall comprehensive plan review does not preclude Capital Land Group from applying to change individual parcels, Zoning staff feels it would be more efficient and appropriate to complete the full comprehensive plan review and update process and to consider all of the associated policies that are a part of a full comprehensive before changing land use designations on individual parcels.
8. If this rezone is approved it would allow for the following type of permitted uses on these properties:  
Mini Storage, Offices, Manufacturing, Contractor's Yard (Small and Medium), Restaurants,  
Warehousing

**Planning Commission Discussion Followed:**

Adams opened the Public Hearing.

Aubol made a motion to Table the Public Hearing and the agenda item to the September 21, 2023, Planning Commission meeting.

Vandereyk seconded. The motion carried to Table the Public Hearing and the agenda item to the September 21, 2023, Planning Commission meeting.

Comprehensive Land Use Plan Update

Marc Schneider, Senior Planner, presented the Comprehensive Plan-Policy Areas to the Board.

Zoning Staff wants to the Planning Advisory Commission an update on the Comprehensive Land Use Plan and provide you the draft Policy that are intended to support Values and Goals of the Comp Plan. Tonight, we will be taking some time to explore the highlighted draft Policy and see if you have any feedback.

1. **Accessory Housing Units:** It is the County's policy to explore the need and impact of accessory dwelling units (ADUs).
2. **Agriculture:** It is the County's policy to support agriculture as a desirable land use, while providing increased flexibility for farmsteads to thrive.
3. **Agricultural Housing:** It is the County's policy to provide greater flexibility for housing in Agricultural Areas to support the needs of the farming community and changing demand in housing types.
4. **Airport Zoning:** It is the County's policy to limit population density and structure heights within a conical elevation and distance from existing and planned runways.
5. **Broadband/Internet:** It is the County's policy to implement its broadband policy to ensure all residents and businesses have adequate access to broadband/internet.
6. **County Parks and Recreation:** It is the County's policy to positively affect the community by providing meaningful nature-based outdoor recreational opportunities, while protecting and preserving the environment for future generations.
7. **Development Review Process:** It is the County's policy to evaluate land use projects by utilizing a development review process that can help identify potential impacts to natural resources and work with the applicant to find solutions to mitigate those impacts.
8. **Economic Development:** It is the County's policy to foster economic development activities in a way that positions Sherburne County to be the county of choice for both residents and businesses.
9. **Extreme Weather Events:** It is the County's policy to actively plan and prepare for extreme weather events that may impact people and farming in the County.
10. **Farm to Market Routes:** It is the County's directive to consider transportation improvements that provide mobility benefits in moving goods (e.g., crops and livestock) between farms and their final destination (e.g., farmers market, school, distributor, processing facility or grocery store) and evaluate how new development projects may impact movement of agricultural goods.
11. **Food Access:** It is the County's policy to create better access to healthy and affordable foods.
12. **Growth Management** is the County's policy to use the Comprehensive Land Use Plan's Growth Management Framework when facilitating and approving development proposal in proximity to urban edges.
13. **Hamlets:** It is the County's policy to provide a greater flexibility in land uses in Hamlets to support the existing town needs and anticipated future needs for the residents of these communities.
14. **Highway Business & Industry:** It is the County's policy to encourage and attract industrial and manufacturing uses that add value to the economy, while ensuring that any negative impacts do not outweigh potential benefits.

15. **Home Extended Businesses:** It is the County's directive to support home extended businesses that do not negatively impact the environment, general character of the neighborhood, or existing commercial/industrial districts.
16. **Home Occupations:** It is the County's policy to support home occupations that do not negatively impact neighbors and the general character of the home's surrounding environment.
17. **Life-Cycle Housing:** It is the County's policy to promote an increase in new housing types (owner occupied and rental) to meet the needs of people at all stages of their life.
18. **Long Range Transportation Plan:** It is the County's policy to maintain a safe and accessible transportation system for all modes of transportation by following plan directives identified in the County's Long Transportation Plan (Drive Forward).
19. **Public Health:** It is the County's policy to integrate health considerations into policy and decision-making processes to improve the health and equity of all communities and people.
20. **Public Nuisances:** It is the County's policy to prohibit a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or which interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public.
21. **Renewable Energy:** It is the County's policy to support the efficient use of existing and new energy resources to balance the needs of the businesses, residents and the environment.
22. **Rural Residential Lot Sites:** It is the County's policy to maintain a minimum lot size of 1 acre and a density range of 1 unit per 2.5 acres in rural residential areas. The County will consider smaller lot sizes when subdivisions apply conservation design techniques.
23. **Subsurface Sewage Treatment Systems:** It is the County's policy to support best practices and innovative solutions for handling septic systems that do not compromise the environment and can be maintained, repaired, and operated by the property owner.
24. **Shoreland:** It is the County's policy to support best management practices for the development of lots within the Shoreland District to ensure the natural environment and the local tax base are not compromised.
25. **Short-Term Rentals:** It is the County's policy to regulate the use of private vacation rental homes, but also mitigate possible adverse impacts to health, safety, welfare and quality of life of surrounding properties.
26. **Solid Waste Management:** It is the County's policy to reduce the indiscriminate dependence on land disposal and manage solid waste in a manner that is protective of the state's land, air, water, and other natural resources, and public health by ensuring that certain reduction, recycling, processing, separation and recovery, resource recovery, and proper disposal methods is set forth.
27. **Transportation Infrastructure:** It is the County's policy to reinvest in its transportation systems to support all modes of transportation and new technologies.
28. **Zoning Consistency:** It is the County's policy to achieve greater consistency in the use of zoning regulations across all jurisdictions (county, city and township) to positively enhance the experience and image of the County, and to advance the Comprehensive Land Use Plan's policies.

Jehoich left the meeting at 8:30pm.

Haas left the meeting at 8:38pm and rejoined at 8:43pm.

## **Agenda Item #11 -8:45pm**

### **Update to Planning Advisory Commission By-Laws**

Lynn Waytashek, Zoning Administrator, presented the proposed By-Laws to the Board.

Sims asked if we have thought about including names of the Townships.

Waytashek stated that this has not been done in the past.

Demeules asked if we should have more than 1 alternate.

Waytashek doesn't think this is necessary, there is debate on whether an alternate is needed at all.

Demeules added; that there shouldn't be any reason why we don't have a quorum.

Aubol stated that it doesn't happen often.

Adams made a motion to recommend approval of the update to the Planning Advisory Commission By-laws. Aubol seconded. The motion carried and the Amendment to the Planning Advisory Commission By-laws is recommended to the County Board.

#### **Closing:**

Larson made a motion to adjourn the meeting. Vandereyk seconded. The motion carried and the meeting was adjourned at 8:48pm

Submitted by Carrie Winter, Secretary.