

**SHERBURNE COUNTY
PLANNING ADVISORY COMMISSION MEETING
MINUTES**

September 20, 2018

The Sherburne County Planning Advisory Commission met at the Sherburne County Government Center in Elk River, Minnesota on September 20, 2018 to hold a public hearing for all unincorporated areas of Sherburne County in which the County has zoning and land use authority, along with the Township of Big Lake, the Township of Baldwin and the Township of Livonia, to consider the evening's agenda and other planning and zoning related topics.

Lawrence called the meeting to order and advised that the Planning Advisory Commission is a recommending body to the County Board of Commissioners which will hear the agenda items on October 9, 2018 in this same location at 4:30 PM. He also went over the meeting procedures and noted that the hearings are being recorded.

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

Staff present: Zoning Administrator Nancy Riddle, Assistant Zoning Administrator Lynn Waytashek, Planner Marc Schneider, Zoning Specialist Mitch Glines, Kathleen Heaney County Attorney, and Secretary Judy Weber. Tim Sime, Assistant County Attorney arrived later in the last half hour of the meeting.

Schlingmann moved and Spencer seconded to approve the minutes of the July 19, 2018 Public Hearing. The motion carried unanimously.

Nelson moved and Demeules seconded to approve the agenda for the July 19, 2018 public hearing. The motion carried.

6:00 PM A meeting was held at the request of **RANDY AND JOAN HEINEN** for final plat approval of "HEINEN ADDITION" consisting of two lots (one existing residence) Property Address: 29605 128th St NW, Princeton PID # 01-021-3202 Sec 21, Twp 35, Rge 26 Baldwin Township 10 acres General Rural District

Waytashek presented the request to the Planning Commission including the following attachments, comments and recommendations for approval:

BOARD PACKET ATTACHMENTS:

A. Final Plat

BALDWIN TOWNSHIP COMMENTS: Recommended approval in 2007.

COMMENTS FROM OTHER DEPARTMENTS/AGENCIES:

Russ Heiling – County Surveyor (September 13, 2018) – A trail easement document deeded to the County of Sherburne will be required to be recorded before the plat.

PLANNING & ZONING STAFF COMMENTS:

1. This is a simple plat that received preliminary plat approval in 2009 and is not obtaining final. Previously they received plat extensions.
2. The requested 30 foot width trail easement is shown along the east side of the property adjacent to 126th Street NW.

RECOMMENDED CONDITIONS IF APPROVED:

- 1 A 30 foot wide trail easement document deeded to the County of Sherburne along 126th Street NW will be required to be recorded before the plat. The easement document recorded number will be required to be stated on the plat.
- 2 The developer shall enter into a Developer’s Agreement with the County Attorney’s Office.
- 3 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.

Nelson asked if a developer’s agreement would be necessary with this plat.

Kathleen Heaney said that in this particular case, if she can get the deed, she will not require a developer’s agreement. She asked that the wording “if needed” be added to condition number two.

Waytashek informed the Commissioners that the applicants have received a copy of the recommended conditions.

Lawrence asked if the Heinens had any questions or comments.

They said they did not.

Nelson moved and Jehoich seconded to recommend final plat approval of “HEINEN ADDITION” consisting of two lots (one existing residence) and with the following three conditions along with the added wording “if needed” to condition number two:

1. *A 30 foot wide trail easement document deeded to the County of Sherburne along 126th Street NW will be required to be recorded before the plat. The easement document recorded number will be required to be stated on the plat.*
2. *The developer shall enter into a Developer’s Agreement with the County Attorney’s Office if needed.*
3. *The plat shall be recorded in the Office of the County Recorder/Register of Titles, subject to recording fees, within one year of County Board approval of Final Plat.*

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

6:05 A public hearing was held at the request of **KNIFE RIVER CORP – NORTH:** (Trilogy Properties has a purchase agreement on the John Herbert Stommes property) for an I.U.P. for an existing Gravel Mining Operation under a new property owner. Property Address: 16335 211th Ave NW, Elk River MN PID # 10-115-3100 and 10-115-4200 Legal Desc: NE1/4 of SW1/4 and N1/2 of NW1/4 of SE1/4 plus easement (full legal on file) Sec 15, Twp 33, Rge 27 Big Lake Township 60 total acres General Rural District

Mitch Glines presented the request to the Planning Commission including the following packet attachments and comments. He noted that the applicant has received a copy of the recommended conditions and that changes will need to be made to number four (4) and five (5) by referencing “or Trilogy Properties” after each of the Knife River names.

BOARD’S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Written Explanation (1-5)
- C. Site Location
- D. Site Plan
- E. Proposed Operations
- F. Proposed Restored Conditions
- G. Site Photos (1-2)

BIG LAKE TOWNSHIP COMMENTS: Recommends approval

OTHER DEPARTMENT/AGENCY COMMENTS:

Public Works Department: Has no concerns.
Fire Chief of Big Lake: No comments received
County Attorney Office: No comments received

STAFF COMMENTS:

1. Property owner John Stommes has a purchase agreement with Trilogy Properties to sell two parcels (PID 10-115-4200 & 10-115-3100) both of which currently have an Interim Use Permit (IUP) for gravel mining known as the Stommes Pit. The Stommes Pit was granted a CUP in 1986 and 1988 to mine sand and gravel on 7 acres of land. An IUP was approved in 2016 for a total of 27 acres to be mined and they revoked the two CUP’s that were previously approved in 1986 and 1988. For the last 30 years the mine has been operated by John Stommes and most recently by Knife River. All conditions that were approved in 2016 will remain the same with the exception of an agreement that Knife River has with Trilogy Properties for an ingress/egress access to 211th Ave NW. Trilogy Properties owns the property adjacent which had the agreement for the ingress/egress access to 211th Ave NW for the Stommes Pit. Trilogy Properties also has a gravel mine known as Weicht Pit (also operated by Knife River). The Weicht Pit received a CUP in 1982 for gravel mining. Knife River will continue to operate both mines.
2. The applicant has provided new plans dated August 6, 2018 that match previous plans received on November 17, 2016.

Lawrence asked if all of the twenty five recommended conditions were existing prior to this application.

Glines replied they were and noted that the mine is currently in operation. He further noted that any changes to the conditions are shown with a strike-thru or with an underline.

Waytashek suggested they need to talk about the end date on condition number twenty five (25).

Lawrence opened the public hearing and invited the applicant to come forward and address that issue.

Justin Femrite, 13119 Elgin Drive NW, Elk River came forward to represent the applicant. He stated that they agree with the twenty five (25) recommended conditions and they are not requesting a change to the termination date that is running with the existing I.U.P. He said the existing termination date of March 17, 2020 is sufficient for this new request.

Glines added that this date is 36 months from the original approval date.

Adams asked what will happen after that date.

Femrite answered that the existing I.U.P. if approved, would cease mining because the aggregate source will be exhausted and we will look to the county planning and zoning staff for future use of the property.

Lawrence asked if the mining is completed, does the grading and restoration have to be completed by that termination date or does that come after that date.

Glines explained that the restoration would be completed as proposed in the mining reclamation plan.

Lawrence asked for any comments from the public.

There were no comments.

Schlingmann moved and Adams seconded to close the public hearing.

The public hearing was closed.

Schlingmann moved and Adams seconded to recommend approval of the request for an I.U.P. for a Gravel Mining Operation under a new property owner with the following twenty five conditions as outlined by Staff, noting that the end date will remain March 17, 2020, and with the addition of "or Trilogy Properties" to condition 4 and 5:

~~*1. The two conditional use permits for gravel mining issued to PID 10-115-4200 (Permit #6187) and 10-115-3100 (Permit #7362) are to be revoked at the request of the property by the owner.*~~

- 1. New IUP will replace existing IUP # 55805 Doc # 836119 which expires upon a change in ownership or control.*
- 2. An Annual Review for Compliance will be conducted in January of each year by Zoning Staff. If the conditions of the permit have not changed, and no complaints or concerns have been filed, the mine will be determined to be compliant once the annual fee is paid. If the conditions of the permit have changed and/or if it is determined by the County the mine is noncompliant, the applicant will be advised to attend a public hearing with all associated costs being borne by permit holder for further review or amendment. This is not an exclusive remedy.*

3. *The annual fee for the permit shall be based on the current per acre fee set by the County Board in the annual fee schedule.*
4. *No more than 27 acres can be open at any time. Open is defined as an area stripped of its natural vegetation or not reclaimed. This includes but is not limited to stockpiling of materials, crushing spreads and roads. During Zoning's Annual Review for Compliance Knife River or Trilogy Properties will provide the County with Global Positioning Satellite (GPS) data to determine if the open acreage is in compliance with the 27 acre requirement.*
5. *A staff gauge must be installed in Wetland Basin 1, as identified in the Wetland Conservation Act - Notice of Decision dated 10/24/2016. Water levels must be reported monthly to Zoning Staff by Knife River or Trilogy Properties during the growing season. Impacts to wetlands, per the Wetland Conservation Act Rules, Chapter 8420, are not allowed.*
6. *The permit holder shall secure and maintain commercial liability insurance for the duration of the permit and shall provide the County with a copy of its certificate of liability insurance prior to commencing work under the permit and annually thereafter.*
7. *Permit holder shall maintain performance & surety bond based on the current per acre fee set by the County Board in the annual fee schedule. ~~in amount of \$1,000 per open acreage.~~*
8. *The gate located at 211th Street shall be kept locked when an attendant is not on duty. At this gate a sign must be posted with a 24 hour contact number to report concerns.*
9. ~~*The existing agreement between Knife River and Trilogy Properties dated 11/25/15 (Board Attachment F) which grants access to 211th expires Dec 12, 2020. Before the expiration of this agreement Knife River must supply the county with a copy of an extended agreement or outline plans for mine closure and restoration.*~~
9. *The day and hours of operation:*
 - a. *Mining 6:30 am – 9:00 pm Monday – Saturday.*
 - b. *Maintenance 6:00 am – 9:00 pm Monday – Saturday*
 - c. *No operation on Sundays, or on the following holidays: New Year's, Memorial, Independence, Labor, Thanksgiving and Christmas.*
10. *Dust mitigation plan will include the use of calcium chloride on haul road and water per practical application with log kept of the application. Repeated application may be necessary during extreme dry conditions. Water will be added to the feed point of the crushing spread when visible emissions are present. All watering records must be made available to the Planning and Zoning Office.*
11. *All mining activity must comply with MN Rule 7030.0040 Noise Standards. If complaints arise related to the noise levels the permit holder will supply the County with a valid noise level test in accordance with MN Rule 7030.0060. If a noise level test does not exist the permit holder will be required to complete one at their expense and supply the County with a copy promptly upon request.*
12. *A hot mix plant will not be allowed under this permit.*
13. *Dewatering will not be allowed under this permit.*
14. *It shall be the responsibility of the pit operator or owner to control activity within the pit area and cleanup any debris or other material left on-site.*
15. *Sanitary facilities shall be provided for workers during pit operation. Portable toilets shall be secured from tipping over and have secondary containment.*
16. *Applicant is required to maintain their NPDES (National Pollutant Discharge Elimination System) permit.*

17. *The permit holder shall hold Big Township and the County and its respective officers and employees harmless from claims made by anyone for damages sustained or cost incurred resulting from the gravel extraction operation of this permit. The permit holder shall indemnify Big Lake Township, County and its respective officer and employees for all costs, damages or expenses, which the Township or County may pay or incur in consequences of such claims, including attorney's fees.*
18. *Mining activity shall be according to the Proposed Mining plan submitted by Knife River Inc. received ~~Nov 17, 2016~~ August 6, 2018. The applicant is proposing to mine to a depth of 920' above mean sea level which will leave an open water pond.*
19. *Restored Areas will be seeded with an appropriate seed mixture. Upon completion of mining, the restored site will comply with "Restored Conditions" plan dated ~~Nov 17, 2016~~ August 6, 2018.*
20. *Applicant to comply with Section 16.2 - Subdivision ~~45~~.14 of County Zoning Ordinance and all local, state, and federal laws.*
21. *Gravel tax payments to the County Auditor must be kept current.*
22. *The Findings in the Zoning Ordinance under Section 18, Subdivision 6.4 have been made.*
23. *The applicant shall agree to permit the County to inspect the property anytime.*
24. *Discharge of firearms will not be allowed in the pit.*
25. *The permit will have an end date of 36 months from County Board approval date which will be of March 17, 2020.*

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

6:15 PM A public hearing was held at the request of **ROBIN W. LIND** for Residential Preliminary Standard Plat approval of "TWO RIVERS" consisting of 17 lots (1 existing residence) Property address; 21675 186th St NW, Big Lake, MN PID # 10-107-4100, 4101 and 4103 Legal Desc: The E1/2 of th SE1/4 of Sec 7, Twp 33, Rge 27 lying S of Westriver Acres (full legal on file) Big Lake Township 52.04 total acres General Rural District and within Transitional River District of the St Francis River and also within the Agricultural River District of the Elk River.

Mitch Glines presented the request to the Planning Commission including the following packet attachments and comments:

BOARD'S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Preliminary Plan (date stamped Sept. 11, 2018)
- C. Preliminary Grading and Drainage Plan (date stamped Sept. 11, 2018)

BIG LAKE TOWNSHIP COMMENTS: (August 9, 2018) Township Board recommends approval of Preliminary Plat.

Ross Abel, Township Engineer (August 3, 2018) – The grading plan prepared by the applicant's consultant is approved as submitted.

OTHER DEPARTMENT/AGENCY COMMENTS:

City of Big Lake: According to an email received on July 18, 2018 from Michael Healy, Big Lake City Planner, a portion of this subdivision includes land that the City has called for incorporating into the future expansion of River Oaks Park.

David Roedel, Deputy County Engineer (July 13, 2018)

1. Sherburne County Public Works typically requires the installation of right turn and bypass lanes on our County roads for development improvements that add more than 12 homes which will affect the safety and mobility of our county road system. It will not be geometrically possible to construct the turn lanes and bypass lanes within the existing bridge width. Public Works will waive this requirement given the geometric and financial constraint associated with reconstruction of the bridge to accommodate the typically required improvements.
2. The Sherburne County Public Works Department will require park dedication fees for 16 lots at \$800 per lot, totaling \$12,800. The lot with the existing home does not require a park dedication fee. Park fees must be paid prior to the Public Works Department signing the plat mylars.

Russ Heiling, County Surveyor (September 12, 2018) – The preliminary plat revision addresses my comments from July 12, 2018.

Amy Rowan, County Auditor's Office (July 10, 2018) – No ditches on property. Taxes must be paid prior to plat being recorded.

STAFF COMMENTS:

1. The proposed project consists of 17 lots one new road with 2,100 LF +/- connecting 218th Avenue with 183rd Street. These will be Township roads.
2. The developer (Mr. Lind) currently resides at the existing house (Lot 7, Block 2) and owns three (3) separate parcels equaling 72.01 acres that is proposed to be developed. The southern 19.97 acres will be split from the northern 52.04 acres and will not be part of the development.
3. The developer (Mr. Lind) has stated that he has approached Ms. Arlette Wangen (owner of parcel PID # 10-107-4206) to purchase Ms. Wangen's property for access to 186th ST NW for the proposed project, Ms. Wangen was not interested in selling the property.
4. The driveway leading to the house from 186th ST will be removed along with a driveway that leads from the house to existing detached garage. A new driveway will be constructed to 215th Ave NW for the existing house.
5. A new ingress/egress easement for PID's 10-107-4323 and 10-107-4317 will be recorded to continue to allow the property owners to access their property from PID #10-107-4206.
6. The developer will be required to reduce the size of the existing detached garage because it will be on a separate lot from the house (2,400 sq. ft. to 1,800 sq. ft.) to comply with the lot size regulations for a detached garage on a 2.78 acre lot.
7. An existing field approach on Lot 1 Block 1 accessing 218th Ave NW is proposed to be removed.
8. The existing house's septic system was upgraded in 2004. The current septic has been inspected for compliance. The septic system is compliant and the inspection report is on file with the County.
9. There is an existing well that was used for an irrigation system on the property on proposed Lot 5, Block 1. It will not be used and will be sealed per MN Department of Health standards.

The Board also reviewed the staff's recommended conditions for approval and Glines stated that the applicant has been provided with a copy of the comments and recommended conditions.

Lawrence asked the applicant to come forward.

Todd Olin, Bogart, Pederson & Associates Inc., came forward and said he was there to represent the applicant. He said they have reviewed the comments and recommended conditions and do not have any questions or additions.

Lawrence opened the public hearing.

Abigail Taylor, 21655 183rd St NW, Big Lake came forward to express her concern with opening up the cul-de-sac on 183rd St.

Lawrence offered his plat drawing to Taylor for better viewing. The drawing was also displayed on the overhead screen.

Matt Kraus, 21585 183rd St, Big Lake asked where the connection would be made from 183rd St.

Waytashek pointed out where the 183rd St. cul-de-sac would be extended to the west and where the street curves to the north and back up to 218th Ave.

Abigail Taylor said they are not in favor of opening up the cul-de-sac and she asked if they could request that it be looked at.

Lawrence noted that this is the public hearing that was set up to hear those concerns.

Ryan Taylor, 21655 183rd St NW, Big Lake, said that right now they live on a quiet residential road and this would create a lot more traffic and he felt it would also decrease the value of their homes.

Lawrence explained that many development cul-de-sacs were built to the edge of the property line with the intent of future development if they abutted up to open space. Sometimes they are posted so that people are aware that it may be extended in the future, but some have not been posted. More than likely the previous developer was required to build the road to the property line so that future development could connect and continue the traffic flow.

Glines confirmed in the case of Black Cherry Preserve, the temporary cul-de-sac was designed to connect to the property in question for the continuation of 183rd Street at some point in the future.

Kraus commented, as far as home values, do we know what kind of houses will be going in.

Lawrence said you would have to ask the applicant as far as what types of homes would be built.

Rob Lind, 21675 18th St NW, answered that he wanted to keep the homes consistent with the neighborhood. He said that he is a home builder and intends upon building the homes himself. He said he believed the home values in the neighborhood are anywhere from \$250,000 to \$700,000 so he would like to keep the average home at about \$400,000.

Olin added that Mr. Lind lives in this neighborhood and he wishes to continue living there and he also is not interested in a development that would bring his property values down.

Dan Johnson, 21670 183rd St. NW, said it looks like he will abut up to Lot 1 Blk 1. He also had a concerns with decreasing house values and asked if it can be stated somewhere what the minimum house value has to be along with other restrictions.

Lawrence noted that this is unique in that the developer is also the home builder. As far as the enforcement of restrictions, it would have to be based upon his word and what he says he is proposing. Lawrence said this Board cannot put those kinds of restrictions on a development.

Johnson said in their development they have certain restrictions on outbuildings. He also commented that down the street there is a guy that has an auto repair shop and there is consistently vehicles parked everywhere. Johnson wanted to make sure that his lot is not backing up to someone who has junk cars etc.

Lawrence replied that the County does have ordinances that regulate the size of an outbuilding and also restrictions on the number of junk vehicles.

Glines said the zoning office reviews the size and location of outbuildings, but as far as the architectural style, that would be up to any private covenants that are recorded by the developer on the development.

Waytashek explained if you have covenants in your existing development, it is up to the landowners that live there to enforce those covenants privately thru civil court.

Riddle added that issues like running a business from their home could require a special use permit from our office.

Johnson asked if this development is zoned for residential.

Lawrence replied that this proposal is for a residential single family development.

Johnson asked, so no one could operate a business without going before this board?

Riddle explained that it depends upon what kind of business it is. If it operates entirely within the home, and with no employees, they may not be required to have a special use permit.

Johnson asked if they would get notification of an application for a special use permit.

Riddle replied they would if it were within ¼ mile radius of the request.

Johnson asked if this is the only time they can give their comments on this proposal.

Lawrence advised they can talk to staff, or the applicant, but this is where the public hearing takes place before a recommendation is made to the County Board, and where the final decision is made. Lawrence reminded that this is the preliminary plat and the applicant will be coming back with the final plat which will include all of the final drainage and grading plans.

Taylor asked if each of these lots have their own septic and well.

Lawrence replied that was correct.

Kraus said that most of the houses in the Black Cherry Preserve are valued at more than \$400,000 and he would be happy if that could be the minimum valuation of the homes in this new development.

Alyssa Olson, 21685 186th St NW, said she lives directly south of this proposed development and she also is concerned with the increased amount of cars from the seventeen new homes. She asked if this is the Board that would look at putting in a three-way stop as you come into the neighborhood

Lawrence said this will be a township road so if you do have any concerns you will need to talk to your township.

Bruce Aubol advised that the township will post a road according to the recommendations that have been given throughout the township. If there is a requirement for that stop sign in the ordinances or in the general rules, that is how it will be posted.

Lawrence added that typically a study has to be done prior, such as for speed limits as well as the number of cars before it will get changed.

Johnson said he was also here on behalf of his fourteen year old daughter. They moved to the neighborhood in 2011 and he had asked Mr. Lind if he ever wanted to sell the open field near his home to give him a chance to purchase it. He was never contacted but understands that the fifty acres is very developable these days. Johnson said he does feel better knowing that the lots will be at least 2.5 acres and that the developer will keep the values up.

There were no other comments.

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

The public hearing was closed.

Nelson said he would like the County Attorney to look at the developer agreement on item 11 to be able to add "if needed".

Heaney said she was just reviewing the conditions to see if it would require a developer's agreement. She said in this particular case it would be helpful to add that wording.

Adams moved and Eke seconded to recommend approval of the request for Residential Preliminary Standard Plat approval of "TWO RIVERS" consisting of 17 lots (1 existing residence) and with the twelve conditions along with the added wording "if needed" to item 11.

- 1. Park dedication fees in the amount of \$12,800 will be paid to the Public Works Department when the final plat is signed.*
- 2. An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval.*
- 3. A Stormwater and Erosion Control Permit is required from the Zoning Department prior to being scheduled for final plat approval. No construction can be started prior to final plat approval.*
- 4. The driveway between existing house and existing detached garage to be removed with access to be taken from 215th Ave NW.*
- 5. Existing field approach on Lot 1, Block 1 will be removed per Township standards.*
- 6. The existing accessory building on proposed Lot 8, Block 2 will be required to be reduced to 1,800 sq. ft. or removed before Zoning will sign the final plat mylars. If reduced, developer must apply for a Conditional Use Permit for a Personal Storage Structure. The CUP would be placed on Planning Commission agenda right after "Two Rivers" plat.*

7. *Recording of new driveway easement for PID's 10-107-4323 and 10-107-4317 will be required to be recorded concurrent with final plat.*
8. *Existing irrigation well (on proposed Lot 5, Block 1) must be sealed per MN Department of Health standards.*
9. *The southern portions of parcels PID# 10-107-4101 & 10-107-4103 will be combined to create a total of 19.97 acres. This must be recorded at the same time as the final plat of "Two Rivers".*
10. *The driveway leading to the house from 186th ST will be removed along with a driveway that leads from the house to existing detached garage. A new driveway will be constructed to 215th Ave NW for the existing house.*
11. *A Developer's Agreement must be signed with the County Attorney's Office if needed.*
12. *Developer has one (1) year to record the plat per Section 4, Subd 3 of the Subdivision Ordinance.*

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

6:32 PM A public hearing was held at the request of **ZACH VICKERS** (Property owner is Howe Properties LLC) for an Amendment to the Sherburne County Zoning Map to Rezone property from an Agricultural District to an Industrial District PID # 10-335-1100 Legal Desc: All th pt of Gov't Lot 2 and N1/2 of NE1/4 (full legal on file) Sec 35, Twp 33, Rge 28 Big Lake Township 9.06 acres

Marc Schneider presented the request to the Commissioners along with the following board packet attachments, comments and staff's responses to the findings:

BOARD PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Big Lake Township Comprehensive Land Use Map
- C. County Zoning Map
- D. Letter from Applicant
- E. Photo 1-5

BIG LAKE TOWNSHIP COMMENTS (received August 9, 2018): The Town Board is in favor of rezoning this parcel from Agricultural to Light Industrial [Industrial].

MnDOT (received July 19, 2018): Jonathon Mason, MnDOT District 3 Senior Planner. We have conducted a cursory review of the rezone/CUP and did not find any significant impacts at this time. The current driveway is situated as a right-in/right-out just out side of the north bound right turn lane. Access management was improved in this area in 2012 with access consolidation and what appears to be a frontage road from the Bridgeview Church on Sherburne CSAH 11.

CITY OF BIG LAKE COMMENTS: No comment.

PUBLIC WORKS: No comment.

PLANNING & ZONING STAFF COMMENTS:

The applicant is requesting to rezone 9 acres on the north side of State Hwy 25 from Agricultural to Industrial (see Board Packet Attachment A). This parcel has a residential house and a 3,000 sq. ft. accessory building located on it. The property has two road access points a right in right out access to Hwy 25 and an easement to Outlot A of Cornerstone. Outlot A has been identified as a common driveway and may be dedicated as Township Right of Way when further development occurs. Currently access to County Road 11 has not been improved.

The applicant is planning to relocate his business from Monticello to Big Lake the applicant owns, Upholstery Plus. This business deals in the manufacturing and installation of upholstery for a variety of uses. The business will be operated from the 3,000 sq. ft. accessory building. Building permits may be required to convert the use of this building for business purposes.

The applicant is requesting to have the property zoned Industrial. The parcel is surrounded by lands zoned Agricultural, Commercial, Industrial and Mississippi Special Use District (see Board Packet Attachment C). The County's Comprehensive Land Use Map has this land identified as Business and Industry (see Board Packet Attachment C). No change to the County Comprehensive Land Use Map is needed for this request.

Findings:

Pursuant to the County Zoning Ordinance after the public hearing, the County Planning Commission shall make a report of its consideration and recommendations on the proposed amendment and shall file a copy with the Board of County Commissioners and the Zoning Administrator. Consideration of a rezoning request shall include without limitation, the following questions:

*Please note that the **Bold Italic** comments are Zoning Staff's responses to the rezone questions and can be incorporated into the Planning Commission's report.*

A. Is the proposed rezoning consistent with the Comprehensive Plan?

*Yes. The County's Comprehensive Plan, Figure 9.15 Future Land Use map identifies this property as **Business and Industry**.*

B. Is the current use of the property a permitted use within the proposed zoning district, or will the rezoning create a non-conforming use?

The applicant's business (Upholstery Plus) deals in the manufacturing and installation of upholstery. This use will comply with the permitted uses listed in Section 11 Industrial District, Subdivision 2 Permitted Uses.

There is a single-family residence on the property which will become nonconforming if the rezoned is approved. Single-family residences require conditional use permit in the Industrial Zoning District. To address this issued the applicant has applied for a CUP to make this a conforming use. The CUP is the next item on this agenda.

C. Will permitted uses within the proposed zoning district be injurious to health or interfere with the comfortable enjoyment of life or property within the vicinity?

No, the neighboring uses are commercial, agricultural or industrial in nature. The nearest residence is over 600ft from this property and is separated by the CSAH 11/Hwy 25 intersection. Any future land use that is permitted in the Industrial Zoning District will need to comply with all

Building, Zoning, Subdivision, Solid Waste and Stormwater regulations, which are established to promote health, safety and welfare of the public.

- D. How will public services (e.g. transportation, schools, parks, and police/fire) be impacted by the proposed rezoning? Will permitted uses within the proposed zoning district adversely impact or overburden existing public service capacity?

The County's Comprehensive Land Use Maps for Big Lake Township has this land identified for Business and Industry. Public services connected to transportation should not be negatively impacted. According to MnDOT's comments they did not find any significant impacts with the CUP or the Rezone request at this time and stated: the access to Highway 25 is a right in and right out and improvements for access consolidation took place 2012 with controlled access to CSAH 11.

- E. Is the proposed rezoning located in an area that has the potential to adversely impact natural resources such as surface water, groundwater, or wetlands, or sites identified for rare biological species habitat?

According to The MN County Biological Survey the nearest biodiverse plant communities is located one half mile (1/2) away from of this property at Bridgeview Park Reserve.

The property is not located within a wellhead protection area.

There are minor slopes on this property, less than 4 feet of elevation change on the entire lot. Any further development of the property will require permits from Sherburne County Planning and Zoning and all development must comply with all Building, Zoning, Subdivision, Solid Waste and Stormwater regulations.

- F. Does the proposed rezoning have the potential to impact ecologically sensitive or historically significant areas?

No, this property is used for residential dwelling and been farmed in the past it is not an ecologically sensitive area.

- G. Does the property have sufficient size and physical characteristics to permit a reasonable use under the current zoning district?

The property lot size of 9 acres has a complying well and septic and has less than 1 acre or 10% impervious surface.

There are no wetlands identified on this property and the State's Soil Survey identifies the soil classes as 1231 and 7B which show greater the 6 feet to ground water.

There are two engineered stormwater ponds owned by MnDOT and Big Lake Township that surround the southwest and western edge of this property that are over 10 feet in depth. The basins do not retain standing water. For inground stormwater retention basins there must be a three-foot separation between ground water and the bottom of the basin. Based on the lot size, soil survey and the stormwater retention basins there should be sufficient size permit further improvement of this property provided the proper permits are obtained.

- H. Any other factors that may be relevant to determining whether the proposed rezoning is appropriate?

The Big Lake Township is in support the rezone and the County's Comprehensive Land Use Map identifies this land for Business and Industry.

Schlingmann asked if this unplatted parcel was created prior to the zoning ordinance. He said the lot size requirement for unplatted in the Industrial District is 40 acres and suggested if it was created after the zoning ordinance, it would be an illegal non-conforming lot.

Schneider said he did not know the exact date, but he assumed it was done prior to the zoning ordinance being adopted which would make it a legal lot of record.

Frank Klein, Monticello, Mn, asked if he could speak to the history of this parcel.

Lawrence invited him to come forward.

Klein said his wife Bonnie, is part of the Howe property LLC. He explained that Mr. Howe bought the property in 1957 and farmed it as a potato farm until he retired at 65. Most of the farm was sold to the Peterson Brothers and he kept about 12 acres for himself. In 1986 when the Monticello bridge was rebuilt, the state took away a couple of his access easements but allowed him to have the access to Hwy 25 and also an easement access from CSAH 11 that goes up to this existing parcel. They also took some of his property for the road improvements. Klein said they did a lot of research and obtained an easement from the church and later found out that the County Engineer had already established an easement for them. He also noted that the next door dental clinic uses the same easement to access their business.

Schlingmann said it appears that this parcel was a part of the old farmstead and was established as a legal non-conforming lot of record.

Lawrence called the applicant to come forward.

Zach Vickers, 812 Golf Course Road, Monticello, Mn stated that he has owned his business in Monticello for about seven years. He said they looked at multiple options to relocate his business and then they found this property with an existing house on the site where his family could live. He also felt that this would bring more business into Sherburne County.

Lawrence stated if this rezone is approved, Mr. Vickers would not need to come back for a C.U.P. or an I.U.P. to run his business.

Schneider replied that is correct. If he were looking to develop the business further, with something that is outside of the permitted uses or by adding a second business, this would have to come back before this Board.

Lawrence asked why he is applying for Industrial and not Commercial.

Schneider answered there were a couple different factors to consider due to the nature of the business and some of the fabrication that he does. He commented that the applicant could respond to this question.

Vickers explained that their retail sales are a very small portion of the business. He said they do a lot of commercial upholstery like for the Hoglund Bus Company, and he would consider his business more of a light industrial and manufacturing type business. He noted that they do sell some products such as

cleaners, but it geared more towards service and not retail. He gave the example that all of their sewing machines are industrial grade.

Schlingmann asked if he is planning to use the house as his personal residence.

Vickers answered yes, he intends to have his family living there.

Schlingmann said he had questions regarding Vicker's second request because he personally does not think that he needs a CUP for a residence because at the present time it is a legal non-conforming use, which means it can continue to be used for a house, but cannot be enlarged.

Schlingmann also noted that the rezone request is in conformance with the Comprehensive Land Use Plan.

Lawrence opened the public hearing.

Elizabeth Calpus 5302 114th Ave., Clear Lake, said she owns Calpus properties, the property directly west of Howe Properties LLC, where the dental office is located. She said she was curious if the Hoglund Bus Company, mentioned earlier, will be coming in from CSAH 11 and traveling up the dirt easement road past her place. Calpus said she pays to have their parking lot and driveway up to CSAH 11 plowed and maintained each year, and she was wondering what she can expect for additional traffic.

Vickers explained that the buses will not be coming onto his property. If something needs to be measured or custom fitted, we will go to them or they will bring the seats into us.

Calpus asked where they are currently located in Monticello.

Vickers replied they are across the street from the Public Works Building. He said the business was grandfathered-in before any of the houses were there and they have close neighbors. Vickers said he plans on putting down class-five and he would be more than willing to share the plowing costs because that is the way he intends to come into his property.

Schneider said it appears they have an easement and a legal right to access their property. He noted on the aerial photo that the dental office and the road leading up to it is actually called Outlot A of the Cornerstone Subdivision.

Steve Royalty, Pastor of the Bridgeview Church stated that they actually have a pretty good understanding of this easement situation. He explained that the easement actually does not have a direct access from CSAH 11 so technically, there is not a legal access to the Vickers property except for the access from State Highway 25. Royalty said that the easement coming in off of CSAH 11 starts just to the east of the church driveway and so to get to that easement you have to cross over our property. He said they have not been contacted about this yet so they really have not had a chance to voice their concerns with turning this property into industrial and having additional and possibly heavier traffic crossing over their property to gain access. Royalty said he believed they do have an agreement with Calpas Properties to use their property for access for the dental office traffic.

Lawrence asked if they have actually granted an easement to the Calpas property.

Royalty replied technically, there is no legal easement across their property to access CSAH 11 for either of the properties.

Lawrence asked the County Attorney for advice.

Heaney said she has no reason not to believe the pastor, but without any documentation, she cannot give an answer.

Lawrence asked how much of the decision making process do we base upon this testimony regarding the lack of a legal access to CSAH 11.

Heaney replied that you need public access to the property.

Schneider replied that Howe Properties does currently have a legal public access off of State Highway 25.

Klein said he can clear this up and he thinks that the pastor is wrong. He said they went to the church prior to this pastor and had an agreement signed for an easement to use that little portion of property to gain access. He said he has those documents at home and they are also registered in the Court House. Klein also said that they were told by the County Engineer back in 2005-06 during the road construction upgrade that the access was going to be for all of us.

Lawrence said the debate could continue, but we do not have a Highway Department represented this evening that could help answer this questions. He said all the Board can do is consider this request with the existing access onto State Highway 25.

Royalty said it is not that they don't want to be a good neighbor or that they want to stop a business, but they do have a concern that the access is on their property and they have the responsibility to maintain it.

Schneider said it sounds like there is an easement but it does not extend all the way to the newly created controlled access onto CSAH 11 that was created back in 2005-06. So, that leaves us with a dispute over the access point.

Schlingmann asked if the applicant has direct access to State Highway 25.

Schneider said that is he does.

Lawrence asked Heaney if she had any recommendation regarding this matter.

Heaney suggested that the Board has two options. The first is to have the applicant try to resolve this before going thru the purchase of the property and this rezone and ask to have the matter tabled. The second is to have the rezone approved with the condition that the access to State Highway 25 is the legal access to be used. Heaney said it sounds like the sooner they get this access issue straightened out the better.

Klein again argued that there is an agreement for an easement to use that portion of the access to CSAH 11.

Rick Baum from Monticello and a member of the church, gave Doc No 737137 as the document everyone needs to look at. He said that Outlot A starts after the church driveway and they do have an agreement with the dental office to use their property to gain access to that Outlot A. He said they are just trying to be good stewards of their property and to protect from having any additional traffic from an industrial business.

There were no more comments.

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

The public hearing was closed.

Nelson asked if we should be using the staff's findings.

Schneider said basically the board needs to make findings to provide to the County Board. Staff has provided the Planning Commission with some guidance. He said the Planning Commission can incorporate these findings into their report to the County Board if they wish.

Aubol moved and Nelson seconded to recommend approval of the request for an Amendment to the Sherburne County Zoning Map to Rezone property from an Agricultural District to an Industrial District PID # 10-335-1100 and with the following findings:

- A. Is the proposed rezoning consistent with the Comprehensive Plan?
Yes, the County's Comprehensive Plan does agree with this rezoning request.
- B. Is the current use of the property a permitted use within the proposed zoning district, or will the rezoning create a non-conforming use?

Discussion followed regarding whether or not the house is a non-conforming use in the Industrial District.

Riddle explained that the zoning staff interpreted that if you are changing the property to Industrial the house is no longer a conforming use. She said this question should be answered according to how the applicant was asked to move forward with his request.

Schlingmann asked if you can have two principle permitted uses on the same lot.

Riddle replied that you could, except the house is not a permitted use in an Industrial Zone without a C.U.P.

Aubol stated as an observation, with the rezone, this business will comply in the Industrial District. It's the second part that states the Single Family Residence will become a non-conforming residence and will require a C.U.P.

Schlingmann suggested using the first three sentences of Marc's suggested findings.

Aubol concurred with that and answered the following:

The applicant's business (Upholstery Plus) deals in the manufacturing and installation of upholstery. This use will comply with the permitted uses listed in Section 11 Industrial District, Subdivision 2 Permitted Uses.

There is a single-family residence on the property which will become nonconforming if the rezoned is approved.

- C. Will permitted uses within the proposed zoning district be injurious to health or interfere with the comfortable enjoyment of life or property within the vicinity?
No the rezone will not be injurious to health or interfere with the comfortable enjoyment of life or property within the vicinity.
- D. How will public services (e.g. transportation, schools, parks, and police/fire) be impacted by the proposed rezoning? Will permitted uses within the proposed zoning district adversely impact or overburden existing public service capacity?
The rezone will have no adverse impact or overburden to public services.
- E. Is the proposed rezoning located in an area that has the potential to adversely impact natural resources such as surface water, groundwater, or wetlands, or sites identified for rare biological species habitat?
The rezone will not have any adverse impact on natural resources in the area.
- F. Does the proposed rezoning have the potential to impact ecologically sensitive or historically significant areas?
The rezone does not have the potential to impact ecologically sensitive or historically significant areas.
- G. Does the property have sufficient size and physical characteristics to permit a reasonable use under the current zoning district?
Yes the property is a reasonable and adequate size under the current zoning district.
- H. Any other factors that may be relevant to determining whether the proposed rezoning is appropriate?
The Big Lake Township Board has approved the rezone.

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

7:10 PM A public hearing was held at the request of **ZACH VICKERS** (Property owner is Howe Properties LLC) for a Conditional Use Permit to allow an existing Single Family Residence in an Industrial District (Pending zone change from Ag to Industrial) PID # 10-335-1100 Legal Desc: All th pt of Gov't Lot 2 and N1/2 of NE1/4 (full legal on file) Sec 35, Twp 33, Rge 28 Big Lake Township

9.06 acres

Marc Schneider presented the request to the Planning Commission including the following board packet attachments, comments and recommended conditions for approval:

BOARD PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Big Lake Township Comprehensive Land Use Map
- C. County Zoning Map
- D. Letter from Applicant
- E. Photo 1-5

BIG LAKE TOWNSHIP COMMENTS: (received August 9, 2018): The Town Board is in favor of approving this CUP application to allow a residence on industrial zoned parcel.

PLANNING & ZONING STAFF COMMENTS:

The applicant is planning to relocate his business (Upholstery Plus) from Monticello to Big Lake. The business deal in the manufacturing and insulation of upholstery for a variety of uses and will be operated from the accessory building on the property.

If the County Board approves the applicant's request to rezone this 9-acre parcel from Agricultural to Industrial the applicant must obtain this CUP to allow the house to be used for as residence.

RECOMMENDED CONDITIONS IF APPROVED:

The house must remain a single-family residence. If the house is used for a Home Occupation it must comply with the definition established in Section 5, Subdivision 2 of the County Zoning Ordinance.

Schneider noted that in the past when we have had someone who is pursuing having a residence in a Commercial or Industrial District, they have applied for a C.U.P. in order to bring that residence into conformance.

Schlingmann said the house, once rezoned, becomes a non-conforming use, it is allowed to be used as a residence and it can stay as a residence and a C.U.P. is not needed. The request is to allow a single family residence, but if you look at the ordinance, the C.U.P. calls out for single family housing in platted developments, which is different than a single family residence on a nine acre lot. He suggested the applicant should be refunded his money, let him start his business and move into the house as a non-conforming structure. Schlingmann said what they are asking for is not what is in the ordinance.

Schneider explained that basically Vickers is going to be creating a non-conforming use, and one way to address it is by applying for a C.U.P. so it becomes a permitted use on the property. He added, to Jeff's point that it is for single family housing which is intended to be for platted developments, as long as I've been doing this, that is not how that has been interpreted.

Schlingmann said if you want it for a single family residence, then the ordinance should call out for it and not for single family housing.

Lawrence noted that within the last year, we had a similar situation where a gentleman wanted to live in a house with his business next to it. He asked if he had to get a C.U.P. also?

Waytashek said she believed that instance was up in Haven Township in an Industrial District. It was an older home and he wanted to remodel in order to make it a livable structure so he applied for C.U.P. for a Single Family Residence in an Industrial District. She also noted on State Highway 10 when a lot was rezoned in Big Lake Township by Co Rd 81, the applicant applied for a C.U.P. for a Single Family Residence. Waytashek explained that by allowing this to become a conforming structure, the owner is ensured that in the future if he should happen to want to expand or make improvements on the home he would be allowed to apply for a permit to do so because it is a conforming structure.

Riddle commented that she has been hired to interpret the ordinance and the request is then brought before this Planning Commission so that a decision can be made for a recommendation. She said in this case and other similar cases this is the way the zoning office has interpreted the Zoning Ordinance.

Lawrence asked if the applicant had any questions.

Vickers replied he did not.

Lawrence opened the public hearing.

There were no comments.

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

Schlingmann moved to recommend denial of the request.
The motion died for lack of a second.

Adams moved and Aubol seconded to recommend approval of the request to allow an existing Single Family Residence in an Industrial District with the following conditions:

- 1. The house must remain a single-family residence. If the house is used for a Home Occupation it must comply with the definition established in Sec 5, Subd 2 of the County Zoning Ordinance.*
- 2. The Findings of Fact from Sec 18, Subd 5 Item 3 of the Zoning Ordinance have been read into the record.*

The motion carried with Schlingmann in opposition and is recommended to the County Board for approval.

Heaney strongly encouraged the property owners involved to sit down and figure out this access issue and particularly encourage you to do that before it goes before the County Board to take away any questions they may have.

6:20 PM A public hearing was held at the request of **TODD MALONEY** (Property owners are Todd J and Shelly L Maloney) for Residential Preliminary Standard Plat Approval of “HIGHLAND MEADOWS THIRD ADDITION” consisting of 15 lots PID # 30-003-4100 Legal Desc: E1/2 of SE1/4 except Highland Meadows (full legal on file) Livonia Township 58.69 acres General Rural District

Lynn Waytashek presented the request to the Planning Commission including the following board packet attachments and comments:

BOARD PACKET ATTACHMENTS:

- A Aerial Photo
- B Preliminary Plat
- C Grading & Drainage Plan (1 – 4)

LIVONIA TOWNSHIP COMMENTS: Recommend approval contingent on Livonia Engineer Anderson’s approval of grading and drainage. Highland Meadow Third Addition’s engineer is making hydraulic changes to the final plat to comply with Livonia standards; drainage concerns across Lot 8, Block 2 have been addressed per Anderson, Livonia Engineer. Culvert removal on 272nd Ave in Harrison Hills is being researched for a prior agreement or options, and pending discussion with the affected property owner. Lots 3 & 5, Block 1 and Lots 2, 5 & 8 Block 2 drainage and utility easement running through the center of the lot restricting access to the rear of the lots – item deferred to the Township Engineer who acknowledged the restrictions of the lot topography for future access – no changes required. All other requirements appear to have been addressed by the developer or are being addressed with the developer’s engineer.

Nick Anderson, Township Engineer recommended in letter dated August 24, 2018 approval of the preliminary plat and grading and drainage plan with the condition that all comments are addressed in the final plat and grading plans submittal.

COMMENTS FROM OTHER DEPARTMENTS/AGENCIES:

1. David Roedel – Assistant Public Works Director (July 24, 2018): Public Works engineering has no concerns with the proposed preliminary plat application. The development abuts a Township road.
2. Russ Heiling – County Surveyor (August 30, 2018) – I do not have any further survey related comments.

PLANNING & ZONING STAFF COMMENTS:

1. The adjoining parcel (#30-407-0105) has 9.8 ft of their driveway and 2.3 ft of their shed on the property of this proposed plat. The encroachment will need to be removed prior to final plat approval.
2. Livonia Township collects their own park fees.

The Planning Commission also reviewed the Staff's recommended conditions if approved.

Waytashek reported she believed the shed encroachment has been taken care of and they are working on removing the portion of the driveway that was also over the lot line.

Heaney said she wanted to explain to the Planning Commission her rationale for determining if a developer's agreement will be required. She said if the conditions can be satisfied and verified before the final plat reaches her for signature, she does not need a developer's agreement, however, if there are conditions that would come into play after her signature and the plat is filed, it is at that point that a developer's agreement would be needed.

Lawrence suggested adding a standard statement saying that a developer's agreement must be signed by the County Attorney "if needed" to all plat applications going forward.

Lawrence asked the applicant to come forward.

Seth Monroe, Rum River Land Surveyors and Engineers, said he was representing the applicant. The proposed plat of fifteen lots includes the proposed extension of Township Road 272nd Ave., which will connect with a temporary cul-de-sac at the northwestern portion of the property. He said all of the review comments have been addressed. Monroe said the township engineer had requested some additional soil borings that were completed by their geo-technical engineer and he is aware that report will be coming soon.

Lawrence opened the public hearing.

There were no comments.

Schlingmann moved and Spencer seconded to close the public hearing.

The public hearing was closed.

Spencer moved and Adams seconded to recommend approval of the request for Residential Preliminary Standard Plat Approval of "HIGHLAND MEADOWS THIRD ADDITION" consisting of 15 lots with the following five (5) conditions:

- 1. The adjoining parcel (#30-407-0105) driveway and shed encroachment will need to be removed prior to final plat approval.*
- 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.*
- 3. An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval.*
- 4. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to being scheduled for final plat approval. No construction can be started prior to final plat approval*
- 5. A Developer's Agreement must be signed with the County Attorney's Office if needed.*

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

7:15 PM Assistant County Attorney, Time Sime arrived at the meeting. County Attorney, Kathleen Heaney stepped down.

7:25 PM A meeting was held at the request of **SCHMIESING FAMILY PARTNERSHIP** for a request for Residential Final Standard Plat approval of “SLEEPY OAKS” consisting of 41 lots
Property address: 11254 57th St. SE, Clear Lake PID # 40-027-1485 and 40-027-1491 RLS#49, Tract A Sec 27, Twp 35, Rge 29 Palmer Township 100.56 acres Shoreland Residential District, within Recreational Shoreland Districts of Rush Lake 710147 and Lake Julia 710145

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

BOARD PACKET ATTACHMENTS:

- A. Final Plat (date stamped Sept 12, 2018)
- B. Final Grading & Drainage Plan (dated September 5, 2018 & stamped Sept 12, 2018)

PALMER TOWNSHIP COMMENTS: Positive comment with the following conditions:

1. The Town and Developer must enter into a development agreement. The Town Board is working on the agreement.
2. The Town has not agreed to accept the drainage easements dedicated in the plat. That question remains for consideration.
3. The Town will not abandon any town road right of way.
4. There will be no change in 2 way traffic on town roads .
5. The intersection at 57th Street and CSAH 16 at the east end will be as shown on the latest drawing presented to the town at the Sept. 18 meeting.

Paul Otto, Township Engineer (received September 11, 2018) – I have reviewed the revised submittal for Sleepy Oaks dated September 5, 2018 completed by Bogart, Pederson & Associates, Inc and all items have been addressed.

STAFF COMMENTS:

1. A copy of the required NPDES Permit has been submitted to the Zoning Department (Condition #11).
2. The Registered Land Survey was recorded at County Recorder’s Office on 9-12-2018 (Condition #10).
3. The Stormwater & Erosion Control Permit is ready to be issued from the Zoning Department (Condition #12). The drainage and grading plan submitted with the permit application identifies that Palmer Township will be responsible for operation and maintenance of the drainage system post-construction. Based on the Township’s approval of the drainage and grading plan, the County understands that the Township will be assuming responsibility for the drainage system.
4. A plan for mitigating the traffic and safety concerns resulting from the Sleepy Oaks Development (Condition #15) has been agreed to by the respective parties, and will consist of the improvements

shown on the Final Construction Plans dated/ revised on 09/05/18. The developer indicated he will request the County participate in the cost of the improvements necessitated by the development when the final plat is submitted to the County Board.

The Planning Commission also reviewed the fifteen (15) recommended conditions if approved.

Lawrence said the biggest issue we had at our last meeting on the Preliminary Plat was the county access to the township road. He asked if that has been resolved.

Demeules replied that it has been resolved and they had a developer's agreement signed between the developer and the township on Monday.

Lawrence asked if there have been any changes on the final since the preliminary.

Waytashek replied there has not been any changes.

Lawrence asked if the applicant had any comments or questions.

Felix Schmiesing said he did not.

Adams asked if the drainage issue been resolved.

Demeules said the township will not be taking responsibility for the drainage.

Nelson commented that all of the other townships have taken over the responsibility for their drainage.

Lawrence asked if that is going to hold up the approval of the plat.

Tim Sime said that is an ongoing discussion. He explained that what it comes down to is that one of the conditions is that they get a grading and drainage plan approved from the county that specifies certain things including who has post construction responsibility. Sime said he has been in discussions with the township's attorney and staff has been in discussions with the township. He commented that he is not sure if long-term the township is able to say no on that issue, but for purposes of the plat I think this has been resolved. He said his understanding is that county staff will issue the permit that is required based upon the township's review of the grading and drainage.

Lawrence asked, so as our council, you are saying that your full confidence has been resolved enough for us to move forward on final plat approval.

Sime said that the preliminary plat is where all of the heavy lifting has been done. The conditions were set at the preliminary plat approval stage. He said they believe that the conditions regarding the issuance of the drainage and grading plan permit have been met and it is his understanding that it hasn't been issued yet, but it will be. Sime said he believes that all of the conditions for final plat approval have been met.

Adams asked the same question regarding the access to Township Road 16. He asked if it is true that the design has been approved and the only question left is who will contribute to it.

Sime said that is correct and it is a County Board decision to be made that is almost separate from the plat. A condition was set that says you have to come up with a design that everyone agrees to. Sime said that the safety issue has been resolved. The developer will request to the County Board the issue of who will contribute to it.

Adams moved and Nelson seconded to recommend approval of the request for Residential Final Standard Plat approval of "SLEEPY OAKS" consisting of 41 lots and with the following fifteen conditions:

1. *In response to the State Archeologist and Historic Preservation Office, at a minimum, the developer should provide all contractors with information on what to look for and requirements if archeological artifacts or human remains are found during the processes of construction of roads, stormwater pond construction, home or septic system construction. If anyone discovers an ancient cemetery or artifacts, they are required by law to immediately stop work and call local law enforcement first and the state archaeologist second.
Information can be found at: <https://mn.gov/admin/archaeologist/the-public/resources/faqs/>*
2. *Park dedication fees in the amount of \$32,000 will be paid to the Public Works Department when the Final plat is signed.*
3. *Since wetland areas are within the Shore Impact Zone and they are also located within the floodplain of Rush Lake, no impacts to the wetlands on any lake lot are allowed which includes:*
 - a. *No wetland fill is allowed.*
 - b. *No wetland excavation.*
 - c. *No alteration of wetland vegetation. This will prohibit sod grass installation*
 - d. *Ices ridges cannot be removed*
 - e. *No beach sand blanket*
4. *Prospective buyers of Lots 1, 2 and 3 of Block 2 must be notified of the designated lake access locations on each lot that are non-wetland, along with the restrictions for wetlands on those lots.*
5. *The developer is required to obtain a Shoreland Alteration Permit (Major) before clearing of vegetation and grading or excavation.*
6. *If the septic system on proposed Lot 2, Block 2 is allowed to remain for the house next door on proposed Lot 1, no permits will be issued for either of those lots until a new septic is re-located onto Lot 1 with the house.*
7. *If removal of the outbuildings on proposed Lot 2, Block 2 and Lot 2, Block 1 are allowed to remain after Final Plat approval, no permits shall be issued on those lots until the structures are removed. Structures may not be burned or buried onsite. They must be disposed of at an MPCA licensed landfill.*
8. *Concrete slabs located in the proposed right-of-way shall be removed and disposed of at a licensed landfill when the road is constructed.*

9. *Removal of structures will require a razing permit from Zoning along with a copy of the form “Notification of Intent to Perform Demolition” that has been submitted to the MPCA. The County also has a Pre-Determination Items of Concern Checklist” that will also be required to be completed and submitted to the Zoning Department prior to a razing permit being issued.*
10. *The Registered Land Survey for this property must be recorded prior to scheduling the plat for final meeting in front of the Planning Commission.*
11. *An NPDES permit must be submitted to the Zoning Department prior to being scheduled for final plat approval.*
12. *A Stormwater and Erosion Control Permit is required from the Zoning Department prior to being scheduled for final plat approval.*
13. *A Developers Agreement must be signed with the County Attorney’s Office.*
14. *Final plat must be recorded within one (1) year of County Board approval.*
15. *To mitigate any traffic concerns to the satisfaction of the developer, county and township.*

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

Nelson moved and Adams seconded to adjourn. Motion carried unanimously.

7:35 PM Meeting Adjourned.

Respectfully Submitted by:

Judy Weber, Secretary