

SHERBURNE C O U N T Y



*Sherburne County
Planning Advisory Commission Meeting Minutes
September 21, 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 September 21, 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; Kathi Sims-Kosloski, Haven Township; Gary Gray, County Commissioner.

The following staff members were present:

Lynn Waytashek, Zoning Administrator; Marc Schneider, Senior Planner; Mitch Glines, Planner; Addison Otto, Planner; 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 October 17, 2023, at 9:00am. Adams announced the that the Public Hearing testimonies will be limited to 3 minutes.

Aubol made a motion to approve the minutes from the August 17, 2023, Public Hearing. Demeules seconded. Motion carried and the minutes were approved for the August 17, 2023, Public Hearing.

Demeules made a motion to approve the Public Hearing Agenda for September 21, 2023. Aubol seconded. The motion carried and the Public Hearing Agenda for September 21, 2023, was approved.

Agenda:

1. **Comprehensive Land Use Plan** Public Hearing Planning Advisory Recommended Action.
2. **Elk River Landfill, Inc. and Capital Land Group LLC** Request to Amend the Comprehensive Land Use Plan from Rural Residential to Heavy Industrial.
3. **Elk River Landfill, Inc. and Capital Land Group LLC** Request to Rezone property from General Rural to Heavy Industrial.
4. **Capital Land Group LLC** Request to Amend the County’s Comprehensive Land Use Map property from Rural Residential to Business and Industry.
5. **Capital Land Group LLC** Request to Rezone property from General Rural to Industrial.
6. **Dan Berning – Ziegler Custom Homes** Requesting Preliminary Residential Plat approval of “**Meadow Estates South**” consisting of ten (10) lots.
7. **Dan Berning – Ziegler Custom Homes** Requesting Preliminary Residential Plat approval of “**Meadow Estates North**” consisting of six (6) lots.
8. **Krista Ponting (Property Owners: Krista Ponting & David Jennings):** Request Conditional Use Permit for Riding Stable and Boarding Facility.

Agenda Item #1-6:02pm

Request for the Adoption of the Sherburne County Comprehensive Land Use Plan and to rescind the 2010-2030 Comprehensive Land Use Plan. The purpose of the Comprehensive Land Use Plan is to guide land use through the year 2043 in the 8 townships which the County has zoning authority. The Comp Plan is also the basis for the County Zoning and Subdivision Ordinances, and the official Zoning Map.

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

BOARD PACKET ATTACHMENTS:

Draft Sherburne County Comprehensive Land Use Plan

PLANNING & ZONING STAFF COMMENTS:

The purpose of the Comprehensive Land Use Plan (the Plan) is to guide future land use through the year 2040 in areas within the County's zoning authority. The Plan is the legal basis for establishing Zoning and Subdivision ordinances, which regulate current land use.

In April of 2022, Zoning staff and our Consultant HKGi kicked off the effort of rewriting the Plan and completed the technical and existing conditions analysis. This was a starting point for the planning process to create a thorough understanding of Sherburne County's existing context in 2022, and specifically, examining changes that have taken place since the 2011 Plan update.

Over the next year Zoning staff and our consultant had over 40 meetings with stakeholders to gather their feedback and guidance on the key issues that needed to be addressed as part of the update to the Plan. Their feedback and the early technical analysis has helped establish the Values and Goals and Policies of the Plan. Over the past two months the draft Plan has been shared with the steering committee members (Township and City Officials and staff, County staff, Planning Advisory Commission, Developers, Surveyors...) for their review and feedback, which was incorporated into the Draft Plan. The Draft Plan has published on the County's website for public review on September 11, 2023.

After the Plan is approved, the County intends to re-write the Zoning and Subdivision ordinances to implement this Plan.

PLANNING ADVISORY COMMISSIONS RECOMMENDATION TO COUNTY BOARD OF COMMISSIONERS

Zoning staff is requesting the Planning Commission to provide their recommendation to rescind the 2010-2030 Comprehensive Land Plan and Recommend Approval of the Draft Sherburne County 2040 Comprehensive Land Use Plan.

Schneider shared a presentation and also present was Lance Bernard from HKGi in the audience. (Presentation as follows on page 5 when converted to PDF).

Planning Commission Discussion:

Adams opened the Public Hearing.

Pam Dowton, 6643 125th Ave, Clear Lake came forward. She lives on 5 acres with her husband Steve. She thanked Schneider for the conversations. She is here because she would like for her children to be able to build a dwelling on their land and for her and her husband to stay on their property as they age and for their children to care for them. They live in a one level slab home, and they don't want to move. If their children are allowed to build a small home on their property, they could help them maintain the property so they can stay there and share their lives with their kids and grandkids. She stated that they may switch homes to stay under 1,000 sq ft. Their children work from home and have 2 children of their own and would need more room. Right now they live in Central Wisconsin and may move back to the area, so they are all here. Prior to this potential opportunity arising, they thought they would need to move. They love their property, they put a pool in for the kids. With this opportunity they don't have to leave. It means a lot to stay in the area and have their children together. She spent 4 months with her 95-year-old mother last year, her mother died in her own bed with her family with her and this was a gift. This is her hope.

Bret Collier, 22549 172nd St NW, Big Lake came forward. He stated that he is coming late to the party as he didn't know that this was going on until he got a letter in the mail. He downloaded it last week and then his brother had some health issues, so he has gone through the first 48 pages of the document. He would suggest that the Planning Commissioners look at the recording of the County Board meeting from this week when he spoke at Open Forum and went through some of his concerns. He will be emailing the secretary of the Planning Commission with his full findings from the pages he has reviewed so far and his comments against this plan. He liked what Schneider had to say, but he couldn't look at it. Some of the links did not work. Some of the areas did not include full sentences and errors. The plan seems to contain statements that will give preferential treatment to minorities. We don't need to do that. Everyone should be equal when it comes to the Comprehensive Plan. At one point there is a listing of all of the different types of housing and categories were left out; farms, people that are not buying their first home; the plan seems to be trying to turn this into high-density in some places. He doesn't think that this should be in the Comprehensive Plan, the townships and the cities should have more control of it.

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

Demeules made a motion to recommend rescinding the 2010-2030 Comprehensive Land Plan and recommend Approval of the Draft Sherburne County 2040 Comprehensive Land Use Plan. Larson seconded.

The motion carried and the recommendation is made to the County Board to rescind the 2010-2030 Comprehensive Land Plan and Approve the Draft Sherburne County 2040 Comprehensive Land Use Plan.

Agenda Item #2 -6:30pm

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 Extended to: October 31, 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: *New language is underlined.*

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.

The following are updated findings since this request was last before the Planning Commission in July:

Since the July Planning Commission meeting, the County has completed a draft of the new Comprehensive Plan, which will be presented to the Planning Commission at the same meeting it is considering Applicants' request for an amendment to the existing Plan. The new Comprehensive Plan draft designates the property included in the Applicants' request as Heavy Industry, which is the change the Applicants are requesting. If the Planning Commission agrees with the change as proposed in the new Comprehensive Plan draft, it may recommend approval of the Applicants' request.

Planning Commission Discussion:

Adams stated that the Public Hearing was closed on this item at the August 17, 2023 meeting.

Schneider stated that Zoning staff met with Capital Land Group and the Elk River Landfill on Tuesday of this week to discuss issues that they had with the Staff Comments. The primary concerns were based upon characterizations of certain landfill conditions and activities. As a result of this meeting, the applicant has agreed to table the request again until the County completes the Comprehensive Plan adoption process. The county will work with the applicant and the applicant has agreed to extend the deadline to the December 7th County Board Meeting so tabling the item to the November 16th Planning Commission meeting is the request.

Demeules made the motion to table the request until the November 16th Planning Commission Meeting. Aubol seconded. The motion carried and the item is tabled.

Agenda Item #3 -6:33pm

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

60-Day Deadline Extended to: October 31, 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.

The following are updated comments since this request was last before the Planning Commission in July:

13. Since the July Planning Commission meeting, the County has completed a draft of the new Comprehensive Plan, which will be presented to the Planning Commission at the same meeting it is considering Applicants' request for an amendment to the existing Plan. The new Comprehensive Plan draft designates the property included in the Applicants' request as Heavy Industry.
14. The Applicants have made clear in their application and in their presentation at the July Planning Commission meeting that this request has been made specifically to facilitate a future use of the property as a solid waste landfill. That use requires that the Minnesota Pollution Control Agency (MPCA) complete an Environmental Impact Statement (EIS) before the use is permitted. Under State law, no governmental approvals may be issued to approve a project until the EIS process is complete.
15. At the July Planning Commission meeting, the Applicants stated that they believed the rezoning was necessary before they could submit their requests to the MPCA for the EIS process and their Certificate of Need (CON). Following that meeting, the MPCA emailed County staff and stated that the CON and EIS need to be submitted to the MPCA and the environmental review needs to be completed before the County may approve the rezoning request.
16. County staff also met with the MPCA and representative from Elk River Landfill in August and the MPCA reiterated at that meeting that they believe the County should not approve the rezoning for a landfill until the environmental review process is complete.

Planning Commission Discussion Followed:

Schneider explained that this is the same situation as the previous item and Capital Land Group and Waste Management have requested to table the item to the November 16th Planning Advisory Commission.

Adams opened the Public Hearing.

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

Adams stated that the public hearing remains open until the November meeting.

Sims made the motion to table the request until the November 16th Planning Commission Meeting. Vandereyk seconded. The motion carried and the item is Tabled.

Agenda Item #4 -6:35pm

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

60-Day Deadline Extended to: October 31, 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: *New language is underlined.*

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.

The following are updated findings since this request was last before the Planning Commission in July:

Since the July Planning Commission meeting, the County has completed a draft of the new Comprehensive Plan, which will be presented to the Planning Commission at the same meeting it is considering Applicants' request for an amendment to the existing Plan. The new Comprehensive Plan draft designates the property included in the Applicants' request as Business and Industry, which is the change the Applicants are requesting. If the Planning Commission agrees with the change as proposed in the new Comprehensive Plan draft, it may recommend approval of the Applicants' request.

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:

Schneider explained that this is the same situation as the previous items and Capital Land Group and Waste Management have requested to table the item to the November 16th Planning Advisory Commission.

Adams opened the Public Hearing.

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

Adams stated that the public hearing remains open until the November meeting.

Demeules made the motion to table the request until the November 16th Planning Commission Meeting. Sims seconded. The motion carried and the item is Tabled.

Agenda Item #5-6:36pm

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

60-Day Deadline Extended to: October 31, 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.

The following are updated comments since this request was last before the Planning Commission in July:

9. Since the July Planning Commission meeting, the County has completed a draft of the new Comprehensive Plan, which will be presented to the Planning Commission at the same meeting it is considering Applicants' request for an amendment to the existing Plan. The new Comprehensive Plan draft designates the property included in the Applicants' request as Business and Industry.

Planning Commission Discussion

Schneider explained that this is the same situation as the previous items and Capital Land Group and Waste Management have requested to table the item to the November 16th Planning Advisory Commission.

Adams opened the Public Hearing.

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

Adams stated that the Public Hearing remains open until November 16th.

Sims made the motion to table the request until the November 16th Planning Commission Meeting. Demeules seconded. The motion carried and the item is Tabled.

Agenda Item #6-6:38pm

Dan Berning – Ziegler Custom Homes Requesting Preliminary Residential Plat approval of “**Meadow Estates South**” consisting of ten (10) lots.

PID 10-109-2100, Section 9, Twp 33 Rge 27, Big Lake Township, 37.03 acres in the General Rural Zoning District.

Application Deemed Complete: September 12, 2023

60-Day Deadline: November 11, 2023

Mitch Glines, Planner presented the request to the Planning Commission including the board packet, attachments, and comments.

PLANNING COMMISSION’S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Preliminary Plat (1-2) (Date Stamped – September 12, 2023)
- C. Preliminary Grading and Drainage Plans (Date Stamped – September 12, 2023)

BIG LAKE TOWNSHIP COMMENTS: (August 15, 2023): The Big Lake Township engineering firm and Board has reviewed the PRELIMINARY PLAT of Meadow Estates South. Based on the Township's engineer's recommendations (below), the Town Board recommends the PRELIMINARY PLAT for Residential plat of "MEADOW ESTATES SOUTH" be approved.

BIG LAKE TOWNSHIP ENGINEER’S COMMENTS: (August 15, 2023):

- 1. The comment was made by Sherburne County to consider a stub-road extending from 173rd Street NW westward to provide access to PID 10-109-2100. This will not be possible with how the stormwater pond is currently proposed adjacent to the entire east property line of PID 10-109-2100.
- 2. Concerns were discussed with the Town of Big Lake’s Road Committee regarding the 0% slope of the proposed roadway and the utilization of the Right of Way to stage a portion of the stormwater and how this would affect maintenance. Review of the HydroCAD report shows that the stormwater calculations are adequate but would recommend that a variance be required to allow future developments to utilize a 0% proposed road profile grade. Consideration of special ditches along the roadway independent of the roadway profile is strongly encouraged to promote stormwater to flow towards the proposed stormwater ponds.
- 3. Correct minor issues with Construction Plans.
- 4. Provide Easement documentation related to the Utility easement along the south property line of PID 10-109-2100.

Given these and any additional comments provided by the Town Board are addressed prior to Final Plat Approval. I would recommend approval of the Preliminary Plat.

DEPARTMENT/AGENCY COMMENTS:

Russ Heiling, County Surveyor (September 12, 2023): Survey comments have been addressed.

David Roedel, Asst Public Works Director (July 29, 2023):

- 1. As required, Right of Way on CR 83 is identified at 50' on the Plat. Add an access control line along CR 83.
- 2. The location of the new road access is acceptable as it aligns with 173th Street NW to the south. The bypass lane will convert to a right turn lane. This will require striping and

signing modifications by the developer. An Access Permit is required to be taken out from the Public Works Department to ensure construction according to County Standards.

3. The Sherburne County Public Works Department will require park dedication fees for the 10 new lots at \$1,200 per lot, totaling \$12,000. 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.

Additional comments with the proposed improvements:

- A. Although not part of the plat, the existing parcel 10-109-2105 has an approximately 1000' driveway that will be located within the proposed drainage and utility easement. Has consideration been given to connect this parcel to proposed 173rd St. NW?
- B. Lot 6, Block 2 has a driveway that crosses onto private property to access the adjacent property's driveway to the east and not a traditional shared access.
- C. The lack of an internal road from 173rd St. NW within the proposed plat, connecting to the 38.44 Acre parcel to the west (PID 10-109-2200) limits developability of that parcel in the future since a full road access to County Road 83 would not be allowed due to the ½ mile access spacing requirement. Shared driveway access for individual lots would be allowed but limits full developability.

Mike Lindenau, County Ditch Inspector (June 13, 2023): Does not benefit from a county ditch.

PLANNING & ZONING STAFF COMMENTS:

1. The applicant is proposing to create ten (10) lots from a 37.03-acre parcel.
2. There are no structures, wells or septic systems on the property.
3. There are no wetlands on the property.
4. A large easement for utilities is on the property. The developer will need to be granted approval from the easement holder to construct any roads, driveways and drainage ponds within the easement.
5. A new township road connecting County Road 83 Northwest and 174th Street Northwest will be constructed.

RECOMMENDED CONDITIONS IF APPROVED:

1. The Sherburne County Public Works Department will require park dedication fees for the ten (10) new lots at \$1,200 per lot, totaling \$12,000. Park fees must be paid prior to the Public Works Department signing the plat mylars.
2. A copy of the recorded easement agreement for the proposed driveways and road between the utility easement holder and developer will be required to be submitted to the zoning office prior to zoning signing the mylars.
3. The individuals who hold the driveway easement will need to sign off on the plat or consent as they are interest holders.
4. Must obtain an access permit from Sherburne County Public Works for the improvements to the existing driveway accesses and the new road access to the County Road.
5. A copy of the NPDES permit for this project must be submitted to the Zoning Department prior to being placed on the agenda for final plat approval.
6. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to the recording of the plat.

7. The remaining portion of PID 10-109-2100 will be added to PID 10-104-3305 by an Administrative Subdivision. A new legal description will need to be prepared, approved and recorded at the same time or prior to the plat.
8. 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:

Vandereyk asked about recommended Condition #7.

“The remaining portion of PID 10-109-2100 will be added to PID 10-104-3305 by an Administrative Subdivision. A new legal description will need to be prepared, approved and recorded at the same time or prior to the plat.”

What is the remaining portion and what parcel will it be attached to?

Glines stated that there is a small sliver to the North of PID #10-109-2200; this is the same parcel as the one to be platted; PID # 10-109-2100, and this will be combined through an administrative split, proposing to add the sliver to the parcel to the North of that, PID # 10-104-3305. The ability to combine these parcels has been confirmed with Public Works. There is currently an incomplete application on file that needs a signature from the owner of PID #10-104-3305.

Vandereyk asked what purpose this split will serve?

Glines stated that it must be attached to something and since this is still a metes and bounds property, this is able to be done.

Vandereyk asked if PID # 10-104-3305 is attached to the property to the North?

Glines replied that it is not, it is on its own. This PID needs to go away, and this is the way to clean that up to remove it from what is being platted.

Vandereyk asked what the owner of this parcel will do with it?

Dan Berning, Ziegler Custom Homes, 11469 193rd Ave NW, Elk River, came forward as the representative of the plat and stated that this owner will most likely give it to someone else. When they purchased, they didn't realize that this was connected. He thinks that it's a 16.5-foot strip. This was owned by the original owner that they purchased the property from, and they have another parcel down the road that they sold, and they still have the Parcel on the North side. They decided that the easiest thing to do now is to give it back to the owner that they purchased it from, and they can give it to another property owner. Berning doesn't know how this came to be.

Glines stated that this has come up recently in other situations.

Berning stated that they are excited to work with the County and Township to bring additional lots to the area.

Adams asked if Berning understands and can abide by the Conditions.

Berning replied that they are aware of them and have taken care of most of them already.

Vandereyk asked about the comment from the Public Works department regarding the stub roadway, what are the comments in reaction to that?

Berning stated that they have met with the Road Authority at the Township, and they didn't feel that it was necessary, and they did not want it there.

Glines stated that the township engineer acknowledged this comment and stated that the way the drainage ponds were being constructed, that it would hinder a road.

Vandereyk replied that this is what culverts are for. Then Vandereyk asked about the drainage plan and the East/West portion of Basin 1B; the contours just stopped in the middle of nowhere. Is there an explanation for that?

Marcus Berning, Ziegler Custom Homes, 11469 193rd Ave NW, Elk River stated that these are proposed to continue and connect with the drainage to the West, and this particular plan seems to be missing the contours.

Vandereyk then asked about the position of the 1000 ft driveway, on the West side of the plat, for the neighbor, is there any consideration being given to this?

Dan Berning stated that he has been in discussion with the neighbor on that and if he wants to eliminate that and put a driveway in that will come off of the new township road.

Vandereyk stated that it would make sense for the driveway to come off of 173rd and vacate or abandon the current driveway.

Glines stated that they would still need to use the driveway for Lot 3, Block1.

Vandereyk stated that the emergency overflow is located in the center of Lot 3, will this go over the driveway if the driveway were to stay in place?

Dan Berning stated that if it stays in place, they will need to put a pipe there. Right now, it flows through there and it's a depression in the driveway. The goal is to make a new driveway off of 173rd.

Adams asked if he is receptive to this proposal?

Dan Berning confirmed that he has been receptive, they just need to find a new location.

Waytashek stated that this issue should be taken care of prior to the final plat. She feels that it's important to have an internal driveway access instead of utilizing the County Road. David Roedel is here tonight if we would like to address this.

Adams stated that this would be a great idea.

Glines stated that this still needs to be a driveway for this house.

Waytashek agreed but stated that it could go away for the other property owner.

Adams asked if this should be Condition #9 for plat approval?

Waytashek then asked about the fill to be brought in for a couple of the lots, but there is a statement from the soil scientist that they meet the 40,000 sq ft. Why are we bringing in so much fill?

Dan Berning stated that this is being brought in to bring it above the overflow of the basins as a precaution.

Schneider asked about Condition #9, since this is an issue between 2 landowners, how can you force a person to give up their land rights?

Waytashek stated that in the past this was done to remove driveway access that didn't need to be on a County Road if a new township road was built. We are trying to address this issue to get the driveway off of the County Road. Waytashek stated that David Roedel can address this if he would like.

Adams asked if we are looking at the neighbor in the Northwest corner.

Glines stated that you're looking at the exception, as he is not part of the plat; the issue is if the owner refuses to do this, then it will hold up the plat. This is ideal and the developer is working with the landowner on this issue.

Adams stated that the Condition could state that he addresses it, not how he addresses it.

Vandereyk asked if this is an easement of record.

Glines stated that this is a recorded easement.

Vandereyk stated that Schneider is correct, we can't demand that this be abandoned.

Adams reiterated that we could ask them to address it and how they address it is up to them. Would this be appropriate?

Glines replied that as it is, he has to consent to plat.

Waytashek asked if this property owner is present. The owner is not present.

Adams asked if we could address Condition #9 as the driveway issue on the exception lot and it can go wherever it goes?

Glines reiterated that the developer is currently in discussions with that landowner, and it will be a lot easier to discuss when there is a road that is in.

Dan Berning confirmed.

Adams stated; the driveway issue for the exception lot.

Adams opened the Public Hearing.

No one was present for the Public Hearing nor did anyone submit comments.

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

Sims asked if there is a map that shows the contours?

Vandereyk noted that Marcus Berning from Ziegler has one and that it must have been a graphic error on what was given to the Planning Commissioners.

Aubol made a motion to recommend approval of the Preliminary Plat of "Meadow Estates South" consisting of (10) lots, with the (9) recommended Conditions. Sims Seconded.

Conditions:

1. The Sherburne County Public Works Department will require park dedication fees for the ten (10) new lots at \$1,200 per lot, totaling \$12,000. Park fees must be paid prior to the Public Works Department signing the plat mylars.
2. A copy of the recorded easement agreement for the proposed driveways and road between the utility easement holder and developer will be required to be submitted to the zoning office prior to zoning signing the mylars.
3. The individuals who hold the driveway easement will need to sign off on the plat or consent as they are interest holders.
4. Must obtain an access permit from Sherburne County Public Works for the improvements to the existing driveway accesses and the new road access to the County Road.
5. A copy of the NPDES permit for this project must be submitted to the Zoning Department prior to being placed on the agenda for final plat approval.
6. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to the recording of the plat.
7. The remaining portion of PID 10-109-2100 will be added to PID 10-104-3305 by an Administrative Subdivision. A new legal description will need to be prepared, approved and recorded at the same time or prior to the plat.
8. 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.
9. The developer must work with the property owner of the exception to move their driveway to access the township.

The motion carried with Vandereyk opposed, and the Preliminary Plat of "Meadow Estates South" consisting of (10) lots is recommended to the County Board for approval, with the (9) Conditions.

Agenda Item #7-6:58pm

Dan Berning – Ziegler Custom Homes Requesting Preliminary Residential Plat approval of “**Meadow Estates North**” consisting of six (6) lots.

PID 10-104-3400, Section 4, Twp 33 Rge 27, Big Lake Township, 18.15 acres in the General Rural Zoning District.

Application Deemed Complete: September 7, 2023

60-Day Deadline: November 6, 2023

Mitch Glines, Planner presented the request to the Planning Commission including the board packet, attachments, and comments.

PLANNING COMMISSION’S PACKET ATTACHMENTS:

- A. Aerial Photo
- B. Preliminary Plat (1-2) (Date Stamped – September 7, 2023)
- C. Preliminary Grading and Drainage Plans (Date Stamped – September 12, 2023)

BIG LAKE TOWNSHIP COMMENTS: (August 15, 2023): The Big Lake Township engineering firm and Board has reviewed the PRELIMINARY PLAT of Meadow Estates North. Based on the Township's engineer's recommendations (below), the Town Board recommends the PRELIMINARY PLAT for Residential plat of "MEADOW ESTATES NORTH" be approved.

BIG LAKE TOWNSHIP ENGINEER’S COMMENTS: (August 15, 2023):

There are no comments after review of the provided documents for Meadow Estates North. Given any additional comments provided by the Town Board are addressed prior to Final Plat Approval. I would recommend approval of the Preliminary Plat.

DEPARTMENT/AGENCY COMMENTS:

Russ Heiling, County Surveyor (September 7, 2023): Survey comments have been addressed.

David Roedel, Asst Public Works Director (June 29, 2023):

- 1. No concerns with the proposed Plat as it does not directly access to a County Road and is connecting to the Meadow Estates South Plat. Comments are provided in that review response.
- 2. The Sherburne County Public Works Department will require park dedication fees for the 6 new lots at \$1,200 per lot, totaling \$7,200. Park fees must be paid prior to the Public Works Department signing the plat mylars.

Mike Lindenau, County Ditch Inspector (June 13, 2023): Does not benefit from a county ditch.

Bonnie Jacobs, Property Tax Manager: No comments provided.

PLANNING & ZONING STAFF COMMENTS:

- 1. The applicant is proposing to create six (6) lots from an 18.15-acre parcel.
- 2. There are no structures, wells or septic systems on the property.
- 3. There are no wetlands on the property.
- 4. A new township road with a cul-de-sac will be constructed and connected to 174th Street Northwest.

RECOMMENDED CONDITIONS IF APPROVED:

1. The Sherburne County Public Works Department will require park dedication fees for the six (6) new lots at \$1,200 per lot, totaling \$7,200. Park fees must be paid prior to the Public Works Department signing the plat mylars.
2. A copy of the NPDES permit for this project must be submitted to the Zoning Department prior to being placed on the agenda for final plat approval.
3. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to recording of the plat.
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:

Dan Berning, Ziegler Custom Homes, 11469 193rd Ave NW, Elk River came forward as the representative of the plat.

Adams asked Berning if he understands and can abide by the recommended Conditions.

Berning confirmed.

Adams opened the Public Hearing.

Bill Boettner, 22129 174th St NW, Big Lake came forward and asked about the escrow monies for park dedication and future street lighting. Will there be a holding pond for stormwater on this part of the plat?

Dan Berning stated that there is, and this was noted on the drawing.

Boettner asked if silt fence is recommended for run off?

Glines stated that this is required during construction as a part of the stormwater permit.

Vandereyk reiterated.

Boettner asked about the cemetery that is there and the ceremonies that take place for the soldiers. There are gun shots that take place as a part of this, will this be affected? Will there be complaints, and can this be shut down?

Adams stated that we can't predict what will happen in the future.

Waytashek stated that this question may need to go to the attorney to see if this is an issue and make them aware so it can be addressed accordingly, maybe as a Condition of the plat so people can be aware of this when they buy the property.

Phil Ewert, 2248 172nd St, Big Lake, his property abuts this property. He thanked the committee and asked if he can have access to the packet for this item. Has there been a study on the Aquaphor in the area to make sure that it can support this?

Adams stated that he is not aware of a study on this, but there are a ton of wells in this area, and he can't imagine that a few more in the area should be an issue.

Waytashek gave Ewert a copy of the packet for the item.

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

Sims asked about the cul-de-sacs and what happens with this? Does this go back to the property owner?

Waytashek stated that the County Attorney would need to do some easements so the property can go back to the property owners and then that section of the cul-de-sac is removed.

Sims asked if this is the property owners' responsibility or for the County.

Waytashek deferred to the County Attorney whom she will check with.

Aubol made a motion to recommend approval of the Preliminary Plat of "Meadow Estates North" consisting of (6) lots, with the (4) recommended Conditions. Demeules seconded.

Conditions:

1. The Sherburne County Public Works Department will require park dedication fees for the six (6) new lots at \$1,200 per lot, totaling \$7,200. Park fees must be paid prior to the Public Works Department signing the plat mylars.
2. A copy of the NPDES permit for this project must be submitted to the Zoning Department prior to being placed on the agenda for final plat approval.
3. A Stormwater and Erosion Control Permit application is required to be submitted to the Zoning Department prior to recording of the plat.
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 Plat of "Meadow Estates North" consisting of (6) lots is recommended to the County Board for approval, with the (4) Conditions.

Agenda Item #8 -7:07pm

Krista Ponting (Property Owners Krista Ponting & David Jennings): Request Conditional Use Permit for Riding Stable and Boarding Facility.

PID # 40-010-3315. Property Address: 10551 26th St SE, Saint Cloud, MN 56304. Legal Desc: That part of the Southwest Quarter of the Southwest Quarter (full legal on file). Sec 10, Twp 35, Rge 29, Palmer Township. 16.2 acres in the Agricultural District and within the Natural Environment Shoreland Overlay District of Rice Lake.

Application Deemed Complete: September 8, 2023

60-Day Deadline: November 6, 2023

Addison Otto, Planner presented the request to the Planning Commission including the board packet, attachments, and comments.

PLANNING COMMISSION’S PACKET ATTACHMENTS:

- A. Aerial
- B. Business Plan (1-3)
- C. Site Plan (1-2)
- D. Manure Management Plan (1-3)
- E. Site Photos (1-6)

PALMER TOWNSHIP COMMENTS: (received August 15, 2023) Palmer Township Board has no issue with applicants request as long as all County regulations and Ordinances are followed.

Other agencies notified: **MN DNR, Clear Lake Fire Dept., and Benton County;** No comments received.

PLANNING & ZONING STAFF COMMENTS:

1. The applicant, Krista Ponting, is requesting a Conditional Use Permit (CUP) to establish a horse boarding facility.
2. At maximum capacity, the facility will accommodate twenty-two (22) horses, including the applicant’s own horses.
3. Boarders will have access to their horses 24/7 if needed in the case of an emergency, but the applicant is requesting that they utilize the facility between the hours of 8:00 am and 9:00 pm.
4. No employees other than the applicant’s family that lives at the property are proposed at this point in time.
5. The applicant is proposing to utilize existing structures and pasture areas on the property and does not have plans to expand at this time.
6. According to Assessors’ records, structures currently located on the property to be utilized for the facility include a 36’ x 64’ barn with 8 indoor stalls and a 14’ x 64’ lean-to, a 40’ x 56’ shed proposed to be used for indoor riding, and a 14’ x 20’ lean-to within the pasture area.
7. The current driveway is approximately 12 ft. wide and provides access off of a township road (26th St SE). The property has no other access to a public road.
8. The applicant is not proposing to allow boarders to store their horse trailers at the property.

9. The facility will also consist of an approximately 120' x 140' existing outdoor arena.
10. Horses will have access to approximately 10 acres of pasture.
11. The applicant is proposing to utilize portable toilets until they are able to install an ADA-compliant restroom in one of the existing structures on the property.
12. In order to address noise, dust, and odor, the applicant is proposing to groom pastures and remove waste weekly, clean stalls/barn daily, maintain vegetative cover and tree buffer, and utilize sprinklers as needed.
13. The applicant has submitted a Manure Management Plan (MMP) (Packet Attachment D) for the horse boarding CUP. She is proposing that manure will be stored in either a permanent stacking slab or manure dumpster/trailer before being picked up by a contracted company (NBW Farm Services out of Silver Lake, MN) and removed from the property every 60 days. There will be no land application of manure to this property with this proposal.
14. This property is located within the shoreland overlay district of Rice Lake and is proposing more than 10 animal units (AU) which will require the applicant to register with the Minnesota Pollution Control Agency (MPCA) as an animal feedlot.
15. The septic system located on the property was upgraded August 23, 2023 and is compliant.

RECOMMENDED CONDITIONS IF APPROVED:

1. The facility shall be permitted to house a maximum of twenty-two (22) equine including the applicant/owner's own equine.
2. Boarders shall be permitted to be on the property between the hours of 8:00 am and 9:00 pm unless otherwise needed in the case of an emergency.
3. The issuance of this permit does not permit the applicant to host any equine-related shows or events.
4. Any use of exterior lighting shall be directed away from residences and the public right-of-way by the use of light shields or other means as approved by the Zoning Department.
5. The applicant shall either provide a portable toilet on the property to be used by boarders or establish an ADA-compliant restroom. If utilizing a portable toilet, a copy of the service contract shall be provided to the Zoning Department if requested.
6. The arena shall be watered and dragged as needed to prevent dust from leaving the property.
7. Vegetative cover must be maintained at all times in the pasture area.
8. The applicant shall comply with the submitted Manure Management Plan (MMP) (Packet Attachment D) for the storage and disposal of manure generated at the facility. At a minimum, manure disposal shall consist of hauling manure off-site every 60 days. Applicants shall keep records identifying how much manure was transferred, when it was transferred, and where/who it was transferred to. The manure storage area at a minimum must consist of an impervious pad with a minimum of 4 ft. tall berms on 3 sides or within a leak-proof container (i.e. dumpster) and hauled off the property. A copy of the transferred manure records shall be provided to the Zoning Department if requested. The MMP shall also be consistent with the MPCA – Manure Stockpiling – Technical Guidelines Fact Sheet #8.06 and the University of MN Extension – Managing and Composting Manure Fact Sheet.
9. Pursuant to the Sherburne County Solid Waste Ordinance, Section 19.10 "Animal manure shall be classified as a solid waste when they are accumulated, stored or stockpiled on any surface . . . within 200 ft of a residence located on neighboring property." Therefore, any manure stockpile(s) must be located at least 200 ft from any neighboring residences.

10. Applicants must operate the facility authorized by this permit in a manner that does not cause excessive noise, glare, odors, traffic, or other nuisances to neighboring properties.
11. The applicant shall maintain proper business liability insurance and provide a copy of the insurance records to the County upon request.
12. Applicants shall permit the Zoning Department to inspect the property when requested.

Planning Commission Discussion:

Otto explained that Packet attachment D notes the stacking slab which is way out in the pasture and not going to work the best operationally with weather, etc. She has this area noted but is working with the MPCA to have this closer to the barn. Rewording Condition #8 is suggested.

Otto read the following into the record.

Addison,

After reviewing the documents for tonight's meeting I would like to submit a comment on behalf of the Sherburne SWCD for Krista Ponting's site.

We would support a solution where the manure is stacked on either clay or cement with sidewalls and the ability to control moisture (roof or tarp). The location of the manure storage should be placed for resource protection, convenience of cleaning the barns, and convenience for pickup. Maintaining grass or a filter strip adjacent to the driveway would protect water resources from any runoff that could occur moving manure.

The Sherburne SWCD supports the County and MPCA on their ordinances and regulations.

Respectfully submitted,

Miranda Wagner

Agricultural Conservationist

Sherburne SWCD

Adams asked how the number of 22 horses was established?

Otto stated that this is what the applicant had identified in their application.

Adams asked about the Land Use and why not 25 or 30 horses?

Otto stated that the County does not regulate the number of animal units based on acreage size. Rather, there are requirements in place for feedlots. Since this property has been used for horses since at least 2004 the feedlot setbacks are grandfathered in. It's not based on the number of animal units, rather the management of it.

Krista Ponting, 10551 26th St SE, St Cloud, came forward as the representative of the application and stated that they purchased the property and would like to start a boarding facility.

Chris Jennings, 10551 26th St SE, St Cloud also came forward as a representative of the application and stated that they are looking to give back to the equestrian community. They have 3 kids and if it were not for horses, they would be a statistic. He stated that they asked for 22 so they don't need to come back later and ask for more.

Ponting reiterated that they asked for more than they will ever need. They want to be able to have their own horses and their friends' horses and they want to do it the right way. They will have more like 13 horses.

Adams asked Ponting if she understands and can abide by the Conditions with the change to Condition #8.

Ponting confirmed.

Otto suggested that #14 in the staff comments also be added as a recommended Condition; Condition #13.

Vandereyk asked for clarification on the changes to the Conditions.

Ponting confirmed her understanding of the additional Condition.

Demeules stated that this property has been used for housing horses for quite some time and now we have the opportunity to regulate it. This is a good use of the property and some good people that want to take care of it.

Gray concurred with this as Ponting had reached out to him when they bought it.

Ponting stated that they are looking to do things the right way.

Adams opened the Public Hearing.

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

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

Demeules made a motion to recommend approval of the Conditional Use Permit for a Riding Stable, with the (13) Conditions, including the change to Condition to #8, and Findings of Fact. Sims seconded.

Conditions:

1. The facility shall be permitted to house a maximum of twenty-two (22) equine including the applicant/owner's own equine.
2. Boarders shall be permitted to be on the property between the hours of 8:00 am and 9:00 pm unless otherwise needed in the case of an emergency.
3. The issuance of this permit does not permit the applicant to host any equine-related shows or events.

4. Any use of exterior lighting shall be directed away from residences and the public right-of-way by the use of light shields or other means as approved by the Zoning Department.
5. The applicant shall either provide a portable toilet on the property to be used by boarders or establish an ADA-compliant restroom. If utilizing a portable toilet, a copy of the service contract shall be provided to the Zoning Department if requested.
6. The arena shall be watered and dragged as needed to prevent dust from leaving the property.
7. Vegetative cover must be maintained at all times in the pasture area.
8. The applicant shall comply with the submitted Manure Management Plan (MMP) (Packet Attachment D) for the storage and disposal of manure generated at the facility. The stacking slab placement must be consistent with Packet Attachment D or as otherwise approved by the MPCA. At a minimum, manure disposal shall consist of hauling manure off-site every 60 days. Applicants shall keep records identifying how much manure was transferred, when it was transferred, and where/who it was transferred to. The manure storage area at a minimum must consist of an impervious pad with a minimum of 4 ft. tall berms on 3 sides or within a leak-proof container (i.e. dumpster) and hauled off the property. A copy of the transferred manure records shall be provided to the Zoning Department if requested. The MMP shall also be consistent with the MPCA – Manure Stockpiling – Technical Guidelines Fact Sheet #8.06 and the University of MN Extension – Managing and Composting Manure Fact Sheet.
9. Pursuant to the Sherburne County Solid Waste Ordinance, Section 19.10 “Animal manure shall be classified as a solid waste when they are accumulated, stored or stockpiled on any surface . . . within 200 ft of a residence located on neighboring property.” Therefore, any manure stockpile(s) must be located at least 200 ft from any neighboring residences.
10. Applicants must operate the facility authorized by this permit in a manner that does not cause excessive noise, glare, odors, traffic, or other nuisances to neighboring properties.
11. The applicant shall maintain proper business liability insurance and provide a copy of the insurance records to the County upon request.
12. Applicants shall permit the Zoning Department to inspect the property when requested.
13. This property is located within the shoreland overlay district of Rice Lake and is proposing more than 10 animal units (AU) which will require the applicant to register with the Minnesota Pollution Control Agency (MPCA) as an animal feedlot.

FINDINGS:

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

Otto read the Findings while Demeules provided a 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 property already has the structures and fencing needed to establish a boarding facility, and it has been used for horses historically.

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 properties surrounding this one have already been developed with single-family residences, and there is limited opportunity to further develop the surrounding vacant land.

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

Yes, adequate utilities, road access, and drainage are already being provided.

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, adequate parking and loading area is provided with the property's existing nearly 700 ft. long circle driveway and horse trailer parking area.

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, the applicant is proposing to groom pastures and remove waste weekly, clean stalls/barn daily, maintain vegetative cover and tree buffer, and utilize sprinklers as needed to address odor, fumes, and dust. No noise, other than the sound of horses, or vibration is expected from this proposed use.

The motion carried and the Conditional Use Permit for a Riding Stable, with the (13) Conditions and Findings of Fact is recommended to the County Board for approval.

Closing:

Larson made a motion to adjourn the meeting. Demeules seconded. The motion carried and the meeting was adjourned at 7:23pm

Submitted by Carrie Winter, Secretary.