

**WRIGHT COUNTY PLANNING COMMISSION**

**Meeting of: July 1, 2021**

**MINUTES (Informational)**

The Wright County Planning Commission met July 1, 2021 in the County Commissioners Board Room at the Wright County Government Center, Buffalo, Minnesota. Chairman, Dan Mol, called the meeting to order at 7:30 p.m. with the following Board members present: Mol, Pat Mahlberg, Jan Thompson, Mike Kaczmarek, Ken Felger and Dan Bravinder. Absent was: Corey Tanner. Sean Riley, Planning & Zoning Administrator, represented the Planning & Zoning Office. Greg Kryzer, Assistant County Attorney, provided legal counsel.

**MINUTES**

On a motion by Thompson, seconded by Mahlberg, all voted to approve the minutes for the June 3, 2021 meeting as printed.

1. **ANTHONY M. RIEGER-BORER** – Cont. from 6/3/21

LOCATION: 11988 Jarvis Avenue NW – Part of W ½ of NW ¼, Section 3, Township 121, Range 27, Wright County, MN. (Long Lake/Corinna Twp.) Tax #206-000-032200

Petitions to rezone 10 acres of existing 39.2 (approx.) parcel from AG General Agriculture and S-2 Residential-Recreational Shorelands to A/R Agricultural-Residential and S-2 as regulated 155.028, 155.047 & 155.057, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances.

Present: Applicant not present

- A. Riley summarized the action at the last meeting was to direct the County Attorney to draft Findings consistent with a denial of the request to rezone.
- B. Kryzer explained these were based on the record and Commission received a copy to review. If they match the discussion and the Board's recollection, action could be taken to refer the recommendation to the County Board of Commissioners.
- C. Kaczmarek moved to accept the Findings & Recommendation for denial of the rezoning as drafted and refer to the County Board of Commissioners for further action. Thompson seconded the motion.

VOTE: CARRIED, NAY: Bravinder and Felger

- D. Kryzer noted the applicant is not present and the Findings will be mailed to them.

2. **JAMES FEEHAN** –Cont. from 6/3/21

LOCATION: 10356 Aetna Ave. NE - Part of N ½ of SE ¼ Section 7, Township 121, Range 275 Wright County, Minnesota. (Monticello Twp.) Tax #213-100-074202 & 213-100-074203 Property owners: James & Cherie Feehan/Matthew & Melissa Feehan  
Petitions to rezone from AG General Agriculture to A/R Agricultural-Residential and for a Conditional Use Permit for a two-lot unplatted residential subdivision (one lot to include existing dwelling) as regulated in 155.028, 155.029, 155.048, Chapter 154 & 155, of Title XV Land Usage of the Wright County Code of Ordinances & Subdivision Regulations.

Present: Jim Feehan

- A. Riley summarized the action at the first meeting was to recommend rezoning from AG General Agriculture to A/R Agricultural-Residential. The Land Use Plan had the property designated for the A/R district. The County Board approved the rezoning and the Conditional Use Permit is now being considered. The applicant has submitted the survey and soil borings for the two-lot subdivision proposed.
- B. Mol asked the Commission for questions or comments, hearing none opened the hearing for public comment. No one came forward to speak on the matter.
- C. Bravinder moved to approve a conditional use permit for a 2 lot un-platted subdivision, one lot to include the existing home, in accord with the survey completed by Bogart, Pederson, & Associates, Inc., dated 6/24/21; File No. 21-0248.00, with the condition that access permits will need to be obtained, if required, by the Township before construction on the new lot. Kaczmarek seconded the motion.

VOTE: CARRIED UNANIMOUSLY

3. **DONAVON L. DesMARAIS** - Cont. from 6/3/21

LOCATION: XXXX Bice Ave. NW – Property on Birch Lake - Chatham Twp. – Gov’t Lots 1, 2 & 3, Section 35, Township 120, Range 26. Tax #203-000-353400

Property owner: Belinda Jones

Petitions to rezone from AG General Agriculture and S-2 Residential-Recreational Shorelands to A/R Agricultural-Residential and S-2 and also requests a Conditional Use Permit for an unplatted four-lot subdivision as regulated 155.028, 155.029 & 155.047 & 155.057, Chapter 155, of Title XV Land Usage of the Wright County Code of Ordinances & Subdivision Regulations.

Present: Donavan DesMarais & Paul Otto, Otto Associates

- A. Riley – summarized the previous hearing was a recommendation to the County Board. The County Board has acted on the rezoning approving the A/R district. Information provided shows all performance standards are met, has the septic information showing there are adequate sites for the four-lot subdivision. In response to Felger’s question, Riley summarized the Land Use Plan has this area designated for “Rural-Residential”.
- B. Mol asked if the applicant had comments, Otto stated no; and he opened the hearing for public comment.
- C. Matt Schuveiller – stated his lives across the road from the development. Asked the Commission to imagine purchasing the property he lives on with AG across the road and only to come and find out he will now have a development out his window. He has lived in a city and does not want to live in another and has lived out here since 1998. He was unhappy with the rezoning, the Commission heard that the two townships and many neighbors around here were opposed and did not listen to them. He likes the distance he has between the two neighbors he has and does not want more.
- D. Eric Knudson - lives on the other side of Birch Lake – he looked for the codes on the Website on the two different zoning districts. He farms, have chickens and hay ground. He questioned what these zones mean? Riley explained the AG and the A/R zoning districts, and the Land Use Plan referred to is a guide. He displayed the map of the Plan and noted it means 10 acre lots. Knudson – he is to the south and has ten acres has a parcel with some land across the road on the lake. Riley explained his property is the same zoning district A/R as this property was zoned to.
- E. Keith Parchem lives at 2 Bice Avenue – he has lived out here 41 years. He attended the Town Board meeting a few years ago and he asked that a buffer be preserved between the homes and the farm acreage. This land acted as a buffer. Traffic is not too bad now on Bice, putting more people out here will increase traffic and will result in more road maintenance and cost. The runoff coming from yards exceeds that of fields. They need playgrounds for the kids moving here so they are not running up and down the road. Referred to another plat that Ed Otto had completed work on, now they have an area that wildlife and deer come into the area. He felt if this land is developed they will lose the turkey and other wildlife which need a big area. He does not understand how the Commission could pass this when both Chatham, Marysville and the residents have said no. He does not think the Commission is listening to the people, thought this is a democracy and questioned how they can supersede their wishes. Would the Town Board

have any say, or questioned why they have them? The land has been farmed as long as he has lived out here. It is hay now; but has grown corn and beans. They will lose more farmland if this goes through. He was in Texas during the original meetings. Hoping the decision can be reversed after hearing from the people.

- F. Margaret Blomgren – lives directly across from the development. Lived out here 51 years, raised her children here and does not want more neighbors. Now they have 10-year-old kids going up and down the road on four-wheelers. She is passionate about preserving the wildlife and hoped for a peaceful existence out here. She is opposed to this.
- G. Carl Blomgren – pointed out the gravel road on the map – the road cannot take more traffic going by at 55-60 miles an hour.
- H. Tom Schueveiller – Chatham Town Board Supervisor – as his son has said when two Town Board’s oppose it and the Commission overrides them, the will of the people is being disregarded. The Land Use Plan is just a plan, not a mandate and is only a guide. He does not agree with what they say and do.
- I. Karen Parchem – concerned about the loss of some of the best farmland out here producing corn and soybeans and now they want to put homes on it. Questioned how people will be fed in the future and someone must look at what they are doing.
- J. Ann Smith – owns land directly to the north- this is not helping anyone but the current owner. They cannot get Wi-Fi, gas, sewer, or water out here. Does not think they should bring more people out here on dirt roads without services. Felt the owner and the Commission are just going after the money and not listening to the people.
- K. Mol asked for further comment, hearing nothing further asked if the applicant wanted to address the comments. Otto responded that the Land Use Plan was a County-wide project to decide where development should happen. Regardless of the location, the property owner has the right to ask. This owner and the County must look at the Plan. He noted there are parts of the Township and County that were not in the Plan and are farmlands to be protected. This property was in the Plan in the 1980’s. It is part of due diligence when people move out here to check this out. The property owner has every right to bring it before the Commission, meets all the requirements and is in the Plan. He understands the Town Board said no, but there are some Town Boards that might not fully understand it.
- L. Felger – Otto noted this land was in the Plan in the 1980’s and went thru a great deal of study and public hearings between 2005-2008 when there was County-wide update including input from the Townships. Riley concurred this land was included in the previous Plan going back to the 1980’s, as well as a number of other parcels in the County. Felger noted although he was not on the Commission or on a Town Board during that time, he was involved as a citizen in hearings for the Northeast Quadrant Plan study. He was given an opportunity to speak to it. Anyone who wanted a change to the Plan had an opportunity to speak at that time. He agrees with Otto’s statement the property owner has the right to ask.
- M. Kaczmarek – has a copy of the zoning map and asked Riley to show the residents the colored map. Riley – displayed the existing zoning map, the green is the A/R which shows

what this property was zoned to as well as several other properties in the area. The white illustrates the land that is still zoned AG.

- N. Mahlberg –referred to the standards for a CUP and one criterion is adequate roads. Some comments about the load on existing roads. What they are talking about is four single-family homes. Either he is missing something about the burden or that is met. Bravinder – as a Town Board Supervisor –explained how they address this issue. This road is a thru road and on a site inspection noted quite a bit of traffic going by. They have a road similar in Cokato Township. There are impacts added by thru traffic. In his township he addressed how they maintain it differently. As far as new homes going in, they must consider how many cars it adds to the road in a day. Noting a business would create much more. He lives on a property that has been in the family since 1910 and he also had all ag land around the homestead and now has 20 homes and a church across the road. He has not experienced problems other than they now have neighbors. Mahlberg – had also experienced the traffic when the Commission was out there and asked if Bravinder would suggest a different treatment of it? Bravinder – although a traffic count would be needed, he did not expect four homes would generate a lot of traffic. Mahlberg – the absentee owner piece is not a consideration in the standard applied. People can buy property where they want and make investments where they have expectations. Rural owners, farmers plan for future on Plans and expect more fiscally beneficial use of it. Selling it off for the purpose of development. Felt that is the turning point they are at, is not the last ag piece. The Town Board planned for this over the last few decades for the exact type of development that is before them tonight. With the standards they must apply, he does not see the use injurious enough to the surrounding areas to override the intent of the Plan. Agreed that although the Plan is not a mandate but a guide, it is only as reliable as they make it.
- O. Kaczmarek – for the benefit of some residents who were not present at the previous meetings, he asked Riley to address the question that was raised before about the “entitlements” available under the AG zone that would not have to come before the Board for any approval. Riley – reviewed the three on the west side and three on the balance of the farm. The transportation system out here is Bice. He reviewed the six “entitlements” the property has without rezoning. The Commission had heard how they could use them. The Commission reviewed and approved a transfer of one and “cluster” resulting in three in one location. This is a mix of the two and now they are considering the lots and more homes through a rezoning process. Kaczmarek – he did research on the records over the last 20 years, did not find any protest when proposals were before Chatham in prior years, one being a cluster hearing. No objection when the Plan was reviewed, some of the same people were on the Town Board back then. There is plenty of opportunity to rezone as shown on the map. He does not find it is a rare or unique case and request does not seem unreasonable.
- P. Mahlberg moved to approve a conditional use permit for a four lot un-platted subdivision in accord with the survey completed by Otto Associates, dated 6/24/21; Project No. 21-0151, with the condition that access permits will need to be obtained, if required, by the Township for construction on the new lots. Felger seconded the motion.

VOTE: CARRIED UNANIMOUSLY

4. **KAMI HOLDINGS LLC** – Cont. from 6/3/21

LOCATION: Approx. 45.5 acres east of Pilger Ave. NW - Part of Gov't Lot 5; South 25 acres of NW ¼ of NW ¼ Section 27, Township 121, Range 28, Wright County, Minnesota. (E. Lake Sylvia -Southside Twp.) Tax #217-000-272200; -272301 & part of -272300 Property owner: Hennepin Ave. United Methodist Church

Petitions to rezone approximately 45 acres from AG General Agriculture and S-2 Residential Recreational Shorelands to R-2a Suburban-Residential and S-2 and establish a Standard Planned Unit Development District. Also, a Conditional Use Permit for platted subdivision (six new riparian residential lots) as regulated in Section 155.028, 155.029, 155.051, 155.059 & 155.057 Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances and Subdivision Regulations.

Present: Paul Tucci, representing Kami Holdings, Paul Otto, Otto Associates; Atty. Mike Mergens

- A. Riley summarized the action at the last hearing was to recommend rezoning of the request for A/R and a Planned Unit Development District. A Concept Plan and narrative were provided, and the County Board of Commissioners accepted the recommendation for the rezoning. He noted the property was not in the Land Use Plan, but the Planning Commission and the County Board found the lakeshore especially suited to residential. The increase of a backlot was considered as the Plan does not allow backlots. Town Board has approved the new road on the condition it is brought up to proper standards. The Conditional Use Permit (CUP) for the subdivision is what is before the Commission now. Six lots are proposed and with a Planned Unit Development, the details on the building location and impacts are discussed. Based on the past few meetings, there are a couple options offered in the Staff Report and it is up to the Commission to decide which way to go.
- B. Otto explained the information provided addresses what they heard at the last meeting. There has been more conversation about the type of trees and what would be taken out and gave some definition where homes are likely to go. This information will help make an educated decision. If a buyer should want to move the home location, he would expect they would have to come back to the Commission for a new CUP. There is an exhibit for each lot, to show the amount of grading, tree removal and location of the driveway and each house. If a buyer varies too far from these locations for the Zoning Administrator to approve, then they would come back to the Planning Commission. He noted for a general concept they are showing an oversized footprint of 80' x 60' for a building pad that includes a garage. The placement will cause the least amount of disturbance. Lots 5 & 6 have bluffs and there is a bituminous driveway that could be widened and would only take a few trees. The other lot has a grass driveway and they felt that could be access for the other lot. Felt they have given the Commission the details they need for approval. If this is not acceptable, he asked what would they be comfortable with. This would give buyers an indication what would be acceptable. He explained 440 trees were identified and they would be taking out 25% for the road, driveways, and house placement. These are trees larger than 8".
- C. Riley in general, as far as house locations, these are vetted by the Planning Commission and approved. If an owner wants a less desirable location, he has to decide whether to

bring it back to the Commission. He sees this plan as the opposite, if a buyer would want to move the building site back up to the top the hill, that will be viewed as less impact. Otto – noted they have the tree count of those to be removed shown for each lot. Riley noted a surveyor can only do so much not knowing what different buyers might want to do. That does not release each lot from providing more detailed information, possibly review by SWCD and perhaps a new CUP. He is not confident that these plans and descriptions protect everyone from knowing how it will be built. Mol – asked Riley if this is a situation where it might have to go to the Board of Adjustment? If they build up on top, there should not be a concern with meeting setbacks. The concern with most of these lots is with the slopes and bluff. Up on top it is open, rather than down by the lake. Riley – no he is not considering it would be the Board of Adjustment, it would be about the impact that in most cases are avoided. If there are reasonable alternatives, they should not be building a driveway down a bluff. Need clear plans on how it is done. Decision is on whether they want to give some flexibility; but if they do there will be more information required.

- D. Thompson – from what she is hearing, there is nothing different proposed from last time. She is hearing there are many alternatives being considered. She read from the Staff Report, what is being considered they are not seeing anything new from the last time, i.e., bluffs.... Riley – that is the original Staff Report, some of those things must be addressed in conditions. The information received is showing tighter parameters. The Commission must decide if these locations are appropriate. The conditions can be set on lakeshore locations and additional professional information is required at the time of building permit. Thompson – if they want lots they should abide by building up on the bluff as shown originally when the property was rezoned. With information lacking, she has not changed her mind.
- E. Otto – his objective is that they figure out, with the requirements, the four lots where they are not impacting bluffs, but are steep slopes. If they were to build in the steep slopes, they would have to come back to the PC for a land alteration. Trying to provide buyers some alternatives. If the locations are okay, his clients would likely agree on the condition they come back individually.
- F. Mergens they don't have six lots approved, asking for approval to market them and let the buyers decide where they want to build. A PUD allows some flexibility that make the best development for both the Commission and the applicant. This gives some flexibility on where to build. There are zoning setbacks, but not 600' from the lake. If this were a standard five-lot subdivision they would not be addressing this. They are showing various building sites for homes and plan to sell 5 or 6, depending whether the developer keeps one, with the understanding what might come before them later. Right now, asking if they can subdivide into six lots.
- G. Mol opened the hearing for public comment:
- Frank Lushine – resident of Sylvia over 40 years and is representing Lake Sylvia's owners who are deeply concerned about the lots. Handed out a yellow folder (held on file). This last month met with Tucci, when he offered an alternative to Kami's plan of six lots. Lushine identifies as a self-described environmentalist and made an offer a few weeks ago for an alternative to six lots on the 70 acres. Last November he made an earlier offer before Kami

and was told by Riley that because of the bluff the closest he could build was 600' from the lake and because of that he backed out. Now the Commission is considering a subdivision showing houses 75-100' from the lake. That is unacceptable on several levels. He asked for additional time as he is the only one speaking for the Lake Sylvia owners (SAVE). Have hired an Attorney Brian Sund, Morrison-Sund PLLC, who was unable to attend. He went through the packet handed out (see documents on file). Made several offers to the developer but refused those. He has several concerns. Commissioner Thompson had asked who owns the property and was told Kami. That is not correct, they have a Purchase Agreement and do not own it. The Plan given the Town Board showed homes 600' from the bluff, but the later plans show homes as close as 75'. Main concern is 19 Indian burial sites on this property have been identified, he has provided the State Archeologist contact information so they can be invited out to do a site visit. The #35 shown on the map in the packet, is right where they want to do the development. The State Archeologist knows where this is. Page 220 was referred to in the packet which shows the 19 burial grounds that go back 2,000 years, this is sacred ground. Burial ground #19 is on proposed Lot 6. The strong recommendation is to defer this to make a site visit to make sure development does not conflict with a burial ground. This would be a felony. He suggested this petition be delayed allowing for it to be better mapped. He feels this makes it non-developable.

Felger asked Lushine if the plan held up and stated is what was provided the Town Board. Lushine that is his understanding. Felger this was suggesting the building sites would be 600'? Lushine – the information given to Southside in February was different. Felger – stated he sees no reference on the plan to 600'.

- Eric Lawson – resident of Lake Sylvia - no one represents him without asking him first. There are hundreds of homes on Sylvia and does not object to six more.
- Grant Merritt –reiterated the concerns raised at the June 3 meeting. He met with Zoning Administrator Riley since, was unaware that the rezoning was already decided. He is a retired attorney and is hoping the rezoning can be rescinded. He felt there should have been a better way to reach out to the public for due process. The primary issues he talked about before are the water, trees, and potential environmental impact. Even the construction of large homes back at 100-150' would still be an impact. Referred to the road location with driveways coming down to development between the road and lake, cutting down many of the “Big Woods” trees. Another concern is the potential lawn chemicals running into the lake. He has been out to the retreat center a few times and knows the buildings are built for year around use. He brought along a book he wrote about his career and time spent around Minnesota on environmental issues. He is now a citizen activist. He is on the Board of Trustees of the Hennepin Avenue Methodist Church and during the last two years opposed the development of this property. He referred to legal action that can be taken under the MN Environmental Rights act. The proposer must show how they will deal with the environment and show impact is diminutive, and the proposer must show there is no feasible alternative. He noted the public does not know that the Church did not have consideration of a second offer. He felt that is unfortunate as the second offer would have been much more protective, was one house and would keep the retreat center. The woods would have been preserved; that is unfortunate. The lawyer for the Church did not inform them of MN Statute 82.71 that says written offers must be properly submitted in writing. Urged the Commission to



reconsider the rezoning and ask the County Board to rescind the motion. Felt a full public hearing is needed.

Mahlberg asked Merritt he is not saying under any of the Statutes prevents them from making a decision. Noting Merritt cited the “Brokers Act”, he is suggesting people can sue, but not suggesting the Commission cannot make a decision.

Merritt – responded he could not find the criteria which may be in the Comprehensive Plan or discussion at the first meeting. Was trying to find the documents and opportunity for the public input and is saying there was not opportunity for the public hearing in April. Mahlberg noted Merritt spoke at three public hearings on this proposal. Questioned if the problem is with the process with the number of opportunities they have given the public to speak. The reference to a second offer is between Merritt, the broker and Church. Mahlberg stated he has a problem hearing there is a due process problem, when the Commission has been hearing this for months, three public hearings. Merritt – referred to the Environmental Rights Act of 1971 and a case in Albert Lea where there was testimony and went to the Supreme Court. His involvement in organizations that look at special places and parks and felt this is an example of one of those places and the type of lake that should be preserved.

- Russ Fortner – President of the Greater Lake Association – records show the previous Board hearing was attended by WebEx when two pieces of property were before the Commission and they were decided in two different petitions. Suggests the record is checked, that is where he thought this parcel was not rezoned back then.
  - Steve Hoyen – adjoining property owner – the problem was the COVID hearing process. Felt trying to attend the meetings remotely was a joke, could not hear much of what was said and feels that is how it went thorough. He attended the Southside Town Board meeting when they proposed the building sites up above the bluff. Felt this was rezoned by a “bait and switch” and was railroaded through. Don’t know if it can be rescinded; but would like to see that. Mahlberg agreed the COVID restriction were unfortunate, questioned what was the concern that the Board did not hear because of the format of the hearing. Hoyen – stated the fact that this was proposed at the top of the bluff. He knows the difficulty of building on a bluff. Mahlberg – stated the Commission made a site inspection and described where they walked on the retreat center property. Asked what Hoyen thought they missed. Hoyen – the bluff. Mahlberg –asked if Hoyen is suggesting that if they knew where the homes would go it might not have been approved. Hoyen and the rezoning would not be approved. Southside Township would not approve this. Comparing the slope with his, he had a hard time believing there are only two lots that are bluff.
  - Lushine – referenced the earlier plans when it was presented to Southside in February was to build above the bluff. Pointed out the yellow. Now the changes as proposed are 75’. Felger – what Lushine was stating is the plan does not show a 600’ lake setback.
- H. Tucci – clarified Thompson’s question about ownership. He had said when asked at the earlier meeting that they have a purchase agreement, not ownership. The documents on the valid purchase agreement were provided. The survey was field verified by the surveyor for the seller. They have consulted with their attorney and paid the extra money to verify by field data to determine the bluff. Regarding the meeting with Southside Township, they went back on the road issue and the plan they are talking about today was before the Town Board. Indian burial grounds and the plan Lushine provided to them was discussed. They

have done some research on this and there are mounds in the area but not on the property. They have engaged a 106 Group, a third party to make sure as building permits come in, they have this information and a survey of what is going to happen, to ensure they are not disturbed. Last meeting with Otto, they understood they should bring in what could happen. Permits and details will be needed when construction happens. Have heard the “bait and switch” argument, but that is not their intention. Providing other alternatives and based on their analysis of the code where properties could be built. They are trying to minimize impacts, want to be good stewards of the land and it is not their intention to clear cut trees, but want to develop six lots and raise up values for the area. A letter was delivered to Fortner (GLSA) indicating they wanted to share the plan with the Association, and they wanted to engage with them sooner than later but did not get the opportunity. The concern about Lots 5 & 6, they are agreeable to start at the top of the hill and if owners want to pursue building down below the hill they would have to come back. Felt that is reasonable.

- I. Mergens – responded to the difficulty of holding hearings during COVID, however, both he and Otto have done a lot of development during this time. He wanted to commend the Commission that allowed these developments to go forward. Understands this is not ideal. The public notices were out, public notices are in the paper to keep people informed. Although not ideal, but in other areas a lot of residents spoke through Zoom and he felt they did a good job. The public hearings are before the Commission and development is one of the fairest form of public participation. The Chairman has allowed multiple people to speak, sometimes longer than five minutes. There is a disagreement, and someone asked what the criteria is, he noted that is in the zoning code. On the burial grounds, he is going to make sure his client does not commit a felony, they have not found a single burial grounds on the property. If they are found they will have to address that and protect those by law and is handled at the building permit stage. During the course from zoning to building permit the public has a right to have their opinion known. But the Commission must decide on the CUP.
- J. Bravinder read the official minutes from the Town Board meeting on April 15. Nothing about 600’. He indicated he is willing to make a motion based on the Town Board’s approval with that criteria to approve the six-lot subdivision on the condition they have to come back to the Commission if they want a building site within the 600’ of the lake.
- K. Kaczmarek questioned the lake frontage and to him the dimension was along the shore and not the setback. Bravinder - according to the minutes they had no problem with where the houses were being shown beyond the bluff. Clarification on the frontage (measurement of the lake dimension), not the setback and the houses to be north of the bluff.
- L. Thompson lives in Southside Township, felt it would be better if they wait and ask the Town Board for clarification. Mahlberg asked if it would not be better for the Commission to decide on six lots with the location of homes up on the bluff. If a new owner wants it somewhere else where they need a permit to get it; that is a new hearing that would require they go back to the Town Board. Understands Otto wanted to come in with a package up front, so people don’t have to come back six times, however, it seems like they want more process to take place before they say they want the houses down near the lake. He felt if the preliminary plat shows the homes on the lake, people will point to that when they come back for a revision or land alteration and state the County knew that and asked why they

would say no later. Riley – if the Commission wants to say that now they can. It is not just about a procedure, there are legitimate concerns, and they need to answer the legitimate concerns that include engineering, SWCD and the Town Board review would provide that. He read the criteria for conditions necessary to protect the surrounding area, the property as whole.... He noted it is within the Commission’s authority to determine the potential conditions and restrictions. This is where they are now and is the plat going to be approved if there is flexibility for each lot going forward. Staff determined Lots 2-6 all have steep slopes and will take substantial land alterations and he does not have adequate information if he should get for a building permit for that location. Mahlberg – asked Riley if he would get it at the time of a building permit, or he is saying it would be problematic for Staff if the preliminary plat before them is approved. Riley – it is up to the Commission to impose a restrictive condition. If they don’t require it now, each lot must address individually. It is not what is easier for Staff, but a decision is needed on whether the house location is relevant to approving the plat. If not, they would deal with each individual lot in relation to location and whether it needs a land alteration cup.

- M. Mol – he views this with his experience on the Board of Adjustment. Applicant has agreed to approving this with at least Lots 5 & 6 building on top, and as long as variances are not needed, he could agree. The Board of Adjustment is very restrictive on any alteration on the bluff and require the least impact on bluffs and prevent any runoff into the lake. As far as trees, the Board always try to protect those. Noted one of the last resorts on Sugar Lake that his family farmed was developed in such a way that does not have a big impact on the lake. He understands owners don’t want any more homes or lots on their lake. However, every meeting before the Board of Adjustment they are faced with requests for further developing their lots with additions to homes and variances from property lines. Here they have a large parcel with six homes proposed and he would hope buyers will want to protect the trees. The Commission has rezoned the land and they can create lots. Thompson – asked if it is proper that they consider what the Board of Adjustment might do. Mol – he is only relaying his experience as a member of that Board. Mol – this lake is heavily developed, no longer the 1960’s cabin and homes have changed to year around, this is what they are seeing. Kami has indicated they are willing to put the homes up on the bluff and if that is how they approve it, they would have to come back for any change, and they may not get it.
- N. Mahlberg – asked whether they should get a revised preliminary plat? If they are going to make a motion that says they must put the house behind the bluff, but have a picture showing it on the lake. Riley – asked Kryzer about the potential motion and making a condition with the possibility of owner’s coming back to ask to change it. To avoid all of that, they must build behind the bluff. If the owner decides to build lakeside there are requirements for plans and a process required. Questioned if there is a point of saying that building is at the top. Mergens– they understand a condition placing a structure between the bottom of bluff and lake would require a PUD amendment and the Commission could agree or not. Kryzer - asked if he is comfortable with that for Lots 1-6? Mergens responded there are no bluffs on Lots 1-3. Riley – it is already the case that anyone can try to amend a PUD amendment for the house location as well as review of the land alteration. Mergens – they are fine with that. Felt that gives the Commission some comfort that they would have a chance to review that. Understand that the application today is CUP for a preliminary plat and understand there are matters that would have to come back. Felt they are on the same page, thanks for clarifying.

- O. Felger – the suggestion is a condition that all the homes be north of the bluff and the buildable area on Lot 1 is out? Mergens – yes. Otto – suggests they define the bluff as described by the Department of Natural Resources. Riley – should state Lots 5 & 6, by the professional information are identified as bluff lots and homes have to be 30’ from the bluff. Lots 2-4, if they are not building behind the steep slopes on the north side, they will have to come back for a land alteration. Lot 1 the buildable site has always been shown south of the existing driveway on the plans and served by the existing driveway. Felger felt that is clear to him. Thompson would like a revised plan to act on or where the line would be. Riley clarified Lots 5 & 6, are bluff. The language would dictate the house sites, unless they come back for an amendment. Lot 1 to be built as shown. On Lots 2, 3, 4 if they are not building on the high area they would have to come back. Mahlberg asked if they want to limit the house locations, they continue to draft a clear motion on it. Riley – if the Commission agrees, close the public hearing, and get a new plan and time to draft the motion. Bravinder – on Lots 5 & 6 he would not want to impact the bluff. Lots 2-4 if they are built by the lake it would require a land alteration. Riley – would still want to avoid impacting steep slopes or need review of that. Otto – referred to another plat on Birch Lake where the plat spelled out the homes had to be built on top. Lots in the plat sat for ten years unsold. They came back with more detail that was approved. He felt it was acceptable to state the location out of the bluff and steep slopes, if they do something else there is a process where they can come back. Riley – the one on Birch Lake the approval was on a map and specific location of homes and language prepared prior to the meeting. The revisions were later. Otto indicated he is willing to prepare a new map, but not sure his clients want to come back. Thompson –wants to see that feels it should be clear for Staff’s benefit. Mol – the suggestion by Mahlberg is to close the public hearing and have a motion drafted asked what the Board’s preference is. Discussion on the delay is three weeks until they meet again. Mol – noted this has been before them several times; if they can come up with a motion that is clear, he would suggest moving forward. Mahlberg would agree to that. Riley – he would not have a map to refer to. If they have a discrepancy on what is a bluff, there might be some value with putting complete thought into it and shows it has been completely vetted on a location. With language that does not have a site plan, there is potential for a grey area. But as Otto noted. there is a definition, but every definition has an interpretation. Otto agreed either way.
- P. Bravinder moved to approve a Conditional Use Permit for a platted subdivision including six-lots and one outlot in accord with the record of these hearings and the preliminary plat of Hannah’s Landing completed by Otto Associates dated 5-20-2021; Project No. 21-0124 with the following conditions: 1) Prior to the filing of the final plat: a) the park dedication shall be paid in cash along with the other fees as noted on the plat check list; b) a title opinion is submitted and accepted by the County Attorney; c) covenants are filed for the common open space of Outlot A, and is not allowed a residential structure; and d) Developer’s Agreement and financial surety are filed and approved by the Assistant County Attorney and recorded for the Township road construction, noting that prior to a building permit on a lot the Township will have taken over the road as a public road; 2) The Commission notes that the Lake is classified as General Development Lake, the properties are subject to State and County regulations governing shoreland areas and shore impact zones, which regulates shoreland, vegetation, bluff and steep slopes on all lots. Clear cutting is prohibited in the shore and bluff impact zones; 3) Pedestrian access to the lake must meet the requirements for stairway, lifts, and landings as described in

155.057(E)(3)(a); 4) Building and driveway locations on Lots 5 and 6, the house must meet the bluff setback at the top of the bluff, if they are going to be built lake side an amendment to the Conditional Use Permit for the subdivision and a Conditional Use Permit for a land alteration must be applied for; 5) On lots 2, 3 & 4 if construction takes place on steep slopes towards or down at the lake a Conditional Use Permit for a land alteration is required; 6) No construction may commence until the County Board has approved the final plat; 7) All existing buildings must be removed and septic's abandoned prior to the sale of any lot; and 8) Livestock will not be allowed on any lot. Felger seconded the motion.

*DISCUSSION: Riley after considering "D" asked if they should consider whether they want to amend that condition to allow for a building permit before the final completion of the road. That would allow the Township to say the road is built to a standard adequate for an access permit off the road. It was confirmed there will be a developer's agreement for the entire road construction and provided prior to the final plat. If the Commission is agreement to amend that condition, Kryzer suggested language.*

Bravinder moved to amend his motion on condition 1) (D), Felger seconded the amendment to read as follows: A Developer's Agreement and a financial surety are filed and approved by the Assistant County Attorney and recorded for the town road construction Prior to a building permit for a lot, the Township will have entered into a Developer's Agreement and expressed its intent to accept the road as a public road when it is fully completed.

*DISCUSSION: Thompson stated although she felt it is great that the motion maker, Riley & Kryzer were able to develop a motion, she has not seen a revised map and objects. Asked about another amendment but prefers to delay action until they have a final motion and map before them.*

*Mol addressed proper procedure and indicated he would first have to take a vote on the motion on the floor.*

VOTE: MOTION CARRIED; Thompson voted nay

Thompson moved to continue the action on the petition to the hearing to July 22, 2021 to allow time for a final motion to be drafted.

Mol called for a second three times. MOTION DIED FOR LACK OF SECOND

*DISCUSSION: Mahlberg referred to a preliminary map dated, 5/20/21. He was referred to the third map in the Staff Report. Felger they have a map with house pads on it and a motion where there is a conflict with that. Mahlberg they have gone a long way on the wording of the motion. He would like to see the motion include that the homes on the preliminary plat shall be disregarded, and that the homes on Lots 5 & 6 will have to be built above the bluff. Although the record will bear out that no homes will be built in the bluff or below it, the homes on the preliminary plat does create some confusion because of where the homes are shown. The motion that incorporates the preliminary plat is overridden by the condition that they put on Lots 5 & 6. Bravinder – suggests the final plat must reflect these conditions. Kryzer – the final plat will not have home locations. Riley the referred to the preliminary plat, but the house placements were*

*disregarded. Felger suggests an amendment to the third line with the date of the preliminary plat, they state, except for any depictions of house locations Riley stated lots 2-6.*

Felger moved to amend the motion to include another Condition: 9) any depiction of house locations on Lots 2-6 as shown on the preliminary plat, signed, and dated 5/20/21 should be disregarded. Mahlberg seconded the motion.

*DISCUSSION: Thompson asked about which map was being referred to. Felger explained his clarification will disregard the house locations for Lots 2-6. Thompson wants the record to be clear and felt they should have a revised map. Disagreed and felt it should be delayed.*

VOTE: CARRIED, Thompson voted nay

*DISCUSSION: Thompson because her request to delay was not accepted she asked that the applicant provide a revised map for the record and reference for Staff and potential buyers.*

Thompson moved to amend the motion that the applicant provide the Planning & Zoning Office the preliminary plat showing that the location of the homes are moved from below to the top of the bluff on Lots 2-6 as discussed by the Commission.  
Kaczmarek seconded the motion.

VOTE: CARRIED UNANIMOUSLY

*Riley –asked if a condition about potential Indian Mounds should be added? Mahlberg – questioned if that is necessary as that might have to be on every plat. Kryzer – felt they will do their due diligence as part of the sale. Mahlberg added, it is not the Commission’s fault if they commit a felony.*

VOTE ON MOTION AS AMENDED: CARRIED UNANIMOUSLY

Mol called for a 5 min. Chairman’s break and reconvened the meeting at 10:15 p.m.

5. **COURTNEY A. CHRISTOPHER** – New Item

LOCATION: 971 - 8<sup>TH</sup> Street SW – Part of Gov't Lot 7, south of road & west of creek, Section 1; NW ¼ of NW ¼, west of creek, Section 12, all in Township 119, Range 26, Wright County, Minnesota. (Marysville Twp.) Tax #211-000-013300 & - 122200

Petitions for a Conditional Use Permit as regulated in Section 155.029, 155.048(D)(19), 155.103, 155.056 & 155.057, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to operate a welding business as a home-extended business in an existing building.

Present: Courtney Christopher & Chris Gangl

- A. Riley – displayed the location map to show the property. Zoning and Land Use maps show the property is zoned and in the Plan as AG.
- B. Gangl – proposing a one-man welding business that he wants to operate from his home.
- C. Riley – stated the Board of Adjustment granted variances from some of the standards. Town Board heard and approved that.
- D. Mol – relayed the discussion at the Board of Adjustment. The operation and storage will all take place within the shed. Opened the hearing for public comment, hearing no response returned to the Board.
- E. Thompson – agreed the Plan was good. As other home-based businesses, they have said it is not transferable and she felt that would be appropriate here.
- F. Thompson moved to approve an Interim Permit in accord with the narrative and plans submitted to operate a welding business as a home-extended business in an existing building with the conditional that any permits for the building and septic are obtained prior to the business commencing. Mahlberg seconded the motion.

*DISCUSSION: Bravinder asked what would happen if the owner wants to pass the business down to a relative. This has been the case on one in his Township. Mol – if that were to happen and the business is running well and an asset to the community, he would hope the Commission would approve it. Mahlberg noted an ownership change would require them to come back.*

VOTE: CARRIED UNANIMOUSLY

6. **CURT SCHMITZ** – New Item

LOCATION: 606 Halsey Avenue SE – Part of Lot 7 & all of Lot 8, Charlotte Shores Second Addition, Section 5, Township 119, Range 24, Wright County, Minnesota. (Lake Martha - Rockford Twp.) Tax #215-014-000080

Petitions for a Conditional Use Permit as regulated in Section 155.029, 155.030(D), 155.049, 155.057 & 155.101, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances to allow a land alteration to excavate between house and garage for future dwelling addition. Removal of an estimated 300-350 cu. yds. of material.

Present: Applicant not present

- A. Riley stated the applicant has asked for a continuation to the next meeting.
- B. Bravinder moved to continue the hearing to July 22, 2021 to meet with the Town Board. Mahlberg seconded the motion.

VOTE: CARRIED UNANIMOUSLY



7. **JOHN E. HOVLAND** – New Item

LOCATION: 5834 – Fairhill Dr. SE – Part of S ½ of NE ¼ Section 12, Township 119, Range 25, Wright County, Minnesota. (Rockford Twp.) Tax #215-100-121401 & - 121300

Petitions for a Conditional Use Permit for Commercial Agricultural Tourism to allow public events and group activities on site that includes use of the existing barn as regulated in Section 155.003(25), 155.029, 55.048 & 155.057, 155.109, Chapter 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances.

Present: John Hovland

- A. Riley reviewed the property that is zoned AG and in the Land Use Plan as AG. The property received a CUP last year for “Commercial Outdoor Recreation” and is asking to convert that to Commercial Ag Tourism to allow public and events to take place in an existing barn that will take substantial upgrades. The determination of the limited food preparation would fall within the Commercial Ag Tourism. There are some new Board members and during the previous site inspection, the Board may not have looked at the existing building.
- B. Hovland explained the progress made is they have strawberries, a vineyard and bee operation. They have done extensive planning for the barn to upgrade it and includes a sprinkler system. They are making sure the barn is what it is supposed to be to let the public in it.
- C. Mol asked if there is any public comment.
- D. Kaczmarek – would agree a site inspection would be a good idea as he was not on the Commission when the initial one was made.
- E. Kaczmarek moved to continue the hearing to June 22, 2021 for a site inspection. Thompson seconded the motion.

*DISCUSSION: Mahlberg going to see an Agricultural Tourism would be more beneficial. He did not know the Commission will see or learn much from the site compared to what they will see and hear when these things get contested. Kaczmarek – he understands the concerns, he has worked a lot of these events. Some have been up to code, some not. He would like to see how much effort it will be to do it. Felger asked if the Rockford Town Board would be invited, and he was informed they are always noticed.*

VOTE: CARRIED UNANIMOUSLY

8. **CHENEY PROPERTIES LLC, represented by Joe Cheney** – New Item

LOCATION: XXXX Dague Avenue SE - Part of Gov't Lots 1 & 2, Section 9; N ½ of SE ¼, except tract.; also S ½ of SW ¼ west of road, except..., Section 10, all in Township 119, Range 25, Wright County, MN. (Dean Lake- Rockford Twp.) Tax #215-100-094100 & - 103300

Petitions to rezone approximately 63 acres from AG General Agriculture and S-2 Residential-Recreational Shorelands to A/R Agricultural-Residential and S-2 and also for a Conditional Use Permit for a two-lot unplatted subdivision (1-10 acre and remainder 53-acre lot) as regulated in Section 155.028, 155.029, 55.047 & 155.057, Chapter 154 & 155, Title XV, Land Usage & Zoning of the Wright County Code of Ordinances & Subdivision Regulations.

Present: Joe Cheney, Cheney Properties which Paul Otto, Otto Associates

- A. Riley displayed the location, zoning, and land use maps to show the property. The site is riparian on Dean Lake and the most recent hearing was before the Board of Adjustment to divide the entire property in half. The Board granted the division with an “entitlement” with each half both zoned AG. The proposal is to rezone the east parcel, approximately 63 acres, to A/R and a Conditional Use Permit for a two-lot lakeshore subdivision.
- B. Otto explained the west portion (approved by the Board of Adjustment) sold. There was a previous request before the Planning Commission, but the proposal now is to finish off the sale and realize their investment. He described the shoreline has a nice slope from the lake, there are many trees and the proposed homesite would be outside of the trees. The County Highway Department has approved a shared access. He pointed out the one on the south end would be removed. Other land features include a large wetland on the larger parcel. Proposed are a ten-acre and 53-acre lots. They are scheduled on the next Town Board meeting because dates did not line up.
- C. Felger questioned the boundaries of the area being considered. The common property line was pointed out and the area down to the lake. Otto pointed out a driveway to another owner on the south. The access on the common property line was noted and another to the north. One access would be closed. They had previously had the wetland delineated. He pointed out the likely building locations. Kryzer that would not have to go through a sequencing procedure on the wetlands? Otto – answered no.
- D. Patti Rich property owner at 2932 24<sup>th</sup> St. SE on Dean Lake – she read a 3-page statement (on file). She reviewed the history of requests to try to rezone this property a couple times in the past that were turned down, second one withdrawn. The importance of the wetland feature that is found on this property should be protected. The Dean Lake Property Owners Association have been working hard with SWCD to try to improve water quality, however, it will be a long process. Feels additional development would be detrimental to the lake. The lake is on the impaired waters list as one of the dirtiest lakes in the State. Commission in the past made a site inspection to view the property and felt it made a huge impact on their decision to deny. The Commission decided the property is not suited for development. The land features were described showing the division of the large wetland and the tillable field near the county road. There are no specifics on the subdivision. They are not opposed to the two lots zoned AG; however, there is a continued effort to rezone and develop. They are concerned once sold, there will future requests to subdivide the

land. The design plans they have seen have been from 8 to 44 homes, they have been told this is not likely. But this gives an idea what a potential developer might think. If wetlands are protected is it not their job to protect them. Holding ponds can be incorporated, however, does that ensure the exact same quality of water and land. They are strongly opposed to rezoning because of the potential of more homes, roads, animal waste, lawn fertilizer, sheds. Because of the proximity to the City of Buffalo, the lake gets much use from residents that don't live on the lake. They urge the Commission to deny the rezoning that could impact the wetlands and the lake's health. The Town Board has turned down the request twice.

If necessary they would pursue the Environment Quality Board's assessment worksheet. They will be submitting a petition in opposition by most of the lake owners.

- E. Kaczmarek do they have a measurement of the lake quality from 11 years ago and what it is today? Wayne Nelson –came before the Board and stated he has been a resident on the lake for 31 years. The president of the Lake Association is out of state and could not be present tonight. He emailed some comments he wanted read. The Association was developed to improve the lake. The lakes are the State's most valuable resource. Across the State water quality on many lakes have reached critical levels. The points he made are Dean Lake is one of the impaired lakes and in 2008 the water quality was tested that determined it is one of the worst in the State. Phosphorous has runoff from adjoining lands and overloaded the lake; has fed the algae blooms. Poor management practices have been the reason for phosphorus loading and deterioration of the lake. The public waters are supposed to be clean enough to fish and swim in and local governments are supposed to figure out how to improve lakes that don't meet Federal Standards. Effort has been made to partner with SWCD to create berms to reduce the flow into the lake. Also, a MN Filter on one of the main creeks feeding into the lake. He described how the filter works. The cost is substantial; however, the Association is committed to these projects. Approving more development on the lake will only set their efforts back, solid surfaces will only add runoff to the lake and add to the problem. It cost 20x more to restore the lake than prevent the harm. The measurement of the water quality shows it is holding, about the same shown by the mean level of total phosphates and chlorophyll. The measurements were 5.5 times higher than what it should be. One measurement of the runoff from a creek on the northwest side were very high. He showed the readings of the creek and wetland. He does not see how the lake can absorb more and will take a very long time to reverse what has happened. There are two "entitlements", and no one has a problem with that; but the rezoning/subdivision is more than the lake can handle. Noted the Town Board has not commented and asked the matter be tabled to allow for that.
- F. Fran Hanson – lives on the lake in Kel-Kary Acres. The County road has been under construction and addition of 30+ cars travelling that road is too much. The new residents are generally young families that order groceries and things from Amazon and that adds much more traffic. The lake cannot handle this. When they first started the Association and met with the DNR they were told the lake was dying off, this will make it worse. Mahlberg – clarified the current application is for a two-lot subdivision with one house on each lot. Hanson – but the rest could be developed later. Mahlberg – there was the suggestion there could be 30-40 lots, but the plan before them is for two homes.

- G. Clarice Kessler –just moved onto the lake last year. When they purchased the property there was an option of two homes and that was important to them. They don't know the background; but are opposed to the rezoning.
- H. Scott Swanson – resident of the lake as of six weeks ago. Does not have much experience with the lake but is an experienced swimmer and does open swimming and bagging lakes. Has done this for several years. Wanted to move on a lake with plans to continue his swimming. Compared the quality of Dean to a number of lakes; he can report swimming he cannot see his hand 6" away. Felt the lake is an extremely distressed lake which is a disappointment. His view is directly on this property. The hearing is premature because the Town Board has not heard the matter. He is not in favor, can tell it is a very distressed lake.
- I. Duane Rolstad – local farmer and contractor – there are 900 acres of watershed that go into the lake. There are many farms and other developments that drain into the lake. He drove around the lake with another resident and counted 20 homes around the lake that sewer systems are older than 1995 and are not to code. Based on a recent 3-day septic conference he attended, he learned the biggest phosphorous problem is runoff from people's lawns. He takes offense that it is the farmers, he practices conservation. Noted a 12" tile that comes from Highway 25 through the Carlson property, drains over 300 acres in one field. He farms land adjacent to the lake, explained how it drains. He suggested Staff look at the number of "entitlements" left for the property and felt there is one more. A division was not part of the original farm. What is being requested is not out of line.
- J. P. Rich – they are aware of sewer systems and they have updated them. Once the rezoning gets approved, that opens the door. Felger questioned the number of homes another person referred to. Rich – that speaker was referring to what the future might hold. They want to see it remain AG. They have seen a proposal with up to 40 homes, with lot lines going through the wetlands (this related to the original farm parcel). May have been at the Town Board and did not go any further.
- K. Rolstad – the wetland they are referring to is a farmable wetland and there is a busted tile that goes to the lake.
- L. Thompson moved to continue the hearing to July 22, 2021 for a site inspection. Mahlberg seconded the motion.

*DISCUSSION: Kaczmarek – would like to see the Town Board's recommendation first. Mahlberg noted this Town Board often meets the Commission on site.*

VOTE: CARRIED UNANIMOUSLY

**SITE INSPECTION** Kryzer asked if the Commission might want to view another property in the Township. Commission scheduled for July 15 at 9 a.m.

Meeting adjourned at 11:35 p.m.

Respectfully,

Sean Riley  
Planning & Zoning Administrator