

CHISAGO COUNTY
PLANNING COMMISSION OFFICIAL PROCEEDINGS
October 1, 2020

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, October 1, 2020 in a synchronous e-meeting due to Declaration of Local Emergency.

Staff Present: Jessica Jagoe; Land Services Coordinator, Diane Sander; Land Services & Parks Specialist, and Kurt Schneider; Environmental Services Director.

The Vice Chair Johnson called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was taken. Commission members present electronically: Frank Storm, John Sutcliffe, Shellene Johnson, Dave Whitney, Jim Froberg, and Chip Yeager.

Excused Absence: Jim McCarthy. Ex Officio: County Commissioner Chris DuBose. A quorum was established with members present.

Coordinator Jagoe provided an overview of the electronic meeting format, review of muted microphones, speaking order, how to “raise hand” icon on computer or *9 by listening by phone, with Vice Chair Johnson leading, following meeting order and procedures.

APPROVAL OF AGENDA –Motion to approve the amended agenda with the addition of one public comment made by Frank Storm. Second by Dave Whitney. Motion carried unanimously.

APPROVAL OF MINUTES – Motion to approve the September 3, 2020 minutes by Jim Froberg. Second by Chip Yeager. Motion carried unanimously.

ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD - Motion that all applications, submittals, reports with attachments, and other materials were adopted into the record by reference made by Frank Storm. Second by John Sutcliffe. Motion carried unanimously. Meeting materials distributed in advance to the Planning Commission for their review included: Public Hearing Comment for Mariette PID#09.00198.00, Commissioner Whitney Comments on One Acre Buildable, and Chair McCarthy Comments on Home Occupation Ordinance. Copies of all correspondence and meeting materials were made available for electronic distribution.

Public Hearing Items:

Tony & Kristine Mariette - Coordinator Jagoe presented background information on the Mariette’s preliminary plat application for “Mariette One”. Original parcel size was 41 acres, zoned Agricultural (AG), with proposed subdivision of one lot. This parcel will be the residual 20+ acres of the plat which is exempt from platting and is not included in the review. New lot will be 8 acres with road frontage on St. Croix Trail. Minnesota Department of Transportation (MnDOT) has regulatory authority for access. Mariette’s have received initial comments and next steps for permitting based on recommendation of MnDOT approval. Technical Review was held on September 10, 2020 and the newly created parcel is not located in a flood plain and there are no severe slope conditions impacting the proposed development. County Wetland Specialist verified the wetland boundaries and 2,200 square feet has been determined to be an unavoidable wetland impact. Based on the Wetland Conservation Act, the impacted areas do not require a replacement plan and are exempt. Sunrise Township Planning Commission reviewed the plat on September 8, 2020. Sunrise Township Board recommended approval with no conditions at their September 17, 2020 meeting. Kelly Jordan, Surveyor was available to address questions and concerns. Vice Chair Johnson asked each Planning Commission member for additional questions and comments.

Submitted Public Correspondence:

Don Aherns – 11032 St. Croix Trail, the river is close with low wetlands. I have high ground and get stuck when water levels are high. The land between our two properties is a farm and they get stuck on high

ground every now and then. I cannot see there being room back in that area to fit another house. I say no to this project.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Oasis East West preliminary plat, but no one wished to comment. With no additional person wishing to speak, ***motion*** by Jim Froberg to closed the public hearing. Second by John Sutcliffe and carried unanimously. Each Planning Commission member was asked for additional questions and comments.

Motion by Jim Froberg to approve Preliminary Plat "Mariette One" PID#09.00198.00 and 09.00198.10 for one residential lot as outlined in the Staff's report and subject to the conditions of the Wetland Specialist. Second by Frank Storm. Roll call vote was taken and motion carried unanimously.

Old Business:

Shooting Ranges

Director Schneider indicated the County Board made a motion to have the Planning Commission review the zoning ordinance as it pertains to allowance and performance standards for shooting ranges on September 16, 2020. Concerns have been expressed for noise and setbacks from schools/other property. Chisago County does not have directly applicable standards for commercial shooting ranges in the zoning ordinance. A request for a commercial shooting range would be processed as a Commercial Recreation Conditional Use Permit under current zoning ordinance language. Minnesota Statute Chapter 87A and the May 2005 Shooting Range Protection Act would be applied and used to develop performance standards. The statute and protection act are intended to cover: firearms and archery shooting facilities and licensed shooting preserves. Director Schneider indicated the department has not had any inquires on commercial shooting ranges. An example of Stearns County Land Use and Zoning Ordinance, Conditional Use Permit (CUP) was displayed. The Stearns County ordinance listed performance standards for shooting ranges. Performance standards included: minimum size lot for high power rifle and shotgun, use of baffles and berms, setbacks to residential dwelling, commercial or industrial building or other structure used for human occupancy, signage, and standards listed by the National Rifle Association Range Sourcebook. It was noted the difference between commercial shooting ranges versus home recreational shooting.

Commissioner Froberg and Commissioner Sutcliffe supported setbacks from schools, churches, buildings with human occupancy and applications should go through the Conditional Use Permit process for review. Commissioner Whitney commented Stearns County seemed to cover basic performance standards and suggested a 500 ft. setback from any residential dwelling. Commissioner Storm described a situation where noise was an issue and the performance standards should cover setbacks and noise. Commissioner Froberg indicated 500 ft. was not very far and suggested a greater setback distance. Vice Chair Johnson asked for clarification on the high power rifle and shotgun lot sizes. Director Schneider noted he had inquired with other counties on this subject matter and only one had replied with CUP ordinance language and an example. Discussion was held if the county could restrict all outdoor commercial shooting ranges and limit to only indoor shooting ranges. Commissioner Yeager commented noise is an issue and he would research setbacks and hours of operation for the Forest Lake Gun Club. Commissioner DuBose commented the land use would have to be allowed somewhere within the county, but noise restrictions and large setbacks will be a limiting factor. Commissioner DuBose liked the Stearns County example and supported a CUP application with performance standards for hours of operation, setback, and noise. Vice Chair Johnson indicated she would prefer reference to MN Statute instead of the National Rifle Association Range Sourcebook. Commissioner Froberg indicated setbacks should be greater than 500 ft. and Commissioner Storm commented MN Statute referenced a 750 ft. setback. ***By consensus***, Planning Commission members directed staff to prepare draft ordinance language for commercial shooting ranges which will include performance standards for noise, setbacks, and operation of hours.

One Acre Buildable

Director Schneider presented background on one acre buildable. One acre buildable is applied to all newly created parcels of land; platted or metes and bounds legal description. Definition of “buildable area” is found in Section 3 of the Chisago County Zoning Ordinance. One acre buildable is often referred to with septic system design or installation but it is rather used for suitability for development. Suitability for development and septic system designs use the same term, “mottled soil” measurement. Mottling in the soil (an iron staining) indicates at some point in time the water table has risen and remained long enough to sustain anaerobic conditions. Anaerobic conditions within the soil has water replacing oxygen, which does not create an ideal building or septic system location. If mottling is found within the top 12 inches of soil, a septic system, including a mound will not be allowed. One acre buildable is a broad reaching policy that impacts subdivision of property. The purpose of the one acre buildable was to assure the development of land could support a suitable house, accessory buildings, septic system and back up location for septic system. Mottled soils are not desirable locations to build. One acre buildable is applied to all newly created parcels since 1997. Director Schneider indicated a proposed subdivision can have either contiguous or noncontiguous buildable area. A chart was displayed indicating the one acre buildable impact within each zoning district and drawings of a standard five acre parcel building layout. Director Schneider asked the rhetorical question, “Based on building experience, should every piece of property be built on or should some land be restricted via buildable area?” The one acre buildable ordinance does restrict areas for development to ensure the site will support a suitable building location. Often these areas are lowland or wet areas, which are difficult and has caused lot line adjustments. Director Schneider requested direction from the Planning Commission and suggested obtaining public input prior to revising the one acre buildable ordinance.

Commissioner Sutcliffe asked if surrounding counties have the same restrictive language in their ordinance and discussed his concerns with noncontiguous and the 12 inch separation. Commissioner Froberg commented plowing could turn up mottled soil and questioned the reference of mottled soils in the ordinance. Director Schneider reported he has not conducted a survey, but indicated other counties may have different ordinance language that address the same issue. Staff could start to assemble that information if the Planning Commission decided to make revisions. Commissioner Sutcliffe, Commissioner Froberg, and Commissioner Storm support gathering the information from neighboring counties. Commissioner Yeager commented he reviewed Scott County and City of Wyoming ordinances which does not list one acre buildable, instead listed hydric soils. Hydric soils can be seasonally or permanently saturated by water that result in anaerobic conditions. Commissioner DuBose indicated he reviewed neighboring counties ordinances and each county he reviewed does not list one acre buildable. Commissioner DuBose indicated a parcel could have mottled soils present; however the addition of soil could provide a suitable building area. Commissioner Whitney commented lakeshore properties have become difficult to find buildable acres. Commissioner Whitney supported discussing limiting growth instead of limiting development with the use of cluster development which suitable houses could be built on less than an acre. Commissioner Storm commented he would like to have Kellie Strobel, County Sanitarian review advantages and disadvantages of the one acre buildable ordinance. Commissioner Yeager asked if any development has been turned away due to the one acre buildable ordinance. Director Schneider reported some long established properties have struggled to find buildable acres and the property owners would like to see ordinance changed. As a whole, the department has not had complaints on the one acre buildable. Coordinator Jagoe reported some concept reviews have had lot/dimension changes within the proposal to meet the one acre buildable requirement.

Discussion was held on not allowing a pole building to be constructed prior to the house. Director Schneider reviewed issues when the house is never constructed or finished, which is not an uncommon requirement. Commissioner Whitney reiterated a successful house could be constructed without the one acre buildable close to a lake. Vice Chair Johnson questioned the contiguous and noncontiguous buildable acre and researched the Minnesota Pollution Control Agency’s website for the 12 inch mottled soil requirement. A soil

could be augmented with gravel to allow for soil drainage then defined as useable. Vice Chair Johnson supported Commissioner Froberg comment on plowing and removing mottled soils from the ordinance. Commissioner Sutcliffe reviewed septic installation and supported revisions with the removal of mottled soils from the ordinance. Director Schneider noted the decision makers during the establishment of one acre buildable ordinance defined it as suitable for building and constraint on development. Planning Commission members have been discussing mottled soils, which the term is used in both one acre buildable and subsurface sewage treatment ordinances. Staff could review neighboring counties to help define suitable development. Vice Chair Johnson supported redefining suitable areas for septic installation on new lots and redefining suitable buildable for the one acre buildable ordinance. Commissioner Sutcliffe commented the one acre buildable and subsurface sewage treatment ordinances should be compatible.

Coordinator Jagoe identified a member from the public on audio who would like to comment. Coordinator Jagoe indicated the Planning Commission has limited public comment during the ordinance review discussions and would leave it to the discretion of Vice Chair Johnson. Vice Chair Johnson decided to keep the discussion to only Planning Commission members, but will ensure the public has an opportunity to comment at the public hearing. **By consensus**, Planning Commission members directed staff to collect information on how neighboring counties define suitable buildable, with reference to mottled soils for both buildable and septic installation, in a table/factsheet for review along with the County Sanitarian's advantages and disadvantages of the one acre buildable ordinance for the November meeting. It was stated it would be informative to have a basic septic "101" presentation for increased base knowledge on the subject.

New Business

Home Occupations

Coordinator Jagoe provided Chair McCarthy's Home Occupation comments for discussion. Vice Chair Johnson presented comments from Chair McCarthy, which he had concerns with commercial storage. Commercial storage should be in a commercial/light industrial zoning district. Chair McCarthy would like to review and revise Home Occupations to clarify suitable Home Occupation activities. Commissioner Froberg stated the Planning Commission did not support East Central Energy request; however, the County Board approved it. The Planning Commission also approved an Interim Use Permit Amendment for outdoor storage of golf carts without any issues. Commissioner Storm discussed the County Board draft minutes. Commissioner Storm supported revising Home Occupations since the Solar Ordinance has been revised and suggested rezoning Franconia Township Olinda Trail corridor to encompass the two businesses that have been created. Commissioner Yeager inquired on a practical approach, a possible moratorium to revise Home Occupations. Director Schneider discussed a moratorium and Home Occupation revision process. Commissioner DuBose commented the County Board is open and interested in Home Occupations and indicated a split vote for both the Planning Commission and County Board. Commissioner Whitney supported reviewing Home Occupations but suggested to wait until after elections. Commissioner Froberg indicated he would like to leave Home Occupations as is and not revise the ordinance. Vice Chair Johnson indicated the Planning Commission is split on reviewing Home Occupations and suggested tabling discussion until the December meeting. **Motion** by Frank Storm to table Home Occupations until the January 2021 Planning Commission meeting. Second by Chip Yeager. Vice Chair Johnson conducted a roll call vote. The motion passed with Frank Storm, Chip Yeager, John Sutcliffe, Shellene Johnson, and Dave Whitney in favor. Jim Froberg was opposed.

ADJOURNMENT: There being no further business, motion by Frank Storm and second by John Sutcliffe to adjourn. Meeting was adjourned at 8:55p.m.