

# MOWER COUNTY PLANNING COMMISSION

Minutes of the Mower County Planning Commission, 01/26/2021

Members Present: Jerry McCarthy, Jim Risius, Taggert Medgaarden, Don Adams, Dan Vermilyea, Jeff Baldus- Chair

Members Absent: none

Others Present: Brian Landherr (remote), Matt Breitbarth (remote), Valerie Sheedy – Mower County Environmental Svc. Asst. Supervisor, Stacy Deming (remote)

Jeff Baldus called the regular meeting to order at 7:01 p.m. on 01/26/2021, in the Board of Commissioners Room at the Mower County Government Center, 201 1st Street NE, Austin, Minnesota.

Motion was made by McCarthy, seconded by Adams to elect Taggert Medgaarden as the vice chair of the Planning Commission. Motion carried unanimously.

A Quorum was established.

Motion was made by McCarthy to accept the agenda as amended: correction to CUP 911 to note Applicant as Matthew and Morgan Breitbarth. Second by Medgaarden. Motion carried unanimously.

Minutes of the 12/29/2020 meeting were approved as mailed on a motion made by McCarthy; Second by Medgaarden. Motion carried unanimously.

**CUP#911 Request is for an additional Single Family Dwelling in the quarter-section, to be located in a mature wooded area in Section 35 of Sargeant Township. Applicants are: Matthew L. and Morgan Breitbarth; Landowner is Daniel Breitbarth**

Staff Presentation: A Staff Report was prepared and mailed to the Planning Commission prior to this meeting. A PowerPoint presentation was made on the evening of the public hearing by Valerie Sheedy, and is incorporated as part of the official record. Site investigation was completed by McCarthy, Risius and Sheedy on 01/20/2021.

Application has a Variance for access to the property in tandem with this CUP request. Site development will include parcel split, easements for shared well and shared driveway. Preliminary wetland review from SWCD indicates possible hydric soils on north end of parcel; a No Loss Determination will be required. Shoreland and floodplain zones present. Primary and secondary septic sites have been identified.

Baldus: with the easement on the shared well, will maintenance be addressed?

Sheedy: the nature of the easement agreement is private matter; we want it noted that the use, if granted was with an easement.

Adams: does the driveway extend back to where the new home will be?

Sheedy: they'll use the existing and expand it to the north

McCarthy: stop at the barn, they'll have to put in a road for construction anyway

Adams: will the new part of the road need to be 66' wide?

Sheedy: I would say that is going to be determined with the variance; it makes sense that if the BOA grants variance it would be for the same width.

Risius: yes, see where the shared well is, that's where it ends. The line on the drawing there is where he's thinking for the extension.

Breitbarth confirms: yes, we would extend and add to the driveway along that line.

Breitbarth: if it needs to be 66' we could do that, there's plenty of room

Sheedy: we will make sure to clarify that with the Variance request. Anything else you'd like to add to your proposal, Matt?

**Applicants Presentation:** (Mr. Breitbarth was available on the phone, there was a lot of background noise on the call)

Breitbarth: No, that's it – I'm here if you have questions or clarifications.

Sheedy, to Applicant: note that the exception is for dwellings in mature wooded areas, so it's important the residence is located in the trees.

**Public Comments –Supporting:** two; via phone, prior to the hearing. One caller objected to trees being cut for housing but otherwise no objection. The second had no objection to the CUP and wanted to support the Variance request.

**Public Comments- Against:** none

**Conclude the Public Hearing:** There being no further questions or comments, Chairman Baldus concluded the public hearing.

A motion was made by McCarthy seconded by Risius to adopt the Findings of Fact as submitted and recommend approval of CUP#911 in accordance with Section 14-51 of the Mower County Zoning Ordinance. The following 12 conditions are recommended by the Planning Commission to the County Board of Commissioners; motion was unanimous:

1. A Zoning Permit shall be obtained prior to any construction of any structure on the property; and
2. An approved ISTS Design for the proposed septic system must be obtained and submitted prior to construction of the residence and/or any other structure; and
3. A secondary Type I septic system site shall be located for future placement and placed on a map and kept on file in the CUP file and homeowner's records; this area should be preserved and protected from compaction and/or construction or other damages. If a Type I septic system primary and secondary site (s) cannot be located on the proposed parcel, a variance is required before a zoning permit can be issued, or the site is not developable for residential; and
4. Petitioner must sign and notarize the "Rural and Agricultural Home Owners Assumption of Risk Assessment Form"; and
5. Access to the site is proposed via private easement. Any easement agreement for access for any other shared services (well) shall be in perpetuity and must be recorded against both parcels, the parent parcel and child parcel post-split; and
6. Shoreland Overlay and floodplain zones are present on the parcel. Any development in these areas is subject to the standards of those districts or zones; and
7. Wetland Review Required: Petitioner must contact the Mower County SWCD regarding the Wetland Conservation Act and provide the County a copy of one of the following:
  - a) A "No Loss Determination" (no wetlands on site).
  - b) A "Wetland Exemption" (the act does not apply).
  - c) A "Wetland Replacement Plan" approval.
8. A conditional use permit shall become void two (2) years from the date of approval by the County Board if no construction has begun or the use has not been established. For the purposes of this provision, construction shall include the installation of footings, slab, foundation, posts, walls or other portions of a building. Site preparation, land clearing or the installation of utilities shall not constitute construction; the conditional use permit shall become void if the use is established, but then discontinued for a period of one (1) year. (Refer Section 14-36 Discontinuance); and
9. The subdivision of the parcel (s) into smaller tracts, parcels, or lots shall comply with Mower County's subdivision ordinance and any other applicable government rules, regulations, and/or procedures in effect at that time; and
10. Applicant shall follow all state and federal regulations regarding the proposed use; and
11. A violation of any condition set forth in a conditional use permit shall be a violation of this Ordinance and shall automatically terminate the permit (refer Section 14-35 Revocation); and
12. This permit is based upon representation given by the applicant during the hearing process and any misrepresentation presented in this process may be grounds for revoking the permit

**CUP#912      Request is to clean recent sediment from previously constructed Type 3 wildlife wetland basins located in the floodplain in order to enhance wildlife and plant diversity in Section 34 & 35 of Nevada Township. Applicants are: Brian and Wendy Landherr; Landowners are: Brian and Wendy Landherr**

Staff Presentation: A Staff Report was prepared and mailed to the Planning Commission prior to this meeting. A PowerPoint presentation was made on the evening of the public hearing by Valerie Sheedy,

and is incorporated as part of the official record. Site investigation was completed by McCarthy, Risius and Sheedy on 01/20/2020.

Sheedy notes that the soils are to be disposed of outside flood plain areas; a map was provided to SWCD, the Owner, and in the packets for Planning Commission. The SWCD intends to work with landowner during excavations to ensure compliance with WCA. A Certificate of Compliance will not be needed for the permit as the developed structures on these parcels are outside of Shoreland overlay, per Zoning Ordinance. Current SSTS Ordinance (2014) exempts COC for land alteration permits. Site 1 and Site 3 are in Shoreland and will require Land Alteration Permit; Site #2 is outside of Shoreland overlay. 9 proposed conditions were read aloud.

Vermilyea: I have a question, or concern – the documentation indicates we notified Nevada Township, but this site is in Windom Township.

Sheedy: Yes, it appears that is the case. We did not notify the correct Township; the affidavit confirms it. We will need to redo the hearing and send notice again.

A motion was made by Vermilyea and seconded by McCarthy to table CUP#912 due to improper notice.

**Other Business:** none

**Adjourn:**

There being no further comments or business, motion by Vermilyea to adjourn the meeting, second by Medgaarden . Motion carried unanimously. Meeting adjourned 7:29 p.m.

Respectfully submitted,

Valerie Sheedy  
Mower County Environmental Services