

MINUTES
Blue Earth County Planning Commission
Regular Meeting
Wednesday September 6, 2023
7:00 p.m.

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chairman Joe Smentek. Planning Commission members participating in the meeting included Bill Anderson, Kurt Anderson, Commissioner Bruender, Dusty Riley, Dan Roberts, Joe Smentek, and Taryn Surdy. Staff members John Considine, Dane Lynch and Garrett Rohlfing.

2. APPROVAL OF MINUTES

Ms. Surdy made a motion to approve the minutes of the August 2nd Planning Commission meeting. Mr. Roberts seconded the motion which was carried unanimously.

3. APPROVAL OF AGENDA

Mr. Considine stated there were no changes to the agenda.

4. NEW BUSINESS

PC 23-23

John & Catherine Kaliski, Request for review and approval of an Interim Use Permit to operate a sawmill and associated uses as a Level II Home Occupation in the Agricultural District. The property is located in the Southwest quarter of the Northwest quarter of Section 19 in Decoria Township. The property has a location address of 56815 178th Ln, Good Thunder, MN 56037.

Mr. Considine presented the staff report.

The applicants were present and available for questions.

There was no public comment.

Mr. Anderson stated the well waiver referenced conditional use permits and this proposal was an interim use permit.

Mr. Considine said staff would review the waiver and address it.

There was no other comment or questions from the Commission.

Mr. Riley made a motion for recommendation of approval of the request to the County Board based on the findings prepared by staff and with the conditions recommended by staff.

Mr. Kurt Anderson seconded the motion which passed unanimously by a roll call vote.

PC 24-23

Lee & Kristine Bohrer, Request for review and approval of request the vacate the utility easement lying between Lots 14 and 15 of Terrace View Subdivision. The property is zoned Rural Townsite and located within the Urban Fringe Overlay District in the Southwest Quarter of the Northwest Quarter of Section 4 Decoria Township.

Mr. Rohlring presented the staff report.

The applicants were represented by Nate Myhra from Bolton & Menk who was present and available for questions.

There was no public comment.

No questions, concerns or comments were expressed by the Planning Commission.

Mr. Kurt Anderson made a motion for recommendation of approval of the request to the County Board based on the findings prepared by staff and with the conditions recommended by staff.

Mr. Bill Anderson seconded the motion which passed unanimously by a roll call vote.

PC 26-23

Blue Earth County, Request for review and approval of an interim ordinance to prohibit the operation of cannabis businesses within Blue Earth County. The interim ordinance establishes a moratorium prohibiting the establishment of a business operating under the State of Minnesota Statute Chapter 63 until January 1, 2025. The moratorium will allow the county to study adoption of reasonable restrictions on the time, place, and manner of the operation of a cannabis business in order to protect the planning process and the health, safety, and welfare of its citizens.

Mr. Considine presented the staff report.

Ms. Surdy asked for clarification on the need for the study.

Mr. Considine the moratorium will allow flexibility to make changes to the ordinance based on the outcome of the upcoming legislative session. He further stated some of the existing language in the law is somewhat ambiguous regarding how the cooperation between the municipalities and the counties works. It will also allow the county to control items that may come up from the Office of Cannabis Management forms quickly and is able to put together new rules leaving the county without sufficient time to put together an ordinance.

Mr. Smentek stated the Office of Cannabis Management could come up with additional regulation that would overrule possible actions of the county approving Home Occupations involving cannabis. The moratorium gives notice to the public that we are trying to figure out the rules. It is not saying the county is opposed to or in favor of it. It is to provide the county time to properly address the matter.

Mr. Considine stated that based on the current legislation, the counties could not make cannabis sales a conditional or interim use but would rather be required to classify it as a permitted use.

Mr. Kurt Anderson indicated there is a possibility that cannabis could be raised and sold at farmers markets which would be interesting to see how it plays out.

Mr. Smentek stated it was recently discussed at Farmfest that one has the right to sell anything that he or she grows on their property.

Mr. Kurt Anderson stated it also gives time to the Office of Cannabis Management to refine the regulations to the county is not forced into drafting an ordinance at this time.

Mr. Smentek said the current statute does not prevent someone from coming in and asking for a permit, but the county does not have the authority to come up with conditions on the business. That authority is of the Office of Cannabis Management.

Ms. Surdy asked for further clarification.

Mr. Smentek stated the moratorium would protect the county from entering into a lawsuit that would be precedential setting on the constitution vs. this piece of legislation. This will give the county time to allow the legislature time to work on answers to the questions that have come up.

Mr. Kurt Anderson said it is laid out fairly clearly in item 1 of the resolution which states: An interim ordinance may prohibit the operation of a cannabis business within the jurisdiction for the purpose of protecting the planning process and the health, safety, and welfare of its citizens until January 1, 2025, as specified in 2023 Minnesota Session Law Chapter 63.

Chairman Smentek asked for public comment.

There was no public comment.

Ms. Surdy made a motion for recommendation of approval of the requested moratorium to the County Board.

Mr. Roberts seconded the motion which passed unanimously by a roll call vote.

PC 27-23

Brian & Ashley Linde, Request for review and approval of an After-the-Fact Interim Use Permit to allow for the placement of fill in excess of 50 cubic yards in the shoreland area of Minneopa Creek. Approximate fill amounts placed on the site will be 800 cubic yards. The site is in the Shoreland area of Minneopa Creek, a Tributary Stream as classified by the Minnesota Department of Natural Resources. The property is zoned Conservation. The project address is 20112 523rd Ave, Lake Crystal, MN 56055.

Mr. Lynch presented the staff report.

The applicant was present and available for questions.

There was no public comment.

No questions, concerns or comments were expressed by the Planning Commission.

Mr. Kurt Anderson made a motion for recommendation of approval of the request to the County Board based on the findings prepared by staff and with the conditions recommended by staff.

Mr. Bill Anderson seconded the motion which passed unanimously by a roll call vote.

PC 28-23

Blue Earth County, Request for review and approval of an amendment to the Blue Earth County Code of Ordinances Chapter 24 to add Sec. 14.12 Interim Uses which clarifies interim uses and interim use permits and to eliminate a standard that a change in ownership invalidates an interim use permit.

Mr. Considine presented the staff report.

There was no public comment.

Commissioner Bruender asked what would be done in situations where the use has become problematic, e.g., violation of conditions.

Mr. Considine said it would likely be handled on a case-by-case basis. Staff would likely conduct a compliance inspection and if necessary, bring the matter back to the attention of the Planning Commission.

Mr. Smentek asked if it is known that conditions of a solar permit pass along with a change of ownership.

Mr. Considine referenced a current variance proposal from a solar company involving a pending change of ownership. In this case, the permit included conditions that specified an end date associated with the lease of the land. If we were to strike from the ordinance the requirement of review due to the sale of a property, there would still be the end date within the conditions.

Mr. Kurt Anderson concurred with the idea of removing the review requirement due to a change of ownership. He further stated that it is reasonable and prudent to review upon change of property.

Mr. Smentek questioned the ownership change removal. He cited an example where a change of ownership would not likely impact the permitted use. He also cited a situation where farmland is converted into solar and there is a change of ownership and indicated his approval of an ownership change review requirement. He indicated the same opinion for gravel mining operations.

Mr. Considine indicated the proposed amendment was to strike out the immediate revocation of the permit. He added that it is staff's intention to continue the review of the permit and if changes are proposed, a new permit review would be required. If the new owner intended to discontinue the use, then the process of revocation would commence.

Mr. Kurt Anderson asked if a review timeline is specified.

Mr. Considine stated that would be specified in the conditions of the permit.

Mr. Anderson commented that the current termination upon change of ownership forces them pursue the permit review prior to the purchase. He added that if the use is allowed to continue in the interim period until a review or reapplication takes place, it could get dragged out for some time.

Mr. Considine said the intention is that staff would be notified within ten days of the sale.

Commissioner Bruender suggested 30 days. He asked if language could be added requiring that the permit must be applied for or reviewed by staff on the sale day that it would terminate.

Mr. Smentek asked to add to section A, that if permit conditions are not being met or if the site conditions, activities, or ownership have changed, the permit shall be reviewed. Even adding something stronger saying the ownership change will trigger the review. He said he wants to make it very clear that a change of ownership triggers the need for review of the permit. The review needs to take place prior to the use being conducted by the new owner.

Ms. Surdy asked if a timeframe should be added.

Mr. Smentek suggested that staff consult with the County Attorney's office asking for review of stronger language in Section A triggering a review with some guidelines on when the review happens to ensure that a review should happen before ownership change or a suspension of the use before a review is completed.

Commissioner Bruender stated for that reason 30 days would be better.

Mr. Smentek said that a mining company is buying out another mining company, they need to meet with the planning agency to make sure everything is done so they can keep mining on the closing date.

Following the discussion, Commissioner Bruender made a motion to recommend to the County Board that the amendment be tabled for 30 days to allow further review by staff.

Ms. Surdy seconded the motion which passed unanimously by a roll call vote.

5. OTHER BUSINESS

- A. County Board action on items from the previous Planning Commission meeting:
 - Victor P. & Kathleen L. Barke Living Trust and Jason T. Wannarka – for review and approval of the preliminary and final plat of the Barke Acres. APPROVED

7. ADJOURNMENT

Ms. Surdy made a motion to adjourn the meeting. Mr. Bruender seconded the motion, and the meeting was adjourned at 8:03 p.m.

Planning Commission Chair

Date

Planning Commission Secretary

Date