

Crow Wing Township Planning Commission Meeting

November 8, 2021 6:00 PM

Commission Members Present: Brad Arnold (Chair), Dan Lee, Linda Schuety , Amanda Peterson (Planning and Zoning Administrator), Tucker Schuety (Township Supervisor) & Sue Kern (Township clerk).

Brad called the meeting to order at 6:00 PM and the Pledge of Allegiance was recited.

There are two public hearings tonight for rezones. First is Rezone 01-21 Stangler Properties LLC, PIN(s) 56160575 & 56160583, Agricultural Forestry to Commercial 1. Amanda reported the overview of said properties. The owner, Eric Stangler, has applied for rezone from Ag Forest to Commercial 1. These two parcels are located just West of the racetrack, both properties adjacent to Highway 371. The planning commission will make a recommendation to the town board and the town board can accept, deny or table the matter.

Staff Findings:

1. The subject properties are located adjacent to State Highway 371 (PINs 56160583 & 56160575) and are currently zoned "Agricultural/Forestry."
2. The north parcel is 6.9 acres, and the south is 17.9 acres. Both parcels are vacant.
3. The subject properties are suitable for development in general conformance with the "Commercial 1" land use district.
 - a. The subject properties are adjacent to a State Highway and are adequate size for commercial development.
4. The reclassification will not alter the character of the properties in the immediate vicinity of the subject properties.
 - a. The property located adjacent (east) of the subject properties is utilized for commercial purposes (racetrack).
5. The reclassification will not impact the health, safety, and general welfare of the public.
6. The subject property meets the minimum lot requirements of the "Commercial 1" land use district.
7. The subject property is adjacent property zones "Residential", "Agricultural Forestry", and "Commercial 2" property (north and west). The east and south side of the property is adjacent to State Highway 371.
8. Rezoning of the property is not in conformance with the future land use map, which identifies the subject property as "Rural Residential"; however, the proposed rezoning meets other goals and policies contained in the comprehensive plan.

Staff Recommendation: The long-range plan identifies the subject property as "Rural Residential", which is not consistent with the proposed reclassification; however, the subject property is adjacent to other commercial property. The planning commission should review the finding above before making a recommendation on the application.

Amanda stated she did send notification out in a half mile radius. There were no responses for or against. However, one resident requested copies of the application and one resident, Elaine Johnson, is here tonight. Brad mentioned he had one person contact him inquiring use of the property but there was no opposition or support. Eric Stangler stated the land does not appear suitable for residential any more since the addition of the bypass and seems more appropriate to be commercial based on location

and surrounding properties. Brad mentioned the property does not seem to lend itself to a quiet peaceful residential property for a home. Elaine Johnson's property is at the southern end of said parcels. She has been resident there for 35 years and when the bypass went in 21 years ago, she was told she would have access to the highway. This has not been the case. She must drive clear around to access 371 and has much traffic to deal with especially on Saturday nights because of the racetrack. She is the lone resident and wants to know if they rezone the parcels to commercial will they be given access to the highway. Further, she stated there is traffic that is going the wrong direction on the interchange. She has concerns that if it becomes commercial, how far will Baxter come this way with commercial and really what does Crow Wing Township want, residential or commercial? Brad stated MN Dot would not have any part in having an access there and it was also his understanding there would be no access to Brandon Way and a portion of the property there is for retainage of 371. Further, Brad said that 371 is scheduled for construction there next summer. Brad also acknowledged there are a lot of issues with traffic there. He has not seen what if any alterations would be happening there with the construction of 371. Brad did say the whole theme of Crow Wing Township is rural and quiet with pockets of commercial. One of the reasons we do our own planning and zoning is to ward off folks. Eric said they have talked to MN Dot and there is no solid plan on an access there. Maybe someday a round a bout could be put in, but the matter is just speculation at this point. There has been some interest in a gas station. He stated that they do have an entry permit on the south end. Amanda said she notified the Department of Transportation but got no response. Brad said they have not publicized their plans to date.

Dan commented it would be tough to put a home in there and access is a major problem. Dan thought there may be possible access on inside the curve. Brad said it would be nice to just have trees, but landowners have rights also. There is fitment to the ordinance. Tucker commented that with addition of more traffic it could become a major problem. They discussed that the northern piece is more retainage purposes and/or drainage and is too tight for anything else except green space or brown space. Tucker mentioned there is about 450' wide space which is enough for proper set back and building. Eric said they would have a site plan by spring and by then they would know what road construction will take place. Eric stated he wanted both pieces commercial. Tucker stated we usually try to go with land use map as stated but Brad mentioned that this is an extremely unique situation. Further, Tucker stated that a list of unique reasons for a rezone should be made adhering to article 4 amendments and not set a precedent for changing to commercial. Tucker said we want to be rural residential, and we must be very intentional with a rezone siting reasons. Finding of facts show it is surrounded by commercial along with the viaduct and commercial highway limiting its use for residential. There were over 200 contacts sent out with this rezone. Article 4 states 'reclassification is warranted due to changed land use circumstances' and it is 'not detrimental to uses or property in the immediate vicinity' and the transportation department has been contacted in writing.

Brad made a motion to support the rezone based on classification due to circumstances in land use have dictated it as not useable for residential purposes. The set back retention on the north of the property would give it good separation from the residential area and because it is surrounded by unique commercial, the property is a derivative of the property that surrounds it which had no request of the landowner. Dan seconded the motion. In discussion, Linda said she would have liked to leave the 6.9 acres left as noncommercial as the resident has voiced her concerns. Brad explained that there couldn't be anything there on that piece. They were confident no access will be made there. The motion was approved 4-0. The recommendation will go before the town board tomorrow night. It was noted that the applicant should show concerns with the neighbor to the north and there are existing concerns for safety.

Rezone 02-01 Floyd & Patricia Sweet, PIN(s) 56170572, 56170575, 56170566, Agricultural Forestry to Rural Residential 5. Amanda stated the applicant is requesting to rezone the parcels described above from "Agricultural Forestry" to "Rural Residential 5". These properties are adjacent to Sweet Road southwest of highway 371 bypass.

Staff Findings:

- a. The subject properties are located adjacent to Sweet Road (PINs 56170502, 56170566, & 56170575) and are currently zoned "Agricultural/Forestry".
- b. The eastern parcel is 14.8 acres and contains a home, three accessory structures, septic system and a well. The vacant parcel directly north of the eastern parcel is 10 acres and has no access. The vacant parcel furthest to the west is 35 acres and has access to Sweet Road.
- c. The property owner intends to split the 14.8-acre parcel into two lots if the rezone is approved. There are no current plans for the remaining two parcels.
- d. The subject properties are suitable for development in general conformance with the "Rural Residential 5" land use district.
 - a. The subject properties are suitable for low-density development with adequate size for rural residential use.
- e. The reclassification will not alter the character of the properties in the immediate vicinity of the subject properties.
 - a. The property located adjacent (north) of two of the subject properties is zoned Rural Residential 2.5 and used accordingly.
- f. The reclassification will not impact the health, safety, and general welfare of the public.
- g. The subject properties meet the minimum lot requirements of the "Rural Residential 5" land use district.
- h. The subject property is adjacent to property zones "Rural Residential 2.5" to the north and "Agricultural Forestry" to the south and west. The east side of the property is adjacent to Sweet Road and State Highway 371.
- i. Rezoning of the property is in conformance with the future land use map, which identifies the subject property as "Rural Residential".

Staff Recommendation: The long-range plan identifies the subject property as "Rural Residential", which is consistent with the proposed reclassification. The planning commission should review the findings above before making a recommendation on the application.

Amanda stated this was sent out in a half mile radius and she received one question on what was proposed and then one question on property taxes. No comments made to oppose or pro for the result. Brad reaffirmed there were 3 parcels involved but only one on Sweet Road would be split and all would be classified as Res 5 noting there is considerable low land involved. Mr. Sweet indicated he wanted to transfer 5 over to a daughter and the other 10 connects to the one with a house but no access to it. Brad commented concerns about the low land and to be careful building on that. The applicant commented wanting to do all three so he wouldn't have to do it again later. The planning commission noted the areas around said properties are mostly 2.5 to 4.5 acres. A resident asked how often these can be subdivided. Brad said there is a timeline to that. Amanda said it cannot be more than 3 splits in 5 years. The applicant stated that it is not their plan to do more.

Linda made a motion to approve the rezone based on staff findings and facts. Dan seconded. There was no further discussion. Motion passed 4-0. The matter will be brought before the town board at tomorrow night's meeting. Amanda will get information to the board prior to the meeting.

There were no additions or deletions to the agenda.

Open Forum: None.

It was noted that the approval of minutes is for October 11, 2021, not for September 13th as written in the agenda. Dan made a motion to approve the minutes for October 11th, 2021, as written. Linda seconded. Motion passed unanimously.

New Business: Amanda reported that Mr. Christensen wanted to run a consignment sale out of his pole barn up to 2 times per month. Amanda is looking for direction as far as the consignment part of the request as it does not fit that of a conditional use permit. Amanda read the criteria for home occupation and home business standards.

Home Occupation Standards:

- A. A home occupation is allowed without a permit in all land use districts.
- B. There shall be a primary residence on the property that is occupied by the business owner. The business enterprise shall be conducted exclusively within the primary residence or accessory structures.
- C. No person other than the occupants of the primary residence may be employed.

Home Business Standards: A home business requires a conditional use permit according to the use tables in Article 10.3 of this ordinance. The following standards shall apply:

- A. There shall be a primary residence on the property that is occupied by the business owner. The business enterprise may be conducted outside as well as within the buildings.
- B. There may only be one sign, with a permit, on the parcel advertising the business which shall not be illuminated and shall not measure greater than 70 square feet in area.
- C. Persons other than those that occupy the dwelling may be regularly employed.
- D. The outdoor storage of those items not generally considered to be retail display items shall be screened from view from public roads, abutting residences, public surface water and public recreational facilities.
- E. The Planning Commission /Board of Adjustment may impose conditions on home businesses such as, but not limited to, hours of operation, parking provisions, and equipment storage.

Allen Christensen stated initially he was going to do this in Noki township with just a permit being required there but it had to be under a sister's name and now that is not happening for various reasons. Allen is now wanting this home business here. He may have only 4 sales/year or maybe on the high end 2 sales/month. He has a pole barn in place. There would be one day for drop offs and one day for pick-ups. It would be a bid to buy situation online. Most of the business would take place in the pole barn. Discussion was had about a previous resident who wanted to sell cars like a car lot. Allen lives on said property. Home business standards require conditional use permit which allows for regulation and home occupation standards are more relaxed. Amanda stated with a CUP, there is an application fee and a current compliant septic system in place. Allen has brand new septic system in place. He will need a public hearing much like we did with the rezone and Allen will have to submit a business plan to Amanda. This can be approved by the Planning Commission and not the town board. Allen will be working with Amanda and submit his application and business plan.

Chad Jillson violation: Mr. Jillson continues to be in violation of the ordinance with the junk and debris on his property, as well as people living in a camper. Amanda spent time speaking with his probation

officer, court administration, and the Crow Wing County Sheriff and was able to get a letter served to Mr. Jillson's home. I forwarded the letter to his probation officer, as he is in violation of the conditions set forth in his criminal case. The letter was included in the packet for the planning commission. The property is not being maintained and the probation officer says someone is living there. He is on probation. The Sheriff's office got the letter. Brad has talked to the neighbor to the north and there is concern about the property condition and this is part of Mr. Jillson's court order to abide caring for his land and that comes to a head in April 2022. There is a 5th wheel motor home on the property with people living there illegally without electricity, water, or sewer for 6-7 weeks. Brad questioned how we know they got the letter from the Sheriff even though we have been informed they were served. Amanda will follow up.

Discussion of new planning commission member: There has been an opening on the Planning Commission Board that has been advertised on the website. David Nelson who is present has expressed interest in sitting on the planning commission who was present at the meeting. Only one other individual expressed ability but not much interest. David moved into the township last November and wants to serve and give back to the community. The position requires the individual to be a resident of the township, they are appointed not elected and the term is two years. The town board appoints an individual and the committee meets the 2nd Monday of the month. Rarely or occasionally the member would do an inspection of property. All the particulars were discussed with David. There is a training he could take through Sourcewell. Appointments are the first meeting in February. Brad will discuss with the town board.

Ordinance amendments: Litchy's have made an offer with the property discussed. It's an Agri-business is being recommended to be under Agricultural Use section not under Commercial. It would be allowable with a CUP. The Litchy property looks to be a fitment for Agri business. An ordinance will be discussed at the December meeting.

Energy systems language will also be addressed at the December meeting. Some information from the Crow Wing County will be obtained. With people wanting to get into solar energy, the commission wants an ordinance in place to help with these requests.

Violation Ordinance language: The Planning Commission had a very lengthy and involved discussion about the violation language. In the past many years, they have tried to be firm and at times too lenient to be forgiving but now want to develop language and a process which is both firm and effective but also fair to the resident. Much information was brought forward by Amanda from surrounding areas like the City of Brainerd, Motley, Morrison County and Pequot Lakes. There is verbiage in all these ordinances that we do not have at Crow Wing Township which we should consider especially with repeat offenders. Specifically, language of citations and penalties especially when devaluing and negatively affecting neighboring properties. Some other areas have a nuisance ordinance. Others partner up with law enforcement. Many other ordinances have stiff penalties that only go away when the violations are rectified. Penalties as high as \$100/day up to a maximum of \$1000. Things like vermin, fire hazards, health and safety hazards and a total lack of regard for one's neighbors need to be dealt with in a new manner. The language should include things like 'right of inspection' and a written out 'process' with penalties clearly defined. Brad suggested an enforcement process including attorneys. All said violations would be complaint driven. The possibility of 'clean up days' was mentioned. Further, fines would be assessed to taxes. The Board and the Planning Commission needs to do some homework and Amanda will present some language options to the Commission.

Brad read the current ordinance language on enforcement and violations:

Enforcement:

- A. Responsibility for enforcement. The Crow Wing Township Board of Supervisors shall be responsible to enforce this Ordinance.
- B. Civil and criminal enforcement. Any violations of the provisions of this Ordinance or failure to comply with any of its requirements by a landowner or authorized agent. Including violations of or failure to comply with the conditions and safeguards established in connection with the granting of a structure, land use, or shoreland alteration permit, or contained within variances or conditional uses, shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes 609.03. The provisions of this Ordinance may be enforced through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy.

Further, Brad read language from surrounding places and their language. Amanda brought up that it would be helpful to have nuisance ordinance siting specific criteria with an attached cost list or consequence and that would help her to write letters to violation offenders. Once language is established, it would give data to our attorney at the league of Minnesota law office with citations and prosecutions. Amanda said we need to have an enforcement process. A discussion of 90 days to deal with debris regardless of what season of the year it is. Partnership with law enforcement was discussed. Community clean up involvement was also discussed. Amanda will put together some ordinance language. Justin will be consulted. A fee schedule was discussed to be used consequently. More discussion will be happening at the next meeting, this will be a work in progress going forward.

Old Business: The Ream complaint was discussed regarding their clean up. Brad spoke with the family today. Work was to be done prior to November. Brad will follow up again Thursday to come up with a plan of action. They have gotten rid of some vehicles and a couple of piles.

Planning and Zoning Administrators report: There have been 2 metes and bounds approved, that were minor subdivisions. Finlay had a rezone a couple of years ago and there is currently an application in for a commercial storage building. Not on the list for the commissioners, Engholm is putting up an accessory structure. Mr. Ostrowski is considering splitting his property by the auto business. The Ruckdashel family is looking into putting in a new mobile home and they will have to remove the current structure. The latter is in the works and not applied.

In the commissioner's packet was a letter from James Kramer of KLD regarding Lone Oak Circle. The Commission and Town Board have been waiting for this letter for some time and it will go to the Town Board tomorrow. The owner was asking the Town Board to take over the road, but he needed to satisfy the storm water and road design ditch depths to be in compliance. The letter states compliance. The owner will need to seed the ditch yet.

Amanda stated she had the variant approval for the Storage Zone and the Clerk and Chairman signed it.

Dan made the motion to adjourn. Tucker seconded. Motion passed 4-0. Meeting adjourned at 8:27.