

Polk County
Planning Commission
June 27, 2014

Call to Order: 10:23 A.M.

Members in Attendance: Kerry Winkelmann, Donovan Wright, Rolland Gagner, Dennis Yell, Robert Franks, Osmund Moe, Don Diedrich, Courtney Pulkrabek, Arlet Philips and Mike Powers.

Members Absent: Wayne Melbye

Also Present: Polk County Environmental Services' staff: Josh Holte & Michelle Erdmann

Minutes: A motion was made to approve the minutes from May 23, 2014 by Powers. Second by Gagner. All in favor.

Public Hearing: Conditional Use Permit Gary Thibert Parcel #74.00660.00

Winkelmann read the notice of the hearing, waiving the full legal reading, and turned the meeting over to Holte.

Holte said that the applicant is requesting a CUP to hook a new septic system to an accessory structure located on his back lot on Maple Lake.

PCZO Section 18.2225(e) requires a CUP for a septic system to be installed for use in an accessory structure. The applicant owns a riparian and non-riparian lot on Maple Lake. The total lot is 26,534 square feet. The front lot portion is 65' x 150' (9,750 sq.ft.) and the back lot portion is 83.92' x 200' (16,784 sq. ft.).

The applicant received permit last summer to build a 40' x 60' garage and the building is currently under construction. The applicant would now like to connect the new structure to a new septic system. The structure met all required setbacks and the new septic system will meet all setbacks as well. We received a copy of a new septic design. The existing system on the front lot was inspected last summer and is compliant. The applicant will be required to complete and record a no guesthouse waiver.

No comments have been received on this request. Holte then went over slides showing the property and its location. Staff is recommending approval of the CUP with the following conditions:

- 1.) No guest house uses – applicant shall have furnished evidence of having recorded the signed guest house waiver with the property deed before a septic permit is issued.

Thibert was not present to talk with the group. Yell stated that MLID has no problem with the request. Gagner asked about a well, will they go with a new one or pipe across from the front lot? Holte said a new well is indicated in front of the garage on the design.

A motion was made to recommend approval to the County Board with staff conditions by Powers. Second by Gagner. All in favor.

This will go before the County Board on July 1, 2014 for final approval.

Public Hearing: Conditional Use Permit ND Pipeline Company Parcel #20.00032.03

Winkelmann read the notice, waiving the reading of the full legal, of the hearing and turned the meeting over to Holte.

Holte said that the applicant is requesting a CUP to construct and operate a temporary pipe yard (Contractor's yard) in Section 6 of Fairfax Township. PCZO Sections 7.8080 and 12.3030 list the requirements for this type of request.

The property is approximately 92 acres. The contractor yard will be located on approximately 35 acres which will be leased from Everett and Calvin Anderson. The applicant has submitted a supplemental information packet and a plan of operations. The pipe yard will be used to store pipe, bends, mats, valves and other materials for upcoming pipeline construction.

Native soil berms will be constructed within the yard. Silt fencing and safety fencing will be installed around all leased boundaries. Upon expiration of the CUP the land will be restored to as close to the original condition as reasonably possible. They are requesting a minimum term of five years for the CUP.

Around 15 employees will be present during hours of operation which will be from 7:00 a.m. to 8:00 pm., Monday through Sunday. Operation hours will be subject to some fluctuation in order to accommodate daylight hours. Gates will be installed at the entrance and trash receptacles and porta johns will be kept and maintained on the site.

No structures, temporary buildings, or permanent lightings will be located in the proposed yard. A dust abatement and noise control plan has been submitted. Control practices shall be managed by all contractors throughout the CUP process and include:

- a. wetting roads within the yard.
- b. Dust control will be maintained by the Enbridge general contractor on 255th Ave NW.
- c. Limiting working hours in residential areas (7am-8pm, Monday through Sunday)
- d. Re-establishing vegetation and/or additional reclamation measures as appropriate, based on site-specific conditions using native seed;
- e. Noise shall be limited to 65 decibels during operational hours.

The applicant submitted a reclamation plan to be followed upon expiration of the lease/CUP. The applicant received a culvert permit from the Red Lake Watershed for the access crossing. The applicant is working with the Polk County Highway Department on transportation permits and a

traffic plan. The applicant met with Pat Kelly, City of Crookston, and they don't have any concerns with the proposed plan.

The only comment received was from Rich Sanders who stated that the applicant has applied for a ROW permit from Fairfax Township to install an entrance and pipe and will be working on transportation permits when they have a shipping contractor and materials list.

Holte went over slides showing the property and its location. Two reps from ND Pipeline Company were present. Staff is recommending approval of the CUP with the following conditions:

1. The CUP shall be valid for a period of five (5) years. The CUP shall expire after five (5) years, unless renewed before the expiration date. The length of any renewal shall be determined by the Polk County Board.
2. Nothing shall prevent the board from enacting or amending official controls to change the status of the CUP.
3. Applicant is bound by all the applicable rules in the PCZO and must maintain compliance with those rules and those special conditions listed above as well as all State and Federal laws applying to this type of business.
4. The contractor yard shall be operated in accordance with the plan of operation and supplemental information submitted as part of this permitting process.
5. No illegal dumping, disposing of waste, or landfilling shall be allowed on site.
6. Dust control measures must be in place to control the spread of dust for the adjacent neighbors and along the road north to Fairfax Ave..
7. The CUP is subject to Bi-Annual Administrative Review by Polk County Planning and Zoning to ensure all conditions of the CUP are being met.
8. The CUP will expire if the approved use is inactive for one (1) year or longer as determined by the Zoning Administrator.
9. Upon expiration/termination of the CUP the site must be restored to its original state as defined in the submitted reclamation plan within 6 months.
10. Screening must be established around perimeter of the Contractor yard as required by the PCZO 12.4100.

Neighbor Trent Brekken asked about the number of trucks and the weight? The reps said that the pipe will come in by rail, be loaded to trucks and taken to the site. They will remain there till construction begins. They are currently waiting on the final approval, once that is received they will work with Fairfax Township on a haul road agreement. Currently no routes are planned out. The approximate weight of each truck will be around 56,000 lbs. Brekken asked who pays for the road maintenance? The reps said that ND Pipeline does and all that will be worked out in the haul road agreement with the township.

Shane Johnson, neighbor, is concerned with the unloading of the railcars, noise and truck traffic near his house. Will they be following spring road restrictions? Yes they will follow restrictions. It was asked if they were going to use water or calcium to control the dust. It has not been decided yet. Johnson asked about the noise level of 65 decibels, what is that compared to? Powers and Moe both said that is very low for a noise level.

The reps stated that the pipe, when delivered, will be set in the yard with approximately two employees

maintaining till construction starts, which is about a year away. They are asking for 5 years to have the time to do the project and return the land to its original condition. It will not be five years of continuous truck traffic. Winkelmann asked, once started, how long of a process is it? The rep said 2015 is when they hope to start construction and be done within that years' time.

Diedrich asked if the Pipeline has met with the Township? Yes they are working on the haul road agreement and a restoration plan for the road. They will hopefully make it a better road. Dennis Brekken, neighbor, asked if they have met with the City of Crookston? Holte said the City was notified and Pat Kelly has no issues. The applicant is working with the County Highway Engineer on routes.

Diedrich said that the County Commissioners sent a letter to the Editor of the local papers in support of this project. It does not mean that we are trying to circumvent the rules, we are in support of it and the benefits we will gain from this project. We are not trying to minimize the residents' concerns.

Gagner made a motion to recommend approval with staff conditions to the County Board. Second by Powers.

Diedrich asked if the PZ office will do periodic checks of the yard? Holte said it is one of the conditions.

A vote was all called for. All in favor. Motion carries.

This will go before the County Board on July 1, 2014 for final approval.

Public Hearing: Prelim/Final Plat Eickhof Estates Parcel #74.00220.00 -74.00220.05

Winkelmann read the notice, waiving the reading of the full legal, of the hearing and turned the meeting over to Holte.

Holte stated that the applicant proposed to plat a portion of land in the Shoreland District on parcels 74.00220.00, 74.00220.01, 74.00220.02, 74.00220.03, 74.00220.04 and 74.00220.05. The properties currently encompass over 70 acres of land located in Section 26 of Woodside Township.

PCZO sections 22.0200, 18.2100, 22.2732, 21.4132 and 22.2733 list the requirements for a plat of this nature.

The plat is proposed to create one new buildable lot and create 3 new back lots. The remaining lots involved in the plat are already developed and split out as individual parcels. The applicant plans to dedicate Eickhof Road for public use and it should already be up to township specifications.

The applicant also would like to plat Outlot A. The remainder of the land in parcel 74.00220.00 won't be included in this plat. There are areas for possible future development along Sawmill Bay. Lots 1-5 in Block 1 are intended to be and remain buildable lots for residential dwellings and meet the size requirements.

Lots 1-5 in Block 2 are intended to be back lots that will be available for the corresponding front lot owners. They meet the requirements for back lots and can be utilized for septic systems and accessory structures. No residential dwellings or guest houses would be allowed on Lots 2-5 in Block 2. Lot 1 in Block 2 is large enough to be classified as a buildable lot.

All existing structures in the proposed plat will meet property line setbacks or will be considered non-conforming. The only structure that wouldn't meet setbacks would be an old shed located on Lot 3, Block 2. Before a final plat is approved all current septic systems will need to be inspected to make sure they are in compliance. If failing, owners would have two years to upgrade their septic systems.

There are a couple wetlands located within the proposed plat and these have been delineated. The delineation report will need to be approved by the East Polk SWCD Wetland Coordinator before the final plat is approved.

There have been questions raised about the accuracy of the westerly property boundary of Outlot A and the neighboring property to the west. This issue should be resolved before the final plat is approved.

Comments received were:

1. Dallas and Beth Kopp, neighboring landowners to the west of Outlot A raised concerns over the accuracy of the property line. They don't want to lose any land over the proposed plat and want to make sure that line is accurate.
2. Stephanie Klamm, DNR area Hydrologist, had concerns about Outlot A going through a DNR identified wetland. MN rules prohibit the placement of fill to construct a roadway or pathway. Concerns were also expressed regarding proposed future development on the northern edge of the plat. Other than what she stated, it appears all dimensional standards have been met. (a complete copy of her letter is on file with Planning and Zoning)

Staff is recommending the following changes to the preliminary plat:

1. Remove Outlot A from the proposed plat. Most of Outlot A is wetland area and staff has concerns that Outlot A might be used for future access to the lake and a road through that area could impact the wetlands.
2. Adjust the westerly boundary line of Lot 1 Block 1 so that it uses straight lines rather than the curved outlot. Staff feels a property boundary like that would be really hard to verify setbacks and might create issues for future property owners.
3. Correct the error in Block 2 so the lots are numbered 1-5.

If the above changes are agreed to be made, staff would recommend that the plat be given preliminary approval as long as the following conditions are met:

1. The road must be to township specs and we will need documentation from the township that they agree to take it over before final approval of the plat.
2. Any covenants and Association Agreements that are put on the plat must be reviewed and approved by the County before final approval of the plat.
3. The SWCD will need to approve the wetland delineation.
4. Any property line dispute between the Kopp's property and the proposed plat is resolved

- or the property in contention must be left out of the plat before final plat approval.
5. Within six (6) months of preliminary plat approval, the developer shall submit a final plat. The plat may contain only that portion of the approved preliminary plat which is proposed to record. Failure to meet this provision shall void the preliminary plat.

If approved, staff would like to let the Planning Commission decide if it would like to review the final plat before it goes to County Board once all conditions are met.

Mr. Bratrud expressed his concern over Outlot A and it going through a wetland. He also has some concerns with the ownership of land along Sawmill Bay. He says it is not owned by the Eickhofs. John Eickhof stated their plans in regards to Outlot A is to maintain the existing walkway/trail.

Holte handed out a new plat map that Garrett Borowicz, surveyor at WSN, gave him just before the hearing started. Borowicz stated that adjustments have already been made to the bottom of Outlot A. He said that John Eickhof has been contacting the neighbors to get this settled. Another neighbor said that the lines are up for interpretation and it needs to be worked out with the Eickhofs.

John Eickhof stated that he is working with the Kopp's to get things figured out. He is fine with staff recommendations except for #1 and #2. That trail goes in to service Lot 1, Block 1. Winkelmann stated that the property line situation needs to be dealt with.

Eickhof asked if they could get preliminary approval, fix the problems, and come back for final approval? They are trying to do it the way they were told they have too to create another lot. Eickhof then stated that maybe we need to leave Outlot A off the plat. Holte stated that the County Board give final plat approval, the DNR has say over wetlands.

There was more discussion over the property line issues along Sawmill Bay and between the Kopp's.

Holte said he felt that if the Board chooses to remove Outlot A and straighten the lot line, which would make things easier administratively, that this could go forward for preliminary approval. Borowicz clarified that they would need to straighten the lines and get things cleared up with the Kopp's.

A motion was made by Gagner to recommend preliminary plat approval to the County Board with staff conditions. Second by Moe. All in favor.

Public Hearing: Prelim Plat Hideaway Cove Parcels 45.00228.00, 45.00229.00, 45.00215.00

Winkelmann read the notice, waiving the reading of the full legal, of the hearing and turned the meeting over to Holte.

Holte stated that the applicant proposed to plat a portion of land in the Shoreland District on parcels #45.00228.00, 45.00229.00 and 45.00215.00. These properties currently encompass over 35 acres of land located in Section 29 and 30 of Knute Township.

PCZO sections 22.0200, 18.2100, 22.2732, 21.4132 and 22.2733 list the requirements for a plat of this nature.

The plat is proposed to create nine (9) new buildable riparian lots and create nine (9) new back lots. The applicant plans to dedicate the new road for public use and it will need to be built up to township specifications. The applicant has plans for future development on the east side of this plat.

There are wetlands in the plat area and a delineation report was just received on Wednesday. The SWCD has 15 days to determine if the delineation is complete and 60 days to review the delineation. The area along the shoreline is delineated as wetland area and no development would be allowed there. The delineation report will need to be approved by the East Polk SWCD Wetland Coordinator before the final plat is approved.

The applicant plans to have covenants included with his final plat and these would need to be received and reviewed by Planning and Zoning before the final plat is reviewed.

The developer was issued a Stop Work Order on June 4, 2014 because development was taking place before preliminary approval. The developer had started installing the road and had cleared paths down toward the shoreline on the riparian lots. The developer had also cleared a couple sites to prep the area for construction.

The MPCA was involved with storm water issues and the developer needs to submit a management plan to the MPCA and resolve any issues regarding that.

Staff has reviewed the site with DNR and SWCD. There has been fill placed in wetland areas and there is going to need to be some remediation to resolve these issues. The beginning of the road is next to or possibly impacting a wetland and there are concerns over this and any potential ditching along that area by SWCD. There are also concerns over drainage being impacted by the proposed road.

In light of the activity taking place on the site, staff told the developer that silt fencing must be installed along all wetlands and along the wetland boundary along the shore. The applicant submitted an application to start building a house on Lot 1, but staff feels that construction should not start until preliminary/final approval of the plat.

There have been multiple inquiries/complaints regarding development starting on the site without preliminary approval. There have been a few neighbor comments just inquiring about the proposed plat. Doug Bratrud inquired about if there had been elevation work done on the site since Union Lake's highest water elevation is 1216.89' in 1999. The OHWL is 1211.4'.

Katie Englemann, SWCD Wetland Coordinator, submitted comments, which are on file at the PZ office. Stephanie Klamm, DNR area Hydrologist also submitted comments, which are on file at the PZ office, expressing their concerns over the proposed project.

Holte then went over slides showing the property, its location and what has been done that warranted a stop work order.

Larry Altringer, neighbor, said that a silt fence should need to be installed around the area where they

have been burning as it is all running into the lake. He wants to know why there are not restrictions for what they have done? Doug Bratrud stated that if he wanted to re-seed/do dirt work I would need a silt fence, why can they do what they have done?

Holte said that maybe we need to have the DNR/SWCD require them to install more silt fencing. Diedrich asked who the developer is? Holte pointed to Monte Lund who was present at the meeting.

Staff recommends either Tabling the preliminary plat until all possible wetland violations/issues and storm water violations/issues are resolved to the satisfaction of Polk County Planning and Zoning. OR Staff would be willing to recommend preliminary approval to Hideaway Cove First Addition with the condition that the Stop Work Order remains in effect until any violations/issues with the SWCD and MPCA storm water requirements are resolved to the satisfaction of Polk County Planning and Zoning. Once satisfied the applicant would be able to proceed with final preparation of the plat. If any changes need to be made to the location of the road or lots based on the wetland delineation review, the plat would need to come back to the Planning Commission for preliminary review.

Winkelmann interrupted Holte and stated that he feels this needs to be tabled.

Bratrud asked why US Fish and Wildlife or DNR are not the first people to contact. Why do they come here before going to them, it involves too much time. There was some discussion about the proposed plat.

A motion was made by Powers to table the plat with staff conditions. Second by Phillips.

Gagner asked if there is any idea where the water elevation is now? Bratrud said 1212 as of a couple days ago. Gagner then said that OHW is at 1211.4. One to two tenths more and pumping starts.

Richard Rock, lake property owner, commented that the gravel road between Union and Sarah is a very busy road. They actually planned to blacktop it a few years ago, but they needed to straighten it and at that time people would be losing trees, so the road wasn't done. Can you look at if the overall road right of way can be shrunk for safety reasons??

Pulkrabek asked Lund if he is the developer? Lund said that Blue Star Developers, of which is a part owner, are the developers. They have done several projects. Pulkrabek stated it is surprising that they didn't know permits were needed. Gagner wanted to know why they started with knowing the rules? Lund stated that the workers went beyond what they should have. Gagner stated that there should have been a boss on site.

Altringer asked if they have even bought the property yet? He said it is still in the church's name. Lund said it is on a contract for deed. A landowner asked if there would be fines/penalties? Holte said they still need to figure things out and what/who is responsible for what.

Winkelmann stated that there is a motion on the table and he would like a vote on the motion to table the plat. All in favor. Motion carries.

Winkelmann adjourned the meeting. Next meeting is July 25, 2014.