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# **Le Sueur County, MN**

**Thursday, November 8, 2018**

**Regular session**

## **Item 1**

**Approved November 8, 2018 Meeting Minutes**

Staff Contact: Joshua Mankowski or Michelle R. Mettler

**LE SUEUR COUNTY PLANNING AND ZONING COMMISSION**  
**88 SOUTH PARK AVE.**  
**LE CENTER, MINNESOTA 56057**  
**November 8, 2018**

**MEMBERS PRESENT:** Don Reak, Jeanne Doheny, Don Rynda, Shirley Katzenmeyer, Doug Krenik, Al Gehrke, Pam Tietz, Commissioner John King

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Joshua Mankowski, Michelle Mettler, Commissioner Steven Rohlfig

1. The meeting was called to order at 7:00 p.m. by Chairperson Jeanne Doheny.
2. Agenda. Motion to approve agenda was made by Doug Krenik. Second by Al Gehrke. Approved.
3. Minutes from October 11, 2018 Meeting. Motion to approve minutes was made by Shirley Katzenmeyer. Second by Don Reak. Approved.
4. Applications

**ITEM #1: : JORDAN SMITH, MADISON LAKE, MN, (APPLICANT); KIM KUNKEL, GOOD THUNDER, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to construct a retaining wall on a steep slope and a retaining wall within the shore impact zone to include grading, excavating, and filling of 11.11 cubic yards of material within the shore impact zone (total of 42.08 cubic yards on the lot) in a Recreational Residential "RR" District on Lake Washington, a Recreational Development "RD" lake. Property is located at Lot 3, Auditor's Subdivision, Section 18, Kasota Township.

Joshua Mankowski presented power point presentation. Kim Kunkel was present for the application.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: Holly Kalbus, Environmental Resources Specialist regarding her recommendation for approval.

PUBLIC COMMENT: None.

Discussion was held regarding the need and construction of the proposed retaining walls. There were some questions about the proposed removal of one of the walls, reason being it was not needed and the area could be properly contoured without it. The existing walls are failing and constructed with railroad ties; the proposed replacement walls will use boulders. There was some discussion about the variance that was granted for impervious surface on the lot. The fact that the property was purchased in this condition was discussed. The applicant was asked about the project's proposed timeline.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity*

*for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*

2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Shirley Katzenmeyer to approve the application.

Second by Al Gehrke. Motion approved. Motion carried.

**ITEM #2 TERRY CLODFELTER & PATRICIA LINEHAN, MANKATO, MN, (APPLICANT); MICHAEL KEINZ, KASOTA, MN, (OWNER):** Request that the County grant a Conditional Use Permit to allow the applicant to establish and operate a dog training facility in an Agriculture "A" District, and an Airport Zoning Overlay District-Zone C. Property is located in the NE 1/4 NE 1/4, Section 14, Kasota Township.

Joshua Mankowski presented power point presentation. Patricia Linehan was present for the application.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: Kevin Baker, Airport Manager stating that the Mankato Reginal Airport did not have any issues with he proposed dog training facility.

Discussion was held regarding: Patricia Linehan stated she is applying for a permit to operate a dog training facility. There will be no boarding of dogs. This will be her facility and she has recently been become a certified dog trainer. There was discussion on how one becomes a certified dog trainer. There will be other certified trainers on-site besides the applicant and the applicant has trained dogs before. Dogs will not be boarded on-site. One hour long classes will be held for six to eight week periods. The driveway access and comments that were made by David Tiegs, County Highway Engineer, were discussed. Plans for improving the facility to conduct training classes were reviewed. Future retail sales on-site are planned but will only involve toys and treats to aid in training classes. The need for this type of facility in the area was reviewed.

PUBLIC COMMENT: Seth Hammon regarding plans to train service dogs. Patricia Linehan responded that she is not planning to train service dogs at this time. Service dogs are very special and take a lot of work. She hopes to get to do so in the future. It is a long-term goal.

Mary Ellis Hollenhorst regarding how the refuse from the dogs is being handled. Is it going to be buried on-site or deposited in the trash? Patricia Linehan replied that it will go out as solid waste, must be double bagged.

Findings by majority roll call vote:

1. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminishes and impairs property values within the immediate vicinity.*
2. *The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Adequate utilities, access roads, drainage and other facilities have been or are being provided.*
4. *Adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.*
5. *Adequate measures have been or will be taken to prevent and control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.*
6. *The Conditional Use Permit is consistent with and supported by the statement of purposes, policies, goals and objectives in the Ordinance.*
7. *The Conditional Use Permit is consistent with the Comprehensive Land Use Plan.*

Motion was made by Don Reak to Approve the application with conditions to address access issues.

1. Trees/shrubs need to be trimmed on the East side of the access to allow for appropriate site distance.
2. The profile of the approach needs to be improved to provide a landing area for a vehicle to sit on while accessing the highway.

Discussion was held regarding: None.

Second by Al Gehrke. Motion approved. Motion carried.

**ITEM #3: LE SUEUR COUNTY ZONING ORDINANCE REVISIONS:** SECTION 4, DEFINITIONS; SECTION 7, CONSERVANCY; SECTION 8, AGRICULTURE; SECTION 9, URBAN/RURAL RESIDENTIAL; SECTION 10, GENERAL BUSINESS; SECTION 11, GENERAL INDUSTRY; SECTION 13, SHORELAND; SECTION 17, SUBSURFACE SEWAGE TREATMENT SYSTEMS; SECTION 18, ENVIRONMENTAL PERFORMANCE STANDARDS; SECTION 19, LAND USE PERFORMANCE STANDARDS; SECTION 30, VIOLATIONS.

Joshua Mankowski presented power point presentation.

TOWNSHIP: Notified. Response None

DNR: Notified. Response None

LETTERS: None

Discussion was held regarding: Spelling out the word condominium instead of abbreviating it as condo in the proposed ordinance. The approved language establishing the exemption for setback from the bluff is for tanks only in the proposed Ordinance revision. There was discussion about providing a map to show where the proposed Short-Term Private Lodging Rentals would be allowed. Joshua Mankowski explained that the proposal would only allow the use on conforming lots in the Recreational Residential District. We do not have a map of conforming versus Non-

conforming lots and this undertaking would require a lot by lot review of the district. Discussion on Conforming versus Non-conforming lots and the different lot requirements for Recreational Residential versus Natural Environment Lakes. Other requirements that can make a lot Non-conforming besides just lot dimensions were elaborated.

PUBLIC COMMENT: Brenda Hennek regarding: Is Conforming Lot in the definitions? Commissioner John King responded that it is defined in the County Zoning Ordinance. Brenda Hennek then asked if all the factors that are required to be considered a conforming lot were part of the definition. Michelle Mettler clarified that the requirements for being a conforming lot are outlined in each Zoning District, including but not limited to lot dimensions, lot size, buildable area. Section 24 of the Zoning Ordinance goes into more details about Non-conformities. Discussion by the Board on how a Conforming Lot is defined in the Zoning Ordinance. Bruce Klugherz explained how difficult it was navigating the County's website to find the information about the meeting and asked that the County try to address this issue. Bruce Klugherz questioned if Short-Term Private Lodging Rentals will be allowed on private roads. Michelle Mettler responded that there is no private road restriction listed in the performance standards for the proposed use. There was then discussion about the issues that may arise for the property owners on a private road and the difficulty that would arise if this use was prohibited on all private roads. This is an issue that could be addressed per Conditional Use Permit application. Bruce Klugherz asked how much the fine would be if there were violations and where to find this information. It was explained that the fines are determined by the County Board and a fine has not been determined. Bruce Klugherz asked how a neighbor would know how to contact the caretaker? Complaints should be filed with Planning and Zoning and the Sheriff's Department. Michelle Mettler clarified that if a Condition Use Permit is obtained for this use, registration will be required and we would have that contact information on file. If there are issues, Planning and Zoning needs to be contact so we can document the issue. If the issues are after hours or on holidays, then you would contact the Sheriff's Department. Bruce Klugherz then asked about the definition of a designated parking area. Michelle Mettler explained that information is in Section 19 of the Zoning Ordinance. Bruce Klugherz asked if trailers needed to be kept in the designated parking area? It was explained that it is covered in the performance standards, all motorized vehicles and trailers must be parked in the designated parking area. Bruce Klugherz then asked about rental of motorized watercraft being prohibited. It was explained that this means the property owner cannot rent out motorized watercraft. Bruce Klugherz then asked about the reference to flood plain violations in the ordinance. It was determined that this is not an area being changed by the proposed ordinance revision, the area is not in reference to Short-Term Private Lodging Rental. Bruce Klugherz then asked for clarification on the next step for the proposed Ordinance revisions. It was explained that, depending on the actions of the Planning and Zoning Commission, the proposed ordinance revisions will then be brought to the County Board of Commissioners at a public hearing for consideration. Bruce Klugherz asked that the material be made available for the public to view prior to the next meeting. It was explained by staff that the materials have been available online as well as hard copies in both the Planning and Zoning office and the Auditor/Treasurer's office. David Ellis Hollenhorst voiced his issues with the difficult navigating the County's website when looking for information for meetings. David Ellis Hollenhorst asked about the allowed capacity and the number of bedrooms. Joshua Mankowski explained that there is information defining a bedroom in the Ordinance and the proposed ordinance also refers to the capacity of the septic system. Jerold Lucas regarding his concerns on the proposed Short-Term Private Lodging Rental Ordinance. The information was very difficult to find and review online. It is important that the public is allowed input, the information was not easy for the public to understand. He voiced his concerns with allowing the use on private roads; the property owners are responsible for the maintenance of the road, increased traffic. Suggest not allowing this use on private roads. Jerold Lucas continued by stating the general public is not able to understand all the requirements, a summary should be provided. Understands that it is our interpretation that the use requires a Conditional Use Permit, this should be more clearly stated. Short-Term Private Lodging in Section 13 should have cross-references to the performance standards. He believes the language used is too cryptic and too short. Jerold Lucas then asked who will be responsible for performing the required building inspection. The proposed language doesn't state it needs to be someone who is certified to do so. He then asked if the County Attorney has reviewed and commented on the proposed ordinance. Michelle Mettler explained that the County Attorney would review the proposed revisions prior to the public hearing that would be the County Board of Commissioners. Bruce

Klugherz stated that the document will be what is used to establish a Short-Term Private Lodging Rental and asked that language be added that directed people who suspect a violation to contact the Planning and Zoning Department. Joshua Mankowski responded that Planning and Zoning is responsible for enforcing the Zoning Ordinance, if you suspect a violation of the Zoning Ordinance, please contact Planning and Zoning. Brenda Hennek asked that the County have additional meetings to take additional public comment. She also voiced concern that there is nothing about wells in the proposed ordinance. Allowing this use could cause problems with shared wells. There may also be issues for the sewer system. Brenda Hennek then went on to describe some of the issues she has had living next to a vacation rental. She then requested that the County require that a background check is ran on each person renting a Short-Term Private Lodging Rental before they are allowed to rent. Jerold Lucas voiced additional concerns including possible issues with properties currently being rented out in violation of the Zoning Ordinance claiming they are grandfathered in. Language should be added to make it clear that this will not be allowed. Michelle Mettler responded that information is already in Section 24. They would not be a legal non-conformity. Commissioner Steven Rohlfing asked how many violations would be allowed before terminating the Conditional Use Permit? Joshua Mankowski responded that there is no set number. If there are issues, it would come back to the Planning and Zoning Commission and then the County Board to possibly revoke the Conditional Use Permit. Jeanne Doheny added that they need to look at the seriousness of the violation. Commissioner Steven Rohlfing then asked if covenants overrule the Conditional Use Permit. Joshua Mankowski responded that the County cannot enforce covenants, but upon review it can be used as a reason to deny a Conditional Use Permit. Commissioner Steven Rohlfing then asked if there was a way to allow staff to go onto the property if there is a violation to obtain evidence. Joshua Mankowski responded that, in reference to the specific issues where trespass was filed, after discussing the issue with the County Attorney, staff is still supposed to investigate complaints. Discussion about the how to proceed with the ordinance revisions, the Planning and Zoning Commission can recommend the current language to the County Board, change the current language and then send a recommendation to the Board, or table ordinance revisions to hold additional workshops and public hearings. There was continued discussion about the issues of private roads. Seth Hamman gave an explanation on how the private road he lives on, Limberdink Rd, which is dedicated to the property owners, functions; with each property owner helping pay for repairs and maintenance. Michelle Mettler clarified that Seth Hamman is describing his private road, there are a gamut of private roads in the County and different road authorities. Private roads can be dedicated to the public for example. There are many variables that need to be considered so there isn't just one blanket answer for private roads. Pam Tietz went on to describe the private road that she lives on and how maintenance is shared by all the landowners despite who is using it more or causing more wear. She also went on to describe her use of a shared well and that the County doesn't limit the number of people that can use that private well. Michelle Mettler clarified that all these issues can and should be brought before the Planning and Zoning Commission during a public hearing for Conditional Use Permit for the proposed use. These are factors that should be discussed at that time. Commissioner John King clarified that the neighbors will be notified for the public hearing if an application is being considered and that is how they will know if they are next to a valid Short-Term Private Lodging Rental. Bruce Klugherz explained that the questions on private roads was an issue is because it was discussed during a work session but it wasn't in the proposed language. There was continued discussion about holding additional work sessions and public meetings. Jeanne Doheny asked that the public provide comments to the Planning and Zoning Department by December 1, 2018 to be discussed at a work session and recommended that there should be another public hearing on this topic. Jerold Lucas expressed concern how the public notice was listed and the ability of the public to understand what is being discussed. There was discussion on how the public notice should be written.

Motion was made by Don Reak to Table the proposed Ordinance revisions to address comments made at the meeting and to gather additional public comment.

Discussion was held regarding: None

Second by Pam Tietz. Motion approved. Motion carried.

5. Discussion Items: None

6. Warrants/Claim-signatures.

7. Motion to adjourn meeting by Shirley Katzenmeyer. Second by Jeanne Doheny. Motion approved. Motion carried.

Respectfully submitted,

Joshua Mankowski

***Approved December 13, 2018***

***Tape of meeting is on file in the  
Le Sueur County Environmental Services Office***