

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, July 28, 2022 at 6:30 PM**

I. Call to Order

A. Roll Call

The meeting was called to order both in-person and electronically by Chair Preston Bauer at 7:28p.m.

Members present were: Preston Bauer, Michael Streiff, Charlie Peters, Julia Hogan.

Members absent were: Jill Ellingson

Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Planner Jeremy Edwards, Administrative Coordinator Anna Aguilar (*via Zoom*).

Commissioners present: None

Others present: see Sign-in Sheet and Registrant List.

B. Motion by Julia Hogan, seconded by Michael Streiff, Reading of the Notice.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Julia Hogan, NAYS: None

C. Motion by Michael Streiff, seconded by Charlie Peters, Approval of the Agenda.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Julia Hogan, NAYS: None

D. Motion by Charlie Peters, seconded by Julia Hogan, to approve the minutes of June 30, 2022.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Julia Hogan, NAYS: None

II. New Business

1. Waiver of Plat/Howe - Section 16, Morristown Township

Rachael Howe, on behalf of Larry Ahlman Estate, has applied for approval of a Waiver of Plat to create one new building site though the use of a Transfer Development Right (TDR). The property is described as: Part of the NE1/4 of the NW1/4 of Section 16, Morristown Township, Rice County, MN. PID#: 13.16.2.00.003. The property is Zoned A, Agricultural.

Motion by Michael Streiff, seconded by Julia Hogan, to recommend approval of the Waiver of Plat with the following conditions and findings for Rachael Howe, on behalf of Larry Ahlman Estate. The property is located in Section 16 of Morristown Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Howe – Waiver of Plat

1. The new 2.5-acre Transfer Development Right (TDR) receiving parcel shall qualify for a single-family dwelling under current zoning regulations.
2. Any new construction on the parcels is to adhere to all Rice County codes and ordinances.
3. The remaining parcel and TDR receiving parcel shall not be further subdivided or combined with other land(s) unless approved under the Rice County subdivision regulations.
4. The conservation easement for the TDR sending area shall be recorded at the same time or before the new parcel is recorded.
5. Within one year of this approval the applicant shall record a new deed, at the Rice County Records Office, containing just the TDR receiving parcel.
6. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcels.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

The PC asked the applicant, Rachael Howe (RH), to come forward to add comments or answer questions regarding the request.

RH (*via Zoom*) - We would like to transfer a building right (TDR). Our plan is to build a home on the new parcel and transferring a building rights from another property within our family to this site where we want to build.

PB - It looks like your sending area is an ideal place to send from. It looks inaccessible and best left the way it is.

RH - Yes.

PB - Are you familiar with the 6 conditions?

RH - Yes.

Chair Bauer opened the public testimony portion of the item to the public and no one spoke.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

CP - The other buildings in that line, the two to the west, were they TDRs as well?

TM - No, both of those were built prior to the current zoning regulations.

CP - The one even farther to the west. Is that a feedlot?

TM - Yes, there is a livestock building but we have looked at that setback requirement and it meets that.

JH - It is a pretty narrow lot but if they can meet setbacks for the house that's what matters.

MS - I will motion to refer this for approval with the 6 conditions.

JH - I will second.

Motion to recommend approval with stated conditions and findings made by Streiff, seconded by Hogan, and approved unanimously.

2. **Waiver of Plat/Hofmaster - Section 31, Wells Township**

Alan and Debbie Hofmaster have applied for approval of a Waiver of Plat to create one new building site though the use of a Transfer Development Right (TDR) and to modify an existing building site. The property is described as: Part of the SW1/4 of the SW1/4 of Section 31, Wells Township, Rice County, MN. PID#: 10.31.3.25.002 & 10.31.3.50.001. The properties are Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Michael Streiff, to recommend approval of the Waiver of Plat with the following conditions and findings for Alan and Debbie Hofmaster. The property is located in Section 31 of Wells Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Hofmaster – Waiver of Plat

1. The new Transfer Development Right (TDR) receiving parcels shall qualify for a single-family dwelling under current zoning regulations.
2. Any new construction on the parcels is to adhere to all Rice County codes and ordinances.
3. The remaining parcel and TDR receiving parcels shall not be further subdivided or combined with other land(s) unless approved under the Rice County subdivision regulations.
4. The conservation easement for the TDR sending area shall be recorded at the same time or before the new parcels are recorded.
5. Within one year of this approval the applicant shall record new deeds, at the Rice County Recorder's Office, separately containing just the TDR receiving parcels.
6. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcels.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

TM - The expansion of one parcel is being proposed to match up with the yard area and the septic on site. The septic is currently over the property line and the home was placed within the setback

requirements to that 1-acre boundary. This will help correct both of those issues.

PB - Is that a secondary dwelling for farm help?

TM - This one would have required that it either be on 35-acres within that quarter-quarter section, or go through this transfer right process for the replacement. It's different than if it had been a home prior to certain dates, then it could have been done without this process, but it does not meet those requirements.

The PC asked the applicant, Debbie Hofmaster (DeH), to come forward to add comments or answer questions regarding the request.

JH - Are you going to maintain that area between the parcels?

DeH - Yes. We have that so we can access our feedlot.

JH - So that will be maintained by you?

DeH - That will be maintained by us, yes.

PB - Are you familiar with the 6 conditions?

DeH - Yes.

Chair Bauer opened the public testimony portion of the item to the public and no one spoke.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

JH- It makes sense why they would want to modify the parcel to the right with the septic.

CP - A family member is planning to move into the parcel to the left. I motion to refer this to the Commissioners for approval.

MS - I will second.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Streiff, and approved unanimously.

3. **Conditional Use Permit/Gillen - Section 6, Webster Township**

Jon Gillen has applied for approval of a Conditional Use Permit (CUP) for a grading and filling operation exceeding 400-cubic yards. The property is described as: Part of the NW1/4 of the NW1/4 of Section 6, Webster Township, Rice County, Minnesota. PID#: 02.06.2.25.001. The property is Zoned A, Agricultural.

Motion by Charlie Peters, seconded by Michael Streiff, to recommend approval of the Conditional Use Permit with the following conditions and findings for Jon Gillen. The property is located in Section 6 of Webster Township.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Julia Hogan, NAYS: None

CONDITIONS OF APPROVAL – Gillen – Conditional Use Permit

1. Grading and Filling is limited to the amounts and in the areas described in the submitted site plans, except that grading/fill work shall be setback 100-ft from the Road Right of Way of County Road 86.
2. Fill boundaries and required setbacks shall be marked onsite prior to filling/grading and markings shall be maintained throughout the operation.
3. Fill materials shall not contain any contaminated or solid waste materials.
4. Prior to any grading or filling activities the applicant must verify wetland rule compliance with the Rice SWCD.
5. All land disturbance shall be the minimum time and area needed to complete the project. Alterations must be designed and conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible.
6. Appropriate erosion control structures (Silt fence or hay bale) shall be placed down gradient from disturbed areas to prevent sediment from reaching neighboring properties, wetlands, streams and road ditches.
7. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a vegetation cover must be established as soon as weather conditions allow. All exposed soil

- shall be restored by seeding and mulching within 72 hours of project completion.
8. Areas not approved as impervious surfaces to be completely restored to a condition suitable for the growing vegetation upon completion of permit.
 9. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Natural Resources Conservation Service (NRCS).
 10. Fill or excavated material must not be placed in a manner that creates an unstable slope.
 11. Alterations of topography shall not adversely affect adjacent or nearby properties.
 12. Prior to any additional grading the site is to obtain permits for all proposed or existing unpermitted onsite buildings.
 13. Property is to be brought into compliance with vehicle and junk storage regulations by the earlier of November 1, 2022 or prior to any additional grading or building permit issuance.
 14. This grading and filling conditional use permit shall remain in effect for one (1) year from the date of approval, provided that all conditions of the permit are adhered to.
 15. Failure to comply with these conditions may result in revocation of this permit.

Hearing Minutes:

Zoning Administrator Trent McCorkell (TM) presented the request to the Planning Commission (PC).

MS - How did this one come about? It seems after the fact.

TM - With some of the fill, yes it is after the fact, but I don't recall whether this was a complaint or if it stemmed from permitting. I think the permit request for the replacement of the trailer is what triggered this. Permitting should have been done a little sooner.

MS - With the junk vehicle ordinance, there is a max of two unlicensed vehicles, but is there a max limit of total vehicles?

TM - Licensed and operable vehicles, as long as they are associated with the property, are fine. If they have 5 of their own personal vehicles, as long as they are licensed and operable, that is fine. You cannot have more than two that are unlicensed or inoperable.

PB - If they are in a shed, it's different?

TM - The ordinance just addresses "on site". Typically, we deal with vehicles that are outside of buildings, but the ordinance does not specify. Another thing that could trigger it is if you are doing work on vehicles that are not your own. That gets into other permitting or use requirements.

PB - Were there any comments about the need for truck hauling signs for hauling fill in?

TM - I believe most of the fill was brought in from the property to the South.

The PC asked the applicant, Jon Gillen (JG), to come forward to add comments or answer questions regarding the request.

JG - The fill, when we first bought the place about a year and a half ago, I had the Rice County Soil & Water come out and identify the wetlands. At that time, we put some silt fencing in and started doing some dirt work. We don't plan to and have not encroached on the wetland at all, but we did put silt fence in and started bringing fill in without realizing we needed a permit to do that. We are hoping to do a lot more dirt work, if we can, to make more of a yard area around the building. It was a pretty good drop off before, but for sure we will not encroach on the wetland. We did have plans to put up better silt fence down there to make sure that the fill doesn't get into the wetlands. We did have a couple bad vehicles out there that we have already gotten rid of, but we will make sure we abide by the 15 conditions going forward.

Chair Bauer opened the public testimony portion of the item to the public and no one spoke.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

CP - It is a complicated site and I can see why he wants to bring fill in. I have no issues as long as he

follows the 15 conditions, with Soil & Water and the County as far as erosion control.

PB - In the future, when you go to do something, ask before you do it.

MS - When you start moving dirt around and you have a wetland, you have to start asking questions. It sounds like he has that figured out though and as long as he abides by the conditions and does the right thing, I don't have a problem with it either.

CP - I will motion to refer this for approval.

MS - I will second.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Streiff, and approved unanimously.

III. Public Hearing

1. Proposed Rice County Zoning Ordinance Amendments

The Rice County Board of Commissioners has proposed amendments to the Rice County Zoning Ordinance to include the following:

- Adding “Accessory Dwelling Unit (ADU)” as a Permitted use to Table 508-1, in the A, UR, RR, VMU, GDS, RDS, and NES Zoning Districts. Standards for the ADUs would also be added to Section 507 and Table 516-1 of the Ordinance.
- Chapter Purposes are proposed to be updated to align with the updated County Comprehensive Plan.
- Interim Uses are proposed to be added to Chapter 503 and as a category within Table 508-1 of the Ordinance and several existing Conditional Uses are converted to Interim Uses.
- Additional technical and administrative clarifications/corrections are being updated.

Motion by Charlie Peters, seconded by Michael Streiff, to conduct a public hearing on the proposed amendments to the Rice County Zoning Ordinance.

RESULT: Approved, AYES: Preston Bauer, Charlie Peters, Michael Streiff, Julia Hogan, NAYS: None

Hearing Minutes:

Environmental Planner Jeremy Edwards (JE) presented the request to the Planning Commission (PC).

JE - Following public testimony, Staff asks that you make a recommendation to the Board of Commissioners. As is normal with amendments, the Commissioners would then have to vote on adopting those changes and would send the request back before you for an adoption hearing before final adoption.

CP - On chapter 510, the Urban Reserve (UR), with that Intergovernmental Powers Review, people that are trying to change back to Ag land, they will still get notified, correct?

JE - Yes, they would still receive all notifications. It's just a requirement by State Statute so we don't need to repeat it in our ordinance. If the State Statute were to change, then we would have to update our ordinance. It's just easier for us to refer back to the State Statute instead.

PB - In a nutshell, everything going forward would be interim use?

JE - Not everything. If you refer to chapter 508 in the Staff report, that list of uses is what would change from Conditional to Interim uses. There are still uses that would remain under Conditional uses.

PB - It doesn't change anything as far as Conditional Use Permits (CUPs) from the past?

JE - No, when those time-limited CUPs come back for re-approval, they will reapply for interim use permits.

MS - With interim uses, they are defined by either an event or a point of time. So they would be going from CUP to Interim use?

JE - It's more of a clarification that was made at the State level. We are just trying to align with that, but it doesn't really change how we do things, it just changes the terminology.

JE - We did receive comments from the City of Faribault, DNR, as well as the public. The DNR comments were technical in nature, so we are working with DNR Staff to address those comments. The City of Faribault made a comment regarding sewage treatment around Roberds Lake for accessory dwellings (ADUs). At this time, Staff is proposing to add wording to item 8 of the ADU ordinance to make it read *as the sewage treatment for the principal dwelling and accessory dwelling unit shall comply with Rice County Sewage and Waste Water Treatment ordinance or the Rice County Roberds Lake Subordinate Service district ordinance # 725 for those properties that are part of the subordinate*

service district. It's a clarification that would allow us to better address the sewage connections in that specific area of the county.

PB - The comments from the City and others are online?

JE - Yes, they are also included in the packet.

Chair Bauer opened the public testimony portion of the item to the public and the following spoke:

Nancy Marth - *Erin Township* - Temporary Farm Dwellings had strict requirements. They were for farm workers, health workers, or ailing parents or children. They were removed when no longer needed. They were deemed a second dwelling in a quarter-quarter section and were not transferrable. ADUs are permanent. There are no requirements as to who can live there. What stops them from becoming rental property or vacation rentals for those around the lakeshore? They are permanent. What starts out as a convenient care arrangement, changes into a vacancy. The resident of the primary dwelling moves on at some point. If you are truly looking to care for or be cared for or providing housing for hired help, the ordinance requirements for a temporary farm dwelling deserve some consideration. If we are not careful, this could be a backdoor way to increase density and has the potential to change the base of a rural and lakeshore Rice County. Mom didn't have a car, but the new renters have one or two. More traffic, extra vehicles in the yard, a variance to build a garage. In Duluth, investors are actually buying properties to turn them into vacation rentals. These are permanent structures. Housing shortages, inflation, rental income, think about it. Northfield was discussing allowing "granny pods" or axillary units. They were meant to be temporary small units that would go away when the need for them is done. We are talking about temporary and I think you need to do some thinking about what happens to these houses when the need is gone. The temptation could be there for rentals and all kinds of other things. I also have questions about section 505.15 about excavation or extraction for permitted uses or structures, doesn't require an interim use permit nor does impounding water for Ag approved stormwater management ponds or public utility purposes. Excavations not exceeding 400 cubic yards (cy) do not need a permit either. Does that mean that if the extraction for permitted structures exceeds 400cy, they do need a permit? If not, why not?

Diane VonRuden - *Forest Township* - A couple of thoughts for ADUs. It states the ADU should be located at least 10ft but no more than 350ft from the primary dwelling. I would like to see language that helps ensure that the ADU is not closer to a neighboring dwelling than the primary dwelling. Primarily because we do not know who might occupy these dwellings down the road. They could turn into rental properties and that should not be a bigger problem for the neighbor than the landowner. Also, I question why the ADUs are not allowed in the Highway Commercial (HC) district. ADUs are replacing the temporary farm dwellings and there is a lot of Ag land in the HC district. As someone who remains in their home in the HC zone, I feel like an ADU should be an option until my land is sold for commercial use. I noted that ADUs are allowed in the UR district and I saw the letter from the City of Faribault suggesting in part that the property owners at least acknowledge that should their property be annexed, that the ADU would need to comply with the City's ordinance. I think that is an idea that could be modified and used in the HC area. Basically, I think if my Ag land is sold for HC, not only are they going to bulldoze down my house, but they will bulldoze down my ADU as well. My husband and I built our house so we could age in place 30 years ago. We intend to stay on our HC zoned land and run our farmland. Those of us in that original HC zone have been in limbo for 20 years. This could continue to go on for a long time and I would like the option of the ADU. I think it seems reasonable to allow me remain in my home and age in place. Going along with that, since we have the farmland, if we don't have the option of a temporary farm dwelling and we don't have the option of an ADU, we are out of luck if we need farm help.

Jim Vergin - *Wheeling Township* - In general, I am in favor of this. I think it is a good idea. It gives people an opportunity to take care of ailing parents. Especially with the economic downturn that is happening, potentially younger family members too. I am in favor of this.

Sam Sunderlin - *Forest Township* - I am supportive of the ADUs. I would like to support Diane VonRuden. Almost all of the people that live in the HC zone did not ask to become HC. Most of them have farms and if something were to happen to her husband, or someone else's husband, and they needed help, they really would be out of luck. Some of these are pretty big farms. I would like you to consider allowing ADUs in the HC district. I don't think ADUs would be any worse than allowing Planned Unit

Developments in the HC. What's one more house on a farm? I was a little concerned when you started having conversations about allowing ADUs. There was mention of possible size restrictions or special requirements in shoreland. I feel like some of that wasn't fully discussed. I thought there would be more discussion on it, so I was hoping there would be a little more detail in the ordinance to make this as smooth a transition as possible. There will be some that are upset because they may lose a view or could end up with loud neighbors. I would like you to be really careful about what gets approved.

Debbie Nelson - *Webster Township* - I am in huge favor of the ADUs. We are in desperate need of it ourselves. We are a multi-generational farm and there are many of us out there that are trying to bring families together again and we would really like to see the ADU option moved forward. So if that could pass as soon as possible, we would be very grateful.

Chair Bauer closed the public testimony portion of the item to the public.

Discussion:

JE - One thing to note about the HC district, temporary farm dwellings are not an allowed use under our current ordinance. Residences are currently limited to existing residences and no new residences are allowed in that district. If you want to consider allowing ADUs in that area, we probably want to look at using interim use permits or something like that if that is the direction you want to go.

CP - As written, is that an option to use an interim use permit for that purpose?

JE - As written, no, it would not be an option as an interim use. You would have to recommend a change to the language as proposed.

PB - How would that process? Would we have another hearing if we changed the language before it was recommended it be passed on?

TM - Part of your action tonight would be to make a recommendation to the County Board of what to proceed with or not to proceed with, so you can make recommendations to add or modify anything that is being proposed. The items would not be effective until the County Board takes action to proceed and sends it back for an adoption hearing.

PB - I kind of agree in the HC district with a lot of it being open Ag land.

JH - Currently the ordinance does not allow for temporary farm dwellings in the HC district. HC is reserved for commercial use along I35. Allowing ADUs kind of contradicts the purpose of the HC zoning. The HC is reserved for commercial use and that is what was approved with the Comprehensive Plan.

PB - There are areas that are zoned HC that I see being the way they currently are 20 to 40 years from now. Even in the City of Faribault, there were areas that were projected in 2008 that have not been used. It seems to be a long limbo to not consider something for them.

JH - I know, but if you have ADUs, it could turn away potential commercial prospects.

MS - Currently we do not allow any new residents in that district.

PB - Right, but if there is an existing dwelling there, that has to be dealt with in the first place. Adding an interim or ADU, could be considered as one entity. It will still have to be dealt with or the market will dictate if both get bulldozed or not.

MS - I wish there was a way you could study that somehow. You are kind of contradicting your zoning districts by doing that. We have this area that we are saying we are going to grow commercially, but your incenting uses of it that are more residential in nature.

JH - The point of updating the zoning ordinance is to reflect the newly adopted Comprehensive Plan. On the land use map, the HC section was identified for commercial use.

MS - If you look at the commercial area to the north of us, it is filling up. Up by Lakeville is full, so it is going to have to come south. I understand what people are saying, but is there a way to study that?

JH - I agree and can understand why they would want that, but at the same time, looking at the Comprehensive Plan, that is the area that was identified.

CP - I can see the point of limiting new residents in the HC. With ADUs it could be another homestead even though it is on the same property. I can see a trailer moved in for help, but I agree and think we still need to limit the housing in that district. I was apprehensive about the lakeshore ADUs but with the stipulations put in about lot size, setbacks, and everything, I don't think there will be many shoreland properties left that would allow for an ADU. If they are, If they meet setbacks and everything and don't detract from the surrounding houses in the area. We had quite a lengthy discussion regarding lakeshore. If we follow the zoning, it limits the ADUs quite a bit. Otherwise, I think it is a good idea. There has been a lot of interest in ADUs.

JE - Just a reminder of the recommendation from Staff to include the Roberds Lake Subordinate Sewer district language for the sewage treatment of ADUs.

CP - Would that address the privately owned cluster systems?

JE - They would be covered under the Rice County Sewage and Waste Water Treatment ordinance which is already included in the proposed language.

PB - I am confident in the ability of Rice County Staff, the Planning Commission, and the Rice County Commissioners to look at the conflict within the HC district and the limitations with regards to residences. Hopefully something creative can come of that.

CP - I motion to refer this to the County Commissioners with the addition of the municipality sewage recommendations proposed by Staff.

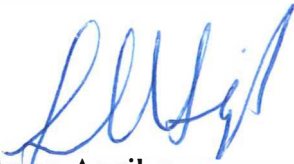
MS - I will second.

Motion to recommend approval with stated conditions and findings made by Peters, seconded by Streiff, and approved unanimously.

IV. Adjournment

Hearing no other items before the PC, a motion was made by Streiff, second by Hogan, to adjourn the meeting at 8:23 pm. Motion carried 4-0.

Respectfully Submitted



Anna Aguilar
Administrative Coordinator

Planning Commission



Preston Bauer, Chair