

CHISAGO COUNTY
PLANNING COMMISSION OFFICIAL PROCEEDINGS

January 7, 2021 - **DRAFT**

The Chisago County Planning Commission met in regular session at 7:00 p.m. on Thursday, January 7, 2021 in a synchronous e-meeting due to Declaration of Local Emergency.

Staff Present: Jessica Jagoe; Land Services Coordinator, Diane Sander; Land Services & Parks Specialist, and Kurt Schneider; Environmental Services Director.

Coordinator Jagoe called the meeting to order and led the assembly in the Pledge of Allegiance. A roll call of Board members was taken. Commission members present: Jim McCarthy, Shellene Johnson, Frank Storm, John Sutcliffe, Dave Whitney, Jim Froberg, and Chip Yeager. Ex Officio: County Commissioner Chris DuBose. A quorum was established with members present.

Coordinator Jagoe provided an overview of the electronic meeting format, review of muted microphones, speaking order, how to “raise hand”, with the Chair leading and following meeting order/procedures.

NOMINATIONS OF OFFICERS – Coordinator Jagoe called for nominations for 2021 Chair. Jim Froberg nominated Shellene Johnson for Chair. Second by Chip Yeager. Upon multiple calls, no other nominations were made. Roll call vote was taken and motion carried unanimously.

Coordinator Jagoe called for nominations for 2021 Vice Chair. Dave Whitney nominated Chip Yeager for Vice Chair. Second by Jim Froberg. Upon multiple calls, no other nominations were made. Roll call vote was taken and motion carried unanimously.

APPROVAL OF AGENDA – Motion to approve the amended agenda with the addition of five public comments and Commissioner Whitney’s comments made by John Sutcliffe. Second by Jim McCarthy. Roll call vote was taken and motion carried unanimously.

APPROVAL OF MINUTES – Motion to approve the December 3, 2020 minutes by Jim Froberg. Second by Chip Yeager. Roll call vote was taken and motion carried unanimously.

ADOPTION OF MATERIALS AND SUBMITTALS INTO THE RECORD - Motion that all applications, submittals, reports with attachments, and other materials were adopted into the record by reference; excluding Commissioner Whitney’s comments due to limited time to review and need for staff feedback on questions with the document made by Frank Storm. Second by Jim McCarthy. Roll call vote was taken. The motion passed with Jim McCarthy, Frank Storm, John Sutcliffe and Chip Yeager in favor. Opposed were Jim Froberg, Dave Whitney, and Shellene Johnson. Meeting materials distributed in advance to the Planning Commission for their review included: Public Hearing Staff Reports with Attachments, Commission Appointment Staff Report, Review of 2021 Meeting Schedule Staff Report, 2021 Rules of Order and Operating Policy Staff Report, Ordinance Review Staff Report, Five - Public Hearing Comments for Zerwas PID#01.00212.00. Copies of all correspondence and meeting materials were made available for electronic distribution.

Public Hearing Items:

Tony Zerwas - Coordinator Jagoe presented background information on Zerwas’s preliminary plat application for “Amador Hilltop Estates”. The parcel size is 20 acres, zoned Agricultural (AG), with proposed subdivision of four lots. The property originated as an 80 acre tract and was subdivided into four – 20 acre parcels earlier this year. The three – 20 acre lots are exempt from platting and is not included in the review. The proposal includes four new five acre lots. Mr. Zerwas intends to sell the newly created parcels for development as single-family residential. Lot 4 will retain the existing development with two dwellings and three detached structures. Bob Boyce, on behalf of Mr. Zerwas has indicated the residential dwelling located closest to Peterson Avenue will be removed. Technical Review was held on December 9, 2020 and the

subject parcels are not located in a floodplain and there are no severe slope conditions. There are no new roads as part of the proposal. Staff has recommended as a condition of approval that the applicant be required to apply for a demolition permit for one dwelling and documentation of abandonment of the current septic system be provided to the County Sanitarian. Driveway locations have not been shown on the preliminary plat. Access for each lot will be subject to review and approval by Amador Township. Amador Township Board recommended approval with no conditions at their December 15, 2020 meeting. Chair Johnson asked each Planning Commission member and Mr. Boyce for additional questions and comments.

Mr. Boyce indicated he has been working with the County Sanitarian and an escrow has been established to update the septic system. Commission members inquired to the buildable acre location, future driveway locations to the township road, and Lot 1 - 66 foot easement. Mr. Boyce indicated he would work with Amador Township on driveway locations to Peterson Avenue and the north side on Lot 1 is the access easement serving the three 20-acre parcels to the east. Coordinator Jagoe provided an overview the plat review process and satisfaction of subdivision ordinance for dedication of right-of-way width. The preliminary plat shows an additional 16.5 feet of ROW to be dedicated as measured from centerline of road. The Township has raised comment that 33 feet of ROW be dedicated. Mr. Boyce indicated he was agreeable to either width of ROW dedication as requested by the Township.

Submitted Public Correspondence:

Timothy Devick – 41629 Peterson Avenue, is opposed to the development. First concern is the road will not be able to handle the load and stress of additional traffic. Second concern is the County GIS maps indicated the property is divided into four twenty acre parcels. If fully developed, it would include sixteen new homes, septic systems, and wells with impact on water quality and sanitation. Third concern is the impact of additional homes to surrounding wildlife and quality of life due to noise pollution as well as unsightly yards. The development will have a ripple effect through this area and will continue to grow through the final phase on this 80 acre parcel. It will impact those living on Peterson Avenue as well as those living nearby.

Fred Peterson – 41615 Peterson Avenue, is disappointed in Amador Township that has determined this subdivision was the best thing for our township. I am against any subdivision of less than 10 acres on Amador Hill. The new landowner purchased the 80 acres and divided it down to four – 20 acre plots and this request is only the beginning of the development of this beautiful agricultural acreage. Acreage that I was told was purchased for hunting. This proposal would destroy some of the best farmland in the area and ruin the tranquility on Amador Hill. If this request is granted, the whole 80 acres will be developed at an additional 16 residences or more using a single lane dirt road. I want the request denied to this initial re-platting until the landowner shows a well thought out plan for the entire 80 acres that should include: Keeping some acreage in agricultural and solar farm, hunting area, develop the old “Peterson farm” first, maintain the historic silo, road easement placed down the center of the 80 acres not along the north edge of the property, and road improvements of the “old cart path” should not be placed on existing residents it should be on the owner and developer of the land. Also, there are no similar developments this far from a city or town and implore the Planning Commission to slow down and take a look at this request. If this beautiful acreage is destined for development then the landowner should be held responsible and provide a detailed plan for the whole area.

Maureen Peterson – 41615 Peterson Avenue, is in opposition to the approval of the preliminary plat and not aware of, nor party to Amador Township meeting on this matter. First concern is five acre plots would be an eyesore to Peterson Avenue, prefab houses and pole barns would detract from the individuality of the neighborhood. Second concern is the road cannot support additional traffic and load. I do not want my taxes increased to pay for the repair and I am not interested in having the road paved. Third concern is our area is quiet and neighbors are far enough apart that we do not impede in each person’s daily lives. Additional noise will be unacceptable. Fourth concern is my ability to work from home and additional noise and occupancy of new residents will be very distracting and will cause me to shut the windows. Fifth

concern is impact on wildlife in the area. Once gone, the wildlife will never come back. Mr. Zerwas could buy all the land around Amador Hill and develop it. His interests are purely financial, with no regard to the concerns outlined above. This proposal has long-reaching implications and this development in our peaceful, quiet community will shatter the existing tranquility of our neighborhood.

Jacquelyn Zita – 41960 Peterson Avenue, is against the proposed subdivision on Amador Hill along Person Avenue, a back-country gravel road that runs into a dead end. Many of us who live and work on Amador Hill deeply appreciate the beauty and quiet while cherishing the remarkable AG land. As a farmer on the Hill, I can attest to the productivity of the land and the subdivision is exceptionally poor use of agricultural land. This proposal will double our population and create more congestion on a narrow dead end road. This kind of subdivision should be closer to our towns and cities and in areas that can sustain increased traffic and pop-up compacted neighborhoods. I believe 10 or even 20 acres per home would be a better policy and more appropriate land use in the AG District. I urge you to stop this ill-plotted request and consider a change in the county policy that would no longer allow multiple five acre per house subdivisions to cut up and cut away our precious farmland. Residential homes and farms on Amador Hill are owned by people who moved to the country to get away from crowded neighborhoods, congested traffic, and small acreage. This request is located in the wrong place and without serious consideration from the residents on Amador Hill.

Warren White – Amador Township Engineer, listed concerns on behalf of Amador Township for the proposed plat. First concern is drainage patterns were not shown on the preliminary plat drawing, since some of the land drains towards Peterson Avenue and other portions of land drain toward the Saint Croix River. Second concern is the 1987 Road Declaration by Amador Township which is not reflected in the preliminary plat drawing. The recorded document declared 33 foot either side dedication and the proposed plan only offers 16.5 foot of street dedication off the west side of the subject property. The preliminary plat should reflect the 1987 declaration. Third concern is the condition and safety of Peterson Avenue in current condition; which needs to be considered as the township enters into a Developer Agreement. Mr. White provided additional documentation on upgrading and changes needed for Peterson Avenue to assure safe road standards are met. The developer will need to escrow funds and Mr. White provided a proposed budget that totaled \$250,000 to bring Peterson Avenue up to standards. The township developed a ghost plat of the remaining property of 24 properties at \$400,000 each. A total value of the ghost plat was \$9.7 million. To accomplish the criteria of the Township's adopted road policy, the plat proposer should escrow 16% in 2021 of the estimated improvement cost to the township's road fund. The developer will be expected to contribute \$40,000 escrow (16% of \$250,000) towards Amador Township road fund to bring the road up to standards.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Zerwas preliminary plat. Mr. White was available for comments and questions on behalf of Amador Township. Mr. White reviewed the documentation he provided and summarized the ghost platting, road budget and developer agreement. John Sutcliffe questioned Mr. White on the escrow amount and if that has been negotiated with the developer. Mr. White indicated the agreement has not been discussed yet with the developer. The road improvements will be widening to 32 ft., upgrade the roadbed, laying additional gravel, and paving. It was discussed if the developer agreement needed to be established prior to final plat or decision from the County Board.

Lin Strong - Amador Township Chair reported the Township would like to amend the Township's approval and include Warren White's recommendations due to concerns and comments from neighbors.

With no additional person wishing to speak, **motion** by Frank Storm to closed the public hearing. Second by John Sutcliffe and carried unanimously. Chair Johnson asked each Planning Commission member for additional questions and comments. Mr. Boyce provided brief background on the property and owner's intent for the whole 80 acre parcel. He reviewed the reason for the easement on the north end, drainage

and progress towards improving the original homestead and septic. Mr. Boyce asked clarifying questions on the township's developer agreement and process of the proposal. Coordinator Jagoe indicated a developer's agreement is not a requirement of all plats and varies by proposal. The Planning Commission could add a condition to the motion that the Developer establish an appropriate development agreement with Amador Township as the road authority concerning the dedication of ROW, road treatment, maintenance, and access prior to final plat approval. Jim Froberg indicated Amador Township has road authority and the developer agreement should have been done when the township reviewed the project. Jim McCarthy reviewed concerns on five acre subdivisions, lack of preserving agricultural land and not complying with the County's Comprehensive Plan. Frank Storm indicated the Planning Commission does not get involved with the developer agreement since it is between the township and developer. John Sutcliffe indicated the developer agreement should have been negotiated prior to review and the township road should be brought up to standard. Frank Storm and Chair Johnson inquired on tabling for a time extension. Coordinator Jagoe indicated the Planning Commission could recommend to the County Board to extend the 60-days or the Applicant could express a willingness to extend the review timeline based on discussion. **Motion** by Frank Storm to recommend an extension of the initial 60-day period for Preliminary Plat "Amador Hilltop Estates" for four residential lots, 41275 Peterson Avenue, PID# 01.00212.00. Second by Chip Yeager. **Motion** by Frank Storm to amend the motion that the 60-day extension is to allow time for further discussion between the Applicant and Township as the road authority in satisfaction of concerns raised which may include changes to the preliminary plat and establishing a development agreement with Amador Township. Second by Chip Yeager. Roll call vote was taken and motion carried unanimously. Jim Froberg was absent from the vote due to loss of internet connection.

John and Karen Schulte - Coordinator Jagoe presented background information on Schulte's preliminary plat application for "Second Lake Estate". The Schulte's have a purchase agreement to purchase both parcels. Their intention is to build their house on Outlot A and a detached accessory building on Lot 1. The parcels combined total 48 acres, zoned AG within the Shoreland Overlay on the north side of Second Lake and would be considered a riparian lot. In 2003, the St. Croix Plat was created to subdivide two lots. Lot 1 was 12.2 acre parcel to be sold for development. Outlot A was 35 acre parcel with restrictive language that no further development that will take place on the Outlot. Due to the restrictive language of the plat approval on no further development on the Outlot a "lot combination" could not be handled administratively. Chisago Lake Township Board reviewed the preliminary plat on December 15, 2020 and approved with no conditions. Plat Review was held on December 9, 2020 and Lot 1 has demonstrated one acre of buildable area when platted in 2003. Public Works Director had no issues with access as shown, access permit will be required. The wetland delineation was verified and approved with the following recommendations: Surveyor shall locate and survey all delineated wetland areas, silt fencing shall be installed around all delineated wetlands along driveway and building envelopes/construction areas, including the detached structures, driveway location shall be shifted to south edge to avoid wetland impacts, and installation of a culvert will be required in the lowest point of the driveway at the drainage easement as identified on the plat. Milo Horak was available to address questions and concerns on behalf of John and Karen Schulte. Chair Johnson asked each Planning Commission member for additional questions and comments. Chip Yeager inquired to the location of the buildable area on the preliminary plat. Coordinator Jagoe indicated it was not displayed on the preliminary plat under review since the ordinance requirement was satisfied with one buildable lot as exists today.

Coordinator Jagoe identified members from the public on audio and asked if they would like to speak on the Schulte's preliminary plat, but no one wished to comment. With no additional person wishing to speak, **motion** by Frank Storm to closed the public hearing. Second by Jim Froberg and carried unanimously. Each Planning Commission member was asked for additional questions and comments. **Motion** by Jim Froberg to approve Preliminary Plat "Second Lake Estate" for one residential lot at XXX Morgan Avenue, PID#02.00317.01 and 02.00317.02 as outlined in the Staff's report, site plan, and narrative of record. Second

by Frank Storm. **Motion** by Jim Froberg to amend the approved Preliminary Plat with the following conditions.

Conditions:

1. The Surveyor of said project shall locate and survey all delineated wetland areas.
2. Silt fencing shall be installed around all delineated wetlands along driveway to be installed and building envelopes/construction areas (i.e. including detached structures).
3. Driveway location shall be shifted to south edge of property to avoid wetland impacts.
4. Installation of a culvert will be required in the lowest point of the driveway at the drainage easement as shown on the plat.

Second by Frank Storm. Roll call vote was taken and motion carried unanimously.

Chair Johnson asked if the group would like a recess. **Motion** by Jim McCarthy to recess for ten minutes. Second by Frank Storm. Roll call vote was taken. The motion passed with Jim McCarthy, Frank Storm, John Sutcliffe, Chip Yeager, Dave Whitney, and Shellene Johnson in favor. Opposed was Jim Froberg. Meeting resumed at 8:40 pm. Chair Johnson conducted a roll call. A quorum was established with members present.

Old Business:

One Acre Buildable/Septic Ordinance Review & Update

Director Schneider provided a brief overview of the December 3, 2020 meeting and draft ordinance amendments with striking and/or incorporating language as directed from the Planning Commission. The revisions prepared of existing ordinance(s) provisions and strike/adjust language based on four ordinance requirements presented by Chair Johnson and are under consideration:

1. Remove one acre buildable from the Chisago County Ordinance; and amend the Chisago County Septic Ordinance.
2. Follow the Minnesota State Septic System Construction Standards which were developed by experts and soil scientists at the University of Minnesota and are reflected in Minnesota Statutes/Rules to determine whether a lot is buildable or not.
3. Allow Type 1, Type 3, and 4 septic systems as allowable and defined by the State of Minnesota guidelines/statutes/rules for new, and already existing, parcels to meet septic requirements.
4. Allow holding tanks for seasonal property, or if no other septic option is available.

Director Schneider indicated staff has not inserted, substituted or amended language in place of the one acre buildable standard. Chisago County Ordinance 10-1 Section 6.02.D is more restrictive than requirements by the Minnesota Pollution Control Agency (MPCA). Director Schneider briefly reviewed MPCA's minimum septic system site/type requirements of MN Rule 7080. Chisago County does allow holding tanks as a replacement system, but as a last resort. MPCA staff stated, at a minimum, a standard three to four bedroom house would require a minimum 3,000 square feet of tested soils and puts emphasis on the outcome of two sites that can support a Type I septic system. Jim Froberg inquired as to why Type 2 septic systems were not listed in #3. Chair Johnson acknowledge the error and noted she had missed listing Type 2 septic systems in her request. Director Schneider concluded the documents and information provided were to address concerns related to the ordinance and changes under consideration and asked how the Planning Commission would like to move forward. Chair Johnson asked each Planning Commission member for additional questions and comments.

Chip Yeager stated he supported using 5,000 sq. ft. per septic site, but would not remove the one acre buildable from the ordinance, and would like community input on the ordinance review. Chair Johnson affirmed her opinion that one acre buildable was far reaching, unreasonable and beyond the scope of building a home. A septic system is separate from building a home. The County could use smaller sq. ft. for septic and buildable area for a new home. Frank Storm stated concerns with removing one acre buildable and reducing the sq. ft. for septic systems. Homeowners have put

detached accessory buildings on the second septic site without a reduction in sq. ft. and questioned what homeowners would do with less sq. ft. Frank Storm stated he was not in favor of removing one acre buildable and supported gathering additional input and consideration prior to a public hearing. Jim McCarthy discussed his vision to update the zoning districts. He questioned if a ¼ acre or what the minimum lot size would be to support a standard house with detached buildings. He supported finding areas for denser development. County Commissioner DuBose stated one acre buildable has nothing to do with building a house, installing a driveway, or connection to septic system as far as in terms of the word buildable. Director Schneider reviewed a typical five acre lot that included a house, driveway, detached building and area for two septic systems. Dedicated space totaled ½ acre. Director Schneider confirmed the one acre buildable ordinance had been used for some time and had been initiated to slow development. Dave Whitney supported additional input and consideration prior to a public hearing. He requested clarification if outside soils could help meet the 12" mottled soil requirement. He supported striking the needed 10,000 sq. ft. for septic systems and let professionals decide the minimum sq. ft. required for a septic and double it on an individual lot basis. Dave Whitney questioned if the County or City of Lindstrom would administer septic standards for Lindstrom's Extraterritorial Subdivision area. He stated new lots in the Extraterritorial Subdivision will not meet standards and questioned if one acre buildable is removed; what would be the sq. ft. standard.

John Sutcliffe inquired as to why the county has the one acre buildable on a five acre lot. Director Schneider provided brief overview on one acre buildable and noted one acre buildable has helped prevent lower quality land/poorer drained soils from being built on. Based on building experience, houses built on poorly drained soils may have foundation issues and septic systems may not function properly. Chair Johnson asked if one acre buildable was separate from the required 10,000 sq. ft. for septic systems. Director Schneider reported since 1997 the ordinances have applied the same soil parameters; however, one acre buildable and septic systems are separate. Chair Johnson stated the County had arbitrarily set one acre buildable. Jim McCarthy indicated split level house foundations in wet soils are impacted. One acre buildable has helped reduce development on wet soils, but perhaps pushed development on prime agricultural land. He probed what the Planning Commission would like to accomplish with/without the ordinance changes. Chip Yeager reiterated he supported adjusting and reducing the septic system sq. ft. He stated even though one acre buildable was arbitrarily set, it was not necessarily a bad idea for the ordinance. John Sutcliffe supported removing 12" of mottled soils from one acre buildable and not developing prime agricultural land; however, people should not be discouraged to develop of their land. In his experience, he has seen landowners build detached buildings on the second septic system site and 10,000 sq. ft. does allow room for septic installers to expand on an existing system. John Sutcliffe indicated he would like to discuss some questions with the County Sanitarian on MN Rule 7080.

Dave Whitney reported Jim Froberg had lost internet connection with the meeting and will not be attending the remaining portion of the meeting. Dave Whitney agreed with Jim McCarthy's comments and concerns regarding five acre developments along roads. He supported exploring options for one acre buildable in order to assist proposed developments to cluster because it forces lot sizes to be larger. Jim McCarthy indicated townships are bearing the cost burden of paving roads. Goal is finding the most cost effective way while minimizing infrastructure and maximize revenue off of land; we are not doing a good job either way.

Lengthy discussion followed by all members on the logistics of gaining expert input on changes with the septic ordinance, community engagement and scheduling a public hearing. **Motion** by Frank Storm to have staff establish a special meeting date for discussion with MPCA staff, County Sanitarian, and other local experts. Second by Chip Yeager. Discussion followed on the nature and form of

community engagement/open house to be held and a public hearing. County Commissioner Chris DuBose suggested holding the public hearing. **Motion was withdrawn** by Frank Storm. Second withdrawn from Chip Yeager. Jim McCarthy suggested creating a list of questions and changes on the ordinances and invite a panel/experts to educate and address the questions of the Commission prior to a public hearing. Chair Johnson reviewed an assortment of options that have been presented. Director Schneider indicated MPCA staff are likely to provide a written response to questions instead of in-person attendance at a public hearing. A subcommittee would be beneficial to assure all concerns and questions have been gathered and help determine who would be appropriate to address them. **Motion** by Dave Whitney to have staff and a subcommittee collect and assemble Planning Commission Members questions on the septic and one acre buildable ordinances for the February Planning Commission meeting. Second by Frank Storm. Subcommittee members are Chair Shellene Johnson and Commissioner Dave Whitney. Roll call vote was taken with Jim Froberg absent from discussion and vote. Motion carried unanimously.

Commercial Shooting Range Ordinance

Motion by Frank Storm to table the Commercial Shooting Range Ordinance to the Planning Commission's June 3, 2021 meeting. Second by Jim McCarthy. Roll call vote was taken and motion carried unanimously.

New Business:

Review of 2021 Meeting Dates

Coordinator Jagoe reviewed the 2021 Planning Commission meeting schedule. Planning Commission Meetings will be held on the first Thursday of every month, starting at 7:00 pm. and affiliated tour is conducted on the preceding Tuesday, starting at 9:00 am. Discussion was held on Special Work Sessions to continue working on the ordinance review. Discussion included meeting start time and electronic vs. in person. **Motion** by Jim McCarthy to approve the 2021 Planning Commission meeting schedule with Special Work Sessions scheduled for the third Thursday of each month, starting at 6 pm, using the electronic meeting format. Second by Chip Yeager. Roll call vote was taken and motion carried unanimously.

Review of Rules of Order and Operating Policy

Motion by John Sutcliffe to establish Resolution #20/0617-1 for Commission Structure, Meeting Order, and General Procedure. Second by Frank Storm. Roll call vote was taken and motion carried unanimously.

ADJOURNMENT: There being no further business, motion by Frank Strom and second by John Sutcliffe to adjourn. Meeting was adjourned at 10:16 p.m.