

**OFFICIAL PROCEEDINGS OF THE
RICE COUNTY PLANNING COMMISSION
Commissioner's Room / Government Services Building
Thursday, September 6, 2018 at 7:51 p.m.**

I. Call to Order

- A. Roll Call - The meeting was called to order by Chair Tom Sammon at 7:51p.m. Members present were: Tom Sammon, Preston Bauer, Michael Streiff, Charlie Peters. Staff present were: Director Julie Runkel, Zoning Administrator Trent McCorkell, Planner Nicole Bonde-Jones, Administrative Coordinator Anna Aguilar, Brandy Leon. Others present: see sign-in sheet. Members absent: Aramis Wells. Commissioners present: Jeff Docken.

B. Reading of Notice

Motion by Bauer, seconded by Peters, to read the notice into the minutes.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

C. Motion by Peters, seconded by Bauer, to approve the agenda as presented.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

D. Motion by Streiff, seconded by Bauer, to approve the minutes of August 2, 2018.

RESULT:	Approved [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

II. Old Business

1. Conditional Use Permit/Rypkema - Section 1, Webster Township

Gerald & Katherine Rypkema have applied for a Conditional Use Permit for an Agricultural related equipment sales business. The property is described as: The SE1/4 of the NE1/4 of Section 1, Webster Township, Rice County, Minnesota. The property address is: 3450 Hazelwood Ave, Webster, MN 55088. PID #: 02.01.1.75.002. The property is Zoned A, Agricultural.

Motion by Peters, seconded by Streiff, to recommend approval of the Conditional Use Permit with the following findings and conditions for Gerald & Katherine Rypkema. The property is located in Section 1 of Webster Township.

RESULT:	Referred for Approval [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

CONDITIONS OF APPROVAL - Conditional Use Permit - Rypkema

1. The applicant is to follow all Federal, State, County and Local rules and regulations.

2. The conditional use permit is for an agricultural equipment sales business. Changes to the business are not permitted without approval of a new/amended permit.
3. The submitted site plan shall be followed.
4. A stormwater management plan shall be created and implemented meeting all state, federal and local requirements.
5. A right turn lane off of County road 46 shall be installed at the applicant's expense by not later than September 1, 2019. Design and specifications of the proposed turn lane must receive approval of the Rice County Highway Department prior to installation of the turn lane.
6. Outdoor storage shall consist of storing materials west of the proposed building and be screened to the shared driveway and neighboring properties. Screening shall consist of a mix of evergreens and deciduous trees as shown on the approved site plan with the initial planting consisting of trees at a minimum of 4-ft in height and not more than 20-ft in spacing.
7. All vehicles and trailers stored/parked outside shall be operable and have a current license.
8. All buildings shall meet building code for the intended use.
9. Failure to comply with conditions may result in revocation of the conditional use permit.

Hearing Minutes:

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

TM - Possible wording for Condition #6, the outdoor storage shall consist of storing materials west of the proposed building and be screened to the shared driveway and neighboring properties. Screening shall consist of a mix of evergreens and deciduous trees as shown on the approved site plan with the initial planting consisting of trees at a minimum of 4-ft in height and not more than 20-ft in spacing. That is fairly standard as to what you have approved for screening conditions in the past.

The PC asked the applicant, Gerald Rypkema (GR), to come forward to add comments or answer questions regarding the request.

GR - It is pretty straight forward on what we updated on the site plan.

CP - For condition #6, you are aware of the outdoor storage?

GR - Yes. The only thing I would add is there will be a fence on the north side with wood lath to block anybody looking through from the roadway. That will be an addition. I also want to do some prairie grass with some out cropping to make it look better.

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

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

Discussion:

PB - The updated site plan looks good. I am just curious with the County Highway department and their wording requesting a right turn lane. I have seen other projects that have added a right turn lane and a bypass lane on the other side to not stop traffic. I do not understand the reasoning why you would not have a bypass lane as well. That is up the County Highway department but I have seen projects that have both. I just question why only one with this project.

JD - I think volume of traffic makes a difference as far as adding a bypass lane. The condition is for the right turn lane which is pretty standard and that right turn lane has to be done per the County Engineer. I think the volume of traffic is pretty minimal from the south. I am thinking we are looking at most of the traffic coming from the north with the I35 intersection and the new roundabout.

CP - I will make a motion for approval with the 9 conditions and the rewording of condition #6 as TM stated.

MS - I'll Second.

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

III. New Business

1. Conditional Use Permit/Pickard (Ludewig/McDonough) - Section 36, Webster Township

TruNorth Solar, on behalf of landowners Christopher Ludewig & Tammy McDonough, has applied for a Conditional Use Permit (CUP) to place an accessory ground-mounted solar array not elevated on fill within the flood plain. The property is described as: Part of the SE1/4 of the SE1/4 of Section 36, Webster Township, Rice County, Minnesota. The property address is: 8981 Aberdeen Trl, Northfield, MN 55057. PID #: 02.36.4.26.013. The property is Zoned RR, Rural Residential.

Motion by Bauer, seconded by Peters, to recommend approval of the Conditional Use Permit with the following conditions and findings for TruNorth Solar, on behalf of landowners Christopher Ludewig & Tammy McDonough. This property is located in Section 36 of Webster Township.

RESULT:	Referred for Approval [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

CONDITIONS OF APPROVAL - Conditional Use Permit - Pickard (Ludewig/McDonough)

1. The Conditional Use Permit is for the elevating on two 12-ft by 40-ft accessory solar panel systems on pilings above an elevation of 999.0-ft., subject to compliance with all other applicable rules or regulations.
2. The permittee shall comply with all rules, regulations, requirements, or standards of the Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps of Engineers and other applicable federal, state or local agencies.
3. A certificate of survey verifying the final elevations shall be submitted to Rice

County Environmental Services prior to the final connection of the solar panels.

4. 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).

The PC asked the applicant, TruNorth Solar (TNS), to come forward to add comments or answer questions regarding the request.

TNS - Marty on behalf of TruNorth solar.

TS - Can you fill us in on this project a little more? Such as the elevations, etc.?

TNS - I am filling in for another employee and am not completely familiar with the project. What would you like to know?

TS - How many feet above the flood plain level are the panels?

TM - The ground area where it is located is very close to the flood plain elevation, maybe a foot or so off. The question would be how far is the bracket coming from the ground to the panel?

TNS - The dimension is drawn in the engineering documents in your packet. The bottom of the solar array, call it the elevation from ground level to the bottom of the array, is about 48-inches. The array sits about 132 inches at a 30 degree angle. The lowest part of the panels is about 48 inches and then down to the ground level which is about plus or minus a foot from the flood plain.

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

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

Discussion:

PB - It makes sense if they want to install a solar array. I will make a motion for approval with the 4 conditions.

CP - I'll second that.

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

- 2. Conditional Use Permit/Beisner (Morris) #2 - Section 27, Morristown Township**
Chuck Beisner, on behalf of landowners Mark & Barbara Morris, has applied for a Conditional Use Permit (CUP) for a second 1-MW solar energy production facility at this location. The property is described as: Part of the SW1/4 of the NW1/4 and Part of the SE1/4 of the NW1/4 of Section 27, Morristown Township, Rice County, Minnesota. PID #: 13.27.2.50.001. The property is Zoned UR, Urban Reserve.

Motion by Peters, seconded by Bauer, to recommend approval of the Conditional Use Permit with the following conditions and findings for Chuck Beisner, on behalf of

landowners Mark & Barbara Morris. This property is located in Section 27 of Morrystown Township.

RESULT:	Referred for Approval [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

CONDITIONS OF APPROVAL - Conditional Use Permit - Beisner (Morris) #2

1. The landowner and operators shall comply with all rules, regulations, requirements, or standards of the Minnesota Public Utilities Commission, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps of Engineers, and other applicable federal, state or local agencies.
2. The Conditional Use Permit (CUP) is for a 1-MW solar energy production site as shown on the approved site plan, subject to meeting all setback and access requirements.
3. Security fence shall consist of fencing meeting state and federal electrical code requirements.
4. All required permits shall be obtained prior to onsite construction.
5. As soon as onsite construction is completed all areas of the site, excluding the access roads and electrical equipment pads, are to be established and maintained in Agricultural crop production or a perennial vegetative cover.
6. All electrical lines internal to the site shall be buried underground.
7. A stormwater plan and proof of compliance with state/federal stormwater regulations shall be submitted to Rice County Environmental Services with the application for building permits.
8. A road agreement with Morrystown Township shall be developed prior to construction. The agreement is to address road maintenance during site construction.
9. The applicant or operator shall furnish Rice County with a \$50,000 bond or other approved financial surety to ensure proper site decommissioning/restoration and to ensure road repair or other off-site damages caused by construction or operation of the facility. Financial surety shall be reviewed and approved by the Rice County Attorney's office prior to any work on-site.
10. The entire site shall be restored to a condition suitable for agricultural crop production within 18-months after the cessation of onsite electrical production.
11. Failure to comply with conditions may result in revocation of the conditional use permit.
12. This Conditional Use Permit shall expire and be considered null and void if no construction has begun within one year from the County Board approval date.

Hearing Minutes:

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

TM - This is the request for the site to the west.

PB - Going to the east property line, going north and south, is there some vegetation already there? It looks like that one large parcel to the east is crop land, correct?

TM - I am not sure what is to the east as that is within the City limits. There does appear to be a fence row between the property and the City and some smaller trees. The applicant can probably address that more.

The PC asked the applicant, Chuck Beisner (CB), to come forward to add comments or answer questions regarding the request.

CB - The property to the east is an open field currently in CRP. There is a tree line on that side of the property. The actual owner owns both parcels. We have read the 13 conditions and are agreeable to all the conditions. For condition #7, regarding screening, we do not propose any for a couple reasons. We are about 400-500 feet from the road line. The dark area on the photo is also in CRP so that provides some additional screening.

JD - What is the purpose of the split in applications?

CB - There will be two different companies that will be developing each garden separately. We co-develop gardens with another company in order to economy the scales as far as building.

JD - You have commitments from the other company?

CB - Yes.

TS - Where is the 3-phase line or where are you taking the power to? Is there a substation?

CB - The 3-phase line will go to the east and then to the north and back into the substation in Morristown.

TS - So it is feeding back into that substation and both sites would be using the same line?

CB - Correct.

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

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

Discussion:

TS - What is the thought on condition #7 and screening? Do we think there is a need? I question it.

PB - There is a wooded buffer around the building site and with the CRP land and the distance to the township road.

MS - Where is the road access?

CP - Right along the wood line coming north.

TS - Is that correct, the driveway would come north along that wood line to the property.

CB - Yes, you can see the property to the southwest that is heavily wooded. There is a road that comes up from the south and that property to the southwest is owned by this property owner's son. We will be getting an easement to use that existing roadway.

JD - That will be the access for both sites?

CB - Correct.

PB - As far as condition #7 and vegetation, use existing?

TS - We can delete it or reword it.

PB - Remove it?

TS - Strike #7 and have 12 conditions.

CP - I will make a motion for approval with the 12 conditions.

PB - I will second.

TM - In the agenda this item and the next were flipped, the east site was listed first and then this site to the west.

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

- 3. Conditional Use Permit/Beisner (Morris) - Section 27, Morristown Township**
 Chuck Beisner, on behalf of landowners Mark & Barbara Morris, has applied for a Conditional Use Permit (CUP) for a 1-MW solar energy production facility. The property is described as: Part of the SE1/4 of the NW1/4 of Section 27, Morristown Township, Rice County, Minnesota. PID #: 13.27.2.50.001. The property is Zoned UR, Urban Reserve.

Motion by Streiff, seconded by Peters, to recommend approval of the Conditional Use Permit with the following conditions and findings for Chuck Beisner, on behalf of landowners Mark & Barbara Morris. This property is located in Section 27 of Morristown Township.

RESULT:	Referred for Approval [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

CONDITIONS OF APPROVAL - Conditional Use Permit - Beisner (Morris)

1. The landowner and operators shall comply with all rules, regulations, requirements, or standards of the Minnesota Public Utilities Commission, Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, Army Corps of Engineers, and other applicable federal, state or local agencies.
2. The Conditional Use Permit (CUP) is for a 1-MW solar energy production site as shown on the approved site plan, subject to meeting all setback and access requirements.
3. Security fence shall consist of fencing meeting state and federal electrical code requirements.
4. All required permits shall be obtained prior to onsite construction.
5. As soon as onsite construction is completed all areas of the site, excluding the access roads and electrical equipment pads, are to be established and maintained in Agricultural crop production or a perennial vegetative cover.
6. All electrical lines internal to the site shall be buried underground.

7. A stormwater plan and proof of compliance with state/federal stormwater regulations shall be submitted to Rice County Environmental Services with the application for building permits.
8. A road agreement with Morristown Township shall be developed prior to construction. The agreement is to address road maintenance during site construction.
9. The applicant or operator shall furnish Rice County with a \$50,000 bond or other approved financial surety to ensure proper site decommissioning/restoration and to ensure road repair or other off-site damages caused by construction or operation of the facility. Financial surety shall be reviewed and approved by the Rice County Attorney's office prior to any work on-site.
10. The entire site shall be restored to a condition suitable for agricultural crop production within 18-months after the cessation of onsite electrical production.
11. Failure to comply with conditions may result in revocation of the conditional use permit.
12. This Conditional Use Permit shall expire and be considered null and void if no construction has begun within one year from the County Board approval date.

Hearing Minutes:

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

TM - This is the request for the east.

The PC asked the applicant, Chuck Beisner (CB), to come forward to add comments or answer questions regarding the request.

CB - I have nothing additional to add.

TS - Along the east side of this east site is there screening?

CB - There is existing shrubbery there.

CP - Is it mostly growth like box elder and stuff?

CB - Yes and a power line.

TS - In the red to the east is a field also?

CB - Correct, that is in CRP.

PB - The grade looks like it goes towards the road. Does the grade lean away from the City of Morristown at all? We have a power line on the east side and talking about screening, we cannot put much under power lines.

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

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

Discussion:

TS - What do we think for Condition #7?

CP - I think we strike #7 and have 12 conditions.

All in agreement.

TS - Remove condition #7.

MS - I will motion for approval with the 12 conditions.

CP - I'll second that.

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

4. Waiver of Plat/Kubes (Laurent) - Section 11, Erin Township

Chris Kubes, on behalf of landowner Gilbert & Margaret Laurent, has applied for a waiver of plat to split an existing parcel into three parcels. The property is described as: The E1/2 of the SE1/4 and part of the SE1/4 of the NE1/4 of Section 11, Erin Township, Rice County, Minnesota. The property address is: 10780 Halstad Ave, Lonsdale, MN 55046. PID #: 05.11.4.00.001. The property is Zoned A, Agricultural.

Motion by Bauer, seconded by Streiff, to recommend approval of the Waiver of Plat with the following conditions and findings for Chris Kubes, on behalf of landowners Gilbert & Margaret Laurent. This property is located in Section 11 of Erin Township.

RESULT:	Referred for Approval [Unanimous]
AYES:	Streiff, Bauer, Sammon, Peters
ABSENT:	Wells

CONDITIONS OF APPROVAL - Waiver of Plat - Kubes (Laurent)

1. Each parcel shall only contain one single family dwelling.
2. Any new construction on the parcels is to adhere to all Rice County codes and ordinances.
3. The remaining parcel(s) shall not be further subdivided unless approved under the Rice County subdivision regulations.
4. Access shall be from Halstad Ave.
5. In-lieu park dedication fee of \$500 shall be paid prior to recording of the new parcels.
6. Recording of the new parcels shall be done within one year of the approval.

Hearing Minutes:

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

CP - All three parcels have a building right?

TM - They will yes.

The PC asked the applicant, Chris Kubes (CK), to come forward to add comments or answer questions regarding the request.

CK - They are selling their farm to cover an estate. We are dividing off the building site and creating one lot up in front. The rest will be farmland. I read the 6 conditions and the only question I have is on the park dedication fee of \$500. Is that only on the new lot being created on the corner?

TM - Yes, only on newly created lots.

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

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

Discussion:

PB - I will make a motion with the 6 conditions.

MS - I'll second.

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

5. Zoning Ordinance Text Amendment/Raines

Mikayla & Sandi Raines have applied for a Zoning Ordinance Text Amendment to Section 508 of the Rice County Zoning Ordinance to allow for the inclusion of "Possessing Regulated Animals/Wildlife Sanctuary" as a Conditional Use within the Agricultural, A Zoning District.

Motion by Peters, seconded by Streiff, to recommend denial to publish the Intent to Enact and to set a public hearing date for the Zoning Ordinance Amendment for Raines.

RESULT:	Referred for Denial [3 to 1]
AYES:	Streiff, Bauer, Peters
NAYS:	Sammon
ABSENT:	Wells

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

Mikayla & Sandi Raines have applied for a Zoning Ordinance Text Amendment to Section 508 of the Rice County Zoning Ordinance to allow for the inclusion of "Possessing Regulated Animals/Wildlife Sanctuary" as a Conditional Use within the Agricultural, A Zoning District.

Attached in the packet is a copy MN Statute 346.155. This statute addresses the possession of regulated animals.

As with all ordinance amendment applications the Planning Commission is being asked to hear the item and make a recommendation to the County Board of Commissioners. The County Board would then decide to either proceed with adoption of the amendment and send it back to the Planning Commission for an adoption hearing or they would deny the request and end the process.

PB - Is this use currently allowed in any of the County zoning districts?

TM - That use, No. This is a completely new category being proposed.

TS - Do any other Counties have this in their zoning ordinance?

TM - I have not done any extensive research on that.

The PC asked the applicant, Mikayla & Sandy Raines (MR & SR), to come forward to add comments or answer questions regarding the request.

MR - I am requesting that Rice County amend their zoning to allow what the Minnesota State Statute already allows which is a 501c3, non-profit wildlife

sanctuary. To fall under the statute, the requirements are: be a 501c3 non-profit; operate a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned or displaced wildlife are provided care; does not conduct any commercial activity; does not buy, sell, trade, auction, lease, loan or breed any animals. I would like to have Rice County amend their zoning text so we can better fit into the meaning of a non-profit wildlife sanctuary. I am currently a 501c3 non-profit, I possess a USDA DNR license and exhibitor license for educational purposes. I have taken necessary wildlife classes to deal with and handle these animals. We are a benefit to the community. We give educational classes to the schools. We have people come out to do their community service hours. We have even had animal control bring us exotic animals when no other sanctuaries have the licenses to take them and we do. I would also like to state we are not a zoo. We serve as a temporary placement for animals before they go to qualified homes. I believe you all received two handouts; one is from a school that we have done educational events at with exotic animals and the other is from Rochester Animal Control, they recently had obtained a fox and they had nowhere else to take it and we were able to take it in with our licenses.

TS - What is the normal time frame that you house an animal?

MR - The wildlife we work with does not come from the wild. The wildlife we work with is all captive bred. They are either pet surrenders or they are from fur farms or from petting zoos where they animals got seized. We take them in. We make sure they are healthy. We get them spayed or neutered. Then they go to a qualified home which is another 501c3 sanctuary or to anyone who is qualified to take care of that species of animal.

TS - How do you distinguish wild from not?

MR - We can only take captive wildlife and we know it is captive wildlife because they usually come with paperwork from the original breeder. A lot of the time breeders sell these animals to the public and then they realize a fox is a lot of work and shouldn't live in an apartment. Then they bring the animal to us.

PB - Do you have a list of animals that you will take?

MR - I want to be able to take in everything the State Statute already allows. You have copies of that. It would be anything that has paperwork that is injured or that we are asked to take by the DNR or Animal Control. Right now we just have licenses to take in foxes. I have taken in other species of animals, so I have dealt with them but not at the location I am at because I cannot have anything but foxes there.

CP - This section, Minnesota State Statute 346.155, that is what you can take in?

MR - Yes.

SR - She does have a fairly long list of people wanting to adopt these animals. Usually when they come in, they go out pretty quickly.

MR - We are only a temporary placement. I am not looking to take in and keep animals permanently.

CP - The question has risen, because we have had this discussion at our town board meetings about it, there are some line items on the list like (page 121 of the packet) all members of the cat family such as lions and tigers. Also bears and non-human primates. We have had discussions on whether that is an allowed animal there?

SR - You need to understand that these would be animals that were already someone else's pets. They are not getting a bear from up north.

CP - Disease is an issue. I know they are seen by a vet but I would like to strike some of these animals on the list if we did allow this.

MR - If you did allow this, I will have to come back and change my Condition Use Permit. You could then discuss what I can and cannot have for that. Even if you allow this, I am not currently able to take in anything but foxes. You would just be allowing

the County to have a wildlife sanctuary but there are all these rules people would have to follow. I am sure nobody is going to be able to hop right in and start a sanctuary.

TS - The item is for a zoning ordinance change and that is what you are addressing.

MR - Yes.

MS - Are the animals typically from Minnesota or can they come from anywhere in the US?

MR - They can come from anywhere in the US. We have taken foxes in from Utah for instance there was a petting zoo where all the animals were seized. If animals are traveling from another state, they have to have certifications and testing before they travel. That is a State & Federal law. That is something we do already.

TS - By that you mean a health certificate?

MR - Yes, exactly.

SR - The USDA can come and check her books anytime they want to see what is coming in and going out, to see if the animals are not staying very long, if they have gone to the vet. Everything is overseen by the USDA and even they have mentioned she needed to mow more because they wanted to be able to see the animals. There are a lot of rules

PB - So you are currently not in compliance?

MR - No.

TS - You are or are not in compliance?

MR - Sorry, yes I am in compliance. I am following everything I should do. Per my conditional use permit, I have to turn in all my licenses once a year. I had already turned those in prior to this meeting and if you were to take a look at them, everything is 100%. I do not have any mark-offs or anything.

MS - I know this is an amendment in front of us but this statute allows you to house the animals there for life, even though your business practices are short term.

SR - We do not want them there for life.

MS - But the statute does allow it if I am reading it correctly.

PB - The way it is worded in the statute opens the door for many things.

SR - If you ever go by the site, there has been extensive fencing put in, even beyond what you required.

MR - All of our animal fencing has lean-ins at the top and that is just for the parameter fence. The animals also have an enclosure with a parameter fence with a lean-in to prevent climbing over and a dig guard to prevent climbing out. That is only if they were to get out of their actual enclosure and that is a rule for the DNR and USDA.

TM - As it was mentioned, this item is just an ordinance amendment and not specific to a site. I did have a question for the applicant. They say their site is in compliance but we have not visited the site at this point to determine that. One document that I did receive recently was a veterinary inspection letter and that listed fox, mink, raccoon and bobcat. Again this is not dealing directly with that site but those are issues I do need to have a discussion with the applicant about because if those animals are on that site, that is not allowed per the Conditional Use Permit.

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

Jeremy Yates (JY) - Addressing the bobcat and the mink, MR has another spot in Sandstone where she moves animals up to because the city regulations with her permit only allow fox. I met MR three years ago. She called me. She said she would

take in young fox pups and I run a fur farm. Nobody has experience taking a 10 day old fox. Two weeks later I got a fox dragging pups around the cage. I am going to lose these pups anyways, so I called her back and told her she could take three of the pups. She produced the most phenomenal animals out of them. The point I am trying to make is very few people in the country know how to handle these animals and care for them. She made a believer out of me. I have surrendered pups because the fur farmers do have problems with breeding. Sometimes you get a nervous female. They will chew ears and tails off. Rather than euthanize these animals, we need people like MR in place to take these animals. When we talk about wildlife sanctuary, it lists lions, tigers and bears but those animals are not in society anymore. I have been in the animal business over 30 years and I could not find a lion to sell you to save my soul because they are gone. The animals she is referring to are the DNR indigenous animals to the state of Minnesota. The foxes can come from other places. Anybody can see the difference between a wild fox and pen raised one. I have 36 colors of fox that you will not see in Minnesota, other than the standard bred reds. The point I am trying to make is we need people like her where ever in the country to take care of these animals that need homes because the breeders do sell these pups to people who have no idea what they are getting into. They have to have somewhere to go. It is not only fox but other animals through the DNR too.

PB - Are the fox returned to you once they reach adult stage?

JY - No. There is a reason for that. She will place them with someone who can handle a fox. As a breeder, the only thing I want is the top 60% of what I raise. I do not want someone's pet back in my facility. I cannot breed it. The agreement we have is she has to have them spayed and neutered because I have genetics no one else in the country has and I don't want those genetics floating around. When they spay and neuter them it is done, they cannot be used for breeding.

Sam Sunderlin (SS) - I live across the street from the proposed site. I understand we are here discussing an ordinance for the entire county but I also understand that she would like to have a sanctuary across the street from us. I have a few concerns. I have been out of state for about two and a half weeks. I came home yesterday and started researching this. One of my biggest concern is that the Minnesota Statue is unclear, at least to me. It lists provisions for the protection of the animals and the neighbors but at the end of the provisions it states exceptions, this section does not apply to zoo and aquarium association facilities and it says wildlife sanctuaries. It is unclear to me what regulations actually do apply to wildlife sanctuaries. I was unable to find an answer to that. Trent were you able to reach any one on that as well?

TM - No.

SS - In my mind it is unclear what is being requested. In reading through this, say a wildlife sanctuary is exempt, it talks about if an incident should happen where there is bodily harm and the penalties listed are so minimal. I understand she is hoping to do indigenous animals but that is not what is being requested. My concern is that she may end up with native Minnesota animals but my concern is what is being requested could morph into something bigger where someone might not have the qualifications she does. It may not be easy to get one of these tax exempt statuses but it can be done. If someone has enough money and they want to have exotic animals, they could do it as well. I am urging caution that if you determine you would like to have a wildlife sanctuary, that you are very carefully. I don't think we need lions, tigers and bears in the hands of people who do not know how to handle or care for them. I am just urging caution.

Chair Sammon closed the public testimony portion of the item to the public

Discussion:

Applicant called back up.

MR - I just wanted to address the other animals TM mentioned. When I turned in all my licenses to TM, it lists all the animals that I deal with to include transfers. Sometimes the DNR will bring a pet raccoon to us. We cannot keep a pet raccoon on our site, so I transfer it to our other location but it still has to be documented. The other animals listed are those animals and the city can come inspect us whenever. Just give us a call and you can come out.

PB - In the state statute, where does it say fox are a regulated animal?

MR - I don't have the state statute with me but I do not think they are a regulated animal because people can buy them as pets in Minnesota which is a big issue. That is why we get a lot of pet surrenders.

JY - To be clear on that, fox is not regulated by the state as far as a fur farm status. As soon as you move into the pet side, the USDA regulates them. It is not a state statute. It is either USDA or you have to be deemed a fur farmer. For my own collections of breeders, I do not have to have one slip of paper that says anything and I am considered legit. With what she has, she has to have paperwork on everything because of the USDA.

PB - The only animal you have listed on here is a bobcat that is under the feline family?

MR - That is the only animal I have dealt with, yes.

PB - Or that you have in possession?

MR - Yes, at our other location.

CP - I see what she is trying to get at. I think we have to change the wording on the animals allowed. Yes, it would need a Conditional Use Permit, correct?

JR - Correct, but remember it is hard to deny a Conditional Use Permit when you have approved the use. Also, foxes keep getting brought up tonight but we are not really considering them because we already allow them under a Conditional Use Permit as a domestic kennel. This amendment is to allow a wildlife sanctuary with all the animals listed in State Statute as a conditional use for all of the Agricultural district.

CP - If she wanted to get mink or bobcat now, does she have to have this statute passed or can she get a Conditional Use Permit to allow those extra animals at her location.

TM - I believe fox are defined differently, similar to livestock and similar to those raised on a fur farm. Mink might have been in that same category. Bobcat is not.

CP - So if she had a bobcat, she could not come in and get a Conditional Use Permit for that currently?

TM - No.

Applicant came back up.

MR - I would like to address some of the concern of if you were to allow the wildlife sanctuary and the scare that others might try to do this too. It is really hard to qualify under the state statute because you have to be a 503-1c, non-profit and that takes awhile. I have it and it took me over a year to get it. It is a lot of back and forth with the IRS. They really make sure you are doing something that is legit. There are a lot of licenses that go with qualifying to be under that statute.

JD - Tonight is for a zoning ordinance amendment and I believe she has a noble cause as far as what she is doing with the foxes but this opens up a whole new can of worms if you start looking at all the different regulated animals that we are talking about. I understand what you are saying about trying to narrow the list down but I am not sure

you want to adopt anything other than what the state of Minnesota and what they identify as such. Could you do that in a Conditional Use Permit, I imagine you could but keep in mind every decision you make, all the findings you make to make your decision solid, so someone does not challenge that decision. I think you would have a hard time in many situations if someone came before you, after another person already had a Conditional Use Permit. What are you denying it on? When you read all of the animals, I would be pretty cautious.

CP - I agree. With reading this statute, I make a motion to deny.

MS - I'd second that. I do not think it is a compatible use in our Agricultural district. With all the things that are possible with this, I think there are a lot of administrative pieces the County would have to deal with if one of these goes sideways. I second the denial.

Applicant came back up.

SR - The biggest problem you have is all of the animals that are listed in the state statute. No matter what is listed there, anybody would have to come back to you for a Conditional Use Permit. She only has a Conditional Use Permit right now for foxes. If she wanted to add anything, she would have to come back and file another Conditional Use Permit to amend hers to add other animals. At that time, you can say "we do not want you to add this" or "you can add this but you cannot add a bear". At that point, that is when you have the jurisdiction to decide what is allowed. We are asking to change the ordinance wording to match what Minnesota's statute says but that does not mean you have to follow that when someone is coming in for a Conditional Use Permit.

CP - We understand that but as it was stated by staff, if we allow you to have certain animals and then another person comes wanting to have different regulated animals that are listed in the statute and we deny that, we open ourselves up for legal issues.

SR - You have to have a lot of other things come before that. If someone wants a baby gorilla, have they talked to the USDA? Have they got the appropriate licenses? Are they a 501c? Right in that law it say they have to be a 501c3. It is really hard to get that and it is really hard to get your USDA license. Just your normal person would not be coming in asking to have a baby gorilla.

TS - The point being, we would have a tough time legally, based on history, denying an animal and a Conditional Use Permit for anything on this list.

PB - Exactly, we are talking about adopting a statute.

TS - How do we move forward with this denial? Does it still go before the Commissioners?

TM - You would be recommending denial to the Commissioners.

PB - Just to add, we see this a lot with zoning ordinance text amendments being geared more toward an individual but we need to look at the grand scope of the County and the Comprehensive Plan.

Chair called for a Roll Call for the motion to deny: CP - yay, MS - yay, PB - yay, TS - nay. The vote is 3 to 1 for recommendation to deny.

Motion to recommend denial made by Peters, seconded by Streiff and approved.

IV. Adjournment

Hearing no other items before the PC, a motion was made by Peters, second by Streiff, to adjourn the meeting at 8:54 pm. Motion carried 4-0.

Respectfully Submitted

Planning Commission

**Brandy Leon
Administrative Assistant**

Tom Sammon, Chair