

## **Rochester Township Planning and Zoning Commission**

Meeting Minutes

December 6, 2022

Members Present: Chair Arthur Handelman, Laura Laudon, Brad Lewis, Josef Pleticha and Colin Patterson

TCPA Staff: Roger Ihrke

Others Present: Bill Tointen, Gene Peters, Jason Kappers and other members of the public

Chair Handelman called the meeting to order at 7:05 PM.

Chair Handelman asked for a motion to approve the minutes from November 7, 2022, meeting. There were a couple of minor changes. Laura will make the corrections and email to Roger.

Brad Lewis made a motion to approve the minutes. Arthur Handelman seconded the motion. Vote was unanimous.

### **There were two tabled items from last month's meeting on the agenda.**

The first one was Millie Meadows 3<sup>rd</sup> Preliminary Plat.

Mr. Ihrke stated there was a meeting with Olmsted County and the concerns were addressed. Olmsted County agreed to make connections to access Bamber Valley Road via 42<sup>nd</sup> Street SW. There will be a stormwater pond and there's been questions about mosquitos. Minnesota Pollution Control Agency was contacted for suggestions on how to remedy any potential mosquitos.

It was also stated questions about the wetlands have been taken care of.

Brad Lewis made a motion to approve the preliminary plat. Josef Pleticha seconded the motion. Vote was unanimous.

Mr. Ihrke stated Millie Meadows 3 also includes a variance.

There are six lots served by a private road. Mr. Ihrke explained that all lots must be able to access a private road versus a public road. This is our township variance. Mr. Gene Peters stated the private road will have a smaller driving service, but the exact same thickness as other roads.

Colin Patterson made a motion to approve the variance. Laura Laudon seconded the motion. Vote was unanimous.

**The next tabled item on the agenda was the Powers/Bierman House Conditional Use Permit.**

Mr. Ihrke stated there was a Zoom meeting with the county regarding Mr. Powers access problems. Mr. Ihrke has not heard back from the county as of today's meeting.

Mr. Powers has plans to renovate the Bierman House into a corporate office for his hospitality business.

Mr. Ihrke said the Township did approve 10 employees for his corporate office from the hours of 6:00 AM-10:00 PM.

The access issue still isn't resolved, so Brad Lewis made a motion to continue the hearing until our next meeting on January 10. Colin Patterson seconded the motion. Vote was unanimous.

The next **new** item on the agenda was Millie Meadows Conditional Use Permit-Working on Floodplain soils.

Mr. Ihrke stated the application has been reviewed for working in a flood plain, which includes a stormwater pond and mosquito control.

The Homeowner's Association can take mitigation measures for mosquitos. The storage or how the basin functions cannot be altered after it's completed.

Mr. Gene Peters stated that the Township requires open space. He said this would be included as the development progresses.

Mr. Lewis asked who maintains the pond after the development is completed or inspects it after a large rainfall.

Mr. Ihrke stated that until the lots are all developed, a team will evaluate the pond on a regular basis. Mr. Peters added that there are not many "fails" in these ponds once they are completed.

Mowing around the pond will also be needed about once or twice a year.

Again, concerns were raised about post construction erosion after large rainfalls. Mr. Ihrke stated there is a system in place for the Township to monitor stormwater. The Township maintenance supervisor inspects the ponds. If a pond would need repair, a letter is sent to the Homeowner's Association. If the repairs are not made after 30 days, the Township has a right to fix the pond and charge the homeowners.

The public comment period opened at 7:40 PM. There were no public comments.

Brad Lewis made a motion to approve. Josef Pleticha seconded the motion. Vote was unanimous.

The next new item on the agenda was the Final Plat for Pavillion Estates.

Mr. Ihrke stated that staff has reviewed and finds this in order. The documents are also on the website to review. The Township Attorney has reviewed and found no issues.

The final plat was submitted on September 12, 2022. The grading and construction plans were approved.

On December 2, 2022, it was found that the final plat is consistent with the general development plan.

The public comment period opened at 7:45 PM.

A member of the public was concerned about potential flooding into Cascade Creek. A comment was made that the water gardens are a "smoke screen". It was stated that no rainwater gardens have been installed yet. They may or may not be an issue with the rain.

Another member of the public stated that the Zoning Commission voted down the General Development Plan and Preliminary Plot in the past. He asked if the developer could hold off as this is under review with the District Court.

Mr. Handelman stated that no one has filed a temporary restraining order which would have been an avenue to delay this. Mr. Handelman said he read the case

submitted by one of the attorneys. He further stated the final plat is consistent with the preliminary plat and it makes it difficult to say no.

Mr. Lewis asked about the August 29 comments on the plat and if the county has addressed the property taxes being paid in full.

Mr. Ihrke stated that a letter came from the Olmsted County Recorder's Office, and they will make sure the taxes are paid.

There was a comment about an area for mailboxes as the Post Office does not go on private roads. Mr. Tointen replied that mailboxes could be installed right off the public cul-de-sac.

Mr. Ihrke then mentioned a letter received by Lynn Cornell who stated her concerns about the approval of the final plat. Ms. Cornell also stated that today's meeting date was posted as a different day on the TCPA website.

Mr. Ihrke explained that the meeting date and time was appropriately published, and postcards were mailed out to residents about tonight's meeting. He said the legal requirements for this meeting were met.

Mr. Ihrke also explained that Randy Staver only has a part-time position as a clerk for the Rochester Township. He also updates the website, but perhaps there might have been a gap in communication.

In the future, Laura Laudon (Secretary) will email Randy Staver about each monthly meeting date for the Rochester Planning and Zoning Commission. This should help to alleviate any miscommunication.

The public comment period was closed at 8:10 PM.

Colin Patterson made a motion to approve the final plat if it's the same as the preliminary plat. Laura Laudon seconded the motion. Vote was unanimous.

The last item on the agenda was the Royal Oaks Development-Preliminary Plat.

The details are outlined in a memo dated November 14, 2022, to Rochester Township Planning Commission, Rochester Township Board and William Tointen, WSE-Massey.

This development is 164.1 acres north of 40<sup>th</sup> Street SW. There will be individual septic systems and four shared wells. The entire development will be served by People's Co-Op.

In reference to the conclusion of the report, there are some items that need further discussion and guidance.

Mailbox placement has not been addressed. Staff recommends including an area on the preliminary plat for shared mailboxes and parcel boxes. It would then be sent to the Post Office for approval.

The required open space is not on the preliminary plat. The applicant would like to use the 19.53 acres as a Wildlife Corridor in lieu of the open space.

There will be some disturbance of wetlands (0.7) acres with the construction. Also, some smaller areas of wetlands may be impacted. The applicant has indicated that the wetland area could be replaced off site or on site.

A conditional use permit will be required before construction of the wetland crossing can start.

A right turn lane on 40<sup>th</sup> street SW is proposed. Staff recommends the applicant seek final approval from Olmsted County Public Works before construction. The right turn lane will serve all 85 lots.

Staff recommends the applicant hire a geotechnical professional to complete a road design or increase the gravel equivalency to 22. The submitted road design uses a value of 115,000 ESAL's over a 20-year period which staff feels this number is underrepresented.

At 8:40 PM, the board began a discussion regarding a letter from Mr. Bill Tointen dated December 6, 2022. The letter states there are recent legal issues concerning Matt Onofrio who is doing business as Northwood Management, LLC.

Northwood Management, LLC is developing Royal Oaks Farm.

Mr. Tointen emphasized in his letter that the 40<sup>th</sup> Street development is not part of any indictment for alleged improper proceedings with real estate transactions.

Board members brought up concerns about the following:

Northwood Management going bankrupt.

How do we protect the township?

Do we require a bank letter of credit? Bonds?

Mr. Ihrke stated that bonds are good until for a two-year warranty. A bank letter of credit is only good for one year. In some cases, bonds are better.

The members discussed three scenarios:

Cash-The developer “forks” over cash which would go into an escrow account.

Letter of Credit from the bank.

Bonds-Like an insurance policy

Mr. Ihrke advised that we could table this and then tell the applicant why the decision was made.

Chair Handelman pointed out that it’s an indictment and that nobody has been found guilty. (Northwood Management is a family business).

Chair Handelman advised the board not to use this as an excuse to deny or not to act.

Chair Handelman further explained that the corporation has applied NOT the individual (Matt Onofrio). It is not known how much of Northwood Management Mr. Onofrio owns himself. (For example: 1%, 2%, or 99%?)

After much discussion, Brad Lewis made a motion to approve the preliminary plat for Phase I of Royal Oaks Farm with the condition that a Development Agreement meets the needs of the Township.

Furthermore, a Development Agreement must be entered into before any dirt is moved and no grading can occur before the Development Agreement or staff recommendations.

Josef Pleticha seconded the motion. Laura Laudon and Arthur Handelman voted yea. Colin Patterson voted nay. The motion passed four to one.

The next meeting will be January 10, 2023 at 7:00 PM. Laura will notify Randy Staver of this meeting by email.

Respectfully submitted,

Laura Laudon