

**McLEOD COUNTY  
PLANNING ADVISORY COMMISSION  
MEETING MINUTES  
MARCH 24, 2021**

**A. CALL TO ORDER:**

Following an 8:15 A.M. Road Tour, the regular meeting of the McLeod County Planning Advisory Commission was called to order at 9:30 am by Chairman Larry Phillips at the McLeod County Environmental Services Facility, Large Conference Room.

**Members present:** Chairman Larry Phillips, Paul Merkins, Charles Hausladen, David Hoernemann and Commissioner Daryl Luthens.

**Staff present:** Marc Telecky, Environmental Services Director, Sandra Posusta, Secretary.

**Others present:** Glenn Lachermeier, Bob & Arlys Gehlen, Paul Cacka, LaVonne Cacka, Brianna Taggart, Lee & Linda Hoof, Brent Quast, William & Cheryl Knudson, Rob Nelson, Dale Backer, Francis Svoboda, and Harlan Mathews.

**B. ACTION ON MINUTES: February 24, 2021**

**Corrections to the February 24, 2021 meeting minutes are as follows:**

- Board member Hausladen noted on Page 1: Under Call to Order, Others present, second line down, should state "Greg" Otto, not Great Otto.
- Board member Hausladen noted on the last page, the sentence after the meeting was re-opened, instead of Doug Fasching, it should state "Greg Otto" feels there are much better places for this and this will not be the last request for a solar garden.
- Board member Hoernemann noted on Page 2: The motion to close the public hearing was seconded by Board member "Merkins", not Board member Hoernemann.
- Board member Hoernemann commented on page 5, there was information that Board member Merkins verbally shared in regards to the previously permitted \$60,000 Bond that is omitted from the minutes and should be put into the minutes. Board member Merkins agreed.
- Board member Hoernemann commented that the statement he made regarding the oldest system monitored. It should be included in the minutes. Near page 10. "Board member Hoernemann asked what the oldest solar system is that IPS has tested for stray voltage. Mr. Keenen said the oldest is from 2016. It's monitored consistently."
- Board member Hoernemann noted on the last page that Brian Keenen said it costs \$40,000 per one-quarter acre to construct power lines. It should state per one-quarter "mile," not acre.

**A motion by Board member Hoernemann was made to approve the minutes of February 24, 2021 Planning Advisory meeting minutes with corrections; seconded by Commissioner Luthens. The motion carried.**

**C. UNFINISHED BUSINESS**

**1) Final Plat 21-03, Dale Baker, Helen Township**

Director Telecky introduced applicant, Dale Baker. Mr. Baker is requesting approval for a 1-lot final plat to obtain a building eligibility on a 7.39-acre lot currently owned by Glencoe Christian Ministries to be known as "BAKERVILLE".

It is proposed to be located in the NW ¼ of the SE ¼ of Section 15 in Helen Township. This quarter-quarter section already has one non-farm dwelling, this requiring this request.

This application has been heard twice, once at as a Sketch Plan and second as a Preliminary Plat. The County Board has approved both. The last County Board action was on December 29, 2020 in which approval of the Preliminary Plat was granted.

The applicant has sent in a Title Opinion. It has been sent to the County Attorney and County Recorder.

The McLeod County Attorney has asked for a correction on the east boundary length which is being corrected by the surveyor.

The County Recorder has asked for a correction on a partial mortgage satisfaction. Zoning Staff does not have concerns with this request.

The Township recommended approval at their March 11, 2021 regular meeting.

There were no public comments nor any further discussion by the Board.

**Board member Hausladen made a motion to recommend approval. Board member Merkins seconded the motion. The motion carried unanimously.**

*This item will be placed on the April 6, 2021 County Board Consent Agenda.*

## **2) FINAL PLAT 21-04, Robert & Arlys Gehlen, Rich Valley Township**

Director Telecky explained the 1-lot final plat request by Bob & Arlys Gehlen to be known as “GEHLEN SUBDIVISION” proposed to be 5.08 acres and located in the SW ¼ of the SW ¼ of Section 17 in Rich Valley Township. This quarter-quarter Section currently has one non-farm dwelling. The County Board did approve of the Preliminary Plat on February 26, 2021.

The Title Opinion was submitted to the County Attorney and County Recorder. There was one issue. The Opinion of Title was for the house and not for this lot. Mr. Telecky contacted the Attorney who is correcting the Title Opinion. Staff does not have any concerns. Once the Title Opinion returns, if there are any corrections to be made, we will do so, said Mr. Telecky.

There were no public comments received.

The Rich Valley Township Board recommended approval on March 10, 2021.

Chairman Phillips asked Director Telecky if he felt there were any concerns with correcting the Title Opinion. Mr. Telecky said no because there are times we do not have County Attorney review by the time of this meeting. The original review has already been done and there were no issues. The updated title opinion will be ready by the April 6, 2021 County Board meeting.

**Commissioner Luthens made a motion to recommend approval of Final Plat 21-04. Board member Merkins seconded the motion. The motion carried unanimously.**

*This item will be placed on the April 6, 2021 County Board Consent Agenda.*

## **D. PUBLIC HEARINGS**

### **1. PRELIMINARY PLAT 21-03, Lee & Linda Hoof, Rich Valley Township**

Applicants Lee and Linda Hoof, which reside at 10552 187<sup>th</sup> Street, Silver Lake, MN 55381 are requesting approval of a 2-lot preliminary plat to be located in the Northeast ¼ of the Northwest ¼ of Section 4 in Rich Valley Township. This government lot currently has 1 non-farm dwelling, thus requiring this request. This property is serviced by McLeod Coop Power.

Transportation comes off of 187<sup>th</sup> Street which is a public route of travel. Access for the north lot would be by the existing driveway to the lake. The south lot would share access with the existing driveway for lot-1 via easement of 33' to the north.

This parcel is 11.11 acres and is riparian to Silver Lake. The applicants would like to separate this parcel into two lots. The lake lot slopes west to east. The southerly lot slopes west to east.

Zoning Staff does not have concerns with this as requested. Preliminary review of the site does show that there is adequate area for a building site on each lot without limiting restrictions from the lake or wetlands. Soil borings have been completed for each lot verifying a site and alternate site on each lot for a standard septic system by Duane Radtke.

The Rich Valley Township Board did recommend approval of this request at their March 10, 2021 regular meeting.

Director Telecky read aloud a letter from William and Cheryl Knutson date March 19, 2021. There are a couple of concerns. The first is noting that 187<sup>th</sup> Street is a cart way and believe if any more homes are built on that street, the cart way needs to be widened into a passible country road. Since they own the land on one side of 187<sup>th</sup> Street, and Brian Stibal owns the other side, this would decrease the land that we currently own. 2) A map was enclosed in this letter and shows the location of the Knutson's farm land (area #1) and their field pump (area #2) that moves water across Iris road to the west. This established water way has been in place for sixty plus years to get water to Silver Lake, long before the Knutson's owned the property. In approximately 1997, Lee Hoof took the previous land owner to court to try to get the lift pump shut down. The Knutson's are afraid that the new owners may decide to block tile and not maintain tile and cause backup water. New owners need to be made aware.

Director Telecky addressed the Knutson's concerns. A cart way is a public route of travel. In 1981 is when the McLeod County Sub-Division Ordinance was adopted. If you have more than two residences, you need to have an approved Township road. An approved Township road by Ordinance has a minimum 66' wide right-of-way but if it was a public route of travel per State Statute 160 we need to allow for access of off that. There is not requirement that it would need to be widened. So, it is a Township road and maintained by the Township. It is

up to the Township if they wanted to improve that or not. In regards to the waterway, there is an easement on the plat, that waterway would be in the easement area for drainage and utility purposes which means no construction is allowed in that area.

Director Telecky said to applicants Lee & Linda Hoof, in the disclose to whomever are the potential buyer is of Lot-1, that they will maintain that culvert or tile that runs under there. It's to the buyers benefit because that road will be inundated with water on the east side if it's not maintained on the east side.

Board member Hausladen asked for the location of the pump. Its on the east side of CR 24 (Iris Road) and pumps back to the west. Mr. Hausladen asked who was in charge of the pump now. The Knutson's are.

Cheri Knutson stated after she sent in the letter, she became aware of a little bit more information that she feels might be pertinent. It was brought to her attention, by and attorney, that 187<sup>th</sup> Street has never been legally adopted as a township road or a cart way.

Mr. Telecky responded if there are tax dollars being used to maintain, such as plowing snow or graveling that, it is a public route of travel until seven years after that public expense is no longer being used. It doesn't need to be officially recorded if there are tax dollars being used for maintenance. It is a public route of travel.

Cherie Knutson brought up a discussion of property ownership that her husband and Mr. Hoof had. Mrs. Knutson said, "We felt it was necessary to be present today to make sure they know what's going on and establish what property is ours."

Board member Hoernemann asked how far the cart way goes.

Mr. Telecky explained that it extends to where the driveway goes back to the building site. However, prior to the Statute in 1980, Townships were asked to record their public routes of travel, but not all did. That's where easements by prescription by Statute means they do not have to purchase. Some people think it's a taking, but they are given a certain amount of area of that route, or that road. So, a cart way is 33' easement, usually 16.5' easement on each side of center that the public, the government, has a right to maintain it. Some are recorded, a lot are not. They're using tax dollars for maintaining.

Mr. Telecky is confident that the driveway that goes back to the lake to then north, if the Township did plow that and there wasn't compensation from the Hoof's back to the Township under a contract, then yes, that public route of travel could extend even further.

Mr. Telecky explained a case where a Township was plowing for a farmer, just their driveway, that got challenged in court, and therefore the Statute was enacted because there was no compensation from the land owner back to the Township.

Mr. Telecky is confident that up to the point where the Committee stopped during the road tour to view the site, the driveway that goes back to the lake to the north, if the Township plows up into the Hoof's building site that public route of travel could even extend further. But, to go down that path, one needs affidavits, etc. That is not needed to be known at today's hearing.

Commissioner Luthens questions if there was only one single residence up there or are there two? Board member Merkins stated there are two. Stibal's is back there, too.

Mr. Telecky said there is an old building site back in this area, too. So, there are actually three.

Cherie Knutson asked what kind of assurance do they have that the wording is put into the contract for a potential future owner about the establishment of this water way.

Mr. Telecky noted that drainage law is part of what you're asking, benefits have to be continued.

Cherie Knutson said she does not want have to re-litigate all this stuff again.

Mr. Telecky commented that it's to the best interest of the landowner, if this does get approved, that this is disclosed to the potential new landowner and it's maintained. It's the best interest of the landowner or their going end up having their driveway inundated with water.

Brief discussion ensued for the lot to the north regarding the culvert area.

"An easement could be put in place across that driveway if we want to see a change for that culvert area that is dedicated to the public. That's what easements are for. It's dedicated to the public for the purpose of maintaining. Looking at the plat submitted to us, there's already an easement in that area of 20 feet. Where that culvert comes through, Surveyor, Jeff Rausch already has a benchmark on the survey, so it is already in that easement area. Anyone getting a benefit off of that would have a right to repair without needing to get permission from the landowner. What isn't clear is who's responsible for cost, but that is not something this action is going to solve either," said Marc Telecky.

Mr. Lee Hoof shared that the culverts were failing much quicker due to a result of the Knutson's pumping water which was deteriorating them much faster due to the running water. The property was impassable because of the damage to the culvert. A concern of Mr. Hoof is that due to the quicker aging of the culvert that the Knutson's could help maintain help to maintain or help share costs. The judge did not say the Hoof's had to replace the culvert.

Mr. Hoof had a conversation with Mr. Brian Stibal about the damaged culvert. "Mr. Stibal took money out of his own pocket and replaced the damaged culvert between our properties. I, at my expense, put in new culverts and cleaned out the ditch going to the lake. There was no help and no share of expense from Knutson's pumping the water that deteriorated the culverts," said Mr. Lee Hoof.

Mrs. Linda Hoof commented that they do not see any problem that the culvert probably will be replaced by the new property owner.

Mr. Telecky commented that the Township should be included in discussion regarding the crossing at 187<sup>th</sup> Street. The second issue is the culvert that goes across the private driveway, it is going to be a benefit but the responsibility of that landowner who purchases that to maintain it.

Mr. Hoof said he and Linda recognize that. However, it's easier just to replace it and forgo it to avoid any arguments.

Bill Knutson discussed the possible need to widen the road so emergency vehicles can safely go down the cart way. It was proposed one time before.

Mr. Telecky said he cannot speak to that. It is a public route of travel. The Township has the right and may wish to increase it. You can call them. One needs to work with the Township to make changes.

Bill Knutson asked if they develop that by widening the road, will be pushed back further.

Mr. Telecky said that is not a proposal here to widen that road. That would need to be taken up at the Township.

Board member Hausladen asked the Knutson's if they have been to a Township meeting. They have not.

Commissioner Larry Phillips state, "The Township did sign off on this. They approve of it."

Board member Merkins said the Township is aware and they know they need to maintain it.

**With no further discussion, Board member Merkins motioned to close the public hearing. Board member Hausladen seconded the motion. Motion carried.**

Board member Hausladen moved to recommend approval with a second by Board member Merkins. Motion carried unanimously.

*This item will be placed on the April 6, 2021 County Board Regular Agenda. Director Telecky will contact the Township to have a discussion in regards to the access.*

## **2) CONDITIONAL USE PERMIT 21-06, Paul Cacka, Hutchinson Township**

Paul Cacka requests approval of a conditional use permit to construct an accessory building to be greater than 2,400 square feet on a parcel less than 10 acres. Also, Mr. Cacka will be using a portion of this building for his electrical business. This lot size is 4.0 acres and located in the SE ¼ of the NW ¼ of Section 25 in Hutchinson Township.

This building site sits over one-quarter of a mile east of CR4. This parcel is isolated and should not pose a nuisance to neighboring properties.

Included in this request is also a home occupation with less than five non-resident employees in an accessory building to be greater than 2,400 square feet. Mr. Cacka and Director Telecky discussed at the time of making application using part of this accessory for storage that he may as well include the home occupation on his request. If he wanted add an employee in the future, he will have the permit to do so and not need apply for another Conditional Use Permit. Mr. Cacka is an electrician. Zoning Staff does not have issues with this request.

The Hutchinson Township Board recommended approval at their March 11, 2021 meeting.

Board member Hoernemann questioned if this building was to be less than 2400 square feet, would the home occupation still be required?

Mr. Telecky said anything over 2,400 square feet for a building on a parcel less than ten (10) acres requires a conditional use permit. The reason this went into effect in the early 2,000's was because some of these building being built were starting to run storage businesses and increased uses and the neighbors did not have an opportunity to comment.

The second part is that it's been in ordinance since 1981. If you're operating a home occupation in an accessory building there are standards and if you're under those standards you are not required to come through for a conditional use permit because its incidental or subordinate to your primary use, such as living there. If you exceed any of those standards then a conditional use permit is required regardless of the size of an accessory building. As an example, if it's 2400 square feet or less with seven (7) employees, a conditional use permit would be needed. Not for the building, but because it's exceeding the standard set forth by a home occupation. It can be a bit complicated.

Mr. Hoernemann appreciated the explanation.

Board Chairman Phillips asked if anyone had any questions. There were none.

Chairman Phillips asked where the doors would be located. There will two doors on the south side and one on the north side in the center, confirmed Paul Cacka.

Board member Merkins asked if the access is going to utilize the existing driveway. Yes, it will.

Board member Merkins questioned if the mound system is right up to the building. Paul Cacka said its about 40.0 feet to the crust of it.

Director Telecky confirmed the mound is measured to the absorption area which is the bed. There is 20.0 feet and then another 20.0 feet of tow just because of how high the mound is to the bed.

Director Telecky said because of the slope there, he is not overly concerned. Per You cannot redirect surface water on top of a septic system, per MN Rule 7080. There are no concerns with this proposal. It should be okay. And, if this permit is approved, we can discuss this in depth at the time of permitting.

Chairman Phillips stated that the yards can get really small really quick when a semi comes in and needs to turn around. Paul Cacka agreed and mentioned he's had big trucks in the yard already.

Board Member Merkins asked if the land around him is owned by family. It is. His Mother owns it. There is plenty of acreage.

With no further business to discuss, Board member Hoernemann made a motion to close the public hearing. Board member Merkins seconded the motion. Motion carried.

**Board member Merkins made a motion to approve of Conditional Use Permit 21-06 as requested. Board member Hoernemann seconded the motion. The motion carried.**

*This item will be placed on the April 6, 2021 County Board Consent Agenda.*

### **3) Preliminary Plat 21-01, Bergen Township Board, Bergen Township**

Harlan Mathews, representing the Board of Bergen Township, is requesting approval of a 1-Lot preliminary plat to be known as “Babcock Estates” located in the NW ¼ of the SW ¼ of Section 11 in Bergen Township. This quarter-quarter Section currently has one non-farm dwelling, thus requiring this request.

This request is for the purpose of obtaining a building eligibility on a 1.61-acre lot currently owned by Bergen Township. This parcel was purchased to build a township hall. Since then, plans have changed.

Preliminary review of the site does not show the presence of wetlands or other restricting features in the buildable area.

Bergen Township approved of this request at their March 10, 2021 meeting.

Neighboring property owner, Glenn Lachermeier, questioned what the purpose of this lot is. Harlan Mathews said it will be for a single residential lot.

Glenn Lachermeier thought five (5) acres was needed in order to sell a lot. Mr. Telecky said one needs 1.25 acres minimum. (150’W X 250’D) In McLeod County, it is one non-farm dwelling per quarter-quarter section. McLeod County has always regulated it based densities. If there is another house in that quarter-quarter, there is an option to go through the platting process to gain an eligibility and that is what Bergen Township Board is trying to do.

Glenn Lachermeier questions the name of the plat. Director Telecky quoted part of State Statute 505 requires a name to be filed with the plat.

Glenn Lachermeier questioned soil borings potential water concern and said his neighbor to the south is concerned about the water. Mr. Telecky confirmed soil borings have been taken. There are no wetlands. It appears it can be built on.

Harlan Mathews noted that the water would run to the north. Mr. Telecky confirmed.

Director Telecky shared that the County Highway Engineer did not have concerns with this request.

Glenn Lachermeier heard a service road was going to go in. “That is not true. The lots would need to be further back in order to have room to put in a service road” said Mr. Telecky.



Mr. Telecky noted that the Planning Commission is not allowed to condition plats. If this plat is approved and sold, the new land owner would need to apply for an address. Via statute the land owner has the right to ask the Highway Department for a driveway.

Brent Quast asked if this building eligibility is only for this 1.6 acres. Yes, confirmed Director Telecky. If the new owner wanted to add land to this parcel, or combine property, he would need to go through a re-plat of this parcel to make that buildable which means the applicant would need to come back before the County for approval.

Commissioner Luthens asked if the Township owns this parcel and where they meet now.

Harlan Mathews said they bought it to build a new town hall but it was voted down. So, the township decided to sell this parcel. They (the Township) could sell the lot to anybody, but they're platting in order to get some of the investment money back. The Township Board now conducts its meetings at the Lester Prairie City Hall.

Director Telecky told Commissioner Luthens that Township Halls are a permitted use in the Agricultural District.

**With nothing further to be discussed, Commissioner Luthens motioned to close the public hearing. Board member Merkins seconded the motion. The motion carried.**

**A motion was made by Commissioner Luthens to recommend approval of this preliminary plat. A second motion was made by Board member Merkins.**

Board member Hoernemann abstained from voting due to being on the Township Board.

**The motion carried.**

*This item will be placed on the April 6, 2021 County Board Consent Agenda.*

#### **OTHER BUSINESS**

- Director Telecky discussed a proposed amendment to the Zoning Ordinance in regards to Essential Services, Subdivision 5 under Standards to consider adding "B: Major Essential Services structures including solar array." A notice would be provided to all the Townships to provide comments. It would come before the Planning Commission at a public hearing. County Board has the final say. Both Board Members Merkins and Hoernemann are in favor of this proposed amendment. The Commission agreed.
- April 2021 meeting will take place. A 1-Lot Sketch Plan by Alan Fleischacker.

#### **4) RECESS**

**Board member Hoernemann motioned to recess until April 28, 2021. Board member Hausladen seconded the motion. The motion carried unanimously.**

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*Larry Phillips, Chairman*

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*Sandra Posusta, Secretary*