

MINUTES OF A PUBLIC HEARING CONDUCTED BY THE ST. LOUIS COUNTY PLANNING COMMISSION HELD BOTH VIRTUALLY VIA WEBEX AND IN-PERSON AT THE ST. LOUIS COUNTY GOVERNMENT SERVICES CENTER, LIZ PREBICH ROOM, VIRGINIA, MN ON THURSDAY, JULY 14, 2022.

9:03 AM – 11:42 AM

Planning Commission members in attendance: Tom Coombe
Steve Filipovich
Dan Manick
Pat McKenzie
Commissioner Keith Nelson
Dave Pollock
Roger Skraba, Chair
Ray Svatos
Diana Werschay at 9:10 AM

Planning Commission members absent: None

Also present: Matthew Johnson, Director of Planning and Community Development Department.

Decision/Minutes for the following public hearing matters are attached:

NEW BUSINESS:

- A. St. Louis County Zoning Ordinance 62 Amendments regarding Chronic Wasting Disease.
- B. Chad Bruckelmyer of North Shore Properties, a conditional use permit for a commercial rental dwelling as a Commercial, Retail, and Service Establishments Use-Class II.

OTHER BUSINESS:

Motion by Manick/McKenzie to approve the minutes of the June 9, 2022 meeting.

In Favor: Coombe, Filipovich, Manick, McKenzie, Nelson, Pollock, Skraba, Svatos - 8

Opposed: None – 0

Motion carried 8-0

Aaron Pellett / Cast Iron Bar and Grill Correspondence

The applicant, Aaron Pellett, stated that after the Planning Commission decision from May 12, 2022, all of the weddings that he tentatively had booked canceled when they had to either shut the music off at 10:00 p.m. or put the walls down on the tent. They are having issues booking new wedding events. They were shocked when it seemed one person showed up from the community and the full decision was based on that recommendation. This does not seem to be a community-based decision. This is based on a condition that stated: All amplified music shall be played inside after 10:00 p.m. in any temporary or permanent facility that has four walls. Amplified music shall be allowed outdoors until 10:00 p.m.

The *Planning Commission* discussed the following:

- A. Commission member *Svatos* stated the applicant was present at the May 12, 2022, hearing and did not appear to have a problem with the condition.
- B. Commissioner *Nelson* stated the walls on a tent are in place to ensure that the noise stays within that area. He has no issue with the ultimate decision. If the applicant wants to come back, it should be for a full public hearing and the neighbors should be notified again.
- C. Commission member *Manick* stated the walls seem reasonable.
- D. Commission member *Pollock* asked what the applicant is asking for. *Jenny Bourbonais*, Acting Secretary, stated the applicant is requesting to have the condition pertaining to the tent walls and music specifically, be reconsidered by the Planning Commission.
- E. Commission member *Pollock* asked that if the applicant wants to come back before the Planning Commission, they should prove the cancellations. If the applicant wants to come back before they lose their business for the season, they could.
- F. Commission member *McKenzie* stated that the 10:00 p.m. time is reasonable.
- G. Commission member *Filipovich* asked if there is a curfew time. Commissioner *Nelson* stated that alcohol can be served until 1:00 a.m. as the property is located in the County's jurisdiction.
- H. Commissioner *Nelson* added that this property is also close to Pike Lake. The sound will carry across the lake just as it does on Lake Vermilion. There is open area toward Pike Lake.
- I. Commission member *Skraba* asked how early the applicant could be heard for another hearing. *Jenny Bourbonais* stated September.
- J. Commissioner *Nelson* stated the six month review was set in order to review the permit before next year's bookings. Commission member *Pollock* asked if this is an automatic review where the applicant could come back then.
- K. Commission member *Manick* asked what is involved in the six month review to ensure conditions are being met and there are no issues. *Jenny Bourbonais* stated this review involves staff coming to the Planning Commission with any complaints or issues received about this conditional use permit. This is not a public hearing.
- L. *Matthew Johnson*, Director of Planning and Community Development, stated if the applicant wants to be heard before the six month review process, the applicant will need to apply for a second conditional use permit to notice the application and allow the neighbors to participate as well.
- M. Commissioner *Nelson* stated there are two other wedding venues that are opening in the area, including one in Solway Township.

No action was needed. No action was taken.

Short Term Rental Discussion

Jenny Bourbonais, Acting Secretary, gave an update on short term rentals. There were 192 properties that were on the rental list under review. Of those, there are 90 letters left to be sent to property owners operating a short term rental who have not yet obtained a permit. There are 25 letters being sent per week in batches. There is a 40 percent response rate in the first batch of letters. Landowners are contacting staff and asking what they need to do to get permits.

The *Planning Commission* discussed the following:

- A. Commission member *Coombe* asked what ‘under review’ means. *Jenny Bourbonais* stated that staff is reviewing these properties to send targeted letters out to specific properties to let those landowners know what they need to do in order to get a permit for that rental if the landowners want to continue renting.
- B. Commission members asked if the letters have been sent via registered mail. *Jenny Bourbonais* stated that some letters have been sent certified and others have not to determine what type of delivery system will get a better response. There has not been sufficient time to determine what type of delivery system has produced a better response rate. Landowners still have time to respond to these letters. Responses have been received from both certified and non-certified mailings.
- C. Commissioner *Nelson* stated these letters should be sent as registered mail.

No action is needed. No action was taken.

NEW BUSINESS:

St. Louis County Zoning Ordinance 62 Amendments

The first hearing item is for St. Louis County Zoning Ordinance 62 Amendments regarding Chronic Wasting Disease. *Jenny Bourbonais*, St. Louis County Land Use Manager, presented the following background information:

- A. On September 28, 2021, the St. Louis County Board adopted Ordinance 66, which placed a one-year moratorium on the creation or expansion of any new or existing captive cervid farms in St. Louis County to prevent the spread of Chronic Wasting Disease (CWD).
- B. The County indicated the moratorium and associated planning process were needed to protect the health, safety and general welfare of citizens.
- C. The St. Louis County Planning Commission held a workshop on March 3, 2022, to discuss the details of the ordinance language and has periodically discussed revisions during their monthly business meetings.
- D. The CWD Planning Study Progress Report was thereafter presented to the County Board on May 10, 2022 and was met with a positive response to continue to move forward with the suggested implementation steps.
- E. Working with the Planning Commission, staff drafted language to amend the Zoning Ordinance that prohibits new or expansion of existing cervid farms in St. Louis County.
- F. The ordinance amendments also include definitions for Cervid and Cervid farm, as well as a definition of an Agricultural Use – Class III which is a use not allowed in any zone district.
- G. On June 9, 2022, the Planning Commission initiated a public review and comment period.
- H. On June 10, 2022, a letter and copy of the draft amendments were sent to all cities, townships and interested parties to gather public input. The information was also posted on the county website.
- I. Draft language includes definitions:
 - a. Cervid – An animal that is a member of the family Cervidae and includes, but is not limited to, white-tailed deer, mule deer, red deer, elk, moose, caribou, reindeer, and muntjac.
 - b. Cervid farm – Use of land to possess or contain one or more cervids that is registered with the Minnesota Board of Animal Health and meets all the requirements for farmed

Cervidae in Minnesota Rules parts 1721.0370 to 1721.0420 and Minnesota Statutes, sections 17.452; 35.153; 35.155; 97A.401, subdivision 3; and 97A.505, subdivision 8 and all amendatory acts thereof.

- J. Draft language includes use categories:
 - a. Agricultural Use – Class III – A category of uses that includes but is not limited to: the expansion (in acres) of existing cervid farms or the construction, creation, or permitting of new cervid farms.
 - b. Agricultural Use – Class III is not allowed in any zone district.
- K. If the Planning Commission approves the amendments, the changes will need to go forward for final approval by the St. Louis County Board. There is typically another 30 day public notice prior to that County Board hearing.
- L. Possible adoption of the amended Ordinance 62 by August or September 2022.
- M. The ongoing moratorium expires in September 2022.

Jenny Bourbonais noted four items of correspondence from the Minnesota Conservation Federation, National Deer Association, Region 3 Director of Minnesota Deer Hunters Association, and the Fond Du Lac Band of Lake Superior Chippewa Reservation Business Committee. Notices were sent to all cities, townships and interested parties on Friday, June 10, 2022. There were four confirmation responses from cities, 28 confirmation responses from townships, and one interested party confirmation response.

Matthew Johnson, Director of Planning and Community Development, stated that over the past year a look has been taken at this issue. The prion disease has forced the County to make challenging decisions. Of the correspondence received, the letter from the Fond Du Lac Band of Lake Superior Chippewa Reservation Business Committee states it the best: “Without changes in law and policy, our current approach to CWD perpetuates harm to the sustainable economies and overall health of Minnesota. That is why it's important for leaders at the County level to step up and adopt ordinances that will protect the state's wild cervid population. The Band understands that this measure may impact local individuals and businesses and does not take this position lightly. However, that does not change the reality on the ground. CWD is a dangerous disease spreading rapidly in our state. It is important that we take preventative measures now to stop the spread of the disease.”

The floor was open to audience members and virtual attendees to provide testimony on the issue and ordinance amendments.

Dale Larson, Albion Township Supervisor, 6212 Stenstrom Road, Albion, stated he has an elk farm. The Ordinance amendments do not affect his elk farm. If the Planning Commission is trying to send a message to the state of Minnesota to do something about Chronic Wasting Disease, this is a way to do it. As far as reducing or eliminating CWD in St. Louis County, this will not do anything for that. If someone had a 100 acre farm that has 20 elk, they can have up to 50 more elk on this farm. They are regulated as far as how high their fence is and what parts they need to send in when an elk dies. People are not going to build new elk farms because there is no money in it now. People used to have elk farms when there was money in velvet antlers. One way to help this issue is to have a moratorium on feeding deer because deer get together and can spread the disease. The Minnesota Department of Natural Resources (MN DNR) could reduce the deer population to

what it was in the 1950s. Not as many deer would congregate if the numbers were reduced. Deer attraction could also be reduced because that is made with deer urine and deer feces. Those could come from any country or any state and local deer could interact with it. Grants could be given to farmers for fencing ground bales. These are just a few things that could be done for Chronic Wasting Disease. Limiting the size of farms versus the number of actual cervids would not help. This may not be an issue to protect the general health, welfare and safety of inhabitants because there has been no transfer of CWD to any human. This is not like mad cow disease.

Jim Hofsommer, Colvin Township Supervisor, stated his concern is with the verbiage 'but not limited to' which is more open-ended. Colvin Township had their monthly meeting on July 12, 2022. Townships only meet at certain times of the month. They want to know if this will negatively impact their forestry or agriculture within the township.

Craig Sterle, Past State President of the Izaak Walton League, stated the League is concerned about the potential impact of Chronic Wasting Disease on the area's wild herd. There have been some studies in Canada where CWD-impacted meat was fed to primates who contracted the disease. A spread from deer to humans is not entirely impossible. It just has not happened yet. This is a 100 percent fatal disease. He supports the Ordinance 62 amendment. He was at the Carlton County Board that has adopted the St. Louis County's resolution. They are one step behind and are watching what St. Louis County does carefully. St. Louis County is currently leading the state in doing what they can to protect the wild cervid herd. This is an opportunity to educate the state elected officials and put pressure on them to deal with Chronic Wasting Disease legislatively more effectively.

Scott Fier, President of the Minnesota Deer Farmers Association, stated he had no comment.

Dr. Scott Josephson, no address given, stated he is a veterinarian in southwestern Minnesota and has worked in reproductive services for 70 white tail deer farms. His concern is that too many decisions are being made by political agendas; there is not enough science behind the discussion. This topic has been led down the wrong direction. He referenced one of the items of correspondence provided to the Planning Commission this morning. The chart in reference shows the difference between human and animal in relation to the prion. The prion is a misfolding protein that infects certain animals; it is not a bacterium or a virus. This research was done with monkeys and was a published study regarding Chronic Wasting Disease. Based on the information possible, there would be no transmission between cervids and humans unless there is a mutation in the human genome. Most researching transmission believe that environment has a role. The prion has existed for some time and has been available for consumption by grazing animals. This prion does not get destroyed when it passes through a predator or scavenger back into the environment. Roadkill and improperly disposed of animal waste can be significant to the propagation and transmission of this disease within a population.

There was a study done between 2003 and 2005 with over 77,000 hours of animal-activated monitoring within six farms with single high fences. There were only two direct oral contact between wild deer and pen-raised deer. It was found out that contact between wild deer and pen-raised deer was unlikely to be the cause for the transmission of this disease. In Minnesota, it is illegal to bring carcasses from other states into Minnesota. Carcasses would be disposed of where

the deer are killed. In Wisconsin, there is no such law and carcasses could be brought anywhere. There could be a problem with enforcement about bringing carcasses across state lines intact.

Scrapie in sheep was eradicated using genetic resistance and susceptibility. Scrapie was a prion disease closely related to CWD. Through 2021, there were two cases of scrapie in the United States. This disease has been managed through genetic resistance and susceptibility. Using these simple tests, this disease has been eliminated. Genetic research and tools could be used to help minimize and potentially eliminate CWD from the population of white-tailed deer. For cattle farmers or those with experience in cattle farming, an expected progeny difference (EPD) is the evaluation of an animal's genetic worth as a parent. Dr. Chris Seabury from Texas A&M has developed a genomically estimated breeding value for white-tailed deer. He located 50,000 sites on the genome of white-tailed deer, including susceptibility for white-tailed deer to CWD. The accuracy of this tool approaches 90 percent, which is predictable and useful information. Infectivity of the prion is dose related. While natural selection would take care of this disease over time, his research suggests that it would take hundreds of years for the wild white-tailed deer population to achieve any kind of resistance. With breeding farms, that could be achieved in just a few generations, and this should be considered going forward.

It is estimated there is over 90 percent compliance for existing cervid farms for Cervidae that have been harvested or have died. Compare that to 2018 Minnesota hunter-harvested deer where 37 deer were tested of about 200,000 deer harvested, which is a compliance of 0.02 percent. There is an 89 percent more likely opportunity to find CWD in cervid farms first. There needs to be a more scientific approach to this, not politically driven. Too much limitation on cervid farms or too much economic hardship could slow the progress on solving CWD. Moratoriums will inhibit progress which would do the exact opposite of what science hopes to accomplish.

Shawn Schafer, Executive Director of the North American Deer Farm Association, stated he is in North Dakota. He has been a deer farmer since 1998. He has an agricultural background and has been farming all his life. This will negatively affect agriculture. They do not take fertile land out of production. Any land can be fenced in and have elk or deer farmed in it. Deer farming is legal and is heavily regulated in Minnesota and this is based on science. They had tuberculosis in wild deer in northwestern Minnesota which came from the cattle industry about ten years ago. Moratoriums are not the action to take to stop and prevent diseases. There are many ways that CWD has spread. It is not always nose-to-nose from deer to deer or elk to elk. Prions are being seen in local hay and grain. Will there be restrictions on hay from state to state? Are there issues with dumpsters because some are not covered and there are birds and other scavengers that feed in them. Prions are likely eaten in and passed out the other end. Dumpster programs need to be looked at. A major factor for spreading CWD is animal carcasses. There are some people that do not follow the rules for animal carcasses. A zip code study was done by the U.S. Geological Survey (USGS); 30,000 animal hunters took carcass parts back to every other state from Wisconsin. All of Minnesota's neighboring states have CWD. It is not just about the meat or the carcasses, but prions are in soils which vehicles can carry. While many fingers point at the deer or elk farms as the reason for the spread of this disease, these farms are not. This disease has existed in the wild deer population for years. The amount of testing in Minnesota is so minute; to be proactive, the state could set up stations and test every animal. How many roadkill deer are tested for CWD each year? Deer and elk farmers have spent high on the science behind genetic resistance. There is a

strong correlation between scrapie and CWD. Is there a connection between the infected pastures and the wild deer roaming on that landscape? No matter what restrictions are put in place, stopping deer and elk farms will not stop this disease. This disease already exists out there, even if it is not known yet. He encouraged working within the existing farms and to encourage new farms to breed genetically resistant deer and elk. This moratorium will not help this disease; it only serves to help certain groups.

The Association has been taking charge of this issue and is working toward genetic resistance and working for vaccines and other preventative measures. He works with the MN DNR and the Board of Animal Health. He has attended all national and international CWD symposiums. He commends St. Louis County for wanting to get ahead of this disease. Has there been any other counties that have had negative impact or loss of population? In Wisconsin this last year, the deer population increased. The four counties with the highest infection rate also had a population increase. They have the most liberal hunting regulations. Those four counties have 77 deer per square mile. With that many deer, there will be a disease issue. This is a mismanagement of a natural resources and those should be addressed. That deer population should be lowered.

Gary Olson, farmer from Fillmore County and current deer farmer, stated he has been farming for 50 years. They have a 2,600 acre grain, dairy and beef operation. In 1998, they got rid of their dairy herd and switched the operation over to white-tailed deer. Everything they open is wide open corn and soybean land. This is making good use of their land. Deer farming is a viable alternative to livestock enterprise. He also attended the hearing in Carlton County. They also heard from the Fond Du Lac tribe talking about not moving deer but want to move elk. Their deer farm has had 100 percent testing since 2004 which is mandatory in Minnesota. They are five generations into testing these animals.

Historically, deer farming has been in the state for well over a hundred years. The Secretary of Agriculture under the Teddy Roosevelt administration stated in 1908 that “Instead of hampering breeders by restrictions as at present, state laws should be modified to encourage the raising of deer, elk, and other animals as a source of profit for the individual and the state.” They flew into Carlton County and saw miles upon miles of woodland. Deer and elk farms would be an opportunity to make income on this land and should be promoted hunting preserves to harvest meat. Deer farmers will be the people to fix CWD. They currently fund the research and there will be a vaccine.

CWD does not just occur in deer and elk farms. Wild deer testing used to be at one percent. In Fillmore County, CWD was discovered in the wild deer population because deer were tested at about 40 percent. Fillmore County borders Iowa and is close to the Wisconsin border. He is the only deer farmer in Fillmore County and his deer have never had a case of CWD. He worked with Dr. Scott Wells from the University of Minnesota on the movement of farmed animals in Minnesota, Wisconsin and Pennsylvania who stated there is a very low risk of moving animals. Banning any part of an industry is basically the death of any industry. For example, there are state bike trails where deer wander and there are people who bike and four-wheel these trails. Should they be banned so as not to spread prions in the soil? It is not fair to blame deer farms. While the county seeks to protect the health, safety, and general welfare of inhabitants, this was tried in St. Paul last year and was thrown out by an administrative law judge as it held no grounds. It was

stated by Dusty Oedekoven, United States Animal Health Association top veterinarian, that CWD does not affect humans, does not affect other livestock species, does not affect the wild population, and does not affect hunting numbers. Why are we spending all this time and money on this? CWD is a political disease.

Brenda Hartkopf, Executive Secretary of the Minnesota Elk Breeders Association since 1998, stated they were never included in these communications and have not taken part in this discussion. She and her husband have owned and operated an elk farm in Howard Lake (Wright County) for 28 years. Their elk have been tested since 1998 and their herd has had no CWD. They have not taken any animals into their farm for 15 years but they do sell animals all around the country. To sell they need a certificate of veterinary inspection just like cattle sellers do. The records are examined, and the Board of Animal Health is contacted to check the status of the herd. Depending on the state there is an investigation. They fill out import forms. There is a lot that goes into moving an animal.

The county is acting because special interest groups have petitioned County commissioners to enact a moratorium on any new cervid farms to prevent the spread of CWD. What these groups have failed to do is justify how this is going to help. The report presented is lacking that information. The report contains industry data that is five years old. Animal numbers have dropped extensively since that time. Five years ago, there were twelve farmed cervid herds in St. Louis County. Today there are only four. Not included in the report is in the last ten years there have not been any farmed cervids from out of state imported into St. Louis County. Only 35 farmed cervids have moved into St. Louis County from other Minnesota counties in the past ten years combined. There have been zero moved since 2018. These statistics do not constitute a crisis, much less a moratorium. Another purpose of this study is to show the devastating health impacts to the deer population within the County. The report does not show any instance where CWD has been found in wild deer populations where herd populations were decimated. The report states that CWD was first identified in wild elk in Colorado over 40 years ago. Today, wild cervid herds in Colorado are still thriving. There is not a single documented case of CWD having a negative impact in a wild herd population anywhere CWD has been documented. Wild herds are still flourishing even after wildlife agencies have spent millions of dollars to thin the herd wherever CWD has been found. The report fails to mention the most immediate concern, which is finding CWD in wild deer in the city of Grand Rapids where 2 of 54 wild deer have been found with CWD. This is a two percent detection rate. More testing in coming months is likely to show a wider scope of infection. CWD may already be present in St. Louis County and it may not be known because no widescale DNR testing has been done for years. The study data should note the currently unknown status of CWD in St. Louis County's wild deer before a moratorium is enacted over new cervid farms which would be conducting mandatory testing on a constant basis. Little to no testing on wild deer does not mean CWD is not already present in the County.

The November Planning Commission workshop highlighted the Minnesota CWD regulations and efforts by both the Board of Animal Health, which regulates farmed Cervidae, and MN DNR transport ban. Did the workshop compare how both programs are monitored and regulated? The Board of Animal Health conducts a yearly inspection on every farmed cervid herd and immediate action is taken to remedy noncompliance or fines are issued. If mandatory testing finds a CWD-positive animal, an immediate quarantine is placed on that farm, a trace of farms is done, and the

positive herd is depopulated. Compared to this, the DNR's regulation of the MN DNR transport ban has laws in place but no way to adequately regulate them. Given the number of hunters in St. Louis County, which the report states are nearly 37,000 licenses, there could be a significant number of carcasses coming back into the County that have not been CWD tested. Who is regulating how those remains are being disposed of? Another lack of ability to regulate the rules in the County combined with the high volume of wild deer carcass movement puts the County in danger of CWD entering the county without anyone knowing where it is or how it got here. It is even more likely that CWD will walk in from neighboring Itasca County. The report falls far short of the information needed to make an unbiased decision on a moratorium on future cervid farms. Because of the factors already mentioned, the results of this study should conclude that no direct county action on a moratorium on cervid farms can correct the problem of CWD entering St. Louis County.

No other audience members spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Svatos* asked how long Mr. Larson's elk farm has been open. *Dale Larson* stated elk have been on this farm since 2000. Commission member *Svatos* asked if there has ever been a case of Chronic Wasting Disease on this farm. *Dale Larson* stated no. Whenever an elk dies, they have to send things into the Board of Animal Health. All his elk are checked and inventoried by the state regardless of death.
- B. Commission member *Skraba* asked how big Mr. Larson's farm is. *Dale Larson* stated his farm is 440 acres with about 20 acres for the elk.
- C. Commission member *Pollock* asked if the timeline as presented was made available to the cities and townships so their Boards were aware. *Jenny Bourbonais* stated yes, in the legal notice. Commission member *Pollock* stated that there would be another public hearing at the County Board level. *Matthew Johnson* added these letters were sent June 10, 2022 and that should be enough time for noticing. Staff does try and avoid short turnarounds. Staff does try to get these notices out with enough advance time.
- D. Commission member *Skraba* asked if there is any effect to the Ordinance that will negatively impact forestry or agriculture. *Matthew Johnson* stated there is no real answer to this. It is challenging to figure out what impacts there will be. The Planning Commission does not have the ability to regulate the wild population. Anyone with a cervid farm may not have the ability to expand their existing farm. However, with enough acreage, they can expand their existing herd. The Planning Commission's intention was not just the Ordinance language, but also for best management practices including grant funds and other pieces to ensure the County is doing all they can to lessen the impact to existing cervid farmers.
- E. Commission member *Skraba* stated one correspondent brought up other methods, including cutting off deer feeding. He asked if the Izaak Walton League has discussed this at all. *Craig Sterle* stated they have not. The MN DNR has been at the forefront of dealing with this in areas where CWD has been found. They are looking at additional steps such as statewide testing because of what happened in Grand Rapids. There may be other areas where they do not know CWD exists yet. Maybe feeding needs to be banned. This is done during hunting season because baiting is not allowed.

- F. Commission member *Coombe* stated he feeds deer in the winter and stopped last year. How can there be any enforcement on this if any or every individual feed deer?
- G. Commissioner *Nelson* stated there are several measures that could be considered. This is one measure that St. Louis County has the authority to do. The tribes could bring in an elk herd and that could hurt agriculture and logging. This is one reason why the St. Louis County Board took that position. For example, elk in Kittson County have a significant impact on agriculture and logging.
- H. Commission member *Coombe* stated that these amendments are not taking away any rights from existing cervid farms. Is it being suggested to forget these ordinance amendments? *Dr. Scott Josephson* stated that these cervid farms should be used as a research lab to do two things: study the disease more effectively and to study resistance in cervid deer population. He would not put a moratorium on the expansion or creation of cervid deer farms; the moratorium would be a mistake. This will set a bad precedent and will be a step backwards in solving CWD.
- I. Commission member *Skraba* asked what the next step would be. *Jenny Bourbonais* stated this is just like any other Ordinance amendment. To move it forward to the County Board would require a motion.
- J. *Matthew Johnson* stated he appreciates all the testimony presented as no one wishes Chronic Wasting Disease existed. One point brought up was a potential transmission to humans. Even if that possible threat was eliminated, there are still economic reasons, cultural reasons, food chain reasons, and aesthetic value. There are four other reasons to look at this study even if human transmission is not possible. More information is needed. This information provided is an important step to solicit more information. It is also good to hear that cervid farmers will be able to fix this disease. If the Planning Commission chooses to move forward with Ordinance revisions, this action could be undone in the future if politics are ironed out and a fix is made in the future. It would be great to have expanded cervid farms or to welcome new cervid farms to St. Louis County.
- K. Commission member *Skraba* asked if an existing cervid farm could remain, be sold and transferred. *Matthew Johnson* stated existing cervid farms stay. While cervid farms are not identified in ordinance, there is a grey area if someone buys a cervid farm, it is unknown if the cervid farm would be able to remain. Commission member *Skraba* stated there are laws about governments taking and what is perceived but there is no Ordinance language that would stop it from being sold. *Matthew Johnson* stated they wanted to do something that was peaceful for existing cervid farmers. No one is chasing them out. In the study, there was a number of friendly cervid actions including education on cervids and helping find some best management practices. The report also identified to examine the ban on feeding among other measures. This is what the Planning Commission wanted to do to help out or potentially pause the problem or to attempt to mitigate the issue. There is a lot of work to be done in other areas.
- L. Commission member *Skraba* asked if this is a permanent moratorium. *Matthew Johnson* stated this not a moratorium, but a Zoning Ordinance amendment once adopted by the County Board. This would restrict expanding existing cervid farms and not allow new cervid farms within St. Louis County.
- M. Commission member *Pollock* asked for clarification on 'no expansion.' Does it mean no expansion of land but allows for an increase in the number of animals? *Matthew Johnson* stated that the expansion means no expanded acreage. As long as the fence is not being

moved, the herd can be increased naturally without bringing new cervids in. This will not prevent new cervids from coming in. Commission member *Pollock* stated economically this would allow for growth.

- N. Commission member *McKenzie* stated he agreed with Commission member *Pollock* and the Ordinance should make it clear what expansion means. Commission member *Coombe* added Ordinance states the number of animal units allowed per acre in any zone district. He saw 'expansion' as relating to acreage. *Matthew Johnson* stated if it is the intent of the Planning Commission to focus on the size of expansion, the language could be edited. If the intent is for the Planning Commission to limit the number of animal units and the acreage of cervid farms, this can also be addressed. Commission member *Pollock* asked how to stop natural population increase.
- O. *Matthew Johnson* stated at one point there was a conditional use permit discussed for expanding existing cervid farms. This was one of the options presented to the Planning Commission to consider acting on. The first option was to prevent new or expanding cervid farms. The second option was to prevent new cervid farms but allow expansion of existing farms through a conditional use permit. The third option was to allow new and expansion of existing cervid farms through a conditional use permit. The fourth option was to do nothing. The Planning Commission chose the first option.
- P. Commission member *Skraba* stated every intention states there are no new farms. The number of animal units per acre allows for a certain number. To change this would require more Ordinance language to be potentially changed. Commissioner *Nelson* stated the Planning Commission could read 'expansion' as total acres impacted so that it is clearly defined. All other parts of the Zoning Ordinance should be followed, including the number of animal units per acre. Commission member *Pollock* asked if deer should be listed in the number of units allowed per acre. Commissioner *Nelson* stated there are so many different cervids; it could be stated that cervids shall be treated as comparable domestic units. A deer could be like a sheep. *Jenny Bourbonais* added Ordinance language states the Director may determine the animal unit equivalent for animals not listed. Commission member *Pollock* asked if this could be left open-ended for the Director to determine how many animal units would be allowed on any property. *Matthew Johnson* stated that emphasizing the acreage size is a good compromise. The language for Agricultural Use-Class III could be altered to: A category of uses that includes, but is not limited to: the expansion of acreage of existing cervid farms or the construction, creation, or permitting of new cervid farms.
- Q. Commission member *Pollock* stated they are going with common sense even if they have no idea what monster they are creating with the acreage out there. Commission member *Coombe* agrees. He is not a doctor, veterinarian, or scientist and this is a problem. This could be a step in the right direction. It could also be the wrong decision down the road.
- R. Commission member *Coombe* stated a variance could be asked for a particular use. *Jenny Bourbonais* stated that if a use is not allowed in a specific zone district, no variance would be allowed for that use in that zone district. There are no use variances.
- S. Commission member *Skraba* stated that the Ordinance could be opened back up if supported by research and science.

DECISION

Motion by Coombe/Svatos to accept the St. Louis County Zoning Ordinance 62 amendments regarding Chronic Wasting Disease with the change to the Agricultural Use-Class III - A category

of uses that includes, but is not limited to: the expansion of acreage of existing cervid farms or the construction, creation, or permitting of new cervid farms, and forward to the County Board with recommendation of approval.

In Favor: Coombe, Filipovich, Manick, McKenzie, Nelson, Pollock, Skraba, Svatos, Werschay
- 9

Opposed: None - 0

Motion carries 9-0

Chad Bruckelmyer – North Shore Properties

The second hearing item is for Chad Bruckelmyer of North Shore Properties, a conditional use permit for a commercial rental dwelling as a Commercial, Retail, and Service Establishments Use-Class II. The property is located in S32, T51N, R15W (Canosia). *Jared Ecklund*, St. Louis County Senior Planner, reviewed the staff report as follows:

- A. The applicant is requesting approval to operate a commercial rental dwelling unit as a Commercial, Retail, and Service Establishments Use-Class II.
- B. The property will be available to be rented 365 days per year.
- C. Because the property will primarily be used as a rental, it is considered a commercial use rather than a Residential Use-Class II.
- D. The use is more closely related to a bed and breakfast, or hotel/motel use than a residential use because of the transient nature and the frequency of rental.
- E. Development on the property consists of a dwelling and one accessory structure (garage). A second garage on the property has recently been removed.
- F. There is also a fence along the southern property line.
- G. There is little vegetative screening of the property from the road. There is good screening to the east from the Pike Lake Elementary School.
- H. The Canosia Town Hall is located north of the property.

Jared Ecklund reviewed staff facts and findings as follows:

- A. Plans and Official Controls:
 - 1. St. Louis County Zoning Ordinance 62, Section 6.32, states that if a property is used primarily for rental purposes, then it shall be deemed a Commercial Use-Class II and subject to ordinance requirements regarding commercial use.
 - 2. The transient nature and frequency of the rental at the site may be more similar to a bed and breakfast or a hotel/motel use than a residential use.
 - a. These uses are commercial uses.
 - 3. Zoning Ordinance 62, Article V, Section 5.6, states that a Commercial, Retail and Service Establishments Use-Class II is an allowed use in this zone district with a Conditional Use Permit.
 - 4. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
- B. Neighborhood Compatibility:

1. The zone district in this area is a Shoreland Multiple Use (SMU)-11 zone district.
2. This zone district is one of the least restrictive zone districts for lot dimensional standards.
 - a. Even though this district is less restrictive, the size of the parcel is nonconforming at 0.45 acres where 0.5 is required.
3. The property is located just over 700 feet from the east shoreline of Pike Lake.
4. Much of this area consists of residential development; however, there are other types of uses in the area.
 - a. The Pike Lake Golf and Beach property is located across Midway Road from the subject property.
 - i. This use consists of a residential planned development, a commercial bar/restaurant use, and a golf course.
 - b. The Pike Lake Elementary School is located adjacent to the property to the east.
 - i. This use is classified as a Public/Semi-Public use.
 - c. The Canosia Town Hall is located on the adjacent parcel to the north.
5. The property is located approximately three-quarters of a mile from the intersection of Midway Road and Highway 53.
 - a. This intersection area is zoned Commercial and has a variety of different types of uses.

C. Orderly Development:

1. The area is highly developed with little growth anticipated in the future.
2. The Pike Lake Golf and Beach property is currently in the process of developing their property with additional residential development.
 - a. This request was heard and approved in May 2020.
3. The proposed use requires a conditional use permit but would be similar in nature to other short-term rental uses.
 - a. The main difference compared to many short-term rentals would be the frequency of rental.
 - b. There is opportunity for other similar uses in the area due to the zoning.

D. Desired Pattern of Development:

1. The existing pattern of development includes a variety of uses.
2. Because this area is zoned Shoreland Multiple Use, a variety of future uses would be allowed and encouraged where appropriate in the area.
 - a. These uses could include other commercial uses, residential uses, commercial planned developments/resorts, etc.

E. Other Factors:

1. The property appears to have been created and developed in the early 1950s.
2. The property is located on the Pike Lake Area Wastewater Collection System (PLAWCS).
 - a. PLAWCS has signed off on the proposal to operate the rental on the site.
3. The application indicates that there are two bedrooms on the site and the requested occupancy is six people.

- a. The occupancy of a short-term rental is typically limited to two people per each bedroom that a septic system is designed for.
- b. PLAWCS may allow additional capacity, based on their system, but the occupancy may be limited by the Minnesota Department of Health as well.
4. Although this is technically not a short-term rental, some of the short-term rental standards and conditions, including the occupancy standards, may be appropriate.

Jared Ecklund noted no items of correspondence.

STAFF RECOMMENDATION

If the Planning Commission determines that the proposal meets the criteria for granting a conditional use permit for a commercial rental dwelling as a Commercial, Retail and Service Establishments Use-Class II, the following conditions shall apply:

1. The permittee/owner/operator shall post within the rental unit the rules and regulations and emergency contact information for police, fire, hospital, septic tank pumper, and permittee/owner/operator.
2. The permittee/owner/operator shall provide the St. Louis County Planning and Community Development Director with current contact information for person(s) responsible for property management.
3. The permittee/owner/operator shall provide a visual demarcation of the property lines.
4. All local, state and federal requirements shall be followed for taxing, licensing, permitting and other applicable requirements.
5. General liability insurance covering the property, including its use as a commercial rental dwelling, shall be maintained in an amount consistent with St. Louis County Board coverage requirements; a copy of the insurance policy shall be provided to and on file with the County.
6. The permittee/owner/operator shall obtain and maintain an applicable Minnesota Department of Health Lodging License and other applicable licenses. Copy of current license(s) shall be provided to and on file with the County prior to issuance of permit by the County. Applicable licenses shall be posted in a prominent location within the dwelling unit(s).
7. A Minnesota tax identification number and other applicable identification numbers must be provided to the St. Louis County Planning and Community Development Director prior to issuance of permit.
8. Disposal of solid waste must comply with St. Louis County Solid Waste Ordinance 45, or its successor or replacement.
9. The site shall provide on-site parking sufficient to accommodate the occupants of the rental dwelling unit.
10. No person shall, for the purpose of camping, lodging, or residing therein, leave or park a vehicle or motor vehicle on or within the limits of any road or on any road right-of-way.
11. All other local, county, state and federal regulations shall be met.

Chad Bruckelmyer, the applicant, stated they purchased this property a few months ago. This will be a rental on Airbnb or VRBO. This dwelling will have Pike Lake access and access to the Pike Lake Golf and Beach club. They do plan on replacing the fence on the south property line that looks a little nicer. If they need to put one on the eastern property line between this property and

the school, they can extend the fence around the back. It may not matter because if someone wanted to get around the fence, they would simply need to go into Canosia Town Hall parking lot to access the school property. They removed the old garage because it was dilapidated and an eyesore. They have talked with PLAWCS on their plans to have an occupancy of six and have plans to add a third bedroom. They have started talking with the Minnesota Department of Health to get that process started.

No call-in users, present audience members or other virtual attendees spoke.

The *Planning Commission* discussed the following:

- A. Commission member *Svatos* asked what is located south of this residence. *Jared Ecklund* stated there is a residence to the south. Canosia Town Hall is located north. Pike Lake Elementary School is located to the east behind the property. The Pike Lake Golf and Beach is located across Martin Road.
- B. Commission member *Pollock* asked what the difference is between a bed and breakfast or motel/hotel. *Jared Ecklund* stated the term used to describe the actual function is not as important as the use category for that function. A bed and breakfast or a motel/hotel were in the Ordinance long before short term rentals were. They could be considered the same thing, but the use category of commercial dwelling unit versus a hotel/motel does not matter as much as the classification of a Residential Use versus a Commercial, Retail, and Service Establishments Use.
- C. Commission member *Pollock* stated this will be taxed as a commercial use no matter what.
- D. Commission member *McKenzie* asked if the distinction is between the lack of private use. *Jared Ecklund* stated that is part of it. For a short term rental, the rental cannot be the primary use. Since this dwelling will be rented 365 days per year, it will be a commercial use.
- E. Commissioner *Nelson* stated his concern is Pike Like Elementary School and asked if there is a fence dividing the properties. *Jared Ecklund* stated there is no fence separating the school property from the subject property. There is a row of trees dividing the property line. There is no other separation. Commissioner *Nelson* stated that given the closeness of the school, the property line should be fenced. Fences make good neighbors. Commission member *Skraba* asked if it is the duty of the landowner to protect the children or for the school district to protect the children. Commission member *Manick* stated he is concerned about the property next door with the number of vehicles and feels odd about asking the subject property to fence that property line in without asking the neighbor to the south to fence in the same back property line. Commission member *Werschay* asked if the person asking for the use should be asked to put up a fence. Commission member *Svatos* added that there should be a fence along the north, east and south property lines. Commissioner *Nelson* stated because this is becoming a commercial use, there should be at least a fence along the eastern property line to protect the school.
- F. Commission member *Pollock* asked when the school district determines when a fence is necessary. What type of fence can the landowner be expected to put up?
- G. Commission member *McKenzie* stated that the fence should be discussed. Commission member *Skraba* agreed. Maybe the north, eastern and southern property lines should be fenced. Maybe someone will try and get around the fence to the school. *Chad Bruckelmyer* stated they will replace the existing fence with a six foot wooden fence with posts down

below the frost line. He is concerned about having a massive wood wall in a U-shape around the property. He asked if they could bring the fence along the north property line to the back corner of the garage. Commission members agreed.

DECISION

Motion by Svatos/Manick to approve a conditional use permit for a commercial rental dwelling as a Commercial, Retail, and Service Establishments Use - Class II, based on the following staff facts and findings:

A. Plans and Official Controls:

1. St. Louis County Zoning Ordinance 62, Section 6.32, states that if a property is used primarily for rental purposes, then it shall be deemed a Commercial Use-Class II and subject to ordinance requirements regarding commercial use.
2. The transient nature and frequency of the rental at the site may be more similar to a bed and breakfast or a hotel/motel use than a residential use.
 - a. These uses are commercial uses.
3. Zoning Ordinance 62, Article V, Section 5.6, states that a Commercial, Retail and Service Establishments Use-Class II is an allowed use in this zone district with a Conditional Use Permit.
4. Objective ED-2.1 of the St. Louis County Comprehensive Land Use Plan is to recognize and ensure regulatory fairness across a thriving lodging industry that includes hotels, bed and breakfasts, and vacation rentals.
5. The use conforms to the land use plan.

B. Neighborhood Compatibility:

1. The zone district in this area is an Shoreland Multiple Use (SMU)-11 zone district.
2. This zone district is one of the least restrictive zone districts for lot dimensional standards.
 - a. Even though this district is less restrictive, the size of the parcel is nonconforming at 0.45 acres where 0.5 is required.
3. The property is located just over 700 feet from the east shoreline of Pike Lake.
4. Much of this area consists of residential development; however, there are other types of uses in the area.
 - a. The Pike Lake Golf and Beach property is located across Midway Road from the subject property.
 - i. This use consists of a residential planned development, a commercial bar/restaurant use, and a golf course.
 - b. The Pike Lake Elementary School is located adjacent to the property to the east.
 - i. This use is classified as a Public/Semi-Public use.
 - c. The Canosia Town Hall is located on the adjacent parcel to the north.
5. The property is located approximately three-quarters of a mile from the intersection of Midway Road and Highway 53.
 - a. This intersection area is zoned Commercial and has a variety of different types of uses.
6. The use is compatible with the existing neighborhood.

C. Orderly Development:

1. The area is highly developed with little growth anticipated in the future.
2. The Pike Lake Golf and Beach property is currently in the process of developing their property with additional residential development.
 - a. This request was heard and approved in May 2020.
3. The proposed use requires a conditional use permit but would be similar in nature to other short-term rental uses.
 - a. The main difference compared to many short-term rentals would be the frequency of rental.
 - b. There is opportunity for other similar uses in the area due to the zoning.
4. The use will not impede the normal and orderly development and improvement of the surrounding area.

D. Desired Pattern of Development:

1. The existing pattern of development includes a variety of uses.
2. Because this area is zoned Shoreland Multiple Use, a variety of future uses would be allowed and encouraged where appropriate in the area.
 - a. These uses could include other commercial uses, residential uses, commercial planned developments/resorts, etc.
3. The location and character of the proposed use is considered consistent with a desirable pattern of development.

E. Other Factors:

1. The property appears to have been created and developed in the early 1950s.
2. The property is located on the Pike Lake Area Wastewater Collection System (PLAWCS).
 - a. PLAWCS has signed off on the proposal to operate the rental on the site.
3. The application indicates that there are two bedrooms on the site and the requested occupancy is six people.
 - a. The occupancy of a short-term rental is typically limited to two people per each bedroom that a septic system is designed for.
 - b. PLAWCS may allow additional capacity, based on their system, but the occupancy may be limited by the Minnesota Department of Health as well.
4. Although this is technically not a short-term rental, some of the short-term rental standards and conditions, including the occupancy standards, may be appropriate.

The following conditions shall apply:

1. The permittee/owner/operator shall post within the rental unit the rules and regulations and emergency contact information for police, fire, hospital, septic tank pumper, and permittee/owner/operator.
2. The permittee/owner/operator shall provide the St. Louis County Planning and Community Development Director with current contact information for person(s) responsible for property management.
3. The permittee/owner/operator shall provide a visual demarcation of the property lines.
4. All local, state and federal requirements shall be followed for taxing, licensing, permitting and other applicable requirements.

5. General liability insurance covering the property, including its use as a commercial rental dwelling, shall be maintained in an amount consistent with St. Louis County Board coverage requirements; a copy of the insurance policy shall be provided to and on file with the County.
6. The permittee/owner/operator shall obtain and maintain an applicable Minnesota Department of Health Lodging License and other applicable licenses. Copy of current license(s) shall be provided to and on file with the County prior to issuance of permit by the County. Applicable licenses shall be posted in a prominent location within the dwelling unit(s).
7. A Minnesota tax identification number and other applicable identification numbers must be provided to the St. Louis County Planning and Community Development Director prior to issuance of permit.
8. Disposal of solid waste must comply with St. Louis County Solid Waste Ordinance 45, or its successor or replacement.
9. The site shall provide on-site parking sufficient to accommodate the occupants of the rental dwelling unit.
10. No person shall, for the purpose of camping, lodging, or residing therein, leave or park a vehicle or motor vehicle on or within the limits of any road or on any road right-of-way.
11. All other local, county, state and federal regulations shall be met.
12. The south and eastern property lines shall be fenced with a six foot wooden fence.

In Favor: Coombe, Filipovich, Manick, McKenzie, Nelson, Pollock, Skraba, Svatos, Werschay - 9

Opposed: None - 0

Motion carries 9-0

Motion to adjourn by Pollock. The meeting was adjourned at 11:42 AM.