

**Town of Gnesen Planning Commission**  
**February 16, 2022 Minutes – held both in person and via zoom**

Members Present: Kathy Buran, Carter Williams (via zoom), Pete Bergman, Sherri Underthun, Matt Thibodeau, Nick Lepak (via zoom), Kevin Middleton, Joe Ferguson (via zoom), Dick Delano (via zoom), Nathan Horyza (via zoom), Zoning Officer; and Sarah Blix, Planning and Zoning Secretary.

Members Absent: None

Others Present: Dave Opack (via zoom), Jay Haller, Marcia Haller, Jim Atkinson, Bob Vavrosky, Deke Malone, Christine Malone, Sara LeDoux, Sue Lyons, Scott Lyons, and Mike Polzine.

**APPROVAL OF AGENDA:** A motion was made by Kathy to approve the agenda with the addition of hot mix asphalt plants under New Business and comp plan update under Continuing Business, second by Kevin. All vote in favor.

**APPROVAL OF MINUTES:** A motion was made by Sherri to approve the January 19, 2022 minutes, second by Kathy. All vote in favor.

**APPROVAL OF MINUTES FROM THE FUDALLY VARIANCE PUBLIC HEARING:** A motion was made by Sherri to approve the January 19, 2022 Fudally Variance Public Hearing minutes, second by Kevin. All vote in favor.

**PUBLIC DISCUSSION:** None

**CONTINUING BUSINESS:**

**Special Events:** Sherri stated that last month she provided the members with some insurance bond verbiage that could be attached to the special events application if the commission chooses. Sherri said she thought the permit that was drafted up covered everything that has been talked about, but that she really didn't have a lot of time to look it over. Carter stated he is not in agreement of including the bond with the special events permit because from what he understands it is protecting the permittee not the township. Carter also asked if there are documents to share that he would like them sent out a week before the meeting to give all commission members time to review them. Sherri said that none of the documents had changed from last month. Sherri also clarified that the insurance bond would hold the township harmless, protecting them, and was not for protecting the individual seeking the permit. Matt suggested tabling until the March meeting.

**Communication Tower Moratorium Subcommittee:** Sherri said there is no update because the subcommittee would like to have an attorney look over a few things first. Joe agreed and said he would like someone with knowledge about townships to look it over. Dave suggested contacting an attorney through MAT. Dave told Joe to contact Lottie first because he would need permission from the Town Board Supervisors prior to contacting MAT.

**Comp Plan Update:** Carter informed everyone that the comp plan was accepted and approved at the public hearing that the Town Board held. Carter said that included in the comp plan were four items that will need to be looked at in further detail sometime in the future. They are short term rentals, commercial development in residential areas, blight/junk/nuisance, and the criteria for conservation subdivisions would need to be developed if the Board wants to move forward with adding that to the ordinance. Carter said that the commission should set up times and methods for working on these areas. Deke Malone also said that hot mix plants were also discussed at the comp plan public hearing due to the fact that they do not relate well to certain areas in the comp plan. Carter reminded Matt that at the public hearing Nathan said that hot mix plants were already in the ordinance and dealt with under a CUP. Currently the only hot mix plant that is

operated in Gnesen is Ulland Brothers. Dave agreed that hot mix plants are regulated under a CUP and that KGM has also had one in the past. Dave said that these hot mix plants are portable and they come and go depending on where the work is. Dave also mentioned that the companies that are running the hot mix plants are very good at abiding by the conditions and that they meet and work within all the state and federal guidelines so he is not sure if saying they can't operate in Gnesen is the right choice. Matt asked if the conditions for the CUP are put on every year to which Dave said no. Dave said that the conditions are put in place when the operator applies for the CUP and then the CUP is reviewed on a yearly basis. Sherri made a point of order that hot mix plants are on the agenda under new business and that we should continue with the comp plan and talk about hot mix plants later on as stated in the agenda.

**Short Term Rentals:** Matt said he has done a lot of reading regarding short term rentals and that it seems like a lot of places are being caught off guard and are not prepared on handling them. Matt informed all the people who were attending the meeting via zoom that there were several residents in tonight's audience who wanted to speak regarding short term rentals. Sherri asked if the people who were in attendance tonight and who wanted to discuss short term rental were mainly from Sunshine Lake. Mike Polzine said he was from Schultz Lake. Sherri questioned if there was a homeowners association on either Sunshine Lake or Schultz Lake to which she was told no. Sherri said that a homeowners association might be another way to deal with this problem rather than going through planning and zoning. Nick said that St. Louis County just adopted language into their ordinance for dealing with short term rentals. Nick suggested that the commission seek guidance from the Town Board as to just how much effort they want the Commission to put into short term rentals. Nick said that taking on short term rentals will be a big task for Gnesen's small zoning board and enforcement will be a whole other issue. Sue Lyons; who lives on Sunshine Lake and was part of the group representing Sunshine, Schultz, and Jacobs Lakes, stated that she was part of the St. Louis County's hearing regarding their short term rental ordinance. Sue said that what St. Louis County has in place is better than nothing but very limited as to what it regulates. Sue stated that currently there are no invasive species in their lake and that currently there are no short term rentals on their lake but they want to keep their water clean and preserve the clean, quiet neighborhood that they currently have. Sue said that the comp plan does not support short term rentals rather it supports the quiet, country setting that Gnesen currently has. Invasive species, decreased property values, wandering dogs, encroachment are all problems that could arise on private lakes where homes are close and sounds carry. Sue said that, while she knows it is a daunting task, it is doable to put ordinance verbiage in place to protect private lakes and that there are many residents who are willing to work with the Commission to get something in place. Matt asked Sue to clarify if they were requesting an ordinance to regulate or prohibit short term rentals on private lake to which Sue said they are requesting them to be prohibited. Carter said it is very hard to prohibit something in part of the township but not the rest. Carter said he is in favor of creating a short term rental policy but most of the issues rely on the homeowner regulating who rents their home. Carter said he would like to see a committee formed that could work together to create something that would work for all Gnesen residents. Joe said he would support prohibiting short term rentals but the problem is enforcement. Joe stated that Gnesen simply does not have the money or personnel to enforce prohibiting short term rentals. Joe also suggested that before Gnesen puts time and effort into creating an ordinance they should look at enforcement to make sure what they are planning is enforceable. Deke Malone stated that he feels if an ordinance is in place, even if it is unenforceable, it would still act as a deterrent because it would show people what the community of Gnesen wants or does not want within our community. While it may not deter all potential short term rentals, Deke feels like creating ordinance verbiage would be a good start.

**MN Power Subdivision:** Jim Atkinson from MN Power was in attendance at tonight's meeting to discuss plat 7 (now known as Agate Place) and plat 8 (now known as Roanoke). Nathan explained to the Commission that the plats have changed – the 25ft shoreline FERC retainment requirement has decreased to 3ft and MN Power is now asking to change their previous plat plan which included lot splits for each lot along the shoreline to now just have one big outlot along the shoreline which would include the 3ft retainer above the OHWL and everything below the OHWL. Jim said that all lot owners would have a permanent easement for ingress/egress

to the water. Public would not have access to each lots individual water access nor would neighbors be able to trespass on individual lots easement. Nathan said that after reviewing the documentation that MN Power sent him it looks as though only two lots are below conforming lot size which is good and he would recommend moving forward with signing the final plats. Dave told Matt that Nathan had some good questions that he wanted to get answers to in writing from MN Power and so if Nathan has gotten the answers to his questions in writing then he feels ok with proceeding. Kathy made a motion to pass the MN Power subdivision information on to the Town Board, second by Sherri. Carter said he wanted to amend Kathy's motion to say, the Planning Commission wants to pass along their acceptance of Agate Place and Roanoke to the Town Board for final approval. Kathy agreed to Carter's amendment of her motion. All vote in favor.

#### **NEW BUSINESS:**

**Commission Members Who's Terms are up in March:** Both Carter and Pete have stated that they will be seeking reappointment for another term, while Nick will not and so tonight will be his last meeting. The Commission thanked Nick for his time on the Board.

**Suzie's Greenhouse CUP:** Suzie has turned in her CUP application to extend the length of time she can be open from 7 weeks to 9 months. Matt set the public hearing for Suzie's Greenhouse CUP for March 16, 2022 at 7:00pm. Nathan questioned if Suzie's CUP was for just greenhouse activities. Sarah stated that minutes from her original CUP public hearing did state that "the conditional use permit would be valid only for a greenhouse and not for any commercial use." Nathan said that changing the hours of operation would not necessarily make her business more salable. Sarah questioned what the definition of greenhouse use was. Carter said that greenhouse use is anything related to activities from that specific greenhouse. So, if Suzie is growing Christmas trees in her greenhouse then she can sell them. If she is shipping in Christmas trees then it would not be allowable to sell them at her greenhouse. Same with a farmers market, it would not be allowable for other people to come in and sell veggies at Suzie's greenhouse if they were grown off site. Nathan said if Suzie is trying to make her business more marketable so she can sell it in the future then she should make sure to include everything in her updated CUP application. Nathan suggested that Sarah reach out to Suzie and let her know that if uses other than greenhouse uses are being considered then they should be added to her CUP application now before the public hearing.

**Hot Mix Asphalt Plant:** Deke Malone, a resident from Sunshine Lake, said that because they reside near Ulland Brothers hot mix plant they experience smells, noise, and emissions that he feels are not good for the environment. Deke said he would like see if there are ways to restrict or limit the use of hot mix plants and protect the community from the detrimental impacts that hot mix plants have. Bob Vavrosky, from Sunshine Lake, questioned how the 1000ft setback for hot mix plants came to be. Bob said that the horrible smells in the air would make it impossible for him to sell his house in the summer. Bob said he heard a rumor that Ulland Brothers will possibly be moving into the Billington Pit which is across the street and north of Sunshine Lake so any south/western wind will blow directly at Sunshine Lake. Scott Lyons, Sunshine Lake resident, said that the Sunshine Lake group has done a lot of research on hot mix plants and there are many solutions that the pit owners can do to help decrease the noise and smells. Scott said that the Ulland plant has been there for 17 years and although he does not see them moving anytime soon, he does believe there are things the township can do to help. Dave said there have been asphalt plants in the pits since the early 1970's and that there is no easy answer to the problem. Dave said that Ulland has been good neighbors to the township. Sue Lyons, Sunshine Lake resident, said that they are not much more than 1000ft from the Ulland hot mix plant. Sue said that when there is a southern wind the smell makes you throw up. Over a year ago the City of Rice Lake successfully put a moratorium on any asphalt plants that wanted to go in due to the concentration of people who lived in that area where the potential hot mix plant was going to go. Sue said that when the current Ulland pit is depleted, which could be in the next 2-5 years, they have said that they want to move to the Billington pit. Sue said that with the prevailing winds, the smell will be blowing their direction all day long. Sue said she sat in on the gravel pit CUP public hearing in September and not a single commission member

asked if they have had any complaints about the hot mix plants. Sue said an app on her phone has read 80 decibels from her front steps multiple time this past summer. Bob asked if the plants could be moved to areas where it is less populated and even though he understands that they have been doing business since the 1970's, a lot has changed since then. Nathan read the verbiage from the Gnesen ordinance that says a portable hot mix plant that is not within 1000ft of a resident does not require a CUP. Ulland's pit is within 1000ft of a resident which is why they have a CUP. Christine Malone, Sunshine Lake resident, said she would like to know where the magic 1000ft number came from. She stated that Ulland's hot mix plant runs all day long, 6 days a week. Nathan asked Dave what the hot mix plant does for the township. Dave said they could employ people within the township. He also said that we have gotten some pricing benefits, donated material. The township buys material from Ulland but not at a discounted rate. Sarah LeDoux questioned the 1000ft setback. Dave said that he thought the 1000ft setback was something that was negotiated in the original CUP. Carter stated that another alternative is that if they are granted a CUP at Billington's pit then noise, filters, hours of operation can all be looked at when they turn in their application to move to Billington's pit. Nathan suggested to the Sunshine Lake residents who were in attendance at tonight's meeting to come to the next CUP review meeting, which is in September, and bring up the 1000ft issue then. Scott Lyons asked if the Planning and Zoning Commission could go to Ulland's and take up the issue rather than a bunch of residents going to them with issues. Sherri asked if she could get the information that the Sunshine Lake residents said they dug up. Scott said they would gather the information. Kathy suggested that Sarah notify the pit operators well before their pit inspections that there have been several complaints. Sue asked how she could record the noise and smells prior to the September meeting to build their case. Dave said MPCA can be contacted and should be able to send out a rep to check on the Sunshine Lake residents' concerns. Dave also said that Twin Ports Testing can also monitor decibels. Dave thought the MPCA would be at no cost but that there would be a cost associated with Twin Ports Testing.

**Cell Towers:** Marcia Haller, who was not on tonight's agenda, asked if the moratorium subcommittee had looked at any of the information that they provided to the Town Board. Sherri said she is likely the only commission member who has not seen the information because she is new to the commission. Sherri said she had wanted to meet with Marcia but it hadn't happened yet. Sherri said enforcement is one of the big problems that they need to look further into. Marcia said within the last month her son had been diagnosed with a blood clot in his arm from his wrist to his neck and two in his lungs. Marcia said this is a symptom that can occur from living next to a tower and just wanted the planning commission to know.

**ZONING OFFICERS REPORT:** Nathan had no new updates.

**BOARD MEMBERS REPORT:** Dave let the commission members know that the Town Board received a letter from Ross Litman regarding fire plans and asking if Gnesen would co-host a workshop to create a plan to have in place in the event of future brush and wildfires. Dave said the Town Board will be asking for community participation and ideas but it is still in the planning phase so more information will be provided on this topic once we get it from St. Louis County.

- The next P&Z Meeting will be held on Wednesday, March 16, 2022 at 7:30 pm.

A motion was made by Sherri to adjourn, with a second by Pete. All voted in favor. Meeting adjourned at 9:13 pm.

Respectfully submitted,

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Sarah Blix, Planning and Zoning Secretary

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Matt Thibodeau, Planning Commission Chair

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Date

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Date