Blue Earth County Planning Commission Members:

AGENDA
Blue Earth County Planning Commission
Regular Meeting
Wednesday, October 3, 2012 - 7:30 PM
Blue Earth County Commissioners Room
County Courthouse, 204 South Fifth Street, Mankato, Minnesota

Anyone speaking to the Planning Commission shall state their name and address for the record.
Thank you.

1. CALL TO ORDER
2. APPROVAL OF MINUTES – September 5, 2012 Regular Meeting
3. APPROVAL OF AGENDA
4. NEW BUSINESS

PC 31-12
Archie Kendall, Sharon Renner & Sandra Hall - Request for approval of preliminary and final plats of Kendall Subdivision, a one lot and one outlot subdivision. The property is zoned Agricultural and is located in the south half of the SW 1/4 of Section 10, Garden City Township.

PC 32-12
NP LLC - Request to vacate an unoccupied utility easement lying on parts of Lots 4 and 5 of Block 1 of South Bend View Subdivision. The site is located in part of the NE 1/4 of the NW 1/4 of Section 21, South Bend Township and part of the NW 1/4 of the NE 1/4 of Section 21, South Bend Township. The property is zoned Highway Business and is in the Urban Fringe Overlay District of the City of Mankato.

5. OTHER BUSINESS
6. ADJORNMENT

All agenda items will be heard by the County Board of Commissioners at 9:30 A.M., Tuesday, October 23, 2012 in the Commissioners Room, Blue Earth County Courthouse, 204 South Fifth Street, Mankato, Minnesota.
MINUTES
Blue Earth County Planning Commission
Regular Meeting
Wednesday September 5, 2012
7:30 p.m.

1. CALL TO ORDER
The meeting was called to order at 7:50 P.M. by Lyle Femrite. Planning Commission members present were Lyle Femrite, Bill Anderson, Kurt Anderson, Kip Bruender, Chuck Grams, Barry Jacques and Perry Wood. Planning & Zoning staff members Mark Manderfeld and George Leary were also present.

2. APPROVAL OF MINUTES
Mr. Bill Anderson made a motion to approve the minutes from the August 1st, 2012 Regular Planning Commission Meeting. Mr. Jacques seconded the motion which carried unanimously.

3. AGENDA APPROVAL
Mr. Leary indicated there were no changes to the agenda.

4. NEW BUSINESS

PC 29-12
Ray & Lisa Winter - Request to update an existing Conditional Use Permit for a farm winery located in the Agricultural Zoned District in the SE 1/4 of the SE 1/4 of section 13, McPherson Twp. Proposed update will allow for the retail (on-sale) sale of beer at the farm winery.

Mr. Leary presented the staff report.

Mr. Winter was present. He advised the Commission of his concerns with condition number 3 which requires a review of the permit when with any modification to food or beverage sales or services offered are proposed. He was also concerned with condition number 8 which limits the total gross receipts of non-wine related items to 35% of the total retail sales of the winery. He added that the original Farm Winery Ordinance limited total gross receipts to 25% and the new standards do not count wholesale wine sales.

The Planning Commission discussed items 3 and 8 and acknowledged that any change to the standards would require an ordinance amendment. The general consensus was that the present request should proceed as-is and if an amendment is needed; it should be reviewed and brought forward as an amendment at a later date.

Mr. Femrite asked what is being controlled with number 3 which requires review of food or beverage modifications.

Mr. Leary stated that the applicant has brought forward a request to sell beer at his farm winery which is a significant modification. With this proposal, item number 3 is applicable. This same condition applies to a change in menu options which could presumably include such change as the use of a deep fat fryer which could have a significant impact on the operations septic system. Therefore it is changes that are more significant that will trigger the need for review.

Mr. Bruender stated it is the words “any proposed change” that is the issue.

The condition of the 2008 conditional use permit issued to the applicant, requiring review of the permit prior to April 22, 2013 was discussed.
The Planning Commission discussed this condition at length. It was suggested that the intent of this condition in the original permit was due to the fact that wineries were new to the county and at the time there was a need for a five year review.

Mr. Leary stated that the original conditions were left in as they were listed in the 2008 permit, no changes were made. He added that the proposal that is now being discussed will address the original condition requiring review of the permit prior to April of 2013. Mr. Leary added that the first condition listed is a catchall in that as long as the applicant abides by all of the conditions, there is no need for review.

Kurt Anderson stated that tonight’s action will satisfy the condition requiring review prior to April of 2013.

Bill Anderson stated that condition number 12 states any change will require review of the permit.

Mr. Wood indicated there is no provision that the applicant needs to come back in five years for review. Four and one half years ago a review was required to make sure the enterprise was working out and that the applicant was abiding by the conditions of the permit. He added there is no need to remove anything.

There was no further discussion by the Commission. Mr. Wood made a motion to recommend approval of the request to the County Board. Mr. Bruender seconded the motion and the motion carried unanimously.

PC 30-12
Roger & Lynn Manske and Cemstone Products Company - Request for a Conditional Use Permit allowing a farm drainage and construction equipment sales business in the Highway Business Zoned District and the Urban Fringe Overlay District to the City of Mankato. The property is located in the NE 1/4 of the SE 1/4 of Section 19, South Bend Township.

Mr. Leary presented the staff report.

Mr. Manderfeld advised the Commission that the future building dimensions have changed to 85 feet by 85 feet in order to meet the setback requirements.

The applicants were present and had nothing to add.

There was no public comment.

Kurt Anderson asked if there should be an added condition to require washroom facilities to be connected to a proper septic system.

Mr. Leary stated that a compliance inspection of the septic system will be required as part of the pending sale of the property. He added that the proposed use will require proper sizing of the system and that the condition could be added.

Mr. Grams indicated he had no concern with the proposal.

Mr. Wood commented on the proposed hours of operation and asked the applicants if these hours were adequate.

The applicants stated that they may have occasional after hours sales calls.
Kurt Anderson indicated his belief that a representative meeting with a client after hours would not likely be disruptive to the general public.

Mr. Bruender asked the applicants if they are comfortable with the proposed hours. They responded that they did not believe this should be an issue.

There was no further discussion by the Commission. Mr. Bruender made a motion to recommend approval of the request to the County Board. Kurt Anderson seconded the motion and the motion carried unanimously.

ADJORNMENT
There was no further business. Mr. Wood made a motion to adjourn the meeting which was seconded by Mr. Grams and the meeting was adjourned at 8:45 p.m.
**Applicant**
Archie Kendall, Sharon Renner and Sandra Hall
21065 535th Ave
Mankato, MN 56001

**Request**
Request for approval of Preliminary and Final Plats of Kendall Subdivision, a one lot and one outlot subdivision located in the Agricultural Zoned District in the S ½ of the SW ¼ of Section 10, Garden City Township

**Legal Description**
As defined on the Plat of Kendall Subdivision.

**Zoning**
Agricultural

**General Project Description**
The plat proposal includes a parcel consisting of 36.53 acres located in the southeast quarter-quarter and extends into the southwest quarter-quarter of the southwest quarter of section 10, Garden City Township. The parcel being subdivided is owned by the applicants and includes a single family dwelling with a detached garage along with farm land.

The applicants are proposing the subdivision plat in order to separate the existing building site from the farm land. If approved, the subdivision plat will include one lot and one outlot. Lot 1 will include a single family dwelling with a detached garage, a septic system and a well. This lot will consist of 1.53 acres. The outlot will consist of 35.30 acres of farm land.

Of the three remaining parcels located within the south ½ of the southwest quarter; one consists of 2.52 acres and includes a single family dwelling with an accessory storage structure, the second is a 20.00 acre piece that consists of mostly wetland acres and the third is a 57.14 acre parcel of farm land that extends into the quarter-quarter section to the north. The applicants do not own the remaining three parcels, therefore they are not included in the plat proposal.

**Existing Land Use, 1/4 Mile**
**North:** Crop land, wetland, and one residence  
**South:** Crop land, wetland, and one residence  
**East:** County Road 38, Crop land, and one residence  
**West:** Crop land and wetland

**Access**
No change in access is proposed. Access is provided by an existing driveway off of CSAH 38.

**Land Use Plan**
The proposal does not conflict with the land use plan.

**NATURAL RESOURCES INFORMATION**
Topography
The topography of the area of the proposed plat is relatively flat. See attachment A-5

Floodplain
The proposal is not located within flood plain according the 2011 FEMA Preliminary Flood Maps. See attachment A-6

Shoreland
The proposal is not located within the shoreland district.

Township Review
The applicant has met with the Township Board. In a letter dated September 11, 2012, the Township Clerk advised staff that the Township passed a motion to approve the subdivision plat.

Staff Comments
Environmental Health Review – See attachment A-7

Standards for Granting a Conditional Use Permit (Section 24-47 a-o of the Code of Ordinances) Staff believes the request will meet the following standards required for the granting of a conditional use permit:

a. That the proposed use conforms with the county land use plan.

b. The demonstrated need for the proposed use.

c. That the proposed use will not degrade the water quality of the county.

d. That the proposed use will not adversely increase the quantity of water runoff.

e. That soil conditions are adequate to accommodate the proposed use.

f. That the proposed use does not create a potential pollution hazard.

g. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.

h. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use.

i. That facilities are provided to eliminate any traffic congestion or traffic hazard which may result from the proposed use.

j. That the proposed subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

k. That the establishment of the proposed subdivision will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.
1. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

m. That the density of the proposed residential development is not greater than the density of the surrounding neighborhood or not greater than the density indicated by the applicable zoning district.

n. N/A That the intensity of proposed commercial or industrial development is not greater than the intensity of the surrounding uses or not greater than the intensity characteristic of the applicable zoning district.

o. That site specific conditions and such other conditions are established as required for the protection of the public’s health, safety, morals and general welfare.

RECOMMENDATIONS
Staff recommends approval of the preliminary and final plats of Kendall Subdivision, a one lot and one outlot subdivision contingent upon the following conditions:

1. The developer of the residential parcel acknowledges and understands the following cautionary disclosure from the Blue Earth County Code of Ordinances, Division 2. Agricultural District, Section 24-111 Purpose, Subpart (b) Agricultural operations. Said disclosure states:

Through the adoption of this subsection, the Board of Commissioners is expressing its intent to enhance and encourage agricultural operations within the boundaries of the County. The County will view the agriculture district as a zone in which land is used for commercial agricultural production. Owners of property, residents, other users of property in the agriculture zone, and neighboring properties adjacent to the agriculture zone may be subjected to inconvenience or discomfort arising from normal and accepted agricultural practices and operations including, but not limited to; noise, odors, dust, operation of aircraft and late night operation of farm machinery, the storage and application of manure, fertilizers, soil amendments, herbicides and pesticides associated with normal agricultural operations. Owners of property, residents, other users of property in the agriculture zone, and neighboring properties adjacent to the agriculture zone, should be prepared to accept such inconveniences or discomfort from normal operations, and are hereby put on official notice, pursuant to Minn. Stats. ch. 561.19, that this declaration may prevent them from obtaining a legal judgment against such normal operations.

2. Approved final plat must be recorded within 12 months of receiving final approval from the Planning Commission and Board of Commissioners. Final plat approval shall become null and void 12 months after approval, unless the subdivider applies for and is granted an extension of time by the Planning Commission and Board of Commissioners as set forth in section 20-155, pertaining to extensions of time.

3. Any discrepancies with the County Mapping or Recorders office must be resolved prior to recordation of the plat.
4. Construction and septic permits will be obtained prior to commencement of any future construction activities.

5. If additional Right-of-way (ROW) is ever accepted by a government agency for public road purposes, that government agency need not pay for that ROW, either by negotiated purchase or through eminent domain action.

**Attachments:**
A1 Location map
A2 Aerial Photo
A3 Preliminary Plat
A4 Final Plat
A5 Topography Map
A6 Floodplain Map
A7 Environmental Health Review
Disclaimer: This map was created using Blue Earth County’s GIS and was created for specific internal County uses. It is intended to be used for reference purposes only and does not represent a land survey. No liability is assumed for the accuracy of the data delineated herein, either expressed or implied by Blue Earth County or its employees.
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A7 – Environmental Health Review

BLUE EARTH COUNTY
ENVIRONMENTAL SERVICES
Government Center, 410 South Fifth Street
P.O. Box 3566, Mankato, Minnesota 56002-3566
Phone: (507) 304-4381 Fax: (507) 304-4431

Environmental Health Section - Planning Application Reviews

Date Printed: September 20, 2012          Permit Number: PL2012089
Property Owner: KENDALL AE, RENNER SL & HALL SD
Applicant: KENDALL AE, RENNER SL & HALL SD
Parcel Number: R36.12.10.300.003
File ID: PC 31-12

Application Description: Request for approval of preliminary and final plats of Kendall Subdivision, a one lot and one outlot subdivision. The property is zoned Agricultural and is located in the south half of the SW 1/4 of Section 10, Garden City Township.

Septic Review

Status: Complete - Comments Received

Comments: The existing system was inspected and found to be compliant. The certificate is valid 8/10/2015. A second drainfield location is shown on the preliminary plat. This location needs to be protected against compaction and disturbance so the replacement drainfield can be installed in this location. There are no additional septic requirements at this time. porterness 09/20/2012 1:57 PM

Well Review

Status: Complete - Comments Received

Comments: The site plan submitted by the applicant shows one in-use well located north of the detached garage. The proposed property split should not have a negative impact to the current well situation. The applicant may wish to create a shared well agreement for this well. grant 09/20/2012 2:49 PM

Wetland Review

Status: Complete - Comments Received

Comments: A wetland investigation was required as part of this plat. Blue Earth County (BEC) has received the wetland boundary determination application and report from R. J. Hanna & Associates for this site. No wetlands were determined to be on the site. BEC agreed with the determination and issued the Notice of Decision for approval on September 13, 2012. S. Feser 09/20/2012 11:08 AM
Applicant
NP LLC
2894 58th Street
Eau Claire, WI 54703

Request and Location
Request to vacate an unoccupied utility easement lying on parts of Lots 4 and 5 of Block 1 of South Bend View Subdivision. The site is located in part of the NE 1/4 of the NW 1/4 of Section 21, South Bend Township and part of the NW 1/4 of the NE 1/4 of Section 21, South Bend Township. The property is zoned Highway Business and is in the Urban Fringe Overlay District of the City of Mankato.

Legal Description
Lot 4 and Lot 5, South Bend View Subdivision, Mankato, Minnesota. T-108-N, R-27-W

Zoning
The property is zoned Highway Business and is located within the Urban Fringe Overlay District of the City of Mankato.

General Site Description and Project Proposal
The property in question includes lots 4 and 5 of Block 1 in the South Bend View Subdivision. Both lots are currently owned by NP LLC. Lying on the dividing boarder of the two lots is a 20 foot utility easement. The South Bend View Subdivision was platted in 1973. In anticipation of the possible need for utility services, utility easements were included with the plat. It appears that since the site was originally platted, no utilities have been placed in the area of the proposed vacation. Howard Hough, an attorney with the Farrish Johnson Law Office, represents the owner and has contacted a list of 13 utility companies serving the area. All of the utility companies have indicated they have no utilities located in the area of the proposed vacation and have indicated they are not opposed to the vacation of the utility easement.

In 2006 the property was surveyed with the intention of relocating the dividing property line. This action would allow for both the primary and secondary septic drainfields of the development on Lot 5 to be located entirely on its own parcel. The survey was never recorded. It is the intent of the owner to proceed with relocating the property line as proposed in 2006 and to vacate the utility easement that is situated on the existing dividing property line.

Existing Land Use within 1/4 Mile
North:
210th Lane (a township road), one developed lot and one undeveloped lot of the South Bend View Subdivision, five residential structures, crop land, an abandoned commercial property, CSAH 69 and the Chicago & Northwestern Railroad.

South:
US Hwy 169, Sunrise Lane (a township road), rural residences and crop land

East:
US Hwy 169, one developed lot of the South Bend View Subdivision, rural residences, crop land and wood land

West:
County Road 120, Benco Electric, crop land and wood land

Access
No change in access is proposed. Access is provided by an existing driveway off of 210th Lane.
NATURAL RESOURCES INFORMATION

Topography
The topography of the two lots slopes gently to the southeast.

Floodplain
The proposal is not within a floodplain area.

Shoreland
The property does not include shoreland.

Township Review
The applicant has made contact with the township. The Township has indicated no opposition to the request.

City of Mankato Review
The property is located within the Urban Fringe Overlay District of the city of Mankato. Staff has discussed the proposal with the City Planning Office. They are not opposed to the proposal.

Environmental Health Staff Comments - See Attachment A-5.

Opinions
Based on the information submitted by the applicant, the following opinions have been developed to vacate the 20 foot utility easement that separates lots 4 and 5 of South Bend View Subdivision:

1. That the utility easement was created at the time the South Bend View Subdivision was created in 1973 with the intended purpose of providing adequate location for utilities.
2. That since the time the subdivision was created; no utilities have been placed within the easement area to be vacated.
3. That the applicant has contacted a list of 13 area serving utility companies regarding the request and no opposition has been received.
4. That adequate area for the placement of utilities appears to be served by other utility easement area and in the nearby right-of-way.

Recommendations
Staff recommends approval of the request to vacate an unoccupied utility easement lying on dividing line of Lots 4 and 5 of Block 1 of South Bend View Subdivision. The County will record the resolution of the utility vacation. Therefore no conditions are included with this recommendation.

Attachments
A-1 General Site Location
A-2 Site Map
A-3 South Bend View Subdivision
A-4 Petition for the Utility Easement Vacation
A-5 Environmental Health Comments
Disclaimer: This map was created using Blue Earth County's GIS and was created for specific internal County uses. It is intended to be used for reference purposes only and does not represent a land survey. No liability is assumed for the accuracy of the data delineated herein, either expressed or implied by Blue Earth County or its employees.
Area of the proposed Utility Vacation
PETITION TO VACATE DEDICATED UTILITY EASEMENT

TO: THE COUNTY BOARD OF COMMISSIONERS OF BLUE EARTH COUNTY

The undersigned property owner respectfully represents:

I.

That the petitioner is the fee owner of the following described property in the County of Blue Earth, Minnesota, to wit:

Lots 4 and 5, Block 1, South Bend View Subdivision.

II.

The plat of South Bend View Subdivision, a copy of which is attached and marked Exhibit A, contains, within its Instrument of Dedication, a dedication for utility purposes of utility easements shown thereon.

III.

Lots 4 and 5, Block 1, South Bend View Subdivision can best be utilized by a transfer of said lots using the following descriptions:

Parcel 1:
That part of Lot 4 and Lot 5, Block One, SOUTH BEND VIEW, according to the recorded plat thereof, Blue Earth County, Minnesota, being Westerly of the following described line: Commencing at the Southeast Corner of Lot 4; thence South 48 degrees 04 minutes 48 seconds West (bearings based on SOUTH BEND VIEW) on the South line of Lot 4, a distance of 225.96 feet to the point of beginning of the line to be described; thence North 30 degrees 02 minutes 05 seconds West, 194.82 feet to the North line of Lot 5 and there terminating. Said parcel contains 1.16 acres of land being subject to and together with any and all easements of record.

Parcel 2:
That part of Lot 4 and Lot 5, Block One, SOUTH BEND VIEW, according to the recorded plat thereof, Blue Earth County, Minnesota, being Easterly of the following described line: Commencing at the Southeast Corner of Lot 4; thence South 48 degrees 04 minutes 48 seconds West (bearings based on SOUTH BEND VIEW) on the South
line of Lot 4, a distance of 225.96 feet to the point of beginning of the line to be described; thence North 30 degrees 02 minutes 05 seconds West, 194.82 feet to the North line of Lot 5 and there terminating. Said parcel contains 1.05 acres of land being subject to and together with any and all easements of record.

Attached and marked Exhibit B is a survey sketch depicting said Parcels 1 and 2.

VI.

No utility lines exist within the easement shown on the boundary between Lot 4 and Lot 5, Block 1, South Bend View Subdivision. Because of the re-describing of said lots the easement shown on the plat will no longer be necessary for future utility purposes.

WHEREFORE, your petitioner respectfully requests that a date for a hearing on this Petition be set and at such hearing a resolution be adopted vacating any interest the County may have in the above described 20.00 foot wide alleys.

Dated this 22 day of September, 2012.

NP, LLC.

By: [Signature]

Its [Title]

STATE OF WISCONSIN
COUNTY OF

The foregoing was acknowledged before me this 22 day of September 2012, by [Signature] of NP, LLC, and Wisconsin limited liability company, who acknowledged the same to be the free act and deed of the corporation.

Notary Public
My Commission Expires 3-3-15
Environmental Health Section - Planning Application Reviews

Date Printed: September 25, 2012
Permit Number: PL2012090

Property Owner: NP LLC
Applicant: NP LLC

Parcel Number: R50.08.21.201.002R50.08.21.128.001
File ID: PC32-12

Application Description: Request to vacate an unoccupied utility easement lying on parts of Lots 4 and 5 of Block 1 of South Bend View Subdivision. The site is located in part of the NE 1/4 of the NW 1/4 of Section 21, South Bend Township and part of the NW 1/4 of the NE 1/4 of Section 21, South Bend Township. The property is zoned Highway Business and is in the Urban Fringe Overlay District of the City of Mankato.

Septic Review
Status: Complete - Comments Received

Comments: The current structure has a compliant septic system that was installed assuming that this easement did not exist. The vacation of the easement will make future placement of replacement systems easier. potterness 09/25/2012 3:29 PM

Well Review
Status: Complete - Comments Received

Comments: The proposed vacation of the existing utility easement between these properties will not have a negative impact on the current well situation on these properties. grant 09/24/2012 8:41 AM

Wetland Review
Status: Complete - Comments Received

Comments: The vacation of this unoccupied utility easement should not impact any wetland(s). S. Feser 09/20/2012 11:13 AM