



333 South Seventh Street, Suite 2800
Minneapolis, MN 55402
Office (612) 436-4300
Fax (612) 436-4340

www.raswlaw.com

2022 YEAR IN REVIEW

By
Scott T. Anderson
Jay T. Squires

2022 MACPZA CONFERENCE

Sugar Lake Lodge

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A. Croix Holdings, LLC v. City of Newport, 2021 WL 5999561 (Minn. App. 2021).

This case involves the revocation of a conditional use permit (CUP). Croix operated on two properties, one as a nonconforming use and the other under a CUP. The dispute and the case centers on whether there was a change of use (multi-dealer auto sales vs camper sales). The court held the City had a legally sufficient basis to determine Croix Holdings substantially changed the use of the original property in both nature and scope. Revocation was thus upheld.

B. Trisco v. County of Douglas, 2022 WL 93365 (Minn. App. 2022).

This is an equitable estoppel 60-Day Rule case. Trisco wanted to establish a hog feedlot, with two confinement barns. Trisco twice asked the County to postpone

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making a decision. After the County denied the application, Trisco petitioned the District Court for a writ of mandamus to compel the County to grant their application. They argued the decision had not been made within the time frame of the 60-Day Rule. The District Court and the Court of Appeals applied equitable estoppel in denying the mandamus petition and ruling for the County.

C. **In re: County Board action notice on interim use permit request to operate a kennel on parcel number R35.14.20.300.020, 2022 WL 664175 (Minn. App. 2022).**

There was an ATF Variance request by the commercial kennel operation, which was denied. They then applied for an IUP. County staff recommended approval of the application and proposed 23 conditions. The Planning Commission recommended denial to the County Board. The County Board denied the IUP. County staff prepared a letter notifying the operator of the decision. The letter ordered the operator to discontinue operating the kennel.

There was a poor record in this case: there was no transcript of the proceedings; there were no meeting minutes; and the letter to the operator did not detail why their IUP application was denied. This is an example of the Court finding the action based on neighbors' complaints, ultimately based on fear and speculation. The Court reversed and remanded back to the County Board to approve with reasonable conditions.

D. **Matter of Application of Impact Power Solutions, LLC, 2022 WL 1448223 (Minn. App. 2022).**

This was a case involving a CUP for a solar farm. The CUP was denied. The case involves the use of incompatibility with the comprehensive plan as a basis for the decision. The Court of Appeals upheld the denial, examining the plan and finding the record contained adequate evidence to support the decision.

E. **In the Matter of the Application of USS Great River Solar LLC for in Interim Use Permit, 2022 WL 4295368 (Minn. App. 2022).**

Great River Solar LLC applied for an interim-use permit (IUP) for a one-megawatt solar farm from Stearns County. At the County Board meeting, a board member moved to approve the IUP request, and the motion failed, with two members voting in favor, and two members voting against. The Board sent a letter notifying Great River Solar it denied the permit request. The letter stated

the members voting against the motion concurred with the Planning Commission's findings of fact, which had recommended denial. This case involves a 60-Day Rule claim, and the portion of the Rule that indicates a motion to approve a request that fails constitutes a denial provided those voting against the request state on the record the reasons why they opposed the request. And when that statement needs to be made.

F. State by Smart Growth Minneapolis v. City of Minneapolis, 954 N.W.2d 584 (Minn. 2021).

This case involved the controversial 2040 Comprehensive Plan for the City, and a claim that it violated the Minnesota Environmental Rights Act (MERA). The case involved an interplay between MERA and the Minnesota Environmental Policy Act (MEPA) under which EAW and EIS review occurs. Dismissed at the District Court level, the case went up to the Supreme Court. The Court reinstated the complaint and sent the case back down for further proceedings.

G. In re: Determination of Need for Environmental Impact Statement for Pavilion Estates Subdivision, 2022 WL 1946512 (Minn. App. 2022).

The case involved a negative declaration for need of an EIS for a residential-development project. Relators argued the Township's negative declaration was affected by various errors of law; the Township failed to engage in reasoned decision-making; and the declaration was arbitrary, capricious and unsupported by substantial evidence. The Case is a good example of how the court will look at such claims and what an RGU should be looking at in making a determination.

H. Matter of Determination of Need for Environmental Impact Statement for Mankato Motorsports Park, 2021 WL 1604359 (Minn. App.2021).

This was another case involving a negative declaration on the need for an EIS. This was a project to construct a motorsports park with a seasonal driving track in the City of Eagle Lake, converting 230 acres of agricultural land to industrial use. Here the Court reversed and remanded for a new EIS determination. We can see, in comparison to the Pavilion Estates case, some of the issues that arose with this determination.

I. Tulien v. City of Minneapolis, 2021 WL 79526 (Minn. App. 2021).

This case involved the approval of five variances and a CUP for a proposed six-story mix-used office and residential apartment building. The approvals were reversed. One of the issues dealt with the meaning of "circumstances unique to

the property.” Another was whether findings needed to be present on the approval of the CUP on all of the factors laid out in the ordinance.

J. Schulz v. Town of Duluth, 2022 WL 433225 (Minn. App. 2022).

Another variance case, one of a series of different cases regarding this project, a proposed home for retirement on Lake Superior. Variance applications were denied in June 2017. A second modified application was made and ultimately approved in September 2017. The case involved an attempt to argue the Town was collaterally estopped from approving the second variance application, as well as an argument the approval was arbitrary and capricious.

K. Culligan v. City of Mendota Heights, 2022 WL 2912679 (Minn. App. 2022).

This case involved a number of permits involved in subdividing property, including a CUP and variances in the Mississippi River Corridor. Ultimately, the permit requests were denied. The case involves a good examination of the sufficiency of evidence to support a decision.

L. City of Shorewood v. Sanschagrín, 2022 WL 764223 (Minn. App. 2022).

Another dock case. This case involves construction of the language of an ordinance, and shows the steps and materials a court turns to in trying to determine meaning.

M. Matter of Moratzka, Trustee of Nancy L. Mayen Residual Trust, 974 N.W.2d 266 (Minn. App. 2022).

This case involved a parcel of land dedicated “to the public forever” in 1911. The County and the DNR challenged the determination that the easement to use a lakefront slip of land was abandoned and extinguished.

N. Town of Denmark v. Cordes, 2021 WL 5441817 (Minn. App. 2021).

This was a zoning enforcement action, with a claim that the commercial use enjoined by the District Court was a legal nonconforming use, and that both equitable estoppel should preclude enforcement. A good discussion of both doctrines.

O. In the matter of the Application Number 2020-006782, Conditional Use Permit, 2022 WL 274252 (Minn. App. 2022).

This was a challenge to the grant of a CUP for an outdoor off-highway recreation area. There were a number of claims raised as to why the Court should deem the decision to be arbitrary and capricious, and a claim raised on appeal that the use was not an allowed use under the zoning ordinance.