

Planning Commission MINUTES January 14th, 2021

PRESENT: Gerry Feld, Warren Peschl, Al Brenny, Art Buhs, Mary Jo Holewa, Scott Johnson, Jerry Lang

Staff: Roxanne Achman, Karen Loehrer

1. Scott called the meeting to order followed by the Pledge of Allegiance.
2. Warren nominated Scott for Chair. Jerry seconded. The nomination ceased. The motion carried.
3. Gerry nominated Jerry for Vice-Chair. Warren seconded. The nomination ceased. The motion carried.
4. Art moved to appoint Dan Gottwalt to the Board of Adjustment. Gerry seconded and the motion carried.
5. Warren moved to approve the agenda. Jerry seconded and the motion carried.
6. Gerry moved to approve the minutes from the November 12th, 2020 meeting. Jerry seconded and the motion carried.
7. 6:03 p.m. File #20-722, Tim Rajkowski requesting approval of a 2-lot preliminary plat entitled "Cornerstone Acres" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: part of the NW1/4 SW1/4, Section 35, Section Watab Township.

Roxanne stated that the request is for a two-lot plat in Watab Township. The property owner received a CUP for mini storage. There is an existing tower with offices. The request is to split the property to divide the uses. The guy wires for the tower are within 30ft from the proposed property line. Tower setbacks are at the discretion of the Planning Commission. Approval of this plat would be approval of the

adjusted setback for that guy wire. Watab Township approved this preliminary and final plat.

Craig Wensmann, Borgart Pederson and Associates, stated he is the surveyor of this plat and is representing the applicant, who was present on-line. The request is for a 2-lot plat.

No one spoke in favor, opposition or with general comments.

Gerry moved to close the public hearing. Jerry seconded and the motion carried.

Gerry moved that the request meets Section 10.7, pages 10-12. Art seconded and the plat was approved.

8. 6:08 p.m. File #20-736, JANNEW Properties requesting approval of a 6-lot preliminary plat entitled "Pearls Addition" in the R-2 Residential District. Pursuant to Section 10.7. The affected property is described as follows: That part of the NW1/4 lying Northeasterly of the Burlington Northern Railroad, Section 15, Watab Township.

Roxanne stated that this property has been rezoned to R-2. The request is for a 6 lot plat in Watab Township. The township has approved the preliminary plat. This property is adjacent to the railroad tracks. There are no specific setbacks from the railroad. The BNSF Railroad has concerns with residential development abutting the railroad and has asked about fencing along the west side of the property. MN Statute states it is the railroads responsibility to install fencing along their right-of-way. Access would be from 10th Ave NW and 95th St. Jerry asked if 10th Ave was asphalt. Sandy Saldana, applicant, stated that it was. Warren asked about the railroad crossings. Sandy stated that all railroad crossings in Watab Township are quiet zones.

Sandy Saldana, PO Box 276, Sauk Rapids, stated that they had this property rezoned to create 5 new lots. They wanted to wait for preliminary plat approval from the county before they brought the final plat to Watab Township for approval. Jerry asked about the structure on Lot 1. Roxanne stated that that is an accessory structure that will meet the 15ft setback from the proposed property line.

Roxanne received an email from Gloria Nelson, 9760 Hemlock Rd NW which stated her concerns with additional development in the agricultural area and along the railroad tracks. Sandy felt this property was closer to residential uses than agricultural. She stated that any potential buyers would be aware of the railroad tracks.

No one spoke in favor, opposition or with general comments.

Art moved to close the public hearing. Jerry seconded and the motion carried.

Gerry moved that the request meets Section 10.7, page 10-12. Jerry seconded and the motion carried. The preliminary plat was approved.

9. 6:18 p.m. File #20-747, Clean Trust Partners, LLC, landowner and Svihel Community Solar, LLC, applicant requesting to amend interim use permit #19-367 from 27 years to 35 years in the Agricultural District. Pursuant to Sections 7.2.5(G), 9.20 and 11.7. The affected property is described as follows: SW1/4 SW1/4, Section 23, Gilmanton Township.

Roxanne stated that the request is to amend an existing interim use permit to extend the 27 year term of the IUP to 35 years. The solar garden has been constructed. The property is zoned agricultural and located in the Urban Growth Area of the City of Foley. When the IUP was approved the City of Foley voiced their concern with the location of the solar garden and asked for a term closer to 25 years. At that time the developer agreed with 27 years.

Evan Carlson, IPS Solar representative, and owner to the property. He stated that the project has been completed. He is asking to amend the time frame of 27 years to 35 years. He stated that the useful life of the solar garden exceeds 35 years and a longer time frame for the use makes the project more marketable. Scott stated that the applicant can request an extension at 27 years. Warren stated this property is near the city limits. Gerry stated that the city is moving forward with their waste water project. Evan stated that they sell the power produced by the solar array and a shorter time frame is less valuable, 35 years make the project more valuable.

Jeff Gondeck, 55 Carpenter St, Foley, City Councilman, stated that the city is moving forward with their waste water project. The city is working with Gilmanton Township on an orderly annexation agreement. The city has a potential of growing to the north and he is against amending the time frame. They have the ability to request an extension on the time frame at 27 years. Jeff stated that the city would work with the landowner at that time.

Sarah Brunn, Foley City Administrator, was present remotely. She stated that a solar garden creates challenges for the city for utilities. She is asking that they wait 27 years to request an extension. She stated she echo's Councilman Gondeck's comments.

Art moved to close the public hearing. Gerry seconded and the motion carried.

Art felt it was prudent to deny this request due to the city's concerns and the option for renewal.

Warren moved to deny this request. Jerry seconded. Scott stated the city has concerns and there is a potential to extend. Mary Jo felt that amending the IUP would be a step backwards. Jerry stated that this could open the door for other solar gardens to request

time frame amendments. Gerry stated that 2-1/2 decades is a long time and the future is unknown. The motion carried. The request for IUP amendment was denied.

10. 6:38 p.m. File #20-738, MAH Holdings LLP, landowner and Travis Scott dba TS Dirt Works LLC, applicant, requesting to operate a contractor shop in the Agricultural District. Pursuant to Sections 7.2.4(N), 9.9 and 11.6. The affected property is described as follows: W1/2 SW1/4 SW1/4, Section 8, Gilmanton Township.

Roxanne stated that this is the former location of Mighty Axe Hops. She showed an aerial photo of the property. The request is for a contractor shop. The main building would be used for the maintenance and storage of heavy equipment. The second floor for offices. The cold storage building would be for trucks and supplies. There are no doors facing the road. There are 8 employees. When leaving the site the trucks will go west to CR3. All parking will be north of the buildings. Screening would not be needed.

Travis Scott, 6791 85th ST NE, stated he is requesting a conditional use permit for a contractor shop in the agricultural district. Scott asked if the applicant was okay with the hours of operation condition. Travis stated that in the winter they do plow snow and in the summer some trucks do need to leave earlier. Weather can dictate the hours. He stated that he is in the process of buying 10 acres from the property owner.

No one spoke in favor, opposition or with general comments.

Jerry moved to close the public hearing. Gerry seconded and the motion carried.

Gerry moved that the request meets Section 7.2.4N, page 5, Section 9.9, pages 25-26 and Section 11.6, pages 9-12. Jerry seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Al stated that there will be no burden placed on existing parks, schools, or public facilities. The vote was unanimous that the use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 2) Warren stated that the entrance and overhead doors are hidden from the view of the road. It is well screened by the building. Scott stated that traffic will generally travel to the west to County Road 3. The vote was unanimous that the use is sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- 3) Gerry stated that the structure is existing and will not be changing visually. The vote was unanimous that the structure and site will have an appearance that will not have an adverse effect upon adjacent properties.

- 4) Mary Jo stated that this is an agricultural lot that was previously used for hops manufacturing. The building is suitable for the comings and goings of larger trucks and equipment. Contractor shops are permitted in the Agricultural District with an approved Conditional Use Permit. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.
- 5) Art cited Sections 2.1.1 (C), (E) and moved to include the development conditions adding #8 regarding the hours of operation. Gerry seconded and the motion carried. Roxanne read #8: *“Typical hours of operation are 7am-7pm, Monday through Friday. Working hours may vary between 5am – 10pm. Weather conditions may dictate hours of operation. Work may occur on Saturdays. No work on Sundays”*. The vote was unanimous that the use is consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- 6) Jerry stated that the use is not in conflict. He cited Land Use Goal #2 Rural Land Use, Policy #1: Rural Land Use and Economic Development Goal #1 Resources, Policy #2: Business Retention. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Mary Jo stated that the applicant has indicated that most equipment will be left at the jobsite during the seasonal working months. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Gerry stated that there does not appear to be wetlands on this property. The vote was unanimous that the use will not violate the wetland provisions of MN Statutes Chapter 103G.

Roxanne read the findings and conditions.

Findings:

- (1) Will the use create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area?

There will be no burden placed on existing parks, schools, or public facilities.

- (2) Is the use sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land?

The entrance and overhead doors are hidden from the view of the road. It is well screened by the building. Traffic will generally travel to the west to County Road 3.

- (3) Does the structure and site have an appearance that will not have an adverse effect upon adjacent properties?

The structure is existing and will not be changing visually.

- (4) Is the use, in the opinion of the Planning Commission, reasonably related to the existing land use?

It is.

This is an agricultural lot that was previously used for hops manufacturing. The building is suitable for the comings and goings of larger trucks and equipment. Contractor shops are permitted in the Agricultural District with an approved Conditional Use Permit.

- (5) Is the use consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use?

In accordance with the following items in Section 2.1.1:

(C) To promote the orderly development of residential, business, industrial, recreational and public areas.

(E) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.

The development conditions for file no. 20-738 are adopted with the addition of the hours of operation as item number 8.

8. Typical hours of operation are 7am-7pm, Monday through Friday. Working hours may vary between 5am – 10pm. Weather conditions may dictate hours of operation. Work may occur on Saturdays. No work on Sundays.

- (6) Is the use in conflict with the Land Use Plan of the county?

It is not in conflict.

The site is planned agricultural for farming and low density non-farm housing. The proposed use of a contractor's shop is allowed in the agricultural district.

Land Use

Goal #2 Rural Land Use

Policy #1: Rural Land Use: Plan land use and provide roads and other public services so as to sustain most of the County as a low-density, rural and generally agricultural environment.

Economic Development

Goal #1 Resources

Policy #2: Business Retention: Continue to support efforts to retain and expand existing businesses.

(7) Will the use cause traffic hazards or congestion?

The applicant has indicated that most equipment will be left at the jobsite during the seasonal working months.

(8) Will the use violate the wetland provisions of Minnesota Statutes Chapter 103G?

There do not appear to be wetlands on this property.

Conditions:

1. This Conditional Use Permit is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Conditional Use Permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the parcel approved with the application, as qualified by these development conditions. The applicant shall undertake the project according to the plans and specifications submitted to the County with the application.
3. A Land Use and Building Permit shall be obtained from the County prior to any construction and shall be consistent with the plans and specifications submitted with the conditional use permit application.
4. Pursuant to Section 11.6.3(J) of the Development Code, this conditional use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work as defined in Section 11.6 of the Development Code. The Planning Commission may grant an extension of one year to complete the project if a written request for additional time is filed with the Planning Commission prior to the date of expiration of the conditional use permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
5. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to ensure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
6. Any equipment stored outside shall be screened from view, licensed and operational.
7. Per Section 9.9 of the Development Code:
 - (A) Any repair or maintenance of equipment or vehicles incidental to the business shall only be allowed if such activities are conducted completely indoors and by-products of such activities, such as used motor oil, are disposed of in accordance with County standards.

(B) No operation or activity shall emit any hazardous substances in such quantity, concentration, or duration as to be injurious to human health or property. If hazardous materials are stored and used on the property, a materials management plan shall be submitted to address storage, handling, use, disposal, and potential hazards.

8. Typical hours of operation are 7am-7pm, Monday through Friday. Working hours may vary between 5am – 10pm. Weather conditions may dictate hours of operation. Work may occur on Saturdays. No work on Sundays.

Warren moved to approve the findings and conditions and grant File #20-738. Jerry seconded and the motion carried. The applicant was given a copy of the findings and decision.

11. 7:00 p.m. File #20-739, Randy DeMarais requesting an after the fact conditional use permit to operate a cabinet shop and contractor shop in the Agricultural District. Pursuant to Sections 7.2.4 (I) & (N), 9.9 and 11.6. The affected property is described as follows: part of the NE1/4 NE1/4 and part of the SE1/4 NE1/4, Section 4, St. George Township.

Roxanne stated that the request is to operate a cabinet shop and contractor shop in an existing building. This is an after the fact request. The applicant has changed his request to only assemble the cabinets, not cut or stain. The building currently doesn't meet building code for a commercial use. The building is not open to the public. The applicant is the only employee. She proposed adding conditions to reflect the court order.

Randy Demarais, 76 Greenmeadow St, stated that he is requesting a conditional use permit for a contractor shop and cabinet shop. He plans to only assemble cabinets. He asked if he would be able to make a vanity cabinet if asked to. Roxanne stated that court order states that all commercial cabinet making equipment must be removed from the building unless the proper building permits are applied for and granted for what he is doing in the building. Scott stated that the Planning Commission looks at the conditional use permit if the applicant doesn't meet the conditions the CUP can be revoked. The applicant needs to follow the court order. He stated his concern with the additional conditions.

Michelle Meyer, Assistant County Attorney was present remotely. The additional conditions are to clarify that additional building permits may be needed based on the use of the building. Scott asked about the use of a skill saw. Michelle stated that if the applicant expands beyond assembly of cabinet's he must get the appropriate building permits, for ventilation, etc. She stated that there is a fine dust concern. Randy stated his concern with having to put sprinklers in the building for a cabinet shop in a building his size. Art asked if the applicant could use only a portion of his building for cabinet shop then only having to put a sprinkler system in that portion. Michelle stated that if the applicant builds cabinets he needs to work with the building official on bringing the building up to code for that type of

business. Gerry asked if the request should be tabled so the applicant could meet with the building official on what permits are needed

Randy stated that he is being taxed commercial so he thought he had everything he needed. Michelle stated that it sounded like the applicant would be making cabinets if only occasionally. She went over the history of the property. The County has made multiple attempts to get the site in compliance with the use. Michelle stated that if the applicant goes beyond assembly of cabinets he needs to get the appropriate permits for cabinet making. There was a discussion on the conditions. #3 was amended to read: *“A Land Use and Building Permit(s) as required by the scope of the use(s) of the structure shall be obtained from the County prior to any construction or starting of a new use and shall be consistent with the plans and specifications submitted with the conditional use permit application.”*

Roxanne stated that she received a call from Jim Herbst stating that he and his 3 sons are in favor of this request.

Jerry moved to close the public hearing. Art seconded and the motion carried.

Gerry moved that the request meets Section 7.2.4(l) (N), page 5, Section 9.9, pages 25-26 and Section 11.6, pages 9-12. Warren seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Warren stated that there will be no burden placed on existing parks, schools, streets or public facilities and utilities that serve or are proposed to serve the area. The vote was unanimous that the use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 2) Mary Jo stated that the building looks similar to other storage-type structures found in the Agricultural District. Work is contained within the building. The lot is heavily treed and there are small trees planted near the road. The picture proves that the building is presentable. The vote was unanimous that the use is sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- 3) Jerry stated that the structure is existing and will not be changing visually. It is similar to other storage-type structures found in the Agricultural District. The vote was unanimous that the structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
- 4) Al stated that Cabinet Shops and Contractor Shops are permitted in the Agricultural District with an approved Conditional Use Permit. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.

- 5) Art cited (A) (C) and (E) under Section 2.1.1 and moved to include the development conditions with #3 amended to read: "A Land Use and Building Permit(s) as required by the scope of the use(s) of the structure shall be obtained from the County prior to any construction or starting of a new use and shall be consistent with the plans and specifications submitted with the conditional use permit application". Jerry seconded. Warren asked what would happen if the applicant doesn't follow the conditions. Michelle stated that that would be a basis to revoke the CUP. Randy read the amended #3 and stated that he was in agreement with it. The motion carried. The vote was unanimous that the use is consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- 6) Jerry stated that the use is not in conflict. The use is allowed in the agricultural district with a CUP. He cited Land Use Goal #2 Rural Land Use, Policy #1: Rural Land Use and Economic Development Goal #1 Resources, Policy #2: Business Retention. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Gerry stated that traffic will be extremely minimal as there are no full-time employees. There will be occasional deliveries to the site. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Art stated that there does not appear to be wetlands on this property. The vote was unanimous that the use will not violate the wetland provisions of Minnesota Statutes Chapter 103G?

Roxanne read the findings and conditions.

- (1) Will the use create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area?

There will be no burden placed on existing parks, schools, streets or public facilities and utilities that serve or are proposed to serve the area.

- (2) Is the use sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land?

The building looks similar to other storage-type structures found in the Agricultural District. Work is contained within the building. The lot is heavily treed and there are small trees planted near the road. The picture proves that the building is presentable.

- (3) Does the structure and site have an appearance that will not have an adverse effect upon adjacent properties?

The structure is existing and will not be changing visually. It is similar to other storage-type structures found in the Agricultural District.

- (4) Is the use, in the opinion of the Planning Commission, reasonably related to the existing land use?

Cabinet Shops and Contractor shops are permitted in the Agricultural District with an approved Conditional Use Permit.

- (5) Is the use consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use?

In accordance with the following items in Section 2.1.1:

(A) To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

(C) To promote the orderly development of residential, business, industrial, recreational and public areas.

(E) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.

The development conditions for file no. 20-739 are adopted with minor changes to condition number 3 as shown within the development conditions section.

- (6) Is the use in conflict with the Land Use Plan of the county?

It is not in conflict.

It is allowed in the agricultural district with a conditional use permit.

Land Use

Goal #2 Rural Land Use

Policy #1: Rural Land Use: Plan land use and provide roads and other public services so as to sustain most of the County as a low-density, rural and generally agricultural environment.

Economic Development

Goal #1 Resources

Policy #2: Business Retention: Continue to support efforts to retain and expand existing businesses.

- (7) Will the use cause traffic hazards or congestion?

Traffic will be extremely minimal as there are no full-time employees. There will be occasional deliveries to the site.

(8) Will the use violate the wetland provisions of Minnesota Statutes Chapter 103G?

There does not appear to be wetlands on this property.

Conditions

1. This Conditional Use Permit is granted for and runs with the land indicated in this application and is not transferable to other land.
2. This Conditional Use Permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the parcel approved with the application, as qualified by these development conditions. The applicant shall undertake the project according to the plans and specifications submitted to the County with the application.
3. A Land Use and Building Permit(s) as required by the scope of the use(s) of the structure shall be obtained from the County prior to any construction or starting of a new use and shall be consistent with the plans and specifications submitted with the conditional use permit application.
4. Pursuant to Section 11.6.3(J) of the Development Code, this conditional use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work as defined in Section 11.6 of the Development Code. The Planning Commission may grant an extension of one year to complete the project if a written request for additional time is filed with the Planning Commission prior to the date of expiration of the conditional use permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
5. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to ensure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
6. Any equipment stored outside shall be screened from view, licensed and operational.
7. Per Section 9.9 of the Development Code:
 - (C) Any repair or maintenance of equipment or vehicles incidental to the business shall only be allowed if such activities are conducted completely indoors and by-products of such activities, such as used motor oil, are disposed of in accordance with County standards.
 - (D) No operation or activity shall emit any hazardous substances in such quantity, concentration, or duration as to be injurious to human health or property. If hazardous materials are stored and used on the property, a materials

management plan shall be submitted to address storage, handling, use, disposal, and potential hazards.

8. All scrap lumber must be properly disposed of in compliance with Section 8.8 of the Development Code and Benton County Solid Waste Ordinance #471.

The conditional use permit was granted. The applicant was given a copy of the findings and decision.

12. Jerry moved to adjourn at 8:26 p.m. Art seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary