

**Planning Commission  
MINUTES  
February 13<sup>th</sup>, 2020**

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

Staff: Roxanne Achman, Michelle Meyer, Karen Loehrer

- 1) Scott called the meeting to order followed by the Pledge of Allegiance.
- 2) Warren moved to approve the agenda. Art seconded and the motion carried.
- 3) Gerry moved to approve the minutes from the January 9<sup>th</sup>, 2020 meeting. Jerry seconded and the motion carried.
- 4) File #19-634, Derrick Nelson requesting to amend conditional use permit #15-421 to expand an existing storage structure in the Agricultural District. Pursuant to Sections 7.1.23 and 11.6. The affected property is described as follows: Lot 1, Block 1, Nelson Addition, Section 10, Watab Township.

Roxanne stated that this property is located in Watab Twp. west of Hwy 10. In 2015 the Planning Commission granted a conditional use permit to allow for warehouse structure for storage. The original building is 60x80 with a 30x30 office area. The request is to double the size of the building with a 60x80 addition for work vehicles and storage. The request will not increase traffic. There will be no additional employees. She stated that there is an additional condition that a pressure test for the holding tanks be done before permits are issued. The structure will meet all setbacks.

Derrick Nelson, 10000 Sharon Place Rd, stated they are asking to amend their conditional use permit to expand the structure.

Roxanne received an email from Watab Twp. in support of this request.

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

Gerry moved that the request meets Section 7.1.23 page 3&4 and Section 11.6 pages 7&8. Dan seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

1. Jerry stated that the warehouse will not create any additional burden to the existing parks, schools or public facilities. The addition is not for the purpose of adding employees, but to store business vehicles within. The only ones affected are Saldana's site to the north and a home to the far south. 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 area is zoned agricultural and is separate from homes on the east by railroad tracks and Highway 10. 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 addition will match the existing structure. There will be no adverse effect, the building is there now. The vote was unanimous that the structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
4. Dan stated that this is related to the land use. Warehouse/Storage structures are common in the agriculture zone. There is another business in the area. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.
5. Art moved to add Section 2.1.3 and the six development conditions. Jerry seconded and the motion carried. Derrick stated that he has reviewed and agrees with the development conditions. 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. Mary Jo stated that the use is not in conflict. She cited Land Use Goal #2: Rural Land Use, Policy #9: Highway 10 Corridor 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. Dan stated that there will be no increase in traffic. The vote was unanimous that the use will not cause traffic hazards or congestion.
8. Jerry stated that there are no wetlands on site. The vote was unanimous that the use will not violate the wetland provision 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?

*The use of this property for warehousing should not create any burden on the existing parks, schools or other public facilities. The addition is not for the purpose of adding employees, but to store business vehicles within. The only ones affected are Saldana's site to the north and a home to the far south.*

- (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 area is zoned agricultural and is separated from homes on the east by railroad tracks and Highway 10.*

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

*The addition will match the existing structure. There will be no effect.*

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

*Warehouse/Storage structures are common in the agricultural zone.*

- (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?

The application is in accordance with the following sections of the Development Code.

Section 2.1.3 states the purpose and intent is to promote the orderly development of residential, business, industrial, recreational and public areas.

The development conditions for File No. 19-634 are adopted.

- (6) Is the use in conflict with the Land Use Plan of the county?  
It is not in conflict with the Comprehensive Plan.

**Land Use**

Goal #2: Rural Land Use

**Policy #9: Highway 10 Corridor:** Support various developments along the Highway 10 corridor that apply innovative design solutions to minimize impacts to the environment and transportation system.

**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?

*There should be no increase in traffic.*

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

*There are no wetlands on this site.*

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. Pursuant to Section 11.6.2 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 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.
4. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to insure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
5. The conditions of CUP No. 15-421 shall remain in place.
6. A pressure test for the holding tanks must be submitted prior to the issuance

of a land use permit.

Warren moved to accept the findings and conditions and grant File #19-634, Art seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

- 5) Public hearing to consider the following amendments to the Benton County Development Code. Pursuant to Section 11.8. Modify Section 3 Definitions related to Accessory Solar Energy System, Community Solar Farm, Digital Display Sign, Ice Ridge, Outside Storage, Private Solar Garden, Rip-Rap, Shore Impact Zones; Sections 7.1, 7.2, 7.2A, 7.3, 7.4, 7.5, 7.6, 7.6A, 7.7 and 7.8 to address uses, Section 7S5.3 Shoreland Alterations to further define requirements; Section 8.3 Visual Screening Standards; Section 9 Special Provisions relating to Contractor Yards, Section 9.1 Signs to address digital billboards and remove content based provisions; Section 9.20 Solar to revise all requirements, Section 10 Subdivision Regulations to modify administrative subdivisions, add a simple plat process and clarify portions of the full platting process.

Roxanne stated that the proposed subdivision ordinance (Section 10) was reviewed by local surveyors who provided comments. She stated that the draft that the commission received in their packet has been revised. This is being changed to bring more properties into compliance. There have been numerous issues with subdividing property less than 20 acres, concerns with titles, error's in legal descriptions. The goal is to have a process that clarifies and simplifies parcels when they are being subdivided. She highlighted some of the proposed changes: Defining a building site. Under the Compliance Section further defining what is considered a lot of record and requiring the landowner to go through the subdivision process to correct an illegal subdivision. The Boundary Line Adjustment section would be removed. Amend Administrative Land Split section, which is anything 20 acres or greater, by changing Agricultural or recreational splits to Non-Building Subdivisions, for land 20 acres or greater and the residual tract is at least 20 acres or greater. Creating a process for Building Sites splits on 20 acres or greater. One requirement is that the survey shows any feedlot within 660ft. Adding a Boundary Line Correction Section for the purpose of correcting a boundary line. She went through the requirements of an administrative subdivision. Any split under 20 acres would go through a Simple Plat process which is a plat containing no more than one lot intended for a building site. No public hearings would be required for the preliminary or final administrative plat. This process would be used for boundary line adjustment. This would also allow for the combination of two platted lots instead of re-platting. She went over changes to Subdivision Plats. Showing shoreland district boundary, ordinary high water level and bluffs on plat. The Planning Commission may require a tree survey when more than 50% of trees are to be removed. Any public service easements need to be specifically described and recorded. The preliminary grading plan needs to be shown on the plat for the house site. Remove reference to Benton County Road Classification map and replace with "most current functional classification map issued by MN Dot." Roxanne asked for input on the maximum length of a cul-de-sac. Minimum radius of the turnaround in residential

area be 30ft and 80ft in commercial areas. Any remnant lot needs to be attached to an adjacent parcel. There can be outlots if the owner can show future plans for the outlot. Centralized sewers are not required but may be appropriate for smaller lots and if the expansion of municipal services is expected in the next 10 years. For a cluster of homes in the shoreland district the DNR does require a central sewer. Under 10.11.8 Easements may be allowed to be recorded after the final plat if recorded. This would record easements based on the platted legal description versus the previous legal description. Utility easements 10ft wide where utilities are anticipated, Planning Commission can require wider easements. At a minimum a 10ft drainage/utility easement shall be required adjacent to road right of way. Improvements required. Installation of improvements shall be made a condition of the preliminary plat and installed to the satisfaction of the appropriate jurisdiction. Public roads dedicated by the plat are the jurisdiction of the township unless otherwise identified on the plat. A statement needs to be submitted from the township stating that the township will open and maintain the dedicated street/alley. This is to ensure that someone will be responsible for the roadway. Simple Plats will not require a park dedication. Any financial surety arrangement shall be approved by the County Attorney as to form and issuing bank. Roxanne stated that a title opinion and updated abstract shall be submitted with the final plat. If any documents recorded that impact the property after the title opinion and abstract are submitted to the county, the title opinion and abstract will need to be updated before County Attorney signature. Extend final plat deadline from 120 days to 360 days.

Michelle stated that easements have always been confined. Public utilities have to be confined in an easement by law. Ingress/egress easements must be confined as well. These are identified in the title opinion. She stated that the title opinion goes back to the beginning of the grant of land and identifies easements. A title commitment only goes back two transactions. There are not many attorneys that do title opinions. Abstracts are not being created and updated like they used to be. She stated that they are looking at an alternative of a title commitment but identifying all easements, encumbrances and go back further then two transactions.

Craig Wensman, Bogart-Pederson 13076 1<sup>st</sup> St, Becker, stated that he has owned Bogard Peterson for 5 years. He lives in Maywood Township. He asked for clarification on a Simple Plat. If someone with 19.8 acres with a house wants to split off 5 acres for a building site that would be creating 2 lots. Roxanne stated that scenario would go through a minor subdivision process because the remnant lot is less than 20 acres. He likes that option of title commitments and identifying easements. He stated that he likes to see the history. Gas line easements that were done in the 70's wouldn't show up in a 40 year search. He stated that a title opinion and updated abstract add to the cost. He felt that 990ft wasn't long enough for a cul-de-sac. He suggested 1,300-1,400ft length. He questioned if a township would take over and maintain a road that doesn't go anywhere. Craig requested that the commission table this amendment as written for further review.

Scott Marlin, 2612 Olive Ln, Sauk Rapids, owner of Community Land Solutions, land surveyor, stated that he is in favor of tabling this amendment. He stated that the requirements of the subdivision ordinance create expenses for the landowner and require additional staff time to ensure those requirements are met. Platting can increase the cost \$4,000 to \$5,000 for the landowner. He stated that a plat won't do anything different than an administrative subdivision would do. The plat won't take care of any title issues or boundary issues. What burden are we placing on the tax payers to split their land? He felt that a title commitment should be used. Surveying feedlots within 660ft would add additional cost and that information can come from aerial photos. He stated his concern with not being able to split lots in different school districts. Platting doesn't resolve all title issues there are other solutions. He stated that it is important to have easements confined. Park dedication increases the cost of the project.

Sam DeLeo, KLD 13 11<sup>th</sup> Ave N, St. Cloud, suggested tabling this because there is more work to be done. He stated his concern with going back 40 years on a property's history. What can be done to make this process less expensive to the property owner while meeting the needs of the County. He stated that wetland delineation drives the cost up. Is there a way to not delineate everything under 20 acres. He suggested allowing a simple plat when creating one new lot. He would like to see the cul-de-sac length unlimited. There was a discussion on the size of a cul-de-sac.

Roxanne stated that this amendment needs additional work. She received the same comments from surveyors: Dan Kron, Dan Silvers and Ben O'Malley, which were provided to the commission.

-Solar Energy. Roxanne stated that this item is for recommendation to the county board. Community Solar Energy System was changed to Solar Farms, Community and Solar Garden, Private. Anything 5 acres or greater is a Private Solar Garden as an IUP. She stated that the biggest changes were providing for the 25 year minimum for IUP and a financial surety of \$25,000/megawatt for a Community Solar Farm and \$500/acre for Private Solar Gardens. Screening plans as decided upon with the Planning Commission.

Gerald Bettendorf, 310 Birch Dr, Foley, member of the Foley City Council, asked that the county consider not allowing the solar garden in the city Urban Growth Area. The city has been working on their waste water treatment plant. Once the solar gardens are in place it difficult to extend water and sewer lines. He stated that the city will start working on their Comprehensive Plan. They started discussions with Gilmanton Township on annexations. The city is concerned that the placement of the solar gardens doesn't interfere with the city's growth.

Rosalie Musachio, Foley City Council member, stated that when sewer and water go through development will come. She felt that solar gardens are not the highest use for property along the highway. Once they're up there's no traffic, utility or

employment need. City is requesting that within the city's growth area solar gardens are not allowed along Hwy 25 and Hwy 23.

Steve Simones, Minden Township, stated that tree spacing is pretty tight. There are different species that can be used.

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

Scott asked about the urban growth area. Is it the area identified in the Benton County Comprehensive Plan or in Foley's. Gerard stated it is the growth area identified by the county. Gerry stated that screening is looked at with each project.

Warren moved to recommend approval as presented. Art seconded and the motion carried.

-Signs. Roxanne stated that digital display was added.

No one spoke in favor, opposition or with general comments. Gerry moved to close the public hearing. Jerry seconded and the motion carried.

Art moved to recommend approval of this amendment. Jerry seconded and the motion carried.

-Roxanne sent over the proposed changes to Contractor yard. This section was split into Contractor shop without outside storage and Contractor shop with outside storage. She went over the use standards.

No one spoke in favor, opposition or with general comments. Gerry moved to close the public hearing. Art seconded and the motion carried.

Dan moved to recommend approval of this amendment. Jerry seconded and the motion carried.

-Screening. Roxanne stated that screening is required where any business or industrial use is adjacent to residentially zoned property or within 500ft of a dwelling. She went over the proposed standards for screening. This proposal allows for staff to review screening plans on permitted uses. Fences are allowed up to 7ft before a building permit is required.

Steve Simones, landscaping contractor, stated that he has different materials that are used on a daily basis that need to be kept on hand. He compared this to a farmer storing silage. He felt that the screening standards is an unnecessary burden to people in this industry.

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

Scott stated that the commission may require screening based on the request. Roxanne stated that screening standards were moved to this section to apply to any business or industrial use that is adjacent to property zoned residential or 500ft from a residence.

Jerry moved recommend approval of this amendment, with the change to 7ft in Section 8.3.3. Art seconded and the motion carried.

-Shoreland Alteration. Roxanne stated that this has been submitted to the DNR for review. No comments have been received back. Roxanne felt this should be brought back to the next meeting after DNR comments are received.

Jerry moved to table a decision on this amendment. Art seconded and the motion carried.

-Benton County Uses by Zoning District Chart. Roxanne stated that this is a list of uses that shows by district, if the use is permitted, a conditional use, interim use, accessory etc. These uses are listed in each proper section of the ordinance. Roxanne stated that this is a tool not part of the code.

Jerry moved to approve this use chart as presented. Gerry seconded and the motion carried.

#### 6) Discussion topics

-Zoning district purpose statements. Roxanne stated that not all districts had a purpose statement. This adds purpose statements too all districts. There was consensus to bring this forward as a public hearing.

-Section 7.13, Planned Unit Development (PUD) Roxanne stated that this proposal would change a PUD to a conditional use instead of a rezoning. With a PUD there will be a preliminary and final plat. This is a larger development and county board will be acting on the plat and the developer's agreements. It meets the criteria of the underlying zoning district and uses are still the same. PUD's allow different lot sizes or setbacks. There was consensus to bring this forward as a public hearing.

#### 7) Gerry moved to adjourn at 8:34 p.m. Jerry seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer  
Administrative Secretary