

**Planning Commission  
MINUTES  
March 11<sup>th</sup>, 2021**

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

Staff: Roxanne Achman, Karen Loehrer

1. Scott called the meeting to order follow by the Pledge of Allegiance.
2. Warren moved to approve the agenda. Jerry seconded and the motion carried.
3. Gerry moved to approve the minutes from the January 14<sup>th</sup>, 2021 meeting. Dan seconded and the motion carried.
4. File #21-046, Barbara Kirchner, landowner and Rachelle Kirchner, applicant, requesting an interim use permit to operate a Rural Event Center in the Agricultural District. Pursuant to Sections 7.2.5(D), 9.17 and 11.7. The affected property is described as follows: part of the NE, Section 35, Section Watab Township.

Roxanne stated that the request is to operate a rural event center. The location is east of Hwy10 and north of CR33 on 5<sup>th</sup> Ave NE. There is a total of 97 acres. She showed an aerial photo of the property. The applicant intends hosting outdoor events and to use the house for bridal suite/grooms' quarters once the house meets building code for such events. Items for the events: tent, tables, chair etc. will be stored in an existing building and rented out when not in use. Watab Township has no concern with event traffic. Since they would be using CR33 she spoke to the Highway Department and they had no issues with this. There will be parking for 100 vehicles with an additional 50 spaces. She stated that there are additional criteria with the rural event center. Hours of operation are limited to 8am to 10pm. The Planning Commission can modify hours. There will be 3 employees who are family members. There will be no additional restrooms other than the house and portable toilets.

Rachelle Kirchner, 6241 5<sup>th</sup> Ave, her mother, Barb Kirchner and business partners Denielle Kirchner and Andrew Mauren were present. Rachelle stated that they are requesting to operate a rural event center

at their mom's house. They are asking to extend the hours to 11pm for amplified music and guests to leave by 12am. Monday through Sunday. They will provide solid waste removal including recycling. Gerry asked if they had any events scheduled. Rachelle stated that they did not. They are waiting for approval.

John and Janice Haus, 6140 5<sup>th</sup> Ave NE stated that they are in favor.

Roxanne stated that she was provided letters in support from Luke Katterhagen, 6711 5<sup>th</sup> Ave NE, Joe and Amanda Zwilling, 6524 5<sup>th</sup> Ave NE, John and Janice Haus, 6140 5<sup>th</sup> Ave NE and Brian Schraut, 6523 5<sup>th</sup> Ave NE.

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

Gerry moved that the request meets Section 7.2.5(D) page 8, Section 9.17, pages 51-52 and Section 11.7, pages 12-16. Dan seconded and the motion carried.

In reviewing Section 11.7 the vote was as follows:

- 1) Warren stated that the interim use meets the requirements of Section 7.2.5 and 9.17 of the development code. 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) Al stated that the site is unlikely to be a cost burden to the public should it be necessary for the public to take the property in the future. The vote was unanimous that the interim 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.
- 3) Dan stated that the use will not create an excessive burden on existing parks, schools or public utilities and facilities. Watab Township is aware of the additional traffic that may be generated and using 5th Ave NE. Scott stated that the County Highway Department is ok with the additional traffic on CR 33. The vote was unanimous that the interim 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.
- 4) Gerry stated that the use will be wholly contained on the Kirchner property. The use will not affect surrounding properties. The vote was unanimous that the interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
- 5) Mary Jo stated that at this time, no additional structures are to be added to the site. The area is heavily screened from the public's view. The vote was unanimous that the interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- 6) Art cited A, C and E of Section 2.1.1. He moved to include the development conditions including Monday through Sunday. Jerry seconded. Scott asked the applicants if they agree with the conditions. Rachelle stated that they did.

- The vote was unanimous that the interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.
- 7) Jerry stated that the use is consistent. The site is planned agricultural for farming and low density non-farm housing. The proposed use of a rural event venue is allowed in the agricultural district. The comprehensive plan and development code update focused a great deal on the demand for rural event venues. He cited Economic Development Goal #1 Resources. Policy #6: Entrepreneurship. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
  - 8) Warren stated that there will be one primary entrance/exist for the site from 5<sup>th</sup> Ave NE. Directions will be provided for guests on the website for the event venue. There will be 100 on-site parking spots provided for employees and event attendees. The county has no concerns with traffic. The vote was unanimous that the interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
  - 9) Jerry stated that care must be taken to avoid wetland impacts on the property when installing a parking area and driveway loop. The vote was unanimous that the interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including 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.

Roxanne read the findings and conditions.

## Findings

**Criteria 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 interim use meets the requirements of Section 7.2.5 and 9.17 of the development code.*

**Criteria 2:** There will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.

*The site is unlikely to be a cost burden to the public should it be necessary for the public to take the property in the future.*

**Criteria 3:** The interim 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.

*The use will not create an excessive burden on existing parks, schools or public utilities and facilities. Watab Township is aware of the additional traffic that may be generated and using 5<sup>th</sup> Ave NE. The County Highway Department is ok with the additional traffic on CR 33.*

**Criteria 4:** The interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.

*The use will be wholly contained on the Kirchner property. The use will not affect surrounding properties.*

**Criteria 5:** The interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

*At this time, no additional structures are to be added to the site. The area is heavily screened from the public's view.*

**Criteria 6:** The interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.

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. 21-046 are adopted, adding Monday – Sunday to 6.H. Hours of operation.

**Criteria 7:** The interim use is consistent with the Comprehensive Plan of the County.

*The site is planned agricultural for farming and low density non-farm housing. The proposed use of a rural event venue is allowed in the agricultural district. The comprehensive plan and development code update focused a great deal on the demand for rural event venues.*

**Economic Development**

Goal #1 Resources

**Policy #6: Entrepreneurship:** Support entrepreneurship through small business retention and expansion, and home based occupations that are not in conflict with the Benton County Development Code.

**Criteria 8:** The interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.

*There will be one primary entrance/exit for the site from 5<sup>th</sup> Ave NE.  
Directions will be provided for guests on the website for the event venue.  
There will be 100 on-site parking spots provided for employees and event attendees. The county has no concerns with traffic.*

**Criteria 9:** The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including 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.

*Care must be taken to avoid any wetland impacts on the property when installing a parking area and driveway loop.*

**DECISION:**

The Planning Commission approved the request to operate a rural event venue in the Agricultural District, with the following development conditions:

1. This Interim Use Permit is granted for the land indicated in this application and is not transferable to other land.
2. This Interim 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 Permit from the County and Building Permit from Watab Township shall be obtained prior to any construction and shall be consistent with the plans and specifications submitted with the interim use permit application.
4. Pursuant to Section 11.7.3 of the Development Code, this interim use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work. To proceed substantially means to make visible improvements to the property

and to have had applied to the property at least 40% of the man hours which it is reasonably estimated will be necessary for completion of the project. 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 interim 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. Applicant shall comply with all requirements of Benton County Development Code Section 9.17 or successor ordinance.
  - A. If the owner of the rural event venue use is not the owner of the property on which it is operated, then the owner of the property shall be a consenter to the interim use permit application and have a letter on file with Benton County stating her/his permission for the use to occur and her/his acknowledgement of the standards required for the use.  
PROVIDED
  - B. The responsible road authority shall grant written permission for such use at the proposed location. PROVIDED
  - C. All structures and portions of the parcel used for the rural event venue, including temporary structures, shall meet the minimum setback requirements of the district in which it is located.
  - D. Adequate parking for employees and customers shall be provided on site and shall meet parking standards of Section 8.2.
  - E. If there is a commercial kitchen on-site or if the facility has its own liquor license, an individual sewage treatment system shall be provided that complies with Section 9.22 and regulations from the Minnesota Pollution Control Agency (PCA). If food and/or alcohol are provided by a caterer, the site, at the discretion of the Planning Commission, may permit the use of a holding tank or provide restroom facilities via portable toilets.
  - F. All buildings used in conjunction with the use shall meet the requirements of the state building code, including state mandated accessibility requirements.
  - G. Local and state health and liquor regulations shall be met if food or beverages are served.

H. THE PLANNING COMMISSION AUTHORIZED AMPLIFIED SOUND FROM 8AM - 11PM AND FOR GUESTS TO LEAVE NO LATER THAN 12AM Monday through Sunday.

I. Any outdoor lighting shall be arranged so as to reflect the light away from adjoining property and right-of-way.

J. Local law enforcement shall be notified prior to event

Art moved to accept the findings and conditions and grant File #21-046. Jerry seconded and the motion carried. The applicant will be mailed a copy of the findings, conditions and decision.

5. File #21-047, Michael and Elizabeth Thompson requesting an interim use permit to allow a second dwelling for supportive care in the Agricultural District. Pursuant to Sections 7.2.5(E), 9.19 and 11.7. The affected property is described as follows: Lot 3, Block 1, Welsh Estates, Section 5, Minden Township.

Roxanne stated that this is a request for a second dwelling in Minden Township. The second dwelling would be for supportive care. This property is located on Town Hall road. The dwelling would be placed to the northeast of the existing house. There is a significant amount of wetland on the property so care must be taken when placing the seconded dwelling to avoid the wetlands. The second dwelling will be connected to the existing septic. Gerry asked about the well.

Mike Thompson, 5059 Townhall Rd stated that they are requesting a second dwelling for supportive care. He stated that the dwelling would be connected to the existing well. He said that this is a temporary dwelling and he doesn't want to put in another septic or well.

Roxanne received a letter in support from John and Susan Piehl, 4966 Town Hall Rd.

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

Gerry stated that the request meets Section 7.2.5(E) page 8, Section 9.19 pages 53-54 and Section 11.7 pages 12-16. Warren seconded and the motion carried.

In reviewing Section 11.7 the vote was as follows:

- 1) Gerry stated that the request meets Section 9.19.2(B) 1-7. 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) Jerry stated that with the approval of the interim use permit, there will be no additional cost imposed on the public. The second dwelling may be easily removed from the property at any time. The vote was unanimous that the interim 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.
- 3) Warren stated that the use will not, the second dwelling is intended for supportive care. The vote was unanimous that the interim 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.
  - 4) Dan stated that the proposed second dwelling will be located to the northeast of the existing home. It will not impede normal and orderly development and/or improvement of the surrounding vacant property. The vote was unanimous that the interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
  - 5) Al stated that the structure will be designed to match the existing home and is separated by distance from surrounding dwellings. The vote was unanimous that the interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
  - 6) Art stated that the proposed use of the property for residential purposes is an appropriate request in the Agricultural Zone in accordance with A and B in Section 2.1.1 and moved to include the development conditions to File #21-047. Jerry seconded and the motion carried. The vote was unanimous that the interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district. The applicant is in agreement with the conditions.
  - 7) Jerry stated that the interim use is for supportive care and is consistent with the Comprehensive Plan of the County. He cited Land Use Goal #2: Rural Land Use. Policy #5: Rural Non-Farm Housing. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
  - 8) Mary Jo stated that the proposed interim use will increase the density of the property by two people. The second dwelling will use the existing access for the primary dwelling. The increase in density will not cause traffic hazards or congestion on the adjacent public roads. There is an abundance of open space for parking on the subject property. The vote was unanimous that the interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
  - 9) Warren stated that the proposed use will not have a negative impact. The vote was unanimous that interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including 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.

Roxanne read the findings and conditions.

## Findings



**Criteria 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?

It meets the criteria listed in Section 9.19.2

**Criteria 2:** There will be no additional cost imposed on the public if the interim use is approved if it is necessary for the public to take the property in the future.

*With approval of the interim use permit, there will be no additional cost imposed on the public. The second dwelling may be easily removed from the property at any time.*

**Criteria 3:** The interim 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.

*It will not, the second dwelling is intended for supportive care.*

**Criteria 4:** The interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.

*The proposed second dwelling will be located to the northeast of the existing home. It will not impede normal and orderly development and/or improvement of the surrounding vacant property.*

**Criteria 5:** The interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

*The structure will be designed to match the existing home and is separated by distance from surrounding dwellings.*

**Criteria 6:** The interim use is consistent with the purpose and intent of the Development Code and purposes of the zoning district.

*The proposed use of the property for residential purposes is an appropriate request in the Agricultural Zone.*

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.

(B) To divide the unincorporated areas of the county into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration, and the use of structures and land.

The development conditions for file no. 21-047 are adopted.

**Criteria 7:** The interim use is consistent with the Comprehensive Plan of the County.

*The interim use is for supportive care and is consistent with the Comprehensive Plan of the County.*

**Land Use**

Goal #2: Rural Land Use

**Policy #5: Rural Non-Farm Housing:** Allow additional rural non-farm housing so owners can extract some equity from their property while sustaining agricultural operations on their land and their neighbors'. Seek creative solutions to the tension between preservation and development by using techniques such as clustering and transfer or sale of development rights.

**Criteria 8:** The interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.

*The proposed interim use will increase the density of the property by two people. The second dwelling will use the existing access for the primary dwelling. The increase in density will not cause traffic hazards or congestion on the adjacent public roads. There is an abundance of open space for parking on the subject property.*

**Criteria 9:** The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including 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.

*The proposed use will not have a negative impact.*

**DECISION:**

The Planning Commission approved the request for a 2<sup>nd</sup> dwelling for supportive care in the Agricultural District, with the following development conditions:

1. The applicant shall submit documentation, satisfactory to the Department of Development, demonstrating the need for supportive care.

2. The applicant shall submit an affidavit to the Department of Development verifying that the dwelling is still occupied by the eligible resident named in the original application.
3. The applicant shall sign a statement declaring that the second dwelling shall be removed within 90 days when the demonstrated need for supportive care no longer exists, or the resident no longer resides on the property.
4. The dwelling must be a manufactured home.
5. A Land Use Permit and Building Permit from the County shall be obtained prior to the placement of the structure on the lot and shall be consistent with the plans and specifications submitted with the interim use permit application.
6. Before the dwelling is occupied, it shall be connected to a permitted sewage treatment system.
7. Before the dwelling is occupied, documentation verifying that it meets the 31 point inspection requirement shall be submitted to the Department of Development.
8. The second dwelling shall be removed within 90 days when the demonstrated need for supportive care no longer exists, or the resident no longer resides on the property.
9. The second dwelling must be placed so that it is not within the known wetlands on the property.
10. Pursuant to Section 11.7.3 of the Development Code, this interim use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work.
11. This interim use permit shall expire if the approved use is inactive for one year or longer.

Warren moved to accept the findings and conditions and grant File #21-047. Gerry seconded and the motion carried. The applicant will be mailed a copy of the findings, conditions and decision.

6. File #21-053, Development Marketing Services, Inc / Jim Brownson requesting approval of the final plat of The Cove 4<sup>th</sup> Addition, a minor subdivision. The public hearing will be at the County Board on March 16<sup>th</sup>, 2021.

Roxanne stated that this is being discussed to keep the Planning Commission up to date on the plat. The preliminary plat was approved in December 2019 as a major subdivision. Final plat approval was contingent on the completion of the wastewater treatment facility and it being turned over to the homeowner's association. Documentation has been provided to show that this has been completed. Rather than final platting all lots within the preliminary plat, the property owner has chosen to move forward in stages. The final plat for this stage is considered a minor subdivision due to the plat being fewer than 7 lots. Minor final plats are not required to be reviewed or approved by the Planning Commission, however, due to the scope of this project, it is being presented for review and recommendation to the County Board. The plat of The Cove was originally approved in May 2006 with 77 residential lots, 2 commercial lots and 15 outlots. The property owner has since completed the required infrastructure and turned it over the respective parties. A few of the lots are being combined to create larger lots to meet the needs of the market. It is anticipated that a final plat(s) will come in for the remaining lot combinations in the near future.

7. Platting of remnant lots: If there is a subdivision plat with a remnant that is up to 20 acres, at this point we require it to be platted. But the simple plats and administrative subdivisions if its 10 acres or more you don't have to plat. To be consistent she is suggesting changing the 20 acre residual lot to 10 acres.

Warren moved to bring this change back as an ordinance amendment. Jerry seconded and the motion carried.

Permeable Pavers: The use of permeable pavers to not count as impervious surface. There are many concerns with this because of the maintenance required, the engineering standards that have to be met and who would monitor this. She went over what some surrounding counties are doing. Is this something the Planning Commission wants to move forward with? There is a variance being requested to the 25% impervious surface that will be using permeable pavers. She stated that permeable pavers do work but they need to be maintained. Jerry stated that these are not used 100% in this climate because of freezing. Art felt with the potential for lack of needed maintenance and the degradation of the product he felt permeable paver credit language shouldn't be added.

Private cemetery: There have been a couple requests for private cemeteries. There are many concerns with private cemeteries; proper identification of site, ensuring property ownership of burial site, cost of relocating the remains or taking over the burial site at a future date should the site become abandoned. There was census not to allow private cemeteries.

8. Art moved to adjourn at 7:06 p.m. Jerry seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer  
Administrative Secretary