

Planning Commission

MINUTES

April 9th, 2020

Present: Scott Johnson, Warren Peschl. Remotely: Gerry Feld, Alphonse Brenny, Art Buhs, Mary Jo Holewa, Jerry Lang, Dan Gottwalt.

Staff: Roxanne Achman, Karen Loehrer

- 1) Scott called the meeting to order followed by the Pledge of Allegiance.
- 2) Roxanne went over the meeting format. She asked the members to state their name before speaking.
- 3) Warren moved to approve the agenda. Gerry seconded and the motion carried.
- 4) Gerry moved to approve the minutes from the March 12th, 2020 meeting. Dan seconded. Scott abstained since he was not at that meeting. The motion carried.
- 5) File #20-082, Gary Neeser, Connie Anderson and Kaye Krych requesting approval of a two lot minor preliminary plat entitled "Neeser Ox Trail Estates" in the R-1 Residential District. Pursuant to Section 10.7. The affected property is described as follows: Part of the E1/2 of Section 27, Watab Township.

Roxanne stated that this is a 2 lot plat in Watab Township. The property is zoned R-1 and is located off of NE River Rd (CR55). This is a 12.46 acre lot with an existing house. The applicant proposes to split the property into 2 lots. There are significant wetlands on the property. Each proposed lot contains over 2 acres non-wetland. Watab will act on this plat on April 14th. After a preliminary review, they have no issues with this plat. Dan asked where the well was on the existing home site.

Ken and Kaye Krych, 3540 55th NE were on-line. Ken stated that the well is 100ft south of the existing house. They are asking for approval of this preliminary plat for 2 lots.

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

Art moved to approve this preliminary plat. Dan seconded and the motion carried.

- 6) File #20-101, Allen J Bauerly requesting approval of a two lot minor preliminary plat entitled "J and J Properties" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: Part of the N1/2 SW1/4, Section 5, Gilmanton Township.

Roxanne stated that this is located in Gilmanton Township along 85th Ave NE (CR82). The proposal is for two residential lots. A density deed restriction on 11.74 acres is needed along with a sewerability restriction on the remaining property.

Allen Jacob Bauerly, 2100 65th Ave N, stated he is asking for approval of this two lot preliminary plat.

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

Warren moved to approve this preliminary plat with access control symbol added to the legend. Gerry seconded and the motion carried.

- 7) File #20-066, William and LuAnn Popp requesting a conditional use permit to operate a recreational facility in the Agricultural District. Pursuant to Sections 7.1.23 and 11.6. The affected property is described as follows: SE1/4 SW1/4, less the west 33ft, Section 7, East Langola Township.

Roxanne stated that the request is for an event center. They are planning on using tents that can hold up to 375 guests. There is a Quonset building for use. If they use this building it will need to meet building code. There is parking. The existing house onsite is currently being rented. There is a shop building with electric. No food can be made onsite. Hours of operation would be 4:00pm to 12:00am. The landowners have a contract with Waste Management for garbage. The customer would be responsible for site clean-up and to provide portable toilets. On-site camping would be limited to 4 tents/campers.

Bill and Luann Popp 6460 Canary Rd, were present remotely. Bill said that they are asking for a conditional use permit to operate a recreational facility. Mary Jo asked if the contract with Waste Management includes recycling. Bill said that it did.

Tyler Turn, 3552 155th St NW, neighbor to the east stated that he is in favor. He felt it will be good for the neighborhood and for families to host weddings.

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

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

In reviewing Section 11.6 the vote was as follows:

- 1) Mary Jo stated the use of the property for a recreational facility should not create a burden. The traffic impact will be minimal. 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. The nearest home is ¼ mile away. The site is setback +400ft from the road. 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 existing building will be used along with temporary tents which will be taken down. The events will be screened by existing trees and buildings. The vote was unanimous that the structure and site have an appearance that will not have an adverse effect upon adjacent properties.
- 4) Dan stated that the use of recreational facilities has become a popular use in agricultural areas. Generally the site maintains an agricultural appearance as that is the appeal of hosting events at these locations. 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 and 2.1.3 and added the development conditions. Mary Jo stated that #7 should include recycling. Bill Popp stated that they agree with the development conditions as amended. 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 in accordance with the 2040 Comprehensive Plan the site is zoned and planned agricultural. He cited Land Use Goal #2: Rural Land Use. Policy #1: Rural Land Use and Economic Development Goal #1: Resources. Policy #3: Business Development. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Gerry stated that the County Engineer had no concerns with traffic. Traffic will be a different times. This will not cause any traffic problems. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Al stated that there are no wetlands on the property in the location the events are to be held. The vote was unanimous that the use will not violate the wetland provisions of MN Statutes Chapter 103G.

Scott did a roll call vote all members were in favor of granting this conditional use permit. The applicant will be sent a copy of the findings, conditions and decision.

- 8) Public hearing to consider the following amendments to the Benton County Development Code. Pursuant to Section 11.8. Modify Sections 4.2.1, 6.2.1 and 7S5.20 to include language regarding the sale and development of nonconforming lots and Section 9.20 Solar to add clarifying language to the financial surety requirement.

Roxanne stated that these are the last sections needing to be heard at a public hearing at the Planning Commission level. She went over the proposed changes: Section 4.2.1, 6.1.2 and 7S5.20 – Add language to strengthen the provision that prohibits the sale and development of non-conforming lots once they come under common ownership and Section 9.20 – minor revision to language related to the required financial surety.

She stated that she and the Assistant County Attorney, Michelle Meyer went through the entire 434 pages of the proposed Development Code. Michelle came back with a few additional changes. She recommends elaborating on what an applicant is; added the definition of “expansion”; “or easement holder” in relation to who needs to record or revise an easement.

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

Warren moved to add these changes to the Development Code. Dan seconded and the motion carried.

- 9) Public hearing to consider the repeal of Benton County Ordinance #185 the Development Code, and to replace it with Benton County Ordinance #477. Ordinance #477 is an amended and updated version of the Benton County Development Code that will encompass all changes that have been reviewed by the Benton County Planning Commission at public hearings that occurred on Dec. 12, 2019, Jan. 9, 2020, Feb. 13, 2020 and Mar. 12, 2020. The replacement Ordinance will be formatted and organized much differently than existing Ordinance #185.

Roxanne stated that the 2040 Comprehensive Plan was adopted in June 2019. There have been numerous meetings and public hearings to review, discuss and act upon proposed changes to the Development Code. Townships and local jurisdictions were notified of all meetings and the topics that were to be discussed.

Roxanne went over the major changes to the Development Code:

- There were no changes to Sections 1 & 2.
- Section 3-new definitions were added, old definitions were clarified and some definitions were combined.
- Section 4-clarification of the sale and development of non-conforming lots that are adjacent and under common ownership.
- There were no changes to Section 5.
- Section 6

- Size of structure requiring a Land Use Permit was increased from 120sf to 200sf to be consistent with the building code.
- Accessory structure size was changed from a specific amount of square feet to 5% of the lot size.
- Lots 10 acres or greater the accessory structure remains unlimited.
- Section 7
 - Purpose statements were added to the districts that did not have one.
 - Uses were clarified, combined and expanded.
 - Some uses were changed from CUP to IUP to evaluate the use under specific conditions.
 - New uses were added. Roxanne went over the changes to each district. A matrix of uses by zoning district was included in the packet. Lot access requirement was changed to require ownership access to a public right-of-way but allow access easement as an option when ownership can't be done.
- Section 7S1.0
 - The shoreland ordinance was amended to reflect the standards that are currently being enforced.
 - Added definition of Ice Ridge and Rip-Rap.
 - Specified the allowed amount of vegetative clearing along the shoreline.
 - 15 foot cleared path to the shore. Within 10ft of the ordinary high water level, no more than 200sf cleared, or 20% of the lot width, whichever is greater.
 - Rip-rap to only be used for active erosion, not aesthetic purposes.
 - Ice ridge removal in accordance with DNR requirements.
 - Beach/Sand Blankets in accordance with DNR requirements.
- Section 7.13-changes made in this section were for clarification purposes only.
- Section 8
 - Screening standards for business and industrial uses adjacent to property zoned residential were clarified and added to. It gives the Commission discretion to work with the applicant.
 - No outside storage may be located in the front or street side of the yard.
 - Repair and maintenance is to be conducted within a building.
 - Fence height was increased to 7ft to be consistent with the building code.
 - Solid Waste section was updated to be consistent with the recently adopted Solid Waste Ordinance #471.
- Section 9
 - Signs: removed content related language related to be consistent with state statute.
 - Language was added to meet MNDOT's requirements for digital billboards.
 - Home associated with a feedlot may be split from the farm without requiring a variance to the feedlot setback.
 - Septic Section

- Self installs require that a licensed designer be present during the compliance inspection conducted by the county.
 - Tank and drainfield setbacks were reduced.
 - Home Occupations and Extended Home Businesses were updated to better reflect a difference between CUP and IUP commercial type uses and what is considered a home occupation or extended home business. The performance standards were amended to address outdoor storage, employees, uses with residential districts and expiration/termination of the use.
 - Solar Section
 - Updated to include a category for private solar garden which are over 5 acres.
 - Setback from a residential dwelling not on the parcel was increased to 300ft.
 - Screening requirements were strengthened.
 - A decommissioning bond of \$25,000/MW was added as a requirement.
- Section 10
 - *The administrative* subdivision process was updated to require that subdivisions less than 10 acres and boundary line adjustments be processed as Simple Plats rather than administrative subdivisions. This provides a better legal process and addresses a number of title issues staff has encountered in many recent subdivisions.
 - The process timeline will be reduced in that Simple Plats will not go through the public hearing process. They will be approved by staff after thorough review.
 - New legal description will be required for each new parcel.
 - Remove the requirement for community septic on plats with more than 6 lots outside of multi-unit developments within the Shoreland District.
 - Outlots would be allowed if shown to have a future use.
 - Plat shall be in conformance with the “Manual of Guidelines for Platting in Minnesota”.
 - Remove cul-de-sac length.
 - Language was clarified to the required improvements and financial surety.
 - Allow for an alternative to providing an updated abstract and title opinion.
- Section 11-Clarification of the public hearing timeline was addressed.
- Formatting changes to Section 12.
- Special additions:
 - Contractor Yards with and without outside storage.
 - Agricultural Tourism
 - Rural Event Venues
 - Recreational Facilities-used for public, non-commercial purposes and Commercial Facilities, indoor(permitted) or outdoor(IUP)

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

Art moved to recommend approval of this ordinance to the County Board. Dan seconded and the motion carried.

10) Jerry moved to adjourn at 8:11 p.m. Gerry seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary