

**Planning Commission
MINUTES
May 23rd, 2019**

PRESENT: Gery Feld, Art Buhs, Mitch Czech, Jerry Lang, Dan Gottwalt, Scott Johnson, Warren Peschl, Mary Jo Holewa

Staff: Roxanne Achman, Karen E Loehrer

1. Scott called the meeting to order followed by the Pledge of Allegiance.
2. Jerry moved to approve the agenda. Dan seconded and the motion carried.
3. Public hearing to consider amendments to the Comprehensive Plan.

Roxanne stated that this is the final stage for adoption of the 2040 Benton County Comprehensive Plan. The update to the 2006 Comprehensive Plan started in April 2018. Hoisington Koeigler Group Inc. (HKgi) was hired to assist with this. Many public meetings were held with different focus groups, cities, townships. Additional meetings were held with the City of Rice and Langola Township to discuss urban growth boundaries. The Planning Commission needs to make a recommendation to the county board. Roxanne stated that if the Comprehensive Plan is approved, the Development Code will need to be revised to reflect the changes of the Comprehensive Plan. This process will include meetings with both the Planning Commission and County Board, Township Officials and any groups that may be affected by the proposed changes. She stated that the plan is to have the Development Code updated by December 31st. 2019.

Lance Bernard, Consultant with HKgi, gave an overview of the changes to the Comprehensive Plan and highlighted the process. The Comprehensive Plan looks at the 20 year vision for the county by anticipating growth, looking at parks, trails, transportation system. The Development Code will be amended to support the vision, goals and policies of the Comprehensive Plan. Chapter 1 defines the comprehensive planning process. This chapter reflects the aspirations and desires expressed by the townships and cities. It outlines the process of updating the plan. The meetings that were held are listed in this chapter. The themes taken from the meeting were to preserve

agrarian and farming community, preserve natural amenities, expand the economy, support county-wide broadband and recognize the importance of a healthy community. Chapter 2 provides economic, demographics and social trends. In Chapter 3 the language requiring community septic systems was modified. Broadband goals and policies were included. Feedlot policies were clarified to allow existing feedlots to continue to operate and expand in the urban growth areas. Chapter 4: Land Use, Lance stated that this is the most prominent chapter in the Comprehensive Plan. He stated that the 2005 land use plan map was parcel focused and the proposed map is based on natural land use patterns with an emphasis on the amount of agricultural land and recognizing aggregate resources when looking at future land use patterns. The new map identifies the town centers/commercial nodes within the county. The urban growth areas were reviewed with the townships and cities. After discussions with the City of Rice and Langola Township the urban growth area around the City of Rice was removed. The urban growth area around the City of Foley was changed to a distance versus the parcel-by-parcel approach. Chapter 5: Transportation talks about transportation systems in the rural parts of the county for farm equipment, 10 ton routes, maintaining the system. This chapter looks at appropriate locations for those types of improvements to put in different modes of transportation like bike lanes, sidewalks, transit. Chapter 6 describes the county's park and trail system and provides a ten year plan. There are also planning level cost estimates on building and maintaining park improvements. A section on park dedication fund and how the funds can be used is included. The Parks Chapter will replace the Master Park Plan. Chapter 7 summarizes all of the recommendations from each chapter. Roxanne stated that other townships and cities had no concerns with the urban growth areas. Scott asked about the redefining of the urban growth area around Foley. Roxanne stated that with the new waste water treatment plan for the city there is more potential for the city to expand. Scott stated his concern with feedlots within the urban growth area. Lance stated that the area around Foley has changed to ½ mile radius which is a smaller area. Lance stated that the plan specifically states that existing farmers in the urban growth area can expand.

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 to the County Board adoption of the 2040 Benton County Comprehensive Plan. Warren seconded and the motion carried.

4. File #19-118, Nick Dahler requesting a conditional use permit to construct a livestock waste storage facility in the Agricultural District. Pursuant to Sections 7.1.23, 9.14 and 11.6. The affected property is described as: SE1/4 SW1/4, Section 36, Maywood Township.

Roxanne stated that this property is located on the far eastside of the county off of CR 51. She showed the aerial of the property pointing out the location of the stacking slab, settling basin and vegetated buffer. The applicant has been working

with NRCS and SWCD. The applicant combined his lots so there would not be any setback issues. He is trying to improve the site.

Nick Dahler, 18861 55th St, stated that they are requesting a conditional use permit for a livestock waste stacking slab. The plan is to have the project done by the end of the summer. He stated that he is working with Mike McMillin, NRCS.

There were no comments from the Township.

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

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

Mitch moved that the request meets Sections 7.1.23, pages 3 & 4, Section 9.4, page 63 and Section 11.6 pages 7 & 8. Art seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Art stated that the use is not expected to create an excessive burden on existing parks, schools, streets and other public facilities and utilities. The feedlot and the livestock waste storage facility are meant to handle the waste of animals and to improve the impacts that feedlots can have on the environment. 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 property is currently a feedlot. The project will create a better way to handle the animal waste. 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) Mary Jo stated that this is an existing feedlot and any new structures for the feedlot would be consistent with the existing structures on-site. The site will continue to operate as a Tier 1 feedlot. The area is agricultural in nature. The facility is located on private property and within the required setbacks from property lines. 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 the site is being used as a feedlot and a livestock waste storage facility is allowed with a conditional use permit. The site is identified in the Comprehensive Plan as being agricultural and a livestock waste storage facility is an agricultural use. The vote was unanimous that the use is reasonably related to the existing land use.
- 5) Gerry cited Sections 2.1.1, 2.1.9 and 2.1.12. He moved to add the development conditions to File #19-118. Jerry seconded and the motion carried. Mr. Dahler stated that he is agreement 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) Mitch stated that the site is zoned agricultural for agricultural purposes. He cited Land Use Goal #1: Rural Land Use. 2. Agriculture: Recognize and support the agricultural practices, character and lifestyle within the county allowing for the pursuit of agriculture as a career. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
 - 7) Warren stated that the site operates as a feedlot and with the proposal would continue to operate as a feedlot. There are no known or anticipated traffic hazards or congestion that would be caused by the proposal. The vote was unanimous that the use will not cause traffic hazards or congestion.
 - 8) Jerry stated that there are no expected wetland impacts with this proposal. The feedlot boundary is greater than 300ft from any water course. The vote was unanimous that the use will not violate the wetland provisions of Minnesota 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 is not expected to create an excessive burden on existing parks, schools, streets and other public facilities and utilities. The feedlot and the livestock waste storage facility is meant to handle the waste of animals and to improve the impacts that feedlots can have on the environment.

- (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 property is currently operating as a feedlot. The expected outcome of this project is meant to allow better management of the animal waste.

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

This is an existing feedlot and any new structures for the feedlot would be consistent with the existing structures on-site. The site will continue to operate as a Tier 1 feedlot. The area is agricultural in nature. The facility is located on private property and within the required setbacks from property lines.

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

The site is being used as a feedlot and a livestock waste storage facility is allowed with a conditional use permit. The site is identified in the Comprehensive Plan as being agricultural and a livestock waste storage facility is an agricultural use.

- (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 Development Code allows for livestock waste storage facility with a Conditional Use Permit.

In accordance with:

Section 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.9 To preserve a maximum amount of the prime agricultural land for the assurance of adequate, healthful and nutritious food for future residents of the state and nation.

Section 2.1.12 To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

The Development Conditions for File No. 19-118 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. The site is zoned Agricultural and planned Agricultural.

Land Use Goal #1: Rural Land Use

2. Agriculture: *Recognize and support the agricultural practices, character and lifestyle within the county allowing for the pursuit of agriculture as a career.*

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

The site operates as a feedlot and with the proposal would continue to operate as a feedlot. There are no known or anticipated traffic hazards or congestion that would be caused by the proposal.

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

There are no expected wetland impacts with this proposal. The feedlot boundary is greater than 300ft from any water course.

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. The property owner shall submit a septic compliance inspection report prior to the issuance of any permits.
4. 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. 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 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 insure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
6. The applicant shall obtain appropriate permits as necessary to construct said facilities.

Art moved to accept the findings and conditions and grant File #19-118. Warren seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

5. 7:43 p.m. File #19-107, Eugene and Shirley Rudolph, landowner and USS MN Solar, applicant, requesting an interim use permit to construct a community solar energy system in the Agricultural District. Pursuant to Section 7.1.24C, 9.20 and 11.6.3.

The affected property is described as follows: Part of N1/2 SE1/4, Section 35, Mayhew Lake Township.

Roxanne stated that this property is located along Golden Spike Rd. She showed the proposed site plan. She stated that there are 9 solar projects in the county, 3 within the Sauk Rapids/Minden orderly annexation area and a proposed 100 megawatt project in Langola Township. She showed a map with the locations of these projects. This is a 1-megawatt solar project taking up 7.23 acres of a 29.24 acre parcel. The County Engineer is requesting that the access be changed since it is too close to other accesses. No screening is proposed. The site will have a security fence.

Cullen Kobayashi, Project Developer from US Solar, 100 N 6th St, Minneapolis, stated that they are requesting an IUP for a community solar energy system in the agricultural district. They have agreed to move the access south +100ft. to be 480ft from 60th St NE. He stated that they are in agreement with the development conditions. They have a signed interconnection agreement with Xcel. These are tracker panels which are lower to the ground. Dan asked about the wetlands on the site. Cullen stated that wetland delineation has been submitted and reviewed by staff.

Diane Fromelt, 6633 Golden Spike Rd NE, stated that she owns land to the northwest of this property and asked about screening. Does the county have any rules about screening? Roxanne stated that screening would be up to the Planning Commission. Diane asked about if the solar field was damaged by high winds. Who is responsible for clean up if the debris would be on someone else's property? Cullen stated that the company does have liability insurance. Roxanne stated that the solar panels would need to meet building code when installed. Diane asked if there were any hazardous materials. Roxanne stated that there were no hazardous materials. She asked if this would affect zoning. Roxanne stated that the property and surrounding property would remain agriculturally zoned. Mary Jo stated that any hazardous material cleanup would require hazardous removal expertise. Jerry stated that the glass on a solar panel is similar to a car windshield. Diane stated that she would like to have a buffer.

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

Mitch moved that the request meets Section 7.1.24C, page 6, Section 9.20, page 79 and Section 11.6 pages 10 & 11. Gerry seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Gerry stated that the proposal conforms to the zoning code based on staff's review of the requirements and the information submitted by the applicant. 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) Art stated that the public will benefit by increased tax classification, and production tax payment as required by MN law. The proposed project will meet the current setbacks as established in Benton County Development Code Section 7.1.30. It is not expected that additional right-of-way would be required. The vote was unanimous that 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.
- 3) Jerry stated that the use is not expected to create an excessive burden on existing parks, schools, or streets which are expected to serve the area and public facilities. This particular land use does not require public utilities such as water and sewer. The passive nature of electric generation prevents the need for additional or increased services. 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) Mitch stated that the proposed project will occupy a portion of the property for the one-megawatt solar garden. The passive nature of electric generation prevents any impact on neighboring 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) Dan stated that the proposed project will need to meet setbacks and has proposed security fencing. Studies have not shown any negative impact on neighboring property values from development of solar PV arrays. According the Benton County Assessor for past solar projects within the County: We have no market evidence indicating that solar gardens affect nearby values. Art asked the applicant about screening. Cullen stated that they did a visual impact analysis. The only house within ¼ mile was the landowner's which has a sufficient amount of screening from the project. This will be a tracker system which is shorter than stationary panels. Mitch stated his concern with the site being close to the road. He also stated that other solar sites have screening. There was a discussion on the type and location of screening. Development Condition #14 is added to state: Screening shall be provided along the north and west sides of the project to include staggered technea arborvitae and cardinal dogwood. The materials shall be of a height that is reasonable to begin a partial screening immediately. The landscaping plan shall be approved by the Department of Development prior to the issuance of permits. Art moved to add the additional condition requiring screening. Dan seconded and the motion carried. The vote was unanimous that the interim use, including any structures utilized for the use, is 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) Gerry cited Sections 2.1.1, 2.1.4 and 2.1.12. He moved to include the amended development conditions. Mitch 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.

- 7) Warren cited Land Use Goal #4: Natural Resources and Economic Development Goal #1: Growth. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
- 8) Art stated that the applicants have indicated that road access will be off Golden Spike Rd NE. They will need to obtain approval from the County Highway Department. The limited amount of vehicle traffic needed to access the site will prevent traffic hazards after completion of the construction. 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) Mary Jo stated that the applicant will be converting tillable land and pasture land to a solar garden. As part of the solar garden the applicant will plant low growing grasses and pollinator friendly forbs. Overall, there will be less dust and noise from this activity than traditional farming activities. The anticipated effect is to have additional infiltration and a decrease in runoff and erosion from the site. A wetland delineation report has been submitted and reviewed by staff. 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 proposal conforms to the zoning code based on staffs review of the requirements and the information submitted by the applicant.

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 public will benefit by increased tax classification, and production tax payment as required by MN law. The proposed project will meet the current setbacks as established in Benton County Development Code Section 7.1.30. It is not expected that additional right-of-way would be required.

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 is not expected to create an excessive burden on existing parks, schools, or streets which are expected to serve the area and public facilities. This particular land use does not require public utilities such as water and sewer. The passive nature of electric generation prevents the need for additional or increased services.

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

The proposed project will occupy a portion of the property for the one-megawatt solar garden. The passive nature of electric generation prevents any impact on neighboring 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.

The proposed project will need to meet setbacks and has proposed security fencing. Studies have not shown any negative impact on neighboring property values from development of solar PV arrays.

According to the Benton County Assessor for past solar projects within the County:

We have no market evidence indicating that solar gardens affect nearby values.

Development Condition #14 is added to state: Screening shall be provided along the north and west sides of the project to include staggered technea arborvitae and cardinal dogwood. The materials shall be of a height that is reasonable to begin a partial screening immediately. The landscaping plan shall be approved by the Department of Development prior to the issuance of permits.

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

It is consistent with the purpose and intent of the development code.

In accordance with:

Section 2.1.1 of the Development Code the purpose and intent of the Code is to promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.4 states the purpose is to provide for adequate light, air and convenience of access to property by regulating the use of land, buildings and the bulk of structure.

Section 2.1.12 states the purpose is to further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

The amended Development Conditions for File No. 19-107 are adopted.

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

It is consistent with: Economic Development Goal #1: Growth

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 applicants have indicated that road access will be off Golden Spike Rd NE. They will need to obtain approval from the County Highway Department. The limited amount of vehicle traffic needed to access the site will prevent traffic hazards after completion of the construction.

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 applicant will be converting tillable land and pasture land to a solar garden. As part of the solar garden the applicant will plant low growing grasses and pollinator friendly forbs. Overall, there will be less dust and noise from this activity than traditional farming activities. The anticipated effect is to have additional infiltration and a decrease in runoff and erosion from the site. A wetland delineation report has been submitted and reviewed by staff.

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 shall expire 40 years after approval.

3. 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.
4. Pursuant to Section 11.6.2 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 insure 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 9.20 or successor ordinance.
7. Appropriate erosion control devices shall be utilized during construction of the project.
8. Applicant shall submit certification by a professional licensed engineer in the state of Minnesota that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
9. The solar garden shall comply with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended, the National Electric Code, as amended and shall be in compliance with all applicable federal, state and local wetland laws, rules and regulations, as amended.
10. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the planning commission in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.

11. The solar garden shall meet the minimum principal building setback (same as a residential structure) for the zoning district and be located a minimum of one hundred (100) feet from a residential dwelling unit not located on the property.
12. The solar developer and or applicant shall provide a financial security in the amount of \$25,000 per megawatt. This shall be held by the county for decommissioning if the developer or property owner fails to comply with the decommissioning plan. The financial security will be required until decommissioning of the solar garden is complete as determined by the County.
13. The applicant must receive approval from the County Engineer on an appropriate access to the solar site.
14. Screening shall be provided along the north and west sides of the project to include staggered technea arborvitae and cardinal dogwood. The materials shall be of a height that is reasonable to begin a partial screening immediately. The landscaping plan shall be approved by the Department of Development prior to the issuance of permits.

Warren moved to accept the findings and conditions and grant File #19-107. Art seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

6. 8:28 p.m. File #19-099, Daniel Midas and Michael Midas requesting a conditional use permit to use an alternative flood proofing elevation method in the Agricultural District. Pursuant to Sections 5.2, 5.3 and 5.4 of the Flood Plain Management Ordinance and Section 11.6 of the Development Code. The affected property is described as follows: S322ft of E250ft of SE1/4 SE1/4, Section 30, Mayhew Lake Township.

Roxanne stated that this property is east of CR1 on CR4. The property is in the floodplain so it is subject to FEMA requirements for flood proofing. The applicant is proposing to replace their existing home. To do that they need to submit engineered or architectural plans that it meets the Corps of Engineers flood proofing standards. These plans have been submitted. The house will be placed on piers that lift it above the base flood elevation. Upon completion the applicant must submit an as-built elevation to show that the house was constructed at the regulatory flood protection level. The proposed house will be further back from the road.

Mike Midas, 2489 65th St NE, stated that they are asking for a conditional use permit for an alternative flood proofing method.

Wesley Kiekow, 3093 65th St NE, stated he owns land kiddy corner from the Midas property. He said that there has never been water on that property.

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

Mitch moved that the request meets Sections 5.2, 5.3, 5.4 of the Floodplain Mgt Ordinance, page 10 & 11 and Section 11.6 of the Development Code page 7 & 8. Dan seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Warren stated that the proposed use of replacing a residential home with another in the floodplain will have minimum impact. 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) Dan stated that they are replacing an existing home. This will improve the site. The vote was unanimous that 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.
- 3) Mary Jo stated that the structure is a residential home. The need for the conditional use permit is that the flood map shows the property is located within a flood plain. The vote was unanimous that the structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
- 4) Jerry stated that the primary use of the site is a residential house and it will remain the same. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.
- 5) Gerry cited Sections 2.1.1, 2.1.4 and 2.1.5. He moved to add the development conditions to File #19-099. Mary Jo seconded and 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) Mitch stated that it is not in conflict with the 2006 Comprehensive Plan. The site is planned Rural Residential for semi-rural housing that is not expected to be annexed into a city. He cited Land Use Goal #4: Natural Resources, 2. Development Review. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Art stated that the replacement of the home on this lot will not cause traffic hazards or congestion. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Dan stated that the use will not impact wetlands. 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?

The proposed use of replacing a residential home with another in the floodplain will have minimal impact.

- (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?

They are replacing an existing home. The site will be improved.

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

The structure is a residential home. The need for the conditional use permit is that the flood map shows the property is located within a flood plain.

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

The primary use of the site will remain as a residential lot.

- (6) 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?

It is consistent with the development code.

Section 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.4 To provide for adequate light, air and convenience of access to property by regulating the use of land, buildings and the bulk of structure.

Section 2.1.5 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. 19-099 are adopted.

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

It is not in conflict with the 2006 Comprehensive Plan. The site is planned Rural Residential for semi-rural housing that is not expected to be annexed into a city.

Land Use Goal #4: Natural Resources

2. Development Review: *Protect the integrity of major natural resources through development review and regulation.*

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

The replacement of a home on this lot will have no impact of traffic.

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

Placement of this house will not impact wetlands.

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 prior to any construction and shall be consistent with the plans and specifications submitted with the variance application.
4. **Upon completion of placement of the home**, pursuant to Flood Plain Ordinance No. 196, Section 10.2.6, the property owner shall be **required to submit certification** by a registered professional engineer, registered architect, or registered land surveyor that the **finished fill and building elevations were accomplished in compliance** with the provisions of this ordinance to the Benton County Department of Development. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
5. The existing home must be removed within six months of obtaining the Land Use Permit and Building Permit for the new structure, or upon issuance of the certificate of occupancy, whichever comes first (Section 4.3.3 through 4.3.5).
6. Pursuant to Section 11.6.1 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.

7. 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.
8. Submittal of a design certified by a registered professional engineer or architect as being in compliance with the general design standards of the Corps of Engineers Flood-Proofing Regulations and, specifically that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulation within these components during times of flooding.
9. Within one month of completion an as-built condition shall be submitted to the County and Certified by a registered professional engineer or architect as being in compliance with the general design standards of the Corps of Engineers Flood-Proofing Regulations and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
10. Applicant utilizes appropriate erosion control devices to minimize risks of erosion entering the waterways or leaving the site.

Mitch moved to accept the findings and conditions and grant File #19-099. Art seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

7. 8:42 p.m. File #19-120, David and Marie Hechsel requesting a conditional use permit to use an alternative flood proofing elevation method in the R-2 Residential District. Pursuant to Sections 5.2, 5.3 and 5.4 of the Flood Plain Management Ordinance and Section 11.6 of the Development Code. The affected property is described as follows: Part of Gov't Lot 4, Section 35, East Langola Township.

Roxanne stated that this property is on the north side of Little Rock Lake just east of Benton Beach. The property is three nonconforming lots which are joined by ordinance. The applicants propose to construct a new home using piers to raise the structure above the regulatory flood elevation. The structure will meet all setbacks.

They have submitted plans by a licensed engineer. There is a septic design. Everything has been provided.

Beau Munsell, Excelsior Homes, 1355 Hwy 7 W, Hutchinson, stated that they are requesting a conditional use permit for an alternative flood proofing method for David and Marie Hechsel.

Duane Cekalla, 362 125th St NE, stated that he is favor.

Jerry Perske, 1945 64th Ave N, St. Cloud, stated he owns 30 North Freedom Rd and is in favor of this request.

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

Mitch moved that the request meets Sections 5.2, 5.3, 5.4 of the Floodplain Mgt Ordinance, pages 10 & 11 and Section 11.6 of the Development Code pages 7 & 8. Dan seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Jerry stated that the proposed use of a home on this lot will not create an excessive burden. This lot was previously used for a similar type use. 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 use is permitted in this area and does not require additional screening. A new home will improve the area. 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) Dan stated that this will be a residential structure. The neighbors appear to be happy to see the new home going in. 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 the primary use of the site will remain as a residential lot. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.
- 5) Art stated that the use is consistent with the Development Code. He cited Sections 2.1.1, 2.1.3 and 2.1.12 and moved to include the development conditions to File #19-120. Gerry seconded and the motion carried. The applicant stated that they are in agreement 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) Mitch stated that the use is not in conflict with the 2006 Comprehensive Plan. The site is planned Rural Residential for semi-rural housing that is not

- expected to be annexed into a city. He cited Land Use Goal #4: Natural Resources and Economic Development Goal #1: Growth. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county
- 7) Gerry stated that the request is to replace a single family home with a single family home. There will be no impact on traffic. The vote was unanimous that the use will not cause traffic hazards or congestion.
 - 8) Warren stated that it will not impact wetlands. 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?

The proposed use of a home on this lot will not create an excessive burden. This lot was previously used for a similar type use.

- (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 use is permitted in this area and does not require additional separation or screening other than meeting the setbacks. A new home on this lot will be an improvement to the area.

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

This will be a residential structure. The neighbors appear to be happy to see the new home going in.

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

The primary use of the site will remain as a residential lot.

- (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?

It is consistent with the development code.

Section 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.3 To promote the orderly development of residential, business, industrial, recreational and public areas.

Section 2.1.12 To further the appropriate use of land, and conserve and protect the natural resources of the county for present and future generations.

The development conditions for file No. 19-120 are adopted here.

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

It is not in conflict with the 2006 Comprehensive Plan. The site is planned Rural Residential for semi-rural housing that is not expected to be annexed into a city.

Land Use Goal #4: Natural Resources

Economic Development Goal #1: Growth

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

They are replacing a single family home with a single family home. There will be no impact on traffic.

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

It will not impact wetlands.

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 prior to any construction and shall be consistent with the plans and specifications submitted with the variance application.

4. **Upon completion of placement of the home**, pursuant to Flood Plain Ordinance No. 196, Section 10.2.6, the property owner shall be **required to submit certification** by a registered professional engineer, registered architect, or registered land surveyor that the **finished fill and building elevations were accomplished in compliance** with the provisions of this ordinance to the Benton County Department of Development. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.
5. Pursuant to Section 11.6.1 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.
6. 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.
7. Submittal of a design certified by a registered professional engineer or architect as being in compliance with the general design standards of the Corps of Engineers Flood-Proofing Regulations and, specifically that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulation within these components during times of flooding.
8. Within one month of completion an as-built condition shall be submitted to the County and Certified by a registered professional engineer or architect as being in compliance with the general design standards of the Corps of Engineers Flood-Proofing Regulations and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities are at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
9. Applicant utilizes appropriate erosion control devices to minimize risks of erosion entering the waterways or leaving the site.

Warren moved to accept the findings and conditions and grant File #19-120. Jerry seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

8. Scott removed himself as chair because he is related to the next applicants, Doug and Lori Lezer. Gerry took over as Chair.
9. 9:00 p.m. File #19-125, Doug and Lori Lezer requesting a conditional use permit to allow a cluster subdivision for "St. George Corners North in the Agricultural District. Pursuant to Sections 7.1.23, 9.18 and 11.6. The affected property is described as follows: part of the W1/2 NW1/4, Section 6, St. George Township.

Roxanne stated that this property is just less than 80 acres. It's located at the intersection at the corners of Gilmanton, St. George, Minden and Mayhew Lake Townships. With this property there are requests for two separate cluster subdivisions. Cluster subdivisions need to be contiguous. Because the lots are not contiguous there needs to be two different conditional use permits for cluster subdivisions and two separate plats. She stated that cluster subdivisions require a conditional use permit because there are different regulations with a cluster subdivision. She went through Section 9.18, Cluster Subdivision. A cluster subdivision allows up to 6 homes on a 40 acre parcel. Each house needs to account for 6.5 acres instead of 10 acres. The north portion is 34.7 acres at 6.5 acres per lot allows for 5 lots. The proposal is for 3 lots along CR25. Lots can be no larger than 2 acres. Each proposed lot must be able to provide two locations for a Type I septic, meet the required setbacks for the district and not exceed the 25% impervious surface limit. A deed restriction is required for density. The remainder of the land must be maintained as either cropland, open space or an area for recreational facilities for the cluster subdivision. The intent for this particular cluster subdivision is to preserve the area for cropland. All lots will have shared access with another lot. Cluster subdivisions are treated as a residential type use and meet residential regulations like: Accessory buildings may not be located closer to the road than the principle structure (the home). And Fences can be no higher than 4ft in front of the house, or 6ft behind the nearest front corner of the house. Allowance of a fence between 4ft and 6ft may be permitted with a conditional use permit in the front yard. A preliminary and final plat are required as part of the approval of a cluster subdivision. Both have been submitted with the required information. The property line for Lots 1 & 2 is angled because there is a pipeline that has a 40ft blanket easement over that area. Jerry stated his concern with this being a 5 ton road and the expense to deliver building materials to the lots. Roxanne stated that the Planning Commission will be presented the preliminary plat of St. George Corners – North after action on this CUP. The final plat of St. George Corners – North will be reviewed by the County Board at a public hearing during their regularly scheduled meeting on June 4, 2019.

Craig Wensmann, Bogart, Pederson and Associates, 13076 1st St, Becker, stated that he is representing the owner, Doug and Lori Lezer who were also present. Craig stated that they meet all the zoning standards and answered all CUP criteria.

Kevin Hackett, 4810 75th Ave NE, stated he lives to the south of this property. His concern is with the 660ft setback to a feedlot. There will be 6 houses in the area dictating where he can build on his property. He stated his concern with the small lot sizes. The proposed lots are not much bigger than lots in town where there is city water and sewer. There will be 6 septic tanks and 6 wells in a little bit of space. He stated that he is not opposed to allowing your kids to build on land you own but is against creating a development and just selling off lots. He stated his concern with more with the south set of lots.

Jim Studenski, 5115 75th Ave NE, stated he has the same concerns. He lives across the road from the proposed south lots.

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

Mitch moved that the request meets Section 7.1.23, pages 3&4, Section 9.18, pages 75-78 and Section 11.6, pages 7&8. Dan seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Art stated that County Road 25 is a 5 ton road. The County Engineer has expressed no concern with the addition of six single family lots. 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 agriculturally zoned. Cluster Developments are permitted. The lots are smaller. There are no feedlots within 660ft. 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) Dan stated that residential homes and cluster subdivisions are permitted 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) Jerry stated that the current use of the property is agricultural and similar to Criteria 3 residential homes are permitted on agricultural land. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.
- 5) Art stated that the use is consistent. The proposed use is three single family homes. He cited Sections 2.1.1 and 2.1.3 and to include the development conditions to File #19-125. Mitch moved to approve criteria 5. Jerry seconded. 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) Warren stated that single family homes are good for the county. The request balances agricultural land with residential development. He cited General Goal #1: Growth and Livability and Land Use Goal #1: Rural Land Use. The

- vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Mary Jo said that there will be additional traffic generated by the addition of three single family homes, however, County Road 25 is designed to accommodate the additional vehicles and driveways have been designed to limit the number of access points for this development. The vote was unanimous that the use will not cause traffic hazards or congestion.
 - 8) Jerry stated that no wetlands are proposed to be impacted. 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?

County Road 25 is a 5 ton road and considered to be a minor collector. The County Engineer has expressed no concern with the addition of six single family lots.

- (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 agriculturally zoned. Cluster developments are intended to be clustered close together. The lots are of a similar size to two existing lots within the same quarter quarter section. There are no feedlots within 660ft.

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

Residential homes and cluster subdivisions are permitted in the agricultural district.

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

The current use of the property is for agricultural purposes. Residential homes are permitted on agricultural land.

- (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?

Yes it is. The proposed use is three single family homes.

In accordance with:

Section 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.3 To promote the orderly development of residential, business, industrial, recreational and public areas.

The Development Conditions for file no. 19-125 are adopted.

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

The proposed use is single family homes that are in harmony with Benton County's intent of balancing agriculture land along with residential development and a good tax base.

General Goal #1: Growth and Livability

Land Use Goal #1: Rural Land Use

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

There will be additional traffic generated by the addition of three single family homes, however, County Road 25 is designed to accommodate the additional vehicles and driveways have been designed to limit the number of access points for this development.

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

No wetlands are proposed to be impacted with this request.

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 11.6.1 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.
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. Prior to issuance of building permits, septic permits, and land use permits, the final plat must be recorded and a deed restriction shall be recorded restricting residential development.
6. Accessory building size and height shall be subject to the requirements of Section 6.2 of the Development Code and shall not be located closer to the front lot line than the principal building on the lot.
7. Fences can be no higher than 4ft in front of the house, or 6ft behind the nearest front corner of the house. Allowance of a fence between 4ft and 6ft may be permitted with a conditional use permit in the front yard per Section 8.3.2 of the Development Code.
8. 14.58 acres of the remnant parcel shall be deed restricted for density. The remainder of the remnant parcel shall be deed restricted to only allow for the area to be used as open space, cropland or recreational facilities associated with the cluster subdivision.

Mitch moved to accept the findings and conditions and grant File #19-125. Art seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

10:09:32 p.m. File #19-126, Doug and Lori Lezer requesting approval of a three lot minor plat entitled "St. George Corners North" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: part of the W1/2 NW1/4, Section 6, St. George Township.

Roxanne stated that this request is for the platting of the lots in the cluster development. She showed a copy of the proposed plat. The plat meets all requirements. A public hearing is required for the final plat due to there being more than 2 proposed lots.

Craig Wensmann, Bogart, Pederson and Associates, 13076 1st St, Becker, stated that he is representing the owner, Doug and Lori Lezer who were also present. They are asking for approval of this preliminary plat.

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

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

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

- 11.9:35 p.m. File #19-141, Doug and Lori Lezer requesting a conditional use permit to allow a cluster subdivision for "St. George Corners South" in the Agricultural District. Pursuant to Sections 7.1.23, 9.18 and 11.6. The affected property is described as follows: part of the W1/2 NW1/4, Section 6, St. George Township.

Roxanne stated that this is the same as the previous cluster development. She showed an aerial photo of the proposed plat. The proposed lots are 1.64 acres each. Three lots along County Road 25 with shared access. She pointed out the deed restricted area. The Lezer's are proposing to create two, three lot cluster subdivisions on their approximately 72 acres in St. George Township. Properties in the Agricultural District are permitted through a conditional use permit to create cluster subdivisions of up to 6 lots per quarter quarter section. The number of lots is dependent on the amount of land owned in the quarter quarter section. For this particular cluster, the property owner holds approximately 39.7 acres of land. Density for a cluster development is based on 6.5 acres per lot ($39.7/6.5 = 6$). This particular area could support up to 6 lots. The lots must be contiguous and must contain a minimum of two lots. Lots can be no larger than 2 acres, yet must be able to provide two locations for a Type I septic, meet the required setbacks for the district and not exceed the 25% impervious surface limit. The remainder of the land must be maintained as either cropland, open space or an area for recreational facilities for the cluster subdivision. This intent for this particular cluster subdivision is to preserve the area for cropland. All lots will have shared access with another lot. It's important to note that cluster subdivisions have many of the same regulations as a residential district, to include: Accessory buildings may not be located closer to the road than the principle structure (the home) and fences can be no higher than 4ft in front of the house, or 6ft behind the nearest front corner of the house. Allowance of a fence between 4ft and 6ft may be permitted with a conditional use permit in the front yard. A preliminary and final plat are required as part of the approval of a cluster subdivision. Both have been submitted with the required information. The Planning Commission will be presented the preliminary plat of St. George Corners – South after action on this CUP. The final plat of St. George Corners – South will be reviewed by the County Board at a public hearing during their regularly scheduled meeting on June 4, 2019. Mitch stated that the Lezer farm is to the north. He stated that there is a lot of houses along County Road 25. Roxanne stated that there is an excavation contractor to the south.

Craig Wensmann, Bogart, Pederson and Associates, 13076 1st St, Becker, stated that he is representing the owner, Doug and Lori Lezer who were also present. Craig stated that they feel that they have addressed all criteria for a conditional use permit and ask for approval.

Roxanne stated the reason to allow cluster developments is to allow smaller lots and preserve agricultural land.

Roxanne read an email in opposition from Rod Gapinski, RG Excavating who owns the property to the south of this proposed plat. He listed conditions for approval. Roxanne replied to Mr. Gapinski's conditions: CR25 should be a 9 ton road all year. Roxanne stated that in speaking with the County Engineer a 9 ton road would be a deterrent to Mr. Gapinski because he needs a 10 ton road in the summer, which CR25 is. This development will not cause a priority upgrade to this road. The development is not planning on sharing a driveway with RG Excavating. The entrance to the field will be within the right of way. Roxanne spoke to the county attorney regarding the request by Mr. Gapinski for a 10ft berm. This is not a reasonable request for a development this size. There is no control over any complaints regarding the business. Access spacing is based on the County Engineer recommendation. Park Dedication is submitted with all residential lots. There are no parks proposed with this development. The County Engineer reviews the plans for storm water and he sees no need from storm water plans. An NPDES permit is needed to disturb more than an acre with construction. No alternative septic sites are proposed on these lots. The county has no control over who buys the lots. These are not commercial lots that store large equipment. Regarding Mr. Gapinski not being able to build a residence on this lot, when he bought the lot the density was 1/40 the lot is 4.5 acre so there is no building right because he doesn't have the 10 acre for a building right unless he purchases a building right or more land from the neighbor.

Kevin Hackett, 4810 75th Ave NE, stated he lives to the south of this property. His concern is with the 660ft setback to a feedlot and this development limiting expansion of his feedlot.

Jim Studenski, 5115 75th Ave NE, stated he has the same concerns. He lives across the road from these proposed lots. He stated that this is an agricultural community.

Mary Jo asked how this would impact Mr. Hackett's ability to expand his feedlot. Roxanne showed on the map the approximate 660ft setback from the southern proposed lot. A feedlot is 50 animal units within confined area and the setback is from the nearest corner of the feedlot. Art felt there was room on Mr. Hackett's property south of the proposed plat to expand his feedlot.

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

Mitch moved that the request meets Section 7.1.23, pages 3&4, Section 9.18, pages 75-78 and Section 11.6, pages 7&8. Dan seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Warren stated that County Road 25 is a 5 ton road and considered to be a minor collector. Minor collectors expect to carry more traffic than local streets. The County Engineer has expressed no concern with the addition of six single family lots. 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 area is agriculturally zoned. Cluster developments are intended to be clustered close together. The lots are of a similar size to two existing lots within the same quarter quarter section. There are no feedlots within 660ft. Farming is a right in our agricultural district and will not be affected by the platting of three single family lots. 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 residential homes and cluster subdivisions are permitted in the agricultural district. The use will be the same as other nearby properties. 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 it is, residential homes are permitted on agricultural land. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use.
- 5) Art stated that the use is consistent and cited Sections 2.1.1 and 2.1.3 and moved to include the development conditions to File #19-141. Mitch moved to approve criteria 5. Warren seconded. 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) Mitch stated that it is not in conflict. The proposed use is single family homes that are in harmony with Benton County's intent of balancing agriculture land along with residential development and a good tax base. He cited General Goal #1: Growth and Livability. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Warren stated that County Road 25 is designed to accommodate the additional vehicles and driveways have been designed to limit the number of access points for this development. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Jerry stated that no wetlands are proposed to be impacted with this request. The vote was unanimous that the use will not violate the wetland provisions of Minnesota 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?

County Road 25 is a 5 ton road and considered to be a minor collector. Minor collectors expect to carry more traffic than local streets. The County Engineer has expressed no concern with the addition of six single family lots.

- (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 agriculturally zoned. Cluster developments are intended to be clustered close together. The lots are of a similar size to two existing lots within the same quarter quarter section. There are no feedlots within 660ft. Farming is a right in our agricultural district and will not be affected by the platting of three single family lots.

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

Residential homes and cluster subdivisions are permitted in the agricultural district. The use will be the same as other nearby properties.

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

It is. Residential homes are permitted on agricultural land.

- (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?

It is consistent with the purposes and intent of the Development code.

In accordance with:

Section 2.1.1 To promote and protect the public health, safety, comfort, convenience, and general welfare of the people.

Section 2.1.3 To promote the orderly development of residential, business, industrial, recreational and public areas.

Development Conditions for File No. 19-141 are adopted.

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

It is not in conflict. The proposed use is single family homes that are in harmony with Benton County's intent of balancing agriculture land along with residential development and a good tax base.

General Goal #1: Growth and Livability

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

There will be additional traffic. County Road 25 is designed to accommodate the additional vehicles and driveways have been designed to limit the number of access points for this development.

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

No wetlands are proposed to be impacted with this request.

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 11.6.1 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.
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. Prior to issuance of building permits, septic permits, and land use permits, the final plat must be recorded and a deed restriction shall be recorded restricting residential development.
6. Accessory building size and height shall be subject to the requirements of Section 6.2 of the Development Code and shall not be located closer to the front lot line than the principal building on the lot.

7. Fences can be no higher than 4ft in front of the house, or 6ft behind the nearest front corner of the house. Allowance of a fence between 4ft and 6ft may be permitted with a conditional use permit in the front yard per Section 8.3.2 of the Development Code.
8. 14.72 acres of the remnant parcel shall be deed restricted for density. The remainder of the remnant parcel shall be deed restricted to only allow for the area to be used as open space, cropland or recreational facilities associated with the cluster subdivision.

The findings, conditions and decision was accepted and File #19-141 granted. The applicant was given a copy of the findings, conditions and decision.

12. 10:06 p.m. File #19-127, Doug and Lori Lezer requesting approval of a three lot minor plat entitled "St. George Corners South" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: part of the W1/2 NW1/4, Section 6, St. George Township.

Roxanne stated that this request is for the platting of the lots in the cluster development. She showed a copy of the proposed plat. The plat meets all requirements. A public hearing at the County Board is required for the final plat due to there being more than 2 proposed lots. Warren asked about trailer houses. Roxanne stated that trailer houses are allowed in agricultural district.

Craig Wensmann, Bogart, Pederson and Associates, 13076 1st St, Becker, stated that he is representing the owner, Doug and Lori Lezer who were also present. They are asking for approval of this preliminary plat.

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

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

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

13. Art moved to adjourn the meeting at 10:10 p.m. Jerry seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary