

Planning Commission MINUTES September 10th, 2020

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

Staff: Roxanne Achman, Karen Loehrer

1. Scott called the meeting to order followed by the Pledge of Allegiance.
2. Warren moved to approve the agenda. Dan seconded and the motion carried.
3. Gerry moved to approve the minutes from the August 13th, 2020 meeting. Jerry seconded and the motion carried.
4. File #20-485, Gordon and Janet Hansmeier requesting approval of a three lot preliminary plat entitled "Luckys Place" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: NW1/4 SW1/4, Section 21, St. George Township.

Roxanne showed an aerial photo of the plat. The total acreage being platted is 42.45 acres into three developable lots. The proposed lots are all over 10 acres. Access will be from the township road, 95th Ave NE. Each lot will be served by a local alternative septic due to the soils not meeting the minimum requirements for a standard system. These types of systems generally require more maintenance and closer monitoring. The property owner will need to record a deed restriction that the lots will require a local alternative septic system so people who buy the properties will know that they will not have a Type I system. She pointed out the narrow strip of land that goes to the east. When Hansmeier's bought this land the strip was there and they are including it in the plat.

Sam DeLeo, KLD Surveyor, 13 11th Ave N, stated that there was no abstract on this property. He found nothing in the title search related to

the strip of land. He stated that the septic systems for these lots will be fairly large.

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

Gerry moved that the request meets Section 10.7, page 10-12. Dan seconded and the motion carried.

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

5. File #20-491, Raymond Thompson requesting approval of a two lot preliminary plat entitled "Thompson Village" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: SE1/4 SW1/4 and SW1/4 SE1/4, also W1/2 SE1/4 and E1/2 SW1/4, Section 10, Watab Township.

Roxanne showed an aerial photo of the property. This property is along the railroad and west of Hwy 10. This property is currently a gravel pit. The parcel currently has two dwellings on it. The plat will separate each house onto it's own lot and the gravel pit on its own lot, Outlot A. There is an easement across Lot 2 to access the gravel pit. She stated that Watab Township has adopted its own subdivision ordinance which the applicant will need to follow. This plat meets all county requirements. There will be no new infrastructure with this plat.

Sam DeLeo, KLD surveyor, 13 11th Ave N, St Cloud, stated that the property owner lives on Lot 2 and the son lives on Lot 1. The son runs the gravel pit.

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

Gerry moved that the request meets Section 10.7, page 10-12. Dan seconded and the motion carried.

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

6. File #20-479, John and Katelyn Linn 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 2, Section 34, East Langola Township.

Roxanne stated that the property is two nonconforming lots that have been combined by ordinance. There is an existing garage and a septic. The applicant is requesting to construct a house on the lot using fill. The fill must bring the house up

to the regulatory flood protection level from there the fill needs to remain at the base flood level for 15ft. Then the fill can slope to the natural level. She showed a schematic of how the fill needs to be placed on the lot. There will be a significant height difference. The proposed house is over 30ft from the north property line and 45ft to south property line. This is a FEMA approved type of flood proofing. To keep runoff from neighbors, the property owner can grade property, install gutters on the house, landscaping etc. There was a discussion on ways to keep water from draining onto the neighboring properties.

John Linn was present remotely. He stated that they are requesting a conditional use permit to use an alternative flood method. Gerry asked if they considered ways to keep water from flowing onto the neighbor's property. John stated that they are putting gutters on the house and working with the excavator.

Linda Conway, 12120 West Lake Rd, neighbor to north, stated her concern with runoff onto her land. She stated that she was not allowed to fill a wet area on her lot. Roxanne stated that the wet area on Ms. Conway's lot is a wetland and can't be filled. Linda feels this will drain water onto her property. This will devalue her property.

John Linn stated that they are working with the builder and contractor and feels they are addressing any drainage onto the neighboring lot. The water should drain toward the lake.

Linda stated that their utility line is on the south side of her lot. Her major concern is adding more water to her lot.

Colleen Nelson asked if the structure could be moved south. John stated the house needs to meet the setback to the septic tank which is on the south part of the property.

Mary Jo asked Ms. Conway how long she has owned this property. Ms. Conway stated they owned this property since June and she was told of the flooding in the front. She stated that their land was surveyed and showed the house 9ft from the property line.

Art suggested moving the house 8ft south and adding a slight swale 3ft from the property line with a 6ft drop.

Sam DeLeo stated that this property is extremely flat. He suggested a condition that the property owner maintain 10ft drainageway along the north property line to promote positive drainage from the west to the east.

John stated that they are okay moving the house 10ft to the south as long as it doesn't impede on the septic system. He will work with excavator on drainage west to east.

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

Gerry moved that the request meet Section 11.6, page 9-12 and Floodplain Management Ord. 169, Sections 5.2, 5.3 and 5.4, pages 10-13. Mary Jo seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Dan stated that the placement of a home on fill will not create any additional burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area. The vote was unanimous that the use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 2) Warren stated that the use of the property will be for residential purposes. Flood proofing of structures within the flood plain is required and helps to prevent future damage to the area in the event of a flood. 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 home will be similar to others in the neighborhood, other than its new construction. The vote was unanimous that the structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
- 4) Gerry 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 moved that the request meets Section 2.1.1 (D)(F), and to add development conditions #9. That the property owner maintain positive drainage from west to east on the northside of the property and move the house south 10ft. and add the amended development conditions to File #20-479. 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) Jerry stated that in accordance with the 2040 Comprehensive Plan the site is planned Rural Residential. He cited Environment & Natural Resources. Goal #1: Stewardship. Policy #2: Development Review and Quality of Life Goal #2: Housing Stock. Policy #2: Life Cycle Housing. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.

- 7) Gerry stated that a new home will not affect traffic. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Warren stated that constructing this home will not impact wetlands. The vote was unanimous that the use will not violate the wetland provisions 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 placement of a home on fill will not create any additional burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

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

The use of the property will be for residential purposes. Flood proofing of structures within the flood plain is required and helps to prevent future damage to the area in the event of a flood.

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

The home will be similar to others in the neighborhood, other than its new construction.

- (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?

In accordance with the following items in Section 2.1.1:

- (D) To provide for adequate light, air and convenience of access to property by regulating the use of land, buildings and the bulk of structure.

(F) To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.

The development conditions for file no. 20-479 are adopted with the addition of condition #9

#9: The landowner and excavator shall work together to maintain positive drainage on the north side of the property. The house shall be moved to the south 10 feet and drainage shall be from west to east.

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

In accordance with the 2040 Comprehensive Plan the site is planned Rural Residential.

Environment & Natural Resources

Goal #1: Stewardship

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

Quality of Life

Goal #2: Housing Stock

Policy #2: Life Cycle Housing: Promote the improvement and maintenance of the existing housing stock to provide sanitary living conditions and ensure that an adequate amount of housing is maintained, including retrofitting existing homes to better serve families in need of affordable housing.

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

The use of the lot will not be changing and will have no effect on traffic hazards or congestion.

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

Constructing this home 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 conditional use permit application.
4. **Upon completion of the house**, 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 11.6.3(J) of the Development Code, this conditional use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work as defined in Section 11.6 of the Development Code. The Planning Commission may grant an extension of one year to complete the project if a written request for additional time is filed with the Planning Commission prior to the date of expiration of the conditional use permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
6. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to ensure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
7. 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.
8. Applicant utilizes appropriate erosion control devices to minimize risks of erosion entering the waterways or leaving the site.
9. The landowner and excavator shall work together to maintain positive drainage on the north side of the property. The house shall be moved to the south 10 feet and drainage shall be from west to east.

Gerry moved to accept the findings and conditions and grant File #20-479. Jerry seconded and the motion carried.

7. File #20-489, Stacy Schraut (Liberty Management LLC) requesting a conditional use permit to construct a storage structure without a single-family dwelling or other principal building in the R-3 Residential District Pursuant to Sections 7.6.4., 9.1.2B(1) and 11.6. The affected property is described as follows: Lot 33, Block 1, Ferry Point Addition, Section 8, Watab Township.

Roxanne stated that this property is located on Ferry Point in Watab Twp along the Mississippi River. The property owner's house is across the street. The request is to construct a 26ft x 40ft shed. There is a location on this parcel for a home and septic.

Stacy Schraut, 10035 Ferry Point Place, stated that they are requesting a conditional use permit to construct a storage structure on a parcel without a single family dwelling. Gerry asked about the LLC. Stacy stated that the LLC is owned solely by him. This structure would be for personal use, no business use.

No one spoke in favor, opposition or general comments. Roxanne stated that she received no comments from Watab Township.

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

Gerry moved that the request meets Section 7.6.4, page 32-33, Section 9.2B1, pages 1-4 and Section 11.6, pages 9-12. Warren seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Mary Jo stated that the use of this property for a storage structure without a dwelling should not create a burden on the existing parks, schools or other public facilities that serve the area. The applicant's home is on the adjacent lot across the street. 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 storage structures are allowed to be placed on lots in the R-3, Residential District without a single-family home. A septic site has been identified and the property owner owns an adjacent lot with a residential dwelling on it. 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 storage structures are common in the R-3, Residential District. The structure will fit 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) Gerry stated that storage structures are common in Residential Districts. A septic site location has been identified for a future home. 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 Development Code allows for storage structures in residential areas prior to a home being constructed as a principle use with a conditional use permit. He cited Sections 2.1.1 (A)(C) and moved to add the development conditions. 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) Jerry stated that in accordance with the 2040 Comprehensive Plan, the site is planned Rural Residential. The site is zoned R-3 and the construction of a storage structure without a principal structure would not be in conflict with the Plan. He cited Quality of Life Goal #1: Livability and Goal #2: Housing Stock and Land Use Goal #1: Planning for Growth. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Mary Jo stated that the construction of a storage structure on this site is not expected to generate additional traffic to the area. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Art stated that there are no wetlands being impacted. 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 of this property for a storage structure without a dwelling should not create a burden on the existing parks, schools or other public facilities that serve the area. The applicant's home is on the adjacent lot across the street.

- (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?

Storage structures are allowed to be placed on lots in the R-3, Residential District without a single family home. A septic site is identified and the property owner owns an adjacent lot with a residential dwelling on it.

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

Storage structures are common in the R-3, Residential District. The structure will fit in.

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

Storage structures are common in Residential Districts. A septic site location has been identified for a future home.

- (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?

In accordance with the following items in Section 2.1.1:

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

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

The development conditions for file no. 20-489 are adopted.

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

In accordance with the 2040 Comprehensive Plan the site is planned Rural Residential. The site is zoned R-3 and the construction of storage structure without a principal structure would not be in conflict with the Plan.

Quality of Life

Goal #1: Livability – Maintain and enhance the livability of Benton County for all members of the community.

Goal #2: Housing Stock – Continue to maintain a high quality living environment in all residential neighborhoods and upgrade those in need of improvement.

Land Use

Goal #1: Planning for Growth – Maximize the potential of Benton County as a thriving center for agriculture, business, and recreation, while planning for orderly and efficient growth.

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

The construction of a storage structure on this site is not expected to generate additional traffic to the area.

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

There are no wetlands being impacted by the proposed structure.

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 11.6.3(J) of the Development Code, this conditional use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work as defined in the Development Code. The Planning Commission may grant an extension of one year to complete the project if a written request for additional time is filed with the Planning Commission prior to the date of expiration of the conditional use permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
4. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to ensure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
5. The storage building will not be used for commercial purposes.
6. The storage building will not be used for temporary or permanent residence.
7. The septic area shall be preserved.
8. Appropriate permits shall be obtained including but not limited to: land use permit, building permit, and septic permit. The building permit must be obtained from Watab Township.

Warren moved to accept the findings and conditions and grant File #20-489. Art seconded and the motion carried. The applicant was given a copy of the findings and decision.

8. There will be a meeting on September 24th.
9. Gilmanton Township tabled the Orderly Annexation Agreement with the City of Foley until the wastewater treatment line to St. Cloud is constructed and operational.
10. Dan moved to adjourn at 8:32 p.m. Jerry seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary