

Planning Commission September 12th, 2019 MINUTES

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

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 8th, 2019 meeting. Jerry seconded and the motion carried.
4. 7:02 p.m. File #19-334, Steven and Patricia Posch requesting approval of a one lot minor preliminary plat entitled "Thousand Oaks 1st Addition" in the R-3 Residential District. Pursuant to Section 10.7. The affected property is described as follows: Lots 6 & 7, Block 2, Thousand Oaks, Section 9, Sauk Rapids Township.

Roxanne stated that this is a preliminary plat of "Thousand Oaks 1st Addition". It is a combination of two existing platted lots into one lot. Platted lot combinations must follow the process for preliminary and final plats. There are no wetland, access, utility or subdivision design concerns. The City of Sartell has no concerns with this plat. There were no comments from Sauk Rapids Township. The combined lot will be .96 acres.

Steve Posch, 4455 16th Ave NW, stated that they are asking for approval of this preliminary plat.

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

Dan moved to approve the preliminary plat of "Thousand Oaks 1st Addition." Mary Jo seconded and the motion carried.

5. 7:05 p.m. File #19-382, Bonita Skuza requesting approval of a two lot minor preliminary plat entitled "Virgils Pasture" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: 37.82 AC NE1/4 NE1/4 less N425ft of W224ft of E981ft w/hwy easement, Section 34, Mayhew Lake Township.

Roxanne stated that this property is located in Mayhew Lake Township. Bonita Skuza owns this property and the property to the south. This is a two lot plat, 6.70 acres and 13.43 acre lots. Both have sewerable sites. The wetlands have been delineated. She stated that the remnant piece will be combined with the parcel to the south. The plat is for two single family residences with access from 55th Ave. Township approval has been received.

Bonita Skuza, 6161 55th Ave, stated that she is asking for approval of this two lot plat.

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

Warren moved to approve the preliminary plat of "Virgils Pasture". Mitch seconded and the motion carried.

6. 7:10 p.m. File #19-375, Brian and Erica Menke requesting an interim use permit to allow a second dwelling for supportive care in the Agricultural District. Pursuant to Sections 7.1.24B(2) and 11.6.3. The affected property is described as follows: Lot 1, Block 1, Meehl Estates, Section 4, West Langola Township.

Roxanne stated that the request is for an interim use permit for supportive care. She showed the location, west of Royalton. This is an 8.5 acre lot. The applicant does need to provide documentation from a doctor indicating that the person receiving the supportive care will benefit from supportive care. The structure needs to be temporary, mobile home, and needs to be removed within 90 days of the use no longer being needed. The structure needs to be serviced by a septic and meet all required setbacks. There is sufficient room on the lot for the proposed structure. She showed the site plan. There is screening along the north and east boundaries.

Brian and Erica Menke, 7604 173rd St, stated that they are requesting approval of an interim use permit for supportive care. Scott asked the applicants if they have seen the proposed development conditions. Brian and Erica stated that they had and are in agreement.

Roxanne read a letter in opposition from Terri and Ron Peterick. Erica stated that they have two foster children that are a family placement and that they do plan to adopt them. There are no plans for more foster children and that is not the intension of the second home. She stated that they have sold their home in Sartell.

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

Mitch moved that the request meets Section 7.1.24B, page 5 & 6 and Section 11.6.3 pages 10 & 11. Warren seconded and the motion carried.

In reviewing Section 11.6.3 the vote was as follows:

- 1) Dan stated that the use conforms as supportive care. The request meets the listed criteria and they have supplied all the required documentation. The vote was unanimous that the interim use conforms to the zoning regulations of the County.
- 2) Jerry stated that there will be no additional cost to the public. The second home can be removed. 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) Warren stated that the second dwelling will be occupied by two adults. It won't crowd the streets. The vote was unanimous that the interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 4) Gerry stated that they are placing a manufactured home on the property. There will be no effect on surrounding property. The vote was unanimous that the interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
- 5) Mitch stated that the structure will be screened on the north, east and west by pine trees and hardwood trees. There are several rows of pine trees and hardwood on the south side of the property that will eventually screen it on that side as well. 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) Jerry moved that the request meets Section 2.1.1 and added the development conditions to File #19-375. Gerry seconded. Scott asked the applicant if they reviewed the development conditions and are in agreement with them. The Menkes stated that they were. 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 stated that the use is consistent and cited Land Use Goal #2: Rural Land Use Policy #5: Rural Non-Farm Housing. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
- 8) Mary Jo stated that density will only increase by two more people and will not cause any traffic hazards or congestion. 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) Gerry stated that they are putting in a manufactured home that will be connected to a septic system. There will be no effect on wetlands. 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: The interim use conforms to the zoning regulations of the County.

Yes it conforms to the zoning regulations for supportive care. They met the listed criteria and supplied all the documentation.

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.

There will be no additional cost to the public. The second home can be removed.

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 second dwelling will be occupied by two adults. It won't crowd the streets.

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

They are placing a manufactured home on the property. There will be no effect to surrounding property.

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

The structure will be screened on the north, east and west by pine trees and hardwood trees. There are several rows of pine trees and hardwood on the south side of the property that will eventually screen it on that side as well.

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

In accordance with:

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.

The development conditions for file no. 19-375 are adopted.

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

Yes it is consistent with the Comp Plan.

Land Use

Goal #2: Rural Land Use

Policy #5: Rural Non-Farm Housing

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

The proposed interim use will increase the density of the property by two people. There will be no traffic or congestion.

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.

They are putting in a manufactured home that will be connected to a septic system. There will be no effect on wetlands.

Conditions:

1. The applicant shall submit documentation, satisfactory to the Department of Development, demonstrating the need for supportive care.
2. The applicant shall submit an affidavit to the Department of Development verifying that the dwelling is still occupied by the eligible resident named in the original application.
3. The applicant shall sign a statement declaring that the second dwelling shall be removed within 90 days when the demonstrated need for supportive care no longer exists, or the resident no longer resides on the property.

4. The dwelling must be a manufactured home.
5. Before the dwelling is occupied, it shall be connected to a permitted sewage treatment system.
6. Before the dwelling is occupied, documentation verifying that it meets the 31 point inspection requirement shall be submitted to the Department of Development.
7. The second dwelling shall be removed within 90 days when the demonstrated need for supportive care no longer exists, or the resident no longer resides on the property.
8. Pursuant to Section 11.6.3 of the Development Code, this interim use permit shall automatically expire, without notice, within one year after the date of approval unless the applicant has substantially proceeded on the work.
9. This interim use permit shall expire if the approved use is inactive for one year or longer.
10. 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.

Warren moved to accept the findings and conditions and grant File #19-375. Jerry seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

7. 7:28 p.m. File #19-386, Carl and Donna Chapp requesting an interim use permit to allow a second dwelling for the farm operator in the Agricultural District. Pursuant to Sections 7.1.24B(1) and 11.6.3. The affected property is described as follows: N1/2 SE1/4, Section 23, Maywood Township.

Roxanne stated that this is a request for a second home for a farm operator, similar to supportive care. The home needs to be a mobile home, removed after 90 days, connected to a septic system. She showed an aerial of the property. The Chapps own a 10 acre piece with the house and the surrounding 70 acres. The farm is currently operated by their son, who doesn't live on the farm. She showed the proposed location of the manufactured home. There will be a separate septic system. They will use the existing driveway. All setbacks will be met. They have provided all documentation showing that the son is the operator of the farm.

Donna Chapp, 7849 185th Ave NE, stated that they are requesting an interim use permit for a second dwelling for their son as the farm operator.

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 Section 7.1.24(B) Farm Operator, pages 5 & 6 and Section 11.6.3 pages 10 & 11. Warren seconded and the motion carried.

In reviewing Section 11.6.3, the vote was as follows:

- 1) Warren stated that the applicant has met the criteria for farm operator. The vote was unanimous that the interim use conforms to the zoning regulations of the County.
- 2) Dan stated that there will be no additional cost imposed on public. 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 there will only be two individuals moving to the property. The use will not create an excessive burden. 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) Mary Jo stated there will be an additional dwelling on the property which will not affect the normal and orderly development of the area. The vote was unanimous that the interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
- 5) Mitch stated that the proposed location for the second dwelling is screened on the north, west and south sides by a natural tree line. The home will be a minimum of 650ft from the right-of-way of County Road 9. There are no homes in the direct view shed of the property. 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 moved that the request meets Sections 2.1.5 and 2.1.10 and adopt the development conditions to File #19-386. Dan seconded. Scott asked the applicant if they are in agreement with the proposed development conditions. Donna stated that they were. 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) Jerry stated that the interim use is in support and consistent with the Comprehensive Plan of the County. He cited Land Use Goal #2: Rural Land Use Policy #2: Agriculture and Economic Development Goal #3: Labor Force Policy #2: Life Cycle Housing. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
- 8) Mary Jo stated that the additional dwelling will use the existing access and there won't be a significant increase in density to cause traffic hazards or congestion. 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) Dan stated that the proposed use will not have a negative impact on the environment. 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: The interim use conforms to the zoning regulations of the County.

The applicant met the criteria for help on the farm.

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.

There will be no additional cost imposed on the public.

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.

There will only be two individuals moving on to the property. The interim use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve the area.

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

The proposed additional dwelling will be located to the north of the existing home that the property owners live in. Normal and orderly development will not be affected.

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 location for the second dwelling is screened on the north, west and south sides by a natural tree line. The home will be a minimum of 650ft

from the right-of-way of County Road 9. There are no homes in the direct view shed of the property.

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

In accordance with:

Section 2.1.5 states the purpose is to prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.

Section 2.1.10 states the purpose is to discourage the premature and unnecessary conversion of prime agricultural land to urban uses.

The development conditions for file no. 19-386 are adopted.

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

The interim use is in support and consistent with the Comprehensive Plan of the County.

Land Use

Goal #2: Rural Land Use

Policy #2: Agriculture

Economic Development

Goal #3: Labor Force

Policy #2: Life Cycle Housing

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 additional dwelling will use the existing access. The increase in density will not be so significant as to cause traffic hazards or congestion.

Criteria 9: The interim use will not create a negative environmental impact, including but not limited to impacts on wetlands and water bodies. Including that adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance.

The proposed use will not have a negative impact on the environment.

Conditions:

1. Before the dwelling is occupied, it shall be connected to a permitted sewage treatment system.
2. Before the dwelling is occupied, documentation verifying that it meets the 31 point inspection requirement shall be submitted to the Department of Development.
3. The second dwelling shall be removed within 90 days when the demonstrated need for full time help on the farm no longer exists, or the farm operator no longer resides on the property.
4. Pursuant to Section 11.6 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.
5. This interim use permit shall expire if the approved use is inactive for one year or longer.
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 statues, rules and ordinances.
7. No additional dwellings for help on the farm shall be permitted for this site.

Mitch moved to accept the findings and conditions and grant File #19-386. Dan seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

8. 8:44 p.m. File #19-377, Adam and Sarah Schefers requesting approval of a conditional use permit to use fill as 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: S438.33ft of the E993.76ft of the W1/2 SW1/4, Section 26, East Langola Township.

Roxanne showed an aerial of the property. She showed the flood plain on the property. This will be slab on grade home on fill with frost footings. The first floor of the home will be one foot above the base flood elevation.

Adam Schefers, 263 125th St NW stated they are asking for approval to use an alternative flood proofing method. The builder was also present.

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

Mitch moved that the request meets Sections 5.2, 5.3 and 5.4 pages 10 & 11 of the Flood Plain Management Ordinance and Section 11.6, pages 7 & 8. Warren seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Warren stated that where the house is located won't create a burden. 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 the use of the property will not be changing. Flood proofing of homes within the flood plain is desirable and helps to prevent future damage. 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 raised on fill and will have the same appearance as other homes in the area. 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 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) Mitch moved that the request meets Section 2.1.3 and adopted the development conditions to File #19-377. Gerry seconded and the motion carried. The applicant saw and understands 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) Gerry stated that the use is in compliance with the 2040 Comprehensive Plan. The site is rural residential, not expected to be annexed into a city. He cited Environment & Natural Resources Goal #1: Stewardship Policy #2: Development Review. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Warren stated that there will be no effect of traffic. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Dan stated that constructing this home 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?

There will be no burden.

- (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 not be changing. Flood proofing of homes within the flood plain is desirable and helps to prevent future damage.

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

The home will be raised on fill and be similar to other homes in the area.

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

It is. 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 Sections:

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

The development conditions for file no. 19-377 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 for semi-rural housing that is not expected to be annexed into a city.

Environment & Natural Resources

Goal #1: Stewardship

Policy #2: Development Review

Quality of Life

Goal #2: Housing Stock

Policy #2: Life Cycle Housing

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

It 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 addition**, 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.

Mary Jo moved to accept the findings and conditions and grant File #19-377. Gerry seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

9. 7:55 p.m. File #19-362, William and Ann Surma requesting approval of 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: Lots 102 & 103, Rose Anna Beach, Section 10, Watab Township.

Roxanne showed an aerial of the property. The property is on Little Rock Lake off West Lake Court. The request is to use an alternative flood evaluation method. She showed the site plan. This will be a slab on grade house with frost footing on fill. The State Flood Plain Manager is in agreement with the plans. Watab Township has approved the request.

Bill Surma, 9848 West Lake Ct, and builder were present. Bill stated that they are asking for approval of the use of an alternative flood elevation method.

Leroy Gapinski, neighbor to south, asked how much higher will the new house would be. Roxanne stated that the house would be 6 inches to a foot higher. Jerry stated that it is a requirement that the house be built 1ft above the regulatory flood protection elevation.

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

Mitch moved that the request meets Sections 5.2, 5.3 and 5.4 pages 10 & 11 of the Flood Plain Management Ordinance 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 flood proofing will not cause any additional burden. 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) Gerry stated that the use of the property will not be changing. They are flood proofing the home and raising it about 6 inches to one foot. 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 house will be raised on fill and appear as a slab on grade home. The vote was unanimous that the structure and site will have an appearance that will not have an adverse effect upon adjacent properties.
- 4) Warren 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) Mitch moved that the request meets Section 2.1.3 and adopt the development conditions. Dan 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 the request is in accordance with the 2040 Comprehensive Plan. 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 the house is built in a cul-de-sac and will not cause additional traffic. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Mary Jo stated that constructing this home 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 flood proofing of the home will not create any additional burden to 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 not be changing. They are flood proofing the home and raising it about 6 inches to one foot.

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

The home will be raised on fill and appear as a slab on grade home.

- (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 Sections:

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

The development conditions for file no. 19-362 are adopted.

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

The request is in accordance with the 2040 Comprehensive Plan.

Environment & Natural Resources

Goal #1: Stewardship

Policy #2: Development Review

Quality of Life

Goal #2: Housing Stock

Policy #2: Life Cycle Housing

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

The house is built in a cul-de-sac and will not cause additional traffic.

(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. The Building Permit must be obtained through Watab Township.
4. **Upon completion of the addition**, 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.

Jerry moved to accept the findings and conditions and grant File #19-362. Warren seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

10. 8:10 p.m. File #19-365, Jerome and Judith Studenski, landowner and Studenski Community Solar, LLC, applicant, requesting an interim use permit to construct a community solar energy system in the Agricultural District. Pursuant to Sections 7.1.24C, 9.20 and 11.6.3. The affected property is described as follows: SE/14 SE1/4, Section 3, Minden Township.

Roxanne stated that this property is off Golden Spike Rd. There is an existing solar garden in the northwest corner of this property. This request is from a different applicant, IPS Solar. She showed the site plan. Wetland delineation has been done. They propose to put a 7ft chain link fence with barbed wire around the site. Access will be from 45th St, County Road 15. The request is for a 35 year interim use permit. There is no landscaping plan. They have provided a signed interconnection agreement with Xcel Energy.

Jerome Studenski, 5520 Golden Spike Rd, landowner and Eric Hanson, IPS Solar were present. Mitch asked about the capacity of the Xcel lines. Eric stated that if the capacity wasn't there they wouldn't have applied. There was a discussion about screening.

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

Mitch moved that the request meets Section 7.1.24C, page 6, Section 9.20 pages 79-83 and Section 11.6.3 pages 10 & 11. Jerry seconded and the motion carried.

In reviewing Section 11.6.3 the vote was as follows:

- 1) Gerry stated that the use conforms. There are several pages in the staff report to provide proof that the criteria are met. The vote was unanimous that the interim use conforms to the zoning regulations of the County.
- 2) Warren stated that the county will benefit from the increased tax classification. The proposed project will meet the current setbacks. 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) Mary Jo stated that the use is not expected to create an excessive burden. There is no need for public utilities and there will be no increase in density. 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 proposed project will not require city services. Surrounding properties will still be able to be developed at county requirements. Surrounding areas are agriculturally zoned with several residential homes on adjacent properties. 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 project will not cause any negative impacts. It will meet all the setbacks and have a security fence around it. 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 moved that the request meets Section 2.1.3 and 2.1.12 and include the development conditions to File#19-365. Jerry seconded. Scott asked the applicant if they were in agreement with the development conditions. Eric stated that they were. 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) Mitch stated that the use is consistent. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
- 8) Warren stated that road access will be off County Road 15 / 45th St NE. They will need to obtain approval from the County Engineer for the installation of an access. The vote was unanimous that the interim use will provide adequate access to a public road to not cause traffic hazards or congestion on the adjacent public roads and that there are sufficient off-street parking and loading space to serve the proposed use.
- 9) Jerry stated that 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 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: The interim use conforms to the zoning regulations of the County.

It does. There are several pages in the staff report to provide proof that the criteria are met.

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. The proposed project will meet the current setbacks. 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. There is no need for public utilities and there will be no increase in density.

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 proposed project will not require city services.

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 meet the setbacks and security fencing. There will be no required landscaping.

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

In accordance with:

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

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 development conditions for file no. 19-365 are adopted.

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

It's consistent with the Comprehensive Plan.

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 County Road 15 / 45th St NE. They will need to obtain approval from the County Engineer for the installation of an access.

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.

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 35 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 \$50,000 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. Work with the County Highway Department on the proposed access to the project.

Mitch moved to accept the findings and conditions and grant File #19-365. Mary Jo seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

11. 8:32 p.m. File #19-366, Howard Vaillancourt, landowner and Stevens Community Solar, LLC, applicant, requesting an interim use permit to construct a community solar energy system in the Agricultural District. Pursuant to Sections 7.1.24C, 9.20 and 11.6.3. The affected property is described as follows: Part of W1/2 NE1/4 NW1/4 & E1/2 NW1/4 NW1/4, Section 34, Gilmanton Township.

Roxanne stated that this is a request for a 1 megawatt solar farm. This property is located directly outside of city limits of Foley and within the Urban Growth Boundary. The Urban Growth Area has been part of the county Comprehensive Plan and was refined with the last update. There is an existing solar garden to the east with a 27 year permit. The project will develop on approximately 8 acres of a 39.8 acre parcel west of the house. Screening is proposed on the north, east and west of the site with a 7ft fence around the area. This is the same company as the previous request. Access has been approved. They have provided all required information. Warren asked if the city had a Comprehensive Plan. Sarah Brunn, City Administrator stated that the city will be updating their Comprehensive Plan next year. There were no comments from surrounding property owners. The township submitted comment that they approve the request.

Eric Hanson, IPS Solar, stated that this is a tracker system, with lines that go north to south. Connection will be on 65th St. Eric stated that their company has been in business for 29 years and has no concern with them going out of business.

Mary Jo asked about the existing solar garden. Roxanne stated that that was the first solar garden request that prompted the amendment to the ordinance to add Section 9.20. At that time Foley had a temporary City Administrator. Scott stated that the Planning Commission had asked the City at that time what their specific plans were for the area. At that time the city was not able to provide definite information and the request moved forward as submitted.

Sarah Brunn, Foley City Administrator, and Jeff Gondeck, City Council & city Planning Commission member, were present. Sarah stated that this request went

before the City Council and City Planning Commission. They are concerned with preserving the highway corridor for utilities. There is a water main and well that runs west of the city. They received approval for a sewer force main to run west also. Sarah stated that the city is growing towards the west. There is no industrial park property left so they are looking to acquire property towards the west. The city is also concerned with the 35 year term being requested. Currently there is no orderly annexation agreement with Gilmanton Township. There was a discussion regarding the expiration date of the permit. Jeff Gondeck stated that the council felt 25 years was sufficient because they didn't want to hinder future development of the city.

Eric asked to strike the screening on the east side because that property abuts the landowner's property. He stated that 35 year timeframe is key to the financial aspect of the project.

They need to have 25 years of operational life.

Gerry 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 pages 79-83 and Section 11.6.3 pages 10 & 11. Jerry seconded and the motion carried.

In reviewing Section 11.6.3 the vote was as follows:

- 1) Warren stated that the use does conform. They have met the criteria. The vote was unanimous that the interim use conforms to the zoning regulations of the county.
- 2) Dan 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 7 in favor and 1 in opposition, 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) Gerry felt that this would create a hardship on the city if they grow. The vote was 7 in favor and 1 in opposition, interim use will 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 this could impede the city's future development to the west. The vote was unanimous that the interim use will not impede the normal and orderly development and/or improvement of surrounding vacant property.
- 5) Scott stated that the applicant asked to amend the screening. He felt that the landowner should have a say in that. Mary Jo said to keep the screening as proposed. The vote was unanimous that the interim use, including any structures utilized for the use, are sufficiently compatible or separated by distance and/or screening from adjacent land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.

- 6) Scott stated he understands the need for 35 years but agrees with the city that that is a long time. He stated that the existing solar garden was granted at 27 years which gives them 2 years to get up and running. There was consensus to amend #2 of the development conditions to a 27 year term. Eric stated that he is in agreement with the amended development conditions. 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 stated that site is within ½ mile of the City of Foley which is within County identified Urban Growth Area of the Comprehensive Plan. The vote was unanimous that the interim use is consistent with the Comprehensive Plan of the County.
- 8) Mitch stated that traffic will be a temporary issue during 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) Jerry 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.

Jerry cited Section 2.1.12 under criteria #6. Gerry moved to amend #6. Jerry seconded and the motion carried.

Roxanne read the findings and conditions.

Criteria 1: The interim use conforms to the zoning regulations of the county:

It does. They have met the criteria.

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 may cause an excessive burden on public facilities and utilities during future growth of the city.

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

The use may impede on the city's future development to the west.

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.

There will be landscaping provided on the north, east and west sides as proposed. The request to eliminate landscaping on the east side cannot be acted upon without the property owner being present.

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

In accordance with:

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. 19-366 are adopted. Criteria no. 2 was amended to a term of 27 years.

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

It is consistent with the Comprehensive Plan.

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.

Traffic will be a temporary issue during 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 27 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 statues, 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 \$50,000 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. A septic compliance inspection is required prior to the issuance of any permits.

Dan moved to accept the findings and conditions and grant #19-366. Gerry seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

12. 9:17 p.m. File #19-367, Svihel Children's Trust, landowner and Svihel Community Solar, LLC, applicant, requesting an interim use permit to construct a community solar energy system in the Agricultural District. Pursuant to Sections 7.1.24C, 9.20 and 11.6.3. The affected property is described as follows: SW1/4 SW1/4, Section 23, Gilmanton Township.

Roxanne stated that this property is along Hwy 25 and the City of Foley abuts this property on the north and south sides. City services go to the property to the north. The center of this property is in a RIM easement. The solar project is located on the south east of the property. The property is within the Urban Growth Area. They are

proposing a fence and landscaping along the south side. Site access is proposed from 75th St NE, which is a city street. Approval will need to be granted by the City of Foley. This is a 35 year interim use request with a \$50,000 security.

Sheila Svihel-Hendricks, representative, stated they own the entire 40 acres. Eric Hanson, IPS Solar. The lease would be on the project area. Scott asked if they considered using the north part of the property. Sheila stated that she is not opposed to using the north side. Scott asked Eric if the northside was considered. Eric stated that was unknown to him.

Gerry moved to table this request until the family and company can come back and show us what can be done on the north side to see if it is possible. Dan seconded and the motion carried. Dan stated he would like to see a layout on the north property.

13. Roxanne gave an update on the Boundary Line Commission.

14. Jerry moved to adjourn at 9:28 p.m. Dan seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary