

Planning Commission MINUTES September 26th, 2019

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

Staff: Roxanne Achman, Karen Loehner

1. Scott called the meeting to order followed by the Pledge of Allegiance.
2. Roxanne added a discussion on Development Code changes to the agenda. Warren moved to approve the agenda as amended. Dan seconded and the motion carried.
3. 7:01 p.m. File #19-418, Dorn Fischer requesting approval of a two lot minor preliminary plat entitled "Hall Estates" in the Agricultural District. Pursuant to Section 10.7. The affected property is described as follows: part of N1/2 SE1/4, Section 36, Watab Township.

Roxanne showed an aerial of the affected property. This is a 24 acre parcel which the applicant is proposing to split in half. This parcel is the remaining land from the KJM Estates Plat to the east. The existing deed restriction is from that plat. There will be a shared access. The existing access will be removed.

Dorn Fischer, 10492 3445th St, St. Joseph stated that he is requesting to split this property for home sites.

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

Gerry moved to approve this preliminary plat. Dan seconded. Mitch stated that this request meets Section 10.7 page 7. The motion carried.

4. 7:05 p.m. File #19-432, Brett Ogg requesting a conditional use permit to operate a Contractor Shop in the Agricultural District. Pursuant to Sections 7.1.23 and 11.6. The affected property is described as

5. follows: part of the SE1/4 SE1/4, Section 30, Mayhew Lake Township.

Roxanne showed an aerial of the site. This is a 38 acre parcel with a significant amount of wetlands. The applicant is requesting to operate a landscaping business. They store hydro-seed mulch on the property along with skid loaders, trucks and trailers that are used for the business. There will be no retail sales. All work is done off-site. She stated that there is an additional condition regarding no impact to the wetlands. The wetlands have not been delineated.

Brett Ogg, 2417 65th St, stated that he is requesting a conditional use permit to operate a contractor shop. He stated that he is aware of the wetlands. Scott asked about the proposed hours of operation: 8am to 3pm. After a short discussion the hours were amended to 6am to 6pm. Art asked about flooding. Brett said that the water has never been high enough to reach the buildings in the 5 years he has owned the property. He stated that no maintenance will be done on site.

Colleen Reinert, 2933 Woodbridge St. Roseville, MN, stated that their family owns property by Brett. She stated that he is a good neighbor and is in favor of this request. He keeps the site neat and clean.

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

Mitch moved that the request meets Section 7.1.23 pages 3 & 4 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 the use shouldn't cause any burden as it's been in place for a while and hasn't caused any problems. The vote was unanimous that the use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 2) Art stated that the site does not have screening. There are materials stored there and this has not been a problem. The neighbors are in favor of this. 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) Gerry stated that the site is clean and taken care of. The neighbor testified that Mr. Ogg is a good neighbor. 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 use is related. A contractor's shop is allowed by conditional use in the agricultural district as long as it meets the

criteria listed. 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 Sections 2.1.3 and 2.1.5. Mitch seconded and the motion carried. Brett stated that he has seen the development conditions and with the amendment to hours of operations, 6am to 6pm he is in agreement with them. Gerry moved to include the amended development conditions to File #19-432. 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) Mitch stated that the use is not in conflict with the Comprehensive Plan. He cited Economic Development Goal #1: Resources. Policy #2: Business Retention. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Dan stated that the use will not cause traffic hazards or congestion. The business will run Monday through Friday, 6am to 6pm. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Scott stated that the wetlands are addressed in item #9 of the development conditions and the applicant is aware that there can be no impact to surrounding wetlands without the proper permits. 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 use shouldn't cause any burden as it's been in place for a while and hasn't caused any problems.

- (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 site does not have screening and generally the material is noticeably stacked in a location that is visible from the road. It has not been an issue.

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

The site is clean and the neighbors have testified that the owner keeps the property neat and clean.

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

It is related. A contractor's shop is allowed by conditional use in the agricultural district as long as it meets the criteria listed.

- (5) Is the use consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use?

The application is in accordance with the following sections of the Development Code.

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

Section 2.1.5 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.

The amended Development Conditions for File No. 19-432 are adopted. Item #8, the hours of operation, were amended to 6am-6pm.

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

It is not in conflict with the Comprehensive Plan.

Economic Development

Goal #1: Resources

Policy #2: Business Retention: Continue to support efforts to retain and expand existing businesses.

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

It will not cause traffic hazards or congestion. The hours of operation will be Monday through Friday, 6am – 6pm.

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

The wetlands are addressed in item #9 in the development conditions and the applicant is aware of the impact to surrounding 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. 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. To proceed substantially means to make visible improvements to the property and to have had applied to the property at least 40% of the man hours which it is reasonably estimated will be necessary for completion of the project. The Planning Commission may grant an extension of one year to complete the project if a written request for additional time is filed with the Planning Commission prior to the date of expiration of the conditional use permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.
4. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to insure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
5. The applicant shall obtain proper permits necessary to operate said business at the property including but not limited to land use, and building permits.
6. All signage shall meet the requirements of the zoning district.
7. There shall be no retails sales on site without an amendment to this Conditional Use Permit.
8. Hours of operation shall be: 6am – 6pm, Monday through Friday.
9. The storage of materials and parking of equipment must remain outside of the wetlands. Additionally no grading filling or excavation can occur within wetlands on the property for any purpose, without written exemption or replacement plan approvals from the Local Governing Unit, Benton County.

Mitch moved to accept the findings and conditions and grant File #19-432. Warren seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

6. 7:25 p.m. File #19-421, Brett Ogg requesting a conditional use permit to use an alternative flood elevation method in the Agricultural District. Pursuant to Sections 5.2, 5.3 and 5.4 of Ordinance #196, Flood Plain Management Ordinance and Section 11.6 of Ordinance 185, Benton County Development Code. The affected property is described as follows: part of the SE1/4 SE1/4, Section 30, Mayhew Lake Township.

Roxanne showed the floodplain of the site which covers almost the entire parcel. The request is to add an 48' x 64' addition to an existing structure in the floodplain. The existing structure received a conditional use permit for flood proofing in 2016. The applicant plans to use vents to allow for the free flow of water, similar to the way the existing structure was constructed. The applicant intends to use this structure for cattle, feed and agricultural equipment. The utilities and important contents need to be at or above the flood protection level. Duffy Engineering reviewed the plans and has provided specifications for venting of the structure.

Brett Ogg, 2417 65th St, stated he is requesting a conditional use permit for an addition onto an existing storage structure in the floodplain. The addition would be for 20-30 cattle.

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

Mitch moved that this 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 the use should not. The applicant is adding onto the existing structure. The vote was unanimous that the use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 2) Art stated that the use compatible with separation. The property is kept up. This is an existing use that has no compliants. 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 the addition will match the existing structure. The vote was unanimous that the structure and site have an appearance that will not have an adverse effect upon adjacent properties.

- 4) Mary Jo stated that the use is related. The primary use of the site will remain agricultural. Storage structures are commonly built in the agricultural district. The vote was unanimous that the use, in the opinion of the Planning Commission, is reasonably related to the existing land use
- 5) Gerry stated that the use is consistent. He moved to add Sections 2.1.5 and 2.1.6 and include the development conditions to File #19-421. Art seconded and the motion carried. The vote was unanimous that the use is consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- 6) Mitch stated that it is not in conflict. 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) Mary Jo stated that there will be no additional traffic or congestion with this addition. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Gerry stated that this is an addition to an existing structure. It will be floodproofed and should have no effect on wetlands. The vote was unanimous that the use will not violate the wetland provisions of MN Statute 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?

It should not. He is just adding onto the existing structure.

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

The property is kept up. This proposed structure will have a similar look to the building it is being attached to.

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

The storage structure is expected to be a similar color and material to the structure it is being attached to.

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

It is related. The primary use of the site will remain agricultural. Storage structures are commonly built in the agricultural district.

- (5) Is the use consistent with the purposes of the Development Code and the purposes of the zoning district in which the applicant intends to locate the proposed use?

It is consistent.

In accordance with the following Sections:

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

Section 2.1.6 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. 19-421 are adopted.

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

It is not in conflict with the Comprehensive Plan.

Environment & Natural Resources

Goal #1: Stewardship

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

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

There will be no additional traffic hazards or congestion with this addition.

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

The applicant is floodproofing the structure. Constructing this addition 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. 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.
4. The applicant shall permit reasonable access for the County to periodically inspect the site at reasonable times and in a reasonable manner to insure that the permit holder is in compliance with the conditions of approval and all other applicable statutes, rules and ordinances.
5. 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.
6. 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.
7. The applicant obtains proper permits that may be required such as but not limited to: land use permit, building permit, septic permit, MS4 and any other permits required by the township.
8. Applicant utilizes appropriate erosion control devices to minimize risks of erosion entering the waterways or leaving the site.
9. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is

prohibited.

10. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the County Board or delegated party.

Warren moved to accept the findings and conditions and approve File #19-421. Dan seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

7. 7:40 p.m. Proposed Development Code changes discussion. Roxanne went over some of the suggested changes provided by the consultant. One change would be to allow a residence of an existing feedlot to be split off with a setback less than 660ft without a variance. Further define watercourse. Add Contractor Yard to definitions with special provision under Section 9. Adding Aquaculture, Hydroponics and Aquaponics to the definitions. Define Digital Display Signs. Add standards for illuminated signs. Regarding accessory structure size allow the size to be a percentage of the lot instead of a square footage. She went over proposed changes to Section 9.20 Solar provisions for land alteration limiting the number of trees removed for a solar project. Requiring a landscaping/screening plan. Keep the 25 year minimum for a solar interim use permit. There was a discussion on the setback for a solar garden to a residence. Roxanne felt 100ft wasn't enough. Should solar gardens be allowed within the Urban Growth Areas? There was a discussion on size of accessory solar system. Roxanne went over proposed changes to Home Business-within the dwelling unit or existing accessory structure detectable from the road. Home Occupations are within the dwelling but not detectable from the road. Both allowed as a permitted use up to a certain threshold. Beyond that, the use would require a conditional use permit. October 24th was set as a work session to go over proposed Development Code changes with the consultant.
8. Mitch moved to adjourn at 8:50 p.m. Art seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer
Administrative Secretary