

**Planning Commission  
MINUTES  
January 13<sup>th</sup>, 2022**

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

Staff: Roxanne Achman, Karen Loehrer

1. Scott called the meeting to order at 6:00 p.m. followed by the Pledge of Allegiance.
2. Election of officers. Gerry nominated Scott Johnson for Chair. Art seconded. Jerry ceased nominations. The nomination carried. Dan nominated Jerry Lang for Vice-Chair. Gerry seconded. Warren ceased nominations. The nomination carried.
3. Warren moved to appoint Dan to the Board of Adjustment. Jerry seconded and the motion carried.
4. Art moved to approve the agenda. Jerry seconded and the motion carried.
5. Gerry moved to approve the minutes from the December 9<sup>th</sup>, 2021 meeting. Dan seconded and the motion carried.
6. Continuation of public hearing to consider the revocation of conditional use permit #19-432, granted on September 26, 2019, to Brett Ogg to operate a Contractor Shop in the Agricultural District. The affected property is described as follows: SE1/4 SE1/4 less S322 ft. of E250 ft. and less N17ft of S50ft of W125ft, Section 30, Mayhew Lake Township.

Roxanne showed an aerial of Mr. Ogg's property. Pointing out the area where fill was placed in the wetland which is a violation of his conditional use permit for his landscaping business. Mr. Ogg worked with SWCD to bring the site into compliance. The fill was removed from the wetland and moved out of the floodplain. She said that the Planning Commission can dismiss any action to revoke Mr. Ogg's CUP.

Gerry asked about the issue with the DNR. Roxanne stated that the DNR violation was a separate process that was started before the revocation started.

Art moved to dismiss further action to revoke CUP #19-432 based on compliance with the development conditions. Jerry seconded and the motion carried.

7. File #20-815, Nick Colatrella requesting a conditional use permit to use fill as a flood proofing method to elevate a house and an accessory structure in the R-3 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: Lot 3, Block 1, Angela Estates, Section 21, Watab Township.

Roxanne stated that this property is in Watab Twp., along the Mississippi River. She showed an aerial photo and survey of the site. This is a larger lot that is part of the four-lot subdivision. The request is to construct a house and an accessory structure in the floodplain raised on fill. The proposed house is setback 22.5ft from the property line where 15 ft is required. The fill will need to extend out 15 ft from the structure at or above the base flood elevation. The applicants are also asking to use fill to floodproof an accessory structure. The contractor has provided information that the fill used will be suitable for raising the structures. Art asked what the setback to the OHW? Roxanne stated that the required setback is 100ft. The proposed house site will meet this setback.

Nick Colatrella, 1929 Grizzly Ln, Sartell, stated that they also own the lot to the east. They are requesting to use fill to raise the home and accessory building, so they don't flood.

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

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

Gerry moved that the request meets Section 11.6 pages 9-12 and Ord. 196, Sections 5.2, 5.3 and 5.4, pages 10-12. Dan seconded and the motion carried.

In reviewing Section 11.6, the vote was as follows:

- 1) Warren stated that the placement of structures on fill will not have an effect on existing parks, schools. 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 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 primary use of the site is residential. 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 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 cited A, C and E under Section 2.1.1 and moved to add the development conditions to File #21-815. Jerry seconded. Nick stated that they agreed with the conditions. 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 use is not in conflict with the Comprehensive Plan. The site is planned Rural Residential for semi-rural housing that is 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) Mary Jo stated that the use of the lot will not be changing and will have no effect on traffic hazards or congestion. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Warren stated that constructing this structure will not impact wetlands. 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 placement of structures on fill will not have an effect on existing parks, schools.*

- (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 primary use of the site is residential.*

- (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:

(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.

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

*The development conditions for file no. 21-815 are adopted.*

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

*It is not in conflict with the Comprehensive Plan. The site is 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:** Protect the integrity of major natural resources through development review and regulation.

- (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 structure 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 Permit shall be obtained from the County and a Building Permit from Watab Township 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 structure**, 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 Planning & Zoning Department. 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.

Gerry moved to accept the findings and conditions and grant File #21-815. Warren seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

8. Discussion on ordinance revisions. Roxanne stated that these revisions have been talked about at previous meetings. She would like to bring these forward as a public hearing in February. She went over the revisions: Definitions for Auction Business, Temporary Sales and Transient Merchant were added. Feedlot definition was amended by adding that "*pastures shall not be considered to be animal feedlots.*" Auction Business was added to all districts except residential districts as an interim use permit. Performance standards were added under Section 9 for Auction Business. Temporary Sales/Transient Merchant Stands was added as a permitted use in all districts except residential districts, with performance standards in Section 9. There was a correction made in Adult Use performance standards.

There was a discussion on the length of the IUP for a mining operation. With this change a 5-year administrative review and inspection would be done. There was consensus to allow a IUP for a mining operation to be valid for 20 years with 5 year reviews.

Amend Section 10.11.8 allowing the County Engineer to grant drainage easements at a lesser width on a case-by-case basis.

Art moved to bring these proposed ordinance revisions as a public hearing to the February 10<sup>th</sup> meeting. Jerry seconded and the motion carried.

9. December 2022 meeting date. Roxanne stated that the December County Board meeting is scheduled for the 8<sup>th</sup> as a night meeting for Truth and Taxation hearing. The Planning Commission is scheduled the same night. Does the Planning Commission want to hold their meeting after the County Board meeting or change the date? There was consensus to move the Planning Commission meeting to December 1<sup>st</sup> instead of the 8<sup>th</sup>.
10. Roxanne stated that the Department of Development has been changed to Planning & Zoning under Land Services. She will be the Director of Land Services.
11. Art moved to adjourn at 6:40 p.m. Jerry seconded and the motion carried.

Respectfully submitted,

Karen E Loehrer  
Administrative Assistant