

**Planning Commission  
MINUTES  
April 14<sup>th</sup>, 2022**

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

Staff: Roxanne Achman, Karen Loehrer

1. Scott called the meeting to order followed by the Pledge of Allegiance.
2. Chris Vannurden was introduced as the new member of the Planning Commission appointed by Commissioner Popp, District 2.
3. Art moved to approve the agenda. Jerry seconded and the motion carried.
4. Warren moved to approve the minutes from the March 10<sup>th</sup>, 2022 meeting. Gerry seconded and the motion carried.
5. Roxanne read the notice for the New Heights Dairy feedlot expansion.
6. Public hearing to consider rezoning request by Reliastone LLC to rezone 56 acres from B-1 Business District to B-2 Business Enterprise District. The affected property is described as follows: E1/2 of Section 4, lying Northeasterly of Hwy 10, Watab Township.

Roxanne stated that the applicant is requesting to rezone 56 acres from B-1, Business District to B-2 Business Enterprise District. She showed an aerial photo of the property. The property is bordered to the north by 115<sup>th</sup> St NW, 15<sup>th</sup> Ave NW on the east and enters from 110<sup>th</sup> St along Hwy 10. The property is in Watab Twp with the north line being the township line with Langola Twp. She displayed a map showing the different zoning districts in the area. She stated that the city limits of Rice are slightly to the north. This parcel was rezoned from Agricultural to Commercial in 1972 for the purpose of allowing for the sale of farm equipment and implements. Since that time there have been no requests for any development on this parcel other than billboards. The 2040 Benton County Comprehensive Plan identifies this site as Highway Commercial. With a rezoning the surrounding property needs to be looked at to protect nearby residential properties from any nuisances associated with commercial development. The site

is separated on all sides by roads. There are currently trees on the property, however the applicant is removing many trees in preparation for construction. Watab Twp issued a permit for tree removal. Screening would be addressed with a conditional use permit. She went over the purposes of the B-1 District and B-2 District. The B-2 District does allow more intense uses. Is this rezoning appropriate to allow B-2 uses in the location. She provided pictures from the roads surrounding this property. Dan asked about access. Roxanne stated that access would need to be approved by the Township. The rezoning of this lot to B-2 would allow those uses (permitted, conditional or interim) listed in that district. The access would depend on the type of development of the parcel. She went over the list of what to consider with a rezoning.

Jeff Friedrich stated that they are asking to rezone this property so they can continue doing the same business that they have been doing for the last 20 years in the county. Screening would be a 12ft fence same as at their other properties. Gerry asked the applicant if they plan on dividing the property for other businesses. Jeff stated "not at this time". Art asked how they would access the property. Tom Friedrich stated that they would like to cross the property to the north and connect to CR2. Art asked if they were leaving any trees on the lot. Jeff stated that they are leaving a 30ft wide strip of trees along the property lines for screening. Jerry asked for clarification that the applicant owns the 56 acres and would like to rezone it to B-2 to operate their own business of auto sales and a repair shop. Jeff stated that that was correct. There was discussion on accessing the property. That it is difficult to access Hwy 10. There is a need for an acceleration lane and a deceleration lane.

Greg Bruestle, Langola Township, handed out a list of township concerns. He stated that the township is concerned with access and the use of 16<sup>th</sup> Ave to access CR2. This road is not built to handle heavy trucks. There are 16 families that live on that road. They are concerned with what type of business would go there and the operation of a salvage yard at the site. Jeff stated that they don't operate a salvage yard that they outfit commercial trucks. Langola Twp has an agreement with Watab Twp on the maintenance of 115<sup>th</sup> St. There are no acceleration/deceleration lanes on Hwy 10. He felt that there is a big safety concern with access to Hwy 10.

Dan Schlichting, Langola Township, stated the concern with the use of the township road, it is not built to handle large trucks.

Jim Hovda, 160 North Freedom Rd, said he has the same concern as the township. He stated that during weight restrictions 16<sup>th</sup> Ave couldn't be used. He stated his concern with the additional cost for upkeep of the road. Jim stated that access onto Hwy 10 can be tough.

Pat Budgett, 11660 16<sup>th</sup> Ave NW, stated that the tree buffer has been removed. His biggest concern is access to Hwy 10. He doesn't want the increase in truck traffic on 16<sup>th</sup> Ave, which is a residential road.

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

Scott stated that the Planning Commission is looking at a rezoning request. If rezoned to B-2 the uses listed in that district would be allowed. Art stated that he couldn't support this rezoning without a safe intersection for the use of this property.

In reviewing What to consider in a rezoning request:

1. What is the size of the rezoning area: 56 acres
2. Is the proposed rezoning consistent with the Comprehensive Plan. Dan felt the rezoning is not consistent based on the road access. The area is heavily residential and to make the property eligible for a transfer station, recycling center or a fertilizer plant doesn't fit. Mary Jo asked if there was a reduced speed in this area. There is not. Jeff Friedrich stated that they could put in a frontage road on their property. Scott stated that the issue is not the specifics of what would go on the property but the rezoning of the property and the concerns the commission is having with the that.
3. Is the Use Classification consistent or inconsistent with the surrounding uses?
  - a. What uses are currently allowed in the zoning district? The commission has a copy of the B-1 and B-2 sections from the Development Code, listing the uses that would be allowed in each. Jerry stated that the uses are similar until you get the heavy commercial such as recycling center, fertilizer plant.
  - b. What uses would be allowed in the rezoned district? Discussed under a.
  - c. What uses are allowed in the neighboring zoning districts? Roxanne showed the map of surrounding zoning. Scott stated highway commercial, residential and agricultural.
  - d. Are those uses in rezoned district compliant with the uses allowed in the neighboring zoning districts? Mary Jo stated that the purposes of the B-1 District versus the B-2 District negates this request, just by the definition of each district. Mary Jo read the purpose of the B-1 and B-2 zoning districts. She felt the rezoning request is in conflict with the area with regard to the traffic and in serving the local residents.
4. Will the rezoned parcel create an island of non-conforming use within a larger zoned district? Art stated that rezoning will not necessarily create a non-conforming use because the area is planned for commercial. Gerry stated that B-2 allows heavier commercial where there is residential and not good traffic control.
5. Will the rezoned parcel dramatically reduce the value for uses specified in the zoning district or either the rezoned plat or abutting property? Dan felt this could reduce the value depending on the use. This is a broad picture of a rezone.

Michelle said the commission should take a vote on whether the area should be rezoned for a recommendation to the County Board. Scott stated that there will be another public hearing at the County Board. This is a recommendation from the Planning Commission to the County Board.

Jerry stated that there is not a good access even under the B-1 zone. Gerry felt that this parcel of property, for B-1 or B-2 is not fit for anything unless MN DOT has a plan for a service road or connector road.

Warren moved to recommend denial of this rezoning request to the County Board. Gerry seconded and the motion carried. Roxanne stated that the County Board public hearing is April 19<sup>th</sup> at 9am.

7. File #22-046, Heinen Properties LLC requesting a conditional use permit to operate a repair garage and retail sales in the Agricultural District. Pursuant to Sections 7.2.4(S), 7.2.4(E) and 11.6 of the Development Code. The affected property is described as follows: part of the SW1/2 NW1/4, Section 1, West Langola Township.

Roxanne stated that the Heinen's purchased the Gourmet Pizza site. This a 5.6 acre parcel along Hwy 10. The request is to operate an auto repair/outfitting type business and retail sales of snowplows. She showed an aerial photo of the site. The applicants would like to move their outfitting business to this site and add sales, installation, and repair of snowplows. The location and building will allow for 4 – 5 vehicles to be outfitted at one time. A portion of the building will be used for storage of commonly used parts. Once the indoor storage area is outgrown, a secure fenced in area will be added for additional vehicle storage. Security lighting and cameras will be added to the site. Waste product is minimal and mostly consists of cardboard. Any waste oil would be brought to Eastside Oil to be recycled. Customer traffic will be low. There is adequate parking on site. The proposed hours of operation are Monday through Friday, 7am to 5:30pm. They plan on removing the existing mobile home and CO2 tank. The access is shared with the property owner to the south, David Guck. If Mr. Guck would get rid of driveway the Heinen's would have to create an alternative loop on their site. They are proposing a fenced in security area. This parcel has received conditional use permits for farm implement sales, warehousing and distribution and a food manufacturing facility.

Matt Heinen, 6839 Chloe Way, Tyler Heinen, 333 5<sup>th</sup> St S and Travis Heinen, 7265 15<sup>th</sup> Ave NE stated that they are requesting a conditional use permit for a repair garage and retail sales. Matt stated they have reviewed the development conditions and the hours of operation of 7am to 5:30 pm. They understand the driveway may have to move if Mr. Guck sells his property.

David Guck, 19782 Lowell St NW, Elk River property owner to south. He stated that he has spoken to the Heinen's regarding the driveway.

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

Gerry moved that the request meets Section 7.2.4(S) page 6, Section 7.2.4(E) page 7 and Section 11.6 pages 9-12. Art seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows:

- 1) Warren stated that It will not. The proposed auto repair/outfitting shop will not be a burden. Traffic and employees will be minimal. 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 site is not visible to properties on three sides. Later a fenced area will be installed behind the structure. 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 structure is existing. They are cleaning up the property and removing the house. 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 Agricultural District allows for auto repair and retail sales as a conditional use permit. The operations will consist of outfitting law enforcement and fire department vehicles with equipment and installing/repairing snowplows, which is a less intense use than auto repairs. Outfitting of the vehicles will occur within the existing structure and is not anticipated to generate any additional traffic. There is no hazardous waste associated with the use. Any used oil will be recycled at Eastside Oil. 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 C, D, E, F and G under Section 2.1.1. and moved to add the amended development conditions adding #11. Hours of operation to File #22-046. Jerry 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 it is not. The site is planned agricultural for farming and low density non-farm housing. The proposed use of a repair garage and retail sales is allowed in the agricultural district. The vote was unanimous that the use is not in conflict with the Land Use Plan of the county.
- 7) Gerry stated that the proposed use will not generate much traffic. There is a large parking lot and easy access to Hwy 10. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Dan stated that there does not appear to be any wetlands on the property. The vote was unanimous that 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?

*It will not. The proposed auto repair/outfitting shop will not be a burden. Traffic and employees will be minimal.*

- (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 is not visible to properties on three sides. Later a fenced area will be installed behind the structure.*

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

*The structure is existing. They are cleaning up the property and removing the house.*

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

*The Agricultural District allows for auto repair and retail sales as a conditional use permit. The operations will consist of outfitting law enforcement and fire department vehicles with equipment and installing/repairing snowplows, which is a less intense use than auto repairs. Outfitting of the vehicles will occur within the existing structure and is not anticipated to generate any additional traffic. There is no hazardous waste associated with the use. Any used oil will be recycled at Eastside Oil.*

- (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:

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

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

- (E) To prohibit uses, buildings or structures which are incompatible with the character of development or the permitted uses within specified zoning districts.
- (F) To prevent such additions to, and alterations or remodeling of, existing buildings or structures as would not comply with the restrictions and limitations imposed hereunder.
- (G) To limit congestion in the public right-of-way by providing for the off-street parking and loading of motor vehicles.

*The development conditions for file no. 22-046 are adopted, to include condition #11 stating the days and hours of operation.*

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

*It is not. The site is planned agricultural for farming and low density non-farm housing. The proposed use of a repair garage and retail sales is allowed in the agricultural district.*

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

*The proposed use is not likely to generate much traffic. There is a large parking lot and easy access to Highway 10.*

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

*There does not appear to be any wetlands on the property.*

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 ensure 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 a Land Use Permit and a Building Permit from the County.
6. Any repair or maintenance of equipment or vehicles incidental to the business shall only be allowed if such activities are conducted completely indoors and by-products of such activities, such as used motor oil, are disposed of in accordance with County standards.
7. No operation or activity shall emit any hazardous substances in such quantity, concentration, or duration as to be injurious to human health or property. If hazardous materials are stored and used on the property, a materials management plan shall be submitted to address storage, handling, use, disposal, and potential hazards.
8. **All** motorized vehicles, including trucks and trailers, and machinery stored outside shall be in compliance with Section 8.5.2 of the Development Code.
  - a) No more than 3 unlicensed or inoperable vehicles shall be store outside.
  - b) The storage of more than 3, up to 25, unlicensed or inoperable vehicles may be stored within an area that is total encircled by an opaque wall or opaque privacy fence of not less than 6 feet in height.
9. This CUP does **NOT** allow for an Auto Salvage yard, vehicle sales or other uses not specifically granted.
10. A septic compliance inspection must be completed and submitted to the Planning & Zoning Department no later than June 1, 2022.
11. Hours of operation are Monday – Friday 7:00am – 5:30pm.

Gerry moved to accept the findings and conditions and grant File #22-046. Art seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.



8. File #22-056, Saldana Development LLC requesting an amendment to conditional use permit no. 04-013 to add a storage structure to their contractor shop in the Agricultural District. Pursuant to Sections 7.2.4(N), 9.9 and 11.6 of the Development Code. The affected property is described as follows: part of the NW1/4 lying westerly of the Railroad Right-of-Way, Section 10, Watab Township.

Roxanne stated that Saldana Development was granted a conditional use permit in 2004 for a contractor shop. They are requesting to add a 40' x 80' storage building for existing inventory that is currently being stored outside. She showed an aerial of the property. This is a 28-acre parcel along the west side of the railroad tracks.

Mark Saldana, 220 125<sup>th</sup> St NW Rice, stated that they are a foundation contractor. They need the building to store materials inside that are currently being stored outside.

Bill Little, Watab Township Supervisor, stated that they are in favor of this request.

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

Gerry moved that the request meets Section 7.2.4(N), pages 4-7, Section 9.9, pages 25-26 and Section 11.6, pages 9-12. Jerry seconded and the motion carried.

In reviewing Section 11.6 the vote was as follows

- 1) Warren stated that Saldana Development has been operating for a long time. It is unlikely that the expansion will have any effect on existing parks, schools and other public facilities and utilities which serve or are proposed to serve the area. The vote was unanimous that the use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
- 2) Dan stated that the addition of a storage structure will enhance the site. The site is a long way from anyone. 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 new structure will have a similar appearance to the other structures on site. This is a neat site. Scott stated that the Township is in favor. 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 a contractor's shop is allowed by conditional use in the agricultural district if the business meets the criteria set forth in Sections 9.9 and 11.6. 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 D of Section 2.1.1 and moved to include the development conditions to File #22-056. 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) Mary Jo stated that the site is planned agricultural for farming and low density non-farm housing. The proposed use of a contractor's shop is allowed in the agricultural district with a conditional use permit. She cited Land Use Goal #2, Rural Land Use. Policy #1: Rural Land Use and 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) Warren stated that the current traffic wouldn't change. The vote was unanimous that the use will not cause traffic hazards or congestion.
- 8) Jerry stated that the property does not appear to have wetlands on it. 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?

*Saldana Development has been operating for a long time. It is unlikely that the expansion will have any effect on existing parks, schools and other public facilities and utilities which serve or are proposed to serve the area.*

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

*The addition of a storage structure will enhance the site. The site is a long way from anyone.*

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

*The new structure will have a similar appearance to the other structures on site.*

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

*A contractor's shop is allowed by conditional use in the agricultural district if the business meets the criteria set forth in Sections 9.9 and 11.6.*

- (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:*

(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.

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

*The development conditions for file no. 22-056 are adopted.*

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

*The site is planned agricultural for farming and low density non-farm housing. The proposed use of a contractor's shop is allowed in the agricultural district with a conditional use permit.*

### **Land Use**

Goal #2 Rural Land Use

**Policy #1: Rural Land Use:** Plan land use and provide roads and other public services so as to sustain most of the County as a low-density, rural and generally agricultural environment.

### **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?

*The business is not anticipated to cause traffic hazards. Vehicles coming and going to the site will not change from the current amount.*

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

*The property does not appear to have wetlands on it.*

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 ensure 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 a Land Use Permit from the County and a Building Permit from Watab Township.
6. Any repair or maintenance of equipment or vehicles incidental to the business shall only be allowed if such activities are conducted completely indoors and by-products of such activities, such as used motor oil, are disposed of in accordance with County standards.
7. No operation or activity shall emit any hazardous substances in such quantity, concentration, or duration as to be injurious to human health or property. If hazardous materials are stored and used on the property, a materials management plan shall be submitted to address storage, handling, use, disposal, and potential hazards.
8. All motorized vehicles, including trucks and trailers, and machinery stored in the outside storage area shall be licensed and in operable condition.

9. Outside storage areas may not be located within the front yard.

Warren moved to accept the findings and conditions and grant File #22-056. Jerry seconded and the motion carried. The applicant was given a copy of the findings, conditions and decision.

9. Warren moved to adjourn at 8:30 p.m. Jerry seconded and the motion carried.

Respectfully submitted,

Karen E. Loehrer  
Administrative Assistant