

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY, AUGUST 11, 2008 – 7:30 P.M.

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence Planning Commission was called to order by Chair Spencer at 7:30 p.m.

2. ROLL CALL.

PRESENT: Chair Spencer, Commissioners Crespo, Gardella and Phillips

ABSENT: Commissioner Gardner

STAFF: Planner Lorsung, Administrative Assistant Scipioni

VISITORS: Jeff Morlock, Kathy Armstrong, LuAnn Brenno, Russ Wefel, Joe & Linda Davis, Kathy Pluth, Peter & Tracy Kooman, Kriss Timpe, Tim Hughes

3. APPROVAL OF JULY 14, 2008 MEETING MINUTES.

Motion by Phillips, second by Crespo, to approve the minutes as written. All present voted aye. MOTION DECLARED CARRIED.

4. PUBLIC HEARING. PETER KOOMAN, 7550 TURNER ROAD (PID# 28-118-24-13-0005), REQUEST FOR A CONDITIONAL USE PERMIT FOR HORSE BOARDING.

Lorsung explained that Peter and Tracy Kooman are requesting a “Riding Stable” as a conditional use in the agriculture zoning district. She said that the property was purchased as a vacant parcel in 2005 and the Koomans have since built a residence and large barn on the property. The Koomans currently have a few horses at the property that they own and wish to have up to twelve additional horses that they do not own at any given time, for a total of 20 horses on the property. Lorsung added that the Kooman’s manure removal is in compliance with Minnesota Pollution Control Agency requirements.

Crespo asked how large the property is.

Lorsung responded that she wasn’t sure, but the applicants could address that question.

Gardella noted that one of the conditions for approval is that the applicant pays the cost for staff review of the Conditional Use Permit. He asked if the applicants could be charged in the future for their yearly CUP review.

Lorsung explained that the firm she works for, MFRA, had recommended that the City charge a yearly fee to property owners with Conditional Use Permits in order to pay for the cost of the properties’ annual reviews. She said that the Council had seen this recommendation, but had not acted on it. She said that if a yearly fee was adopted by the Council, the City can start charging it for all new CUPs, but it can’t retroactively charge the fee on existing CUPs.

Public Hearing

Tracy Kooman, 7550 Turner Road, stated that the property is 23 acres. She said that the property currently has a 12-stall barn.

Spencer asked if the Koomans intend to only have 12 horses.

Tracy Kooman said that their intention is to have 12 horses, but they would like if they were able to keep some horses outside.

Lorsung explained that the staff conditions allow for 20 horses because typically, people can board more than their barns can hold.

Spencer asked if the number of horses was within the acreage requirement.

Crespo responded that because the property is over 10 acres, the applicant meets the acreage requirement.

Spencer asked if the Koomans are fine with the 20-horse limit.

Tracy Kooman responded that they are fine with the limit.

Spencer asked if the property had any live-in employees or boarders.

Tracy Kooman responded that they did not have any live-in employees or boarders.

LuAnn Brenno, 7676 Turner Road, said that she wanted to have three corrections made to the staff report. First, she said that she would like the report to clarify what the primary use of the property is, as the report mentions a "proposed single family use." Second, Brenno also asked for the report to be changed so that it didn't imply that other neighboring properties, besides the polo fields, had a lot of traffic. Third, Brenno pointed out that this is a new Conditional Use Permit, not an amended one, as was written in one part of the staff report.

Lorsung said she would fix these items before the report went to Council.

Brenno then discussed her concerns with the conditions listed in the staff report. She said that other horse-boarding facilities in the City had more conditions placed on them. Brenno explained that she wasn't concerned about the Kooman's activities, but said that additional conditions should be added in case the property was ever sold. She also said that it made sense to have similar conditions placed on facilities throughout the City. Brenno suggested the following conditions be added: limited hours of operation, limit on the number of horse shows, horses can't be ridden on adjacent properties without the property owners' consent, no hack horses can be rented, feed and bedding are stored in a completely enclosed building, and a 100-foot permanent, vegetative buffer is maintained by Pioneer Creek.

Lorsung asked Brenno how many horses the facilities with those conditions had.

Brenno said that she though Bel Farms had 40 horses, Firefly had 30 and she wasn't sure about the other farm she had looked at. Brenno added that she isn't against the Kooman's application, she just wants the conditions to be consistent throughout the City.

Lorsung said that after the updated Comprehensive Plan is adopted, the City might want to add in its ordinances a list of conditions that staff should review for each type of application that the City receives.

Tracy Kooman said that they have never hosted a horse show and they aren't asking for permission to do so.

Peter Kooman added that the operation doesn't generate much traffic and that it doesn't make much of a profit. He said that adding more horses wouldn't give him a bigger profit, so there isn't much of an incentive for him to expand his operation. He added that there is already a buffer between for Pioneer Creek and that their operation is much smaller than other around the City.

Spencer said that he doesn't have an issue with the Kooman's operation, but if another person were to buy the property, they could run it differently. He said that the Koomans should tell the Commission if any of the conditions being discussed were hard to meet.

Phillips asked where Pioneer Creek was in relation to the property.

Peter Kooman responded that it was on the north border of the property.

Lorsung said that setbacks for pastures were not in the current shoreline ordinance, but that those would probably be added when the ordinance is updated in about six months.

Brenno said that she wants to make sure the buffer is maintained.

Spencer said that the new shoreline ordinance should take care of those concerns. If the Koomans do any work after the new ordinance is passed, they will have to comply with the new rules.

Spencer closed the public hearing.

Phillips said that he thinks it makes sense to keep Conditional Use Permits consistent throughout the City. He said that he didn't have any problem with the Koomans' application, but he wanted to address the concern that the CUP follows the property, not the property owner.

Spencer asked the Koomans if they were fine with the Commission adding conditions on to the approval.

The Koomans said they were fine with the additional conditions.

Phillips asked if the number of horses would be acceptable if the operation were more commercials.

The Commissioners agreed that 20 horses would be fine.

Motion by Phillips, second by Gardella, to recommend approval of the Conditional Use Permit, subject to the following conditions:

- **The applicant shall continue to have manure removed on a timely basis.**
- **The applicant shall have no more than 20 horses at the property at any given time.**
- **The applicant must pay to the City a fee in the amount determined by the staff to represent the actual cost to the City of reviewing this conditional use permit application.**
- **The City shall review the Conditional Use Permit once annually for compliance.**
- **Hours of operation shall be 7 a.m. to 10 p.m. daily.**

- **No horse shows, training clinics or similar special events may occur on the property without prior written approval from the City. In no case will more than two horse shows, training clinics or similar special events be allowed in any one calendar year.**
- **Horse shall not be ridden on adjacent properties without the property owners' consent.**
- **No hack horses shall be rented.**
- **All feed and bedding shall be stored in a completely enclosed building.**

All present voted aye. MOTION DECLARED CARRIED.

5. PUBLIC HEARING. KATHY ARMSTRONG, 7888 COUNTY ROAD 6 (PID# 33-118-24-22-0018), AND RUSSELL WEFEL (PID# 33-118-24-22-0019), REQUEST FOR A LOT LINE REARRANGEMENT.

Lorsung explained that the applicants are seeking approval to do a lot line rearrangement Kathy Armstrong and Jeff Morlock wish to purchase 0.85 acres of property from Russell Wefel and add it to their property to the south. Both properties are guided and zoned Agriculture. Armstrong's property is .74 acres and after the rearrangement it would be 1.59 acres. Wefel's property is 12.89 acres and after the rearrangement would be 12.04 acres. Lorsung noted that both properties are legal, nonconforming within the agricultural zoning district. Lorsung also noted that the property to be added to Armstrong's property is suitable for septic.

Spencer asked if Armstrong's septic system needed to be upgraded.

Lorsung responded that the system is in need of an upgrade, but it's not at the point where the City would require any action be taken.

Phillips asked if the City had received any comments on the proposal.

Lorsung responded that the City had received one comment from a nearby property owner, but it was on a matter unrelated to the current proposal.

Public Hearing

Jeff Morlock, 7888 County Road 6, explained that he and Armstrong wanted the additional land for a future septic improvements, a garden and just to have more yard space.

Spencer asked if Morlock and Armstrong understood the easement requirements that the City had requested.

Morlock responded that they did understand the requirements.

Joe Davis, 790 County Road 92 N, said he wanted to make sure that the rearrangement would not make drainage issues on his property worse.

Spencer asked what would make Davis' drainage issue worse.

Davis said a pole barn would make it worse.

Spencer closed the public hearing

Phillips asked if one of the conditions for approval should be upgrading the septic system.

Spencer said he didn't believe the Commission was able to do that.

Motion by Gardella, second by Crespo, to recommend approval of the lot line rearrangement, subject to the following conditions:

- **The applicant shall submit to the City interior drainage and utility easements.**
- **The applicant shall submit the subdivision to Hennepin County for conveyance of the portion of the property that lies within the right-of-way on Co. Rd. 6.**
- **The applicant shall pay to the City all fees associated with the review of the application.**
- **The applicant shall record the subdivision with Hennepin County within 6 months of approval.**

All present voted aye. MOTION DECLARED CARRIED.

6. PUBLIC HEARING. TIM HUGHES, 4885 COUNTY ROAD 6 (PID# 36-118-24-11-0001), REQUEST FOR A SIMPLE SUBDIVISION TO CREATE ONE NEW LOT.

Lorsung explained that the applicant is seeking approval to subdivide his 9 acre lot to create one additional lot. The property is guided and zoned Rural Residential for which the density is appropriate as long as a location for primary and secondary septic is shown. This request is for a Simple Subdivision using a survey as opposed to a plat. The lot descriptions and all easements will be described using metes and bounds. Lorsung explained that access to the new south lot would be through a driveway easement recorded against both properties. She said that the division would create an accessory building without a primary residence, which would not be allowed. Removing the building or building a house on the new south lot would be a condition for approval. Lorsung added that the City and Hughes could create a financial agreement that would give the City a better ability to remove the structure if the condition isn't met.

Crespo asked how the south lot could be created without direct road access.

Lorsung explained that the south lot would have access via the easement.

Crespo said that he hasn't seen anything like this situation before.

Spencer asked Crespo if he thought that because the property doesn't have road frontage it shouldn't be divided.

Crespo confirmed that was is position.

Gardella asked what the City Code allowed for with rural residential subdivisions.

Lorsung explained that the code uses a density calculation to determine whether or not a lot can be subdivided. She said that the applicant's lot was eligible to be divided under the code.

Phillips asked if the lot had to have 200 feet of frontage.

Lorsung said that using an easement to give a property road access is a common practice in many rural communities. She said that the frontage on the north lot would count as frontage for the south lot. Lorsung added that flag lots are clearly prohibited in City Code.

Gardella said he would like to know first, if this type of access easement has been done in the City in the past and second, how this would affect future subdivision proposals.

Public Hearing

Tim Hughes, 4885 County Road 6, noted that only one nearby property would be able to subdivide

Spencer asked Hughes when he would build on the south lot if he subdivided.

Hughes responded that he wasn't sure when he would build.

Spencer explained that as soon as the property is divided, Hughes will have to start working to move the south lot into compliance.

Hughes asked what would happen if he sold the lot.

Spencer explained that then the new owner would still be required to move the property into compliance. Spencer asked if Hughes would be able to move the property line so that the pole barn remained with the north lot.

Hughes said that he would be fine with moving the property line.

Spencer also explained that staff needs to look into the access issue for the south lot. He said the Commission wants to avoid doing spot zoning around the City.

Hughes said that his neighbor to the west might be interested in buying the property. He asked if that would solve the problem.

Spencer said that if Hughes' neighbor added the south lot to his property, everything would be in compliance.

Hughes added that his home is currently for sale. He said that if his home sold, he was considering building a new home on the south lot. Hughes asked if there was anything he could do so that the Commission would vote on the issue today.

Spencer said that with the accessory building issue and the easement issue, the Commission would probably recommend denial of the division at this point. He said that the Commission needs to give staff more time to look into the two issues. Spencer directed Lorusong to follow-up with Hughes and report back at the September Commission meeting.

Spencer closed the public hearing.

Gardella raised a concern that the Met Council might be concerned about density if parcels like Hughes started splitting throughout the City.

Spencer said that the City already has a high level of 2.5 acre lots. He explained that Comprehensive Plan, which the Met Council must approve, dictates the density for the City and City Code follows the Comprehensive Plan.

Hughes said that access to his property used to be on the other side, but the County changed his access when County Road 6 was redone and told him that it was the only access that could be used.

Lorsung said that could be a hardship that would allow for a variance.

Phillips asked if there was an issue with the 120-day requirement if they tabled this issue.

Lorsung said that there wouldn't be an issue.

Spencer tabled the request.

7. OPEN/MISC.

Nothing was added to the agenda.

8. ADJOURN.

Motion by Crespo, second by Gardella, to adjourn the Planning Commission meeting at 8:39 p.m. All present voted aye.

MOTION DECLARED CARRIED.

Respectfully submitted by Christina Scipioni,
Recording Secretary