

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY, MAY 14, 2012 – 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 Phillips at 7:30 p.m.

2. ROLL CALL

PRESENT: Chair Phillips and Commissioners Gardner, Olson, Palmquist and Thompson
STAFF: City Planner Kaltsas, City Attorney Vose, Administrative Asst. Olson, Councilor Spencer
ABSENT: None
VISITORS: Rob Berg, Peter Carlson, Graeme Nelson, Dennis Nieman, Jan Gardner, Doug and Susan Heyvaert, David Fenner, Dan Wagner, Jay Lorek, John Hasse, LuAnn Brenno, Jim and Grace Nolan, Cathy Mueller, Tom Notch, Jerry Grewe

3. APPROVAL OF PLANNING COMMISSION MEETING MINUTES OF MARCH 12, 2012

Motion by Gardner, seconded by Palmquist, to approve the March 12, 2012 Planning Commission minutes. Ayes: Phillips, Gardner, Olson, Palmquist, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

4. PUBLIC HEARING. Robert and Janet Selsted, request that the City consider the following actions for the property located at 3525 Independence Road (PID No. 11-118-24-41-0002):

- A lot line rearrangement to add 1 acre to the existing 5 acre parcel.

Kaltsas reported the applicant wishes to take one acre from the existing 76 acre property and add it to the existing 5 acre parcel to encompass the entire pond that is located on the existing 5 acre lot. The 5 acre lot is buildable and has a stubbed sewer connection. The lot line rearrangement would meet all setbacks and creates not new building eligibilities for either property. The City has received no comments regarding the lot line rearrangement.

Chair Phillips opened the public hearing.

There were no comments.

Motion by Gardner, seconded by Olson, to close the public hearing. Ayes: Phillips, Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Motion by Palmquist, seconded by Thompson, to approve the lot line rearrangement to take one (1) acre from the existing 76 acre parcel and add it to the existing 5 acre parcel. Ayes: Phillips, Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

5. PUBLIC HEARING. Peter Carlson, requests that the City consider the following actions for the property located at 7275 Turner Road (PID No's. 28-118-24-41-0004 and 28-118-24-44-0004):

- A minor subdivision to allow a rural view lot subdivision which would subdivide the subject property into two lots.

Kaltsas explained that the property currently has two tax identification numbers because it falls within two different watershed districts but it is only one lot. The applicant's subdivision request for a rural view lot would create a second, buildable rural view lot. The applicant would like to create one 10 acre lot with the existing home and out buildings with the remaining 31.66 acres becoming a buildable lot with the appropriate amount of frontage on a public right of way.

Kaltsas reported they received no comments from the public. He stated the parcel will not have any remaining rural view lot eligibilities and that will be noted in the record.

Phillips asked Kaltsas to report on the length of frontage for the buildable lot. Kaltsas reported that remaining frontage would be 375 feet and the code requires 300. Phillips would prefer to see it bigger.

Phillips opened the public hearing.

Motion by Gardner, seconded by Thompson, to close the public hearing. Ayes: Phillips, Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

The commission discussed if there was a primary and secondary septic for the new lot. Kaltsas reported that in speaking with staff, the historical record indicates suitable soil conditions for the two sites. The commission discussed whether to require primary and secondary septic sites at this point in the subdivision process. Kaltsas reported that once a permit is pulled to build on the property, it would be required at that time. Gardner's concern would be dividing a lot on which septic cannot be placed.

Phillips would like to see references to previous soil and percolation tests outlined in the staff reports when these applications come forward. Gardner also suggested a review by the building official should be included.

Motion by Gardner, seconded by Palmquist, to recommend approval of a minor subdivision to allow a rural view lot subdivision which would subdivide the subject property into two lots. Ayes: Phillips, Gardner, Olson, Palmquist, and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

6. PUBLIC HEARING. Gerry Grewe and Sheila Smith, request that the City consider the following actions for the property located at 1080 County Road 92 N. (PID No. 28-118-24-32-0008):

- A proposed text amendment to City of Independence Zoning Ordinance pertaining to Section 530.01, Subd. 4, Conditional Uses in the Agriculture Zoning District. The proposed text amendment would consider adding the processing of agricultural products grown on the property into saleable products, as a Conditional Use.

- A Conditional Use Permit to allow a farm winery facility to operate from the subject property.

Kaltsas reported this item was carried over from the previous meeting with direction from the Planning Commission to provide additional information.

Kaltsas reported the definition of a “farm winery” per Minnesota statute is a winery operated by the owner of a Minnesota farm and producing table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota. The Minnesota Farm Wineries Act sets specific limits to the amounts of wine and liquor that can be produced. Wineries are allowed up to 50,000 gallons per year for wine and up to 5,000 gallons per year for distilled spirits. The applicant has stated that he intends to stay within these guidelines.

Kaltsas stated that if it is the will of the commission to allow this type of conditional use, there is a broad and narrow way they could allow the use. The City could adopt language that pertains to other types of agricultural processing throughout the Agriculture district or they could pass a narrowly focused text amendment to specifically allow a farm winery. Kaltsas suggested that any amendment be considered as a Conditional Use Permit. The code currently allows the processing of meat, poultry, dairy, fur, and honey as well as the processing of forestry products. Once the text amendment is approved, the applicant’s Conditional Use Permit request could then be reviewed. Kaltsas reported there have been several instances in the past where a very specific type of use has been allowed such as catering and the polo club.

Kaltsas provided a recap of the applicant’s plans for the property. He stated the height of the barn will be restricted by the building code. The City will have to determine whether a holding tank or septic system will be needed at the time of the building permit application for the barn. The applicant has identified the hours of the tasting room as Tuesday through Saturday from 10-7. The MPCA will allow the irrigation of the apple trees with the distilled water from the winery but the applicant will need to obtain a permit. The lighting will also need to be updated.

Kaltsas reported the applicant estimates they will produce 20,000 cases of wine per year.

Vose identified there are really two issues at hand. One is the legislative issue of passing a text amendment and city policy would drive the force behind a text amendment. He stated that a certain application or timing of an application does not drive policy changes. The other issue would be the Conditional Use Permit where the Planning Commission weighs facts and components and passes along a recommendation to the City Council.

Gardner inquired about the ownership of the orchard. Vose replied that now is the appropriate time to consider concerns regarding ownership.

Phillips opened the public hearing.

Tom Notch, 940 County Rd 92, felt a change in the text was not necessary and felt the Planning Commission should be wary of unintended consequences. He stated he spoke with the owner several times on the phone and she had no interest in seeing a distillery or winery on the property. Notch stated the owner was still owed money on the 12 acre lot the applicant resides at. He had concerns about odor from the residuals.

LuAnn Brenno, 7676 Turner Rd, felt the use belongs in a commercial district and it does not fit in the Agriculture area. She also questioned the ownership of the property because the Minnesota Farm Wineries Act specifically states that the winery be operated by the owner of a Minnesota farm. She was concerned that the applicant also requested that he be allowed to bring in additional goods if crops don't produce as planned. She would like to see a review on a case by case basis rather than allowing broader language in the text.

Dan Wagner, 918 County Rd 92, stated that he was concerned with the amount of traffic that would be generated and stated that some wineries in nearby communities have valet parking because of the amount of cars. He was also concerned with road conditions.

Dennis Nieman, 875 Kuntz, also spoke with the owner of the orchard and stated she did not want the distillery. He stated he has not seen any pruning of the trees to keep them in good shape.

John Hasse, 1035 County Rd 92, stated his major concern is the lighting. He also felt that any blacktopping of the parking areas would create additional runoff and he had installed french drains because of previous runoff issues. He knew the owner's husband while he was alive and the orchard was always well maintained by him.

Doug Heyvaert, 7645 Turner Rd, felt that agricultural products should be done in an industrial district. He stated that a farm winery in Wright County has received recent traffic complaints.

Jerry Grewe, 7845 Turner Rd, stated he has a lease with the option to purchase the orchard and the owner is aware of his application. They do pruning with battery operated chainsaws and they have had to be careful with their pruning this season.

Grewe stated the amount of spirits is limited by the Minnesota Farm Wineries Act and if they don't abide by those conditions they will be out of business. He stated they will not blacktop the parking area.

Grewe stated there are many options for the property such as a hog farm.

Vose stated that if the commission felt more information is needed, the commission can continue the public hearing. Phillips felt they may not have enough information to make a decision at this point. Vose replied that even if the hearing is closed, staff may continue to work on the request. He assured the commission that those affected would still be able to make public comment

Motion by Phillips, seconded by Gardner, to close the public hearing for the text amendment request to permit agricultural processing of products grown on the property and/or farm winery as a conditional use permit and to continue the public hearing for the Conditional Use Permit request. Ayes: Phillips, Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Phillips stated the public has spoken quite loudly on this issue. Gardner would like more information.

Gardner stated when they allowed farm stands in agriculture land, the produce from the farm was required to support the stand. He felt the winery should be tied to the property and once you start bringing in product from elsewhere, it becomes a business. Palmquist agreed and felt this is a land use intensity issue. Palmquist was concerned with the condition of the Conditional Use Permit that related to the neighbors having quiet enjoyment of their property.

Thompson inquired if another entity has reviewed or examined this issue in Minnesota. He felt the use is very consistent with agriculture use of land. He was concerned with how to limit the intensity if the business expanded. He felt they need to define between business versus agriculture. He suggested looking at the text amendment and Conditional Use Permit individually. He felt there was not an overwhelming response that this use is not consistent in the agriculture district. He felt that if they separated the two issues, they may hear some different comments and concerns.

Phillips asked the commission to focus on the language of the text amendment. He inquired if there is enough cause to change what is currently in the code. Gardner felt there was not enough to warrant a change.

Palmquist inquired why language in the first option that relates to ownership of the premises is not in the second option for the text amendment. Kaltsas stated that it is intended the ownership language would be the same in the second option. He stated the two text amendment options were intended to be similar, just one being broader and one narrower.

Kaltsas stated there needs to be a distinction for the amount of product grown on the premise. He stated that no wineries have 100% processing of products grown on their property and he suggested they set the limit at 75% of the product that must be grown on the property. He stated that it is highly unlikely that anyone would be able to purchase enough land to operate a commercial winery.

Gardner stated that with agricultural products, those stands or operations have a lot of community support. There is no community support for this request.

Vose stated that the change in Minnesota statute does not require the City to change its zoning code. The details of the Minnesota Farm Wineries Act relate to liquor licensing laws.

Phillips expressed concerns about listing out the types of agricultural processing such as alfalfa cubing, cotton ginning, etc. and felt it should be on a case by case basis. Olson asked if processing wine is fundamentally different than processing cheese.

Gardner felt the applicant does not have a good application that supports amending the zoning. Phillips asked if they would like to discuss the Conditional Use Permit request. Gardner felt that because of the public comment, the size of the orchard and ownership issues, he would deny the request.

Motion by Gardner, seconded by Olson, to deny the Conditional Use permit request.

Thompson stated that it was reported that we have a letter from the owner. Kaltsas provided a copy of the hand written letter to the commission.

Phillips stated they could not issue the CUP tonight even if they wanted to based on the State definition relating to ownership. Gardner asked Vose to clarify the definition of owner. Vose replied that the term owner is somewhat nebulous. However, the language by which the City would grant a Conditional Use Permit is not yet written and that would be something the commission would need to look at if they moved forward with the text amendment.

Phillips stated if they want to allow wineries, they need to decide on how they will look and at how big and how much to allow.

Motion by Phillips, seconded by Olson, to recommend denial of the request to amend the zoning code. Ayes: Phillips, Gardner, Olson and Palmquist. Nays: None. Abstain: Thompson. MOTION DECLARED CARRIED.

Vose stated that there is no place in the current city code to approve the Conditional Use Permit.

Motion by Gardner to close the public hearing regarding the Conditional Use Permit. MOTION FAILED.

Palmquist is not opposed to a winery if done correctly. He stated that he is having a difficult time separating the two requests and he would like to see more information regarding a text amendment.

Olson recommended leaving the public hearing open. They would then have the opportunity to learn more, listen to additional feedback and determine the ownership issue.

Kaltsas stated that he would need an extension of time approved by the applicant for another sixty days. Grewe granted his permission. Kaltsas stated he would follow up in writing.

Brenno inquired if this item will move forward to the City Council meeting tomorrow. Kaltsas replied it would not.

7. OPEN/MISC.

There were no other items.

8. ADJOURN

Motion by Gardner, seconded by Olson, to adjourn the meeting at 9:05 p.m. Ayes: Phillips, Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. MOTION DECLARED CARRIED.

Respectfully submitted

Kimberly A. Olson, Recording Secretary