

MINUTES OF A REGULAR MEETING OF THE
INDEPENDENCE PLANNING COMMISSION
MONDAY JUNE 8, 2015 – 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 7:31 p.m.

2. ROLL CALL

PRESENT: Chair Phillips and Commissioners Gardner, Palmquist, Olson and Thompson

STAFF: City Planner Kaltsas, Administrative Assistant Horner

ABSENT: None

VISITORS: Phil Saterbo, Tom Kuka, Bonnie Kuka, Dick Rindal, Bill Leadens, John MacEachern, Mike Kuka, Wyman Haberer, Amanda Haberer, LuAnn Brenno, Lance Gyllenblad, Paul Jaunich, Matt VanScoy, Kathleen and Ed Pluth, Jan Gardner, Dave VandenEinde

3. Approval of Minutes from the May 11, 2015 Planning Commission Meeting.

Motion by Gardner to approve with minor revisions, second by Olson. Ayes: Gardner, Olson, Palmquist and Thompson. Nays: None. Motion approved.

4. PUBLIC HEARING: Mike Kuka (Applicant/Owner) requests that the City consider the following actions for the properties located at 4405 County Road 92 N, Independence, MN (PID No.s 04-118-24-24-0002 and 04-118-24-31-0001):

- a. A conditional use permit to allow a commercial riding stable on the subject property. The stable will host rodeo, horse related and similar events within the existing agriculture accessory structure on the property.

Kaltsas stated the applicant owns two parcels and the building considered for the CUP is located on the 20 acre parcel to the North. He said there are several existing outbuildings as well as homestead on the property.

Kaltsas stated in 2013 the riding stable was built on the property without the requisite building and land permits needed from the City. The City notified the applicant that this building was in violation and they needed to comply with land use provisions set by the City. Kaltsas stated the property owner was notified that a commercial use riding stable would require a Conditional Use Permit.

Kaltsas stated the applicant applied for a Conditional Use Permit in 2014. The CUP was reviewed and noted as not complete. Kaltsas said that one of the main items was the construction type of the building. Kaltsas said that as the building sat, the City Building Official could only approve the building for a maximum occupancy of 49 people. Based on information obtained by the applicant and discussions with the City, the applicant has now proposed to install a sprinkler system and additional fire suppression measures to satisfy the building code issues. The installation of the required fire suppression measures will allow the building to be rated such that it can accommodate a higher occupancy.

Kaltsas outlined the approvals the applicant is requesting from the City. The first request is the approval to board 18 horses on 20 acres. The City allows one (1) animal unit for the first 2 acres and one (1) additional animal unit for each additional acre. The property would allow for 18 horses.

The applicant is also requesting permission to operate a commercial riding stable between the hours of 7:00 am- 10:00 pm on a daily basis. The maximum number of occupants would be 50 people or less on a daily basis. Kaltsas stated beyond 50 people that it would require a large assembly permit.

Lastly, the applicant is seeking permission to host a maximum of eighteen (18) additional events at the facility throughout the year. The maximum number of occupants requested to be permitted at any individual event is 150. For events that occur on a weekday, the requested hours of operation for the event would be between 5:00 pm-12:00 am. For weekend events (Friday, Saturday and Sunday), the requested hours of operation would be between 9:00 am-10:00 pm. The City would recommend that if the special events were considered for approval, the applicant be required to provide a schedule and notification to the City and surrounding property owners (within 350 feet) 60-90 days prior to the events occurrence.

Kaltsas stated we do have other CUP's for special events and gave the examples of the Polo Fields and Windsong Golf Course.

Kaltsas stated in order for a CUP to be considered the following criteria must be met according to the City's Zoning Ordinance (Section 520.11 subd.1, a-i) as follows:

1. *The conditional use will not adversely affect the health, safety, morals and general welfare of occupants of surrounding lands.*
2. *The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the proposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.*
3. *Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.*
4. *Sufficient off-street parking and loading space will be provided to serve the proposed use.*
5. *The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and sufficient area of suitable soils for on-site sewage treatment is available to protect the city from pollution hazards.*
6. *The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.*
7. *The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.*
8. *The proposed condition use is consistent with the comprehensive plan of the City of Independence.*
9. *The proposed use will not stimulate growth incompatible with prevailing density standards.*

Kaltsas stated this property is directly south of the Shrine Horse Facility, which operates as a commercial riding stable. He said the Shrine facility is heavily used and there is significant traffic in and out of that property.

Kaltsas said the City has completed a detailed review of the proposed use and corresponding site related measures. The detailed review outlines the following issues, which should be noted when considering the CUP for approval:

Fire/Building

1. The Fire Department has reviewed the plans and requested a fire service road around the building. All gravel areas that will provide fire access to the building will be constructed to support the International Fire Code's fire apparatus weight load of 75,000 lbs. In addition, a paved/gravel path and turnaround shall be provided to service the building so that no portion of the building is further than 150 feet from the fire access road (maximum spacing between the ends of the road cannot exceed 300 lineal feet).
 - a. The applicant has submitted plans that show the location and construction type for the requisite service road. The fire department has reviewed and approved the proposed plan.
2. The City will need to make a determination relating to the number of bathrooms required based on the classification of the building.
 - a. The applicant has submitted an architect's plan, which indicates the proposed number, type and details for bathrooms in the building. The plans will need to be reviewed by the City's building official as a part of the building permit review.
3. The applicant is required to provide accessible parking spaces based on the number of overall spaces proposed on the site.
 - a. The applicant has identified the location and requisite signage for the accessible parking spaces on the plans.

Sanitary Sewer

4. The requirement for permanent bathrooms will require connection to an onsite septic system or holding tanks. The plans indicate the location of a primary and secondary mound system for the requisite bathrooms. Staff has reviewed the proposed primary and secondary locations and believes that the site can accommodate the requisite system. Please provide the City with additional information, which verifies (from a licensed designer) that the proposed location can accommodate a primary and secondary septic system location.

Planning

5. All large events outside of the proposed eighteen (18) special events and daily use will require a large assembly permit.
6. It is typical that parking for a stable/event center would provide one space for every three occupants of the facility. Based on the maximum occupancy of this facility (150 persons), the following parking is required:

Parking Required

User Parking: $150 \text{ occupants} / 3 = 50$ parking spaces required Employee

Parking: 10 workers = 10 parking spaces required

Parking Provided

60 parking spaces provided

The applicant is proposing to provide 60 parking spaces, which can accommodate a vehicle and trailer on the subject site (50 feet long by 12 feet wide). In addition, the applicant has identified an overflow parking area, which can be utilized during the special events. The spaces would be comprised of a turf surface and accessed via the gravel access road. The number of spaces is adequate if parking is regulated/managed and organized during a high occupancy event. If vehicles are not managed, parking could become a potential issue. It is recommended that for the 18 special events proposed, the applicant be required to provide a designated parking management system. In addition, utilization of a turf parking surface can accommodate the intended use of the turf is maintained by the applicant. It is recommended that the City require the applicant to maintain the turf parking area so that there are not large areas that do not have turf coverage. Should this item be recommended for approval, the City could further develop a more detailed turf management/establishment requirement.

7. A site and parking lot lighting plan shall be submitted with the revised submittal. Lighting shall be in compliance with Section 535 of the City's Zoning Ordinance. Parking areas, pathways and walkways will be required to be lighted. The plan now indicates the location of parking lot lighting, which appears to allow for some lighting on the property. The number of lights may need to be increased once a photometric plan is provided to the City. Please provide the City with additional detail relating to the proposed lighting (i.e. fixture cut sheets, pole details). A photometric plan is required to be submitted which extends beyond the property lines so that the City can verify the proposed lighting meets all applicable requirements (see Zoning Ordinance – Section 535).
8. The applicant has provided a landscaping plan. The plan identifies screening and buffering on County Road 92 along the proposed parking area. Minimum landscape requirements in the protective buffer must include one tree (at least 2.5-inch caliper deciduous tree or six-foot- high conifer tree) for each 40 feet of property line. All commercial uses must be screened from adjacent residential properties with berms, fencing, hedges, or other landscape materials. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to provide an effective visual barrier during all seasons. Height of plantings shall be measured at the time of installation.
 - a. The applicant has prepared a plan, which meets the buffering and screening requirements.
9. The structure has a public address/amplified sound system in the building. Staff noted that due to the type of building construction (fabric roof); sound is not contained within the facility. The location of the building does help to mitigate potential issues relating to sound; however, the applicant will be required to comply with all applicable standards for sound on this property. The City has the following provisions relating to noise:

2010.11. Purpose. Subdivision 1. The purpose of this subsection is to prevent loud, unpleasant, raucous, or prolonged noise recognizing that the abatement of such noise is necessary to protect the mental and physical health of the citizens, as well as the safety, wellbeing and peaceful repose of the citizens. (Added, Ord. 85, 1979)

Subd. 2. Noise abatement. No person shall create, participate in, congregate because of, or be part of any gathering of persons from which loud, unpleasant, raucous, or prolonged

noise emanates in such a manner so as to disturb the peace of persons residing in the area from which such noise emanates. (Added, Ord. 85, 1979)

Subd. 3. Declaration of a noisy gathering. Upon a finding that such noise disturbs the peace of persons as set forth herein, any peace officer may order the noise to be abated by ordering all persons present, except the owners or bonafide tenants of the dwelling or real estate, to immediately disperse and leave the premises. Any person failing to disperse as so directed by a peace officer or any owner or tenant obstructing a peace officer's order to disperse shall be in violation of this section. (Added, Ord. 85, 1979)

Subd. 4. Penalties. Any person who violates any provision of this section, upon conviction therefor, may be punished by a fine not to exceed \$500.00 or by imprisonment for not to exceed 90 days, or both. (Added, Ord. 85, 1979)

10. The applicant is proposing to manage the manure generated from the facility on site. The applicant will need to obtain and operated the facility in compliance with a manure management permit from the MPCA. A copy of the MPCA permit and its conditions will become a part of the conditional use permit.
11. The building was constructed on a lot that does not have a principle structure. Accessory structures are not permitted on a property without a principle structure. The City has provided the applicant with three solutions that would resolve the issue.
 - a. Request a lot line rearrangement, which would allow the accessory structure to be located on the lot with the principle structure. A lot line rearrangement requires an additional application and hearing by the City.
 - b. Combine the two properties into one property by removing the property line between the two lots.
 - c. Construct a principle structure on the subject property. The applicant would be required to verify that the site could accommodate a primary and secondary on-site septic system for a principle structure.

The applicant has stated that they will construct a principle structure on the property or rearrange the lot line so that the accessory structure can be located on the site with the existing principle structure. The applicant has requested that the City allow up to three (3) years for the construction of a principle structure or lot line rearrangement. It is difficult and somewhat complicated for the City to obtain the necessary assurances/security to allow for a future date of compliance once the use is permitted. It is recommended that should the City consider approval of the requested CUP, it be subject to the applicant bringing the accessory structure into compliance by having it associated with a principal structure.

Storm Water Management

1. The applicant has complied with all storm water provisions relating to the proposed facility and associated site improvements. A storm water pond and conveyance system has already been installed on the property.
2. The applicant has received approval from the Pioneer-Sarah Watershed Management Organization.

Access

14. Access to this site is from County Road 92. The County has reviewed the driveway access into this site based on the proposed use. Hennepin County has approved the access based on the intended use of the property and the commercial riding stable. No additional information or improvements relating to the driveway access is required
15. The plans indicate that a gravel driveway will be constructed into the site from CSAH 92. The proposed width of the access driveway is 26' wide. As a point of reference, the proposed access drive width is the same as the City's public street standard.

The proposed conditional use permit to allow a commercial riding stable is generally consistent with the Agricultural nature of the property and surrounding land uses. The applicant believes that resulting traffic, noise, and other measurable impacts should not be incrementally amplified as a result of the proposed commercial riding facility due to the existing and historic use of the property. The Planning Commission will need to determine if the requested conditional use permit meets all of the aforementioned conditions and restrictions.

Kaltsas said staff is seeking a recommendation from the Planning Commission for the request for a Conditional Use Permit. Should the Planning Commission make a recommendation to approve the requested action, the following findings and conditions should be considered:

- a. The proposed Conditional Use Permit request meets all applicable conditions and restrictions stated Chapter V, Section 510, Zoning, in the City of Independence Zoning Ordinance.
- b. The conditional use permit will be reviewed annually by the City to ensure conformance with the conditions set forth in the resolution.
- c. Approval of the conditional use permit shall be subject to the following conditions:
 1. The applicant shall resolve the zoning violation pertaining to having an accessory structure without a principle structure on the subject property.
 2. The applicant shall obtain a building permit and subsequent occupancy permit from the City. In order to obtain a building permit, the applicant shall provide the City with the requisite details and information indicating how they will comply with all requirements, including but not limited to; fire suppression, bathrooms, accessibility, egress doors and septic system. An occupancy permit will require that all requirements and work associated with meeting the requirements be completed.
 3. The applicant shall install all site improvements shown on the approved site plans, prepared by Wenck Associates, Inc, and dated January 25, 2015.
 4. The applicant shall install all landscaping in accordance with the approved site plans.
 5. All comments and follow-up items noted and made by Hakanson Anderson in the letter dated, February 6, 2015.
 6. Verification that the subject property can accommodate the requisite on-site septic system sufficient to handle the proposed facility.

7. The applicant shall submit a photometric plan and associated light fixture and pole cut sheets to the City. The photometric plan will need to meet all applicable criteria, provide adequate levels of lighting for safety and be reviewed and approved by the City and West Hennepin Public Safety.
8. Any new signage shall comply with all applicable standards of the City's ordinance.
9. No more than 18 horses shall be boarded on the property.
10. The applicant must obtain and comply with a manure management permit from the MPCA. A copy of the valid MPCA permit with conditions shall be attached to and become a part of the conditional use permit.
11. The maximum number of occupants permitted to be on the premises at any given time shall be limited to 50 people. The general and daily hours of operation shall be 7:00 am - 10:00 pm.
12. The stable will be permitted to have up to eighteen (18) special events on the property per calendar year. The maximum number of occupants on the premise shall be limited to 150 persons during the special events. For special events that occur on a weekday, the hours of operation for the event will be 5:00 pm - 12:00. For weekend events (Friday, Saturday and Sunday), the hours of operation will be 9:00 am- 10:00 pm. The applicant shall be required to provide a schedule of upcoming events and notification to the City and surrounding property owners (within 350 feet) 90 days prior to an events occurrence.
13. The applicant shall comply with all applicable standards pertaining to sound limitations.
14. The applicant shall provide parking management, to be approved by the City, for the special events that occur on the property
15. No renting of hack horses shall be permitted.
16. No parking on public roads shall be permitted.
17. Diligent effort must be made to maintain turf grass in pasture and parking areas. An approved standard, as determined by the City, shall be complied with at all times.
18. The applicant shall keep and maintain all feed and bedding which are to be stored inside a closed building.
19. The applicant shall utilize appropriate management practices to control flies and odor.
20. The applicant shall provide an approved form of dust control on the entrance drive from CSAH 92 to the building.

Kaltsas stated that historically there are other similar facilities in operation throughout the City.

Kaltsas said the City has received two public comments regarding the facility. The first was an anonymous phone call that stating concern about the noise and the second was from Three Rivers Park District with a concern about any storm water run-off into the park.

Kaltsas asked if there were any questions.

Thompson asked if the 18 additional events would require permission or if they were only going to be required to notify the City and surrounding property owners. Kaltsas stated they would be a condition of the CUP and staff is proposing notification of events only. Phillips clarified that if the number exceeded 150 than a large assembly permit would be required. Kaltsas said this was correct.

Thompson asked what the scope of recreational use would encompass and how that could be defined. Kaltsas stated as long as they met all the conditions the property could be used for other commercial recreational use purposes. Kaltsas stated language could be added to further define the CUP but most CUP's do not have that delineation currently.

Kaltsas stated the lot line issue would have to be resolved. He said some of the buildings are currently across the property lines and they could look at more stipulations in order to make sure the total property area stays in compliance should the properties be sold at some future date. Olson asked if this could be a permit that includes both properties. Kaltsas stated that would need further direction from Council but it potentially could include both. He said that if the property were sold the CUP use would not be in effect.

Palmquist asked about the number of horses. Kaltsas stated they could have 19.

Palmquist asked if portable restrooms were sufficient to satisfy that condition. Kaltsas said it would have to meet the minimum number of bathrooms as a commercial facility to be approved but for large use events, portable restrooms may be used.

Gardner asked if there would be an issue requiring a performance bond. Kaltsas said that would be more of question to pose to our City attorney but it could pose an issue as this involves either constructing a home or rearranging a property line.

Olson asked about the practicality of item #17 and maintaining the pastureland. Kaltsas said he looks at the pure nuisance of gravel and the impact of all the dust from that versus having some muddy pasture at times. He gave the example of the Apple Orchard in Minnestrista that has large events and has grass/ turf parking and that they are able to manage it. He said if it is relatively maintained grass/ turf that would be less impactful than paving or dust issues.

Palmquist asked if Staff was concerned about trash management with the special events. Kaltsas stated that has not been brought up as an issue so far but could see where large assemblies would be more of concern than the normal traffic of riders coming to the location.

Phillips opened the public hearing and invited the Applicant to speak. He stated that this Commission is all volunteer and they appreciate the courtesy of the public in making their comments.

Public Hearing Opened

Mike Kuka (Applicant) spoke and said the issue they had before with parking was due to a heavy rainstorm.

Thompson said one of the main issues they would be trying to clear up would be the issues around the wetlands and the removal of the lot line. Kuka stated there have only been Kuka's living there since 1901 and he has a business partner there now. Thompson said Kuka's points are valid but it does not change the approach the Commission has to take in getting the proper approvals in place. Kuka stated they are trying to work with the City but they need to generate some income to move things along.

Palmquist asked why the weeknight events go longer than the weekend ones. Kuka said it was due to barrel racing and not being able to get started until later. Palmquist said the midnight time jumped out at him as a potential noise concern. Kuka said he went around to all his closest neighbors and talked to them about what they are going to be

doing. He said the midnight time would not be a weekly thing going on but he thinks it works when needed. Thompson asked what was meant by the 18 events. Kuka said it did not mean back-to-back events. Thompson asked what timeframe the season is spread over for holding these events. Kuka said typically summer but it would stretch into later although it is not a heated facility. Olson said if they were running a Tuesday night and then a weekend event it would equal 9 weeks of activity. Kuka said they are asking for 18 events spread throughout the 12 months so they have options for events.

Palmquist asked about the watch option Kuka had submitted to the City in regards to the fire sprinkler/ fire suppression issue. Kuka said that is an option to have the firefighter watch as pertaining to the 18 events. Palmquist asked when the sprinklers would be installed. Kuka said they are in talks with Summitt currently. Kaltsas said it would have to be done to get a building permit and the CUP. Thompson asked Kuka if the intention was to build a home there. Kuka said yes.

Phillips stated they would move on to other testimony.

Luann Brenno stated she does not have a negative opinion but a lot of concern. She said she understand this has been in operation for a year and when they were told not to have any more events and that they were in violation that they still had more events. Brenno said in her opinion there were many things in this proposal that do not meet the City code. She stated she has attended meetings for the past 18 years and that the vast majority of stables have 5-6 events a year and not 150 people attending. Brunno said she has concerns over safety and the precedent this would set. She said she would not be surprised if a bunch of commercial stables started to request many more events per year as well if Kuka is granted 18 Brunno also stated it did not make sense to have a CUP run over two PIDS (properties).

It was asked if anyone had any specific questions for the Police Chief. Thompson asked for feedback from Kroells. Kroells stated there was one medical call on April 28, 2015 as a female had been kicked by a horse in the parking lot. The other concerns involved minor mud on the road and parking on Co. Rd. 92. Kroells stated he had brought his family there for a bull-riding event in October of 2014 and it was very enjoyable. He said that all of the safety concerns were things that could be worked through. Kroells said the sale of alcohol would need to be addressed. He said they do have a liquor license and have a vendor that provides the sale of alcohol. Kroells stated he would like more time to review the application especially the fire suppression issues. He said he is concerned with the late night events as the City ordinance is 10:00p.m.

Kaltsas stated that outside of the two calls the City received, the Applicant did send the a City a petition he has signed by eleven property owners citing no issues or inconveniences with the proposal.

Motion by Gardner, second by Thompson to close the Public Hearing.

Public Hearing Closed

Thompson stated that generally he thought there were many positive and acceptable pieces to this; however, he felt there are key elements such as the lot line arrangement, larger gatherings and alcohol sales. He said these items and others need to be remediated before the issuance of a CUP.

Gardner asked which issues Thompson was talking about. Thompson stated he was talking about the accessory building, lot line rearrangement and greater clarity around larger events and their timeframes and alcohol sales.

Gardner asked if they could get rid of the property line, as there is a primary structure on one property. Kaltsas said no, that would be a separate issue. Gardner asked if the CUP could expire in three years to have more teeth. Kaltsas stated they are reviewed every year. Olson asked about a bond again and there was a discussion around that losing a CUP would have more effect. Thompson stated he was in favor of having the CUP expire if the needs are not met. Olson asked if it could be a three-year CUP. Kaltsas said the City cannot put limits on a CUP but they can pull it if needed. Kaltsas stated one of the issues is if someone goes bankrupt and the property goes to the bank. Then there is no teeth to the CUP as the company is out of business.

Palmquist stated he is concerned about the lack of leverage the City has to enforce the CUP. He loves the idea for the use of the property and thinks it is great. His concern is the chicken/ egg problem that the City is faced with the structure being built without a building permit. He thinks most of the issues can be fixed but his main concern is the City granting a CUP for a structure that is non-compliant. He stated the City Council is going to have to be comfortable with the Applicant getting from point A to B. Palmquist stated comments the Police Chief brought up need to be addressed and they were not provided with the initial information.

Phillips commended the Applicant for going out and speaking with the neighbors. Phillips said he is comforted the life safety issues are being addressed. He said the 800 pound gorilla is the lack of a principal structure.

Gardner asked why a bond would not work. Kaltsas said he did not know if it would or would not but that would have to be addressed through the City Council. Gyllenblad stated the Shrine facility did not have a primary structure. Kaltsas said they do have a residence on the property. Kaltsas said he did not know the history of that property but it probably predated the ordinance. Bonnie Kuka stated they did not have a problem with the City pulling the CUP in three years as her son intends to build within a year on the property. Kuka stated he also did not have any problem with special conditions being put in the CUP.

Gardner asked why they stayed open to midnight on weeknights. Kuka said barrel racing goes in different flights and it could be 11:30 or 12:00. Palmquist asked if the sound system could be turned off at 10:00.

Leadens spoke on behalf of the Kuka family. He said last winter Kuka taught kids to learn how to rope and never accepted a dime from them. He said he would like to ask Kroells how many times the police force has received calls from the Kuka property or the Shriners. Kroells stated they are mainly called for medical issues. He feels the Kuka's needs a break.

Kaltsas noted in the discussions around the motion that the building permit conditions have to be met before any events are held and the CUP is approved. He said the surety and bond escrow would be something that would have to be defined by Council and reviewed by the City attorney.

Motion by Palmquist for recommendation to approve the CUP for a commercial riding stable at 4405 County Road 92 N., with the conditions of the Staff report as noted on pages 8, 9 and 10. Other requirements shall be complying with the noise ordinances (specifically that the loudspeakers will be off at 10:00 p.m.), timeframes, signage and a newly constructed fire lane. The applicant shall also make reasonable efforts to control mud and satisfy the conditions of the combined properties. The city also needs some type of surety in order to leverage the conditions. Second by Olson. Ayes: Gardner, Olson and Palmquist. Nays: Thompson. Motion approved 3-1.

1. PUBLIC HEARING: Proposed text amendments to the City of Independence Ordinances as follows:
 - a. Chapter 5, Sections 510 and 530;
 1. Consider a new definition for recreational non-energy generating windmills along with restrictions on permitted locations and heights.

Kaltsas stated the ordinance is being reviewed by Planning as a resident posed the question of installing a windmill to aerate a recreational pond. Kaltsas stated the City ordinance on wind energy conversion systems (WECS) has two sections that could be construed to contradict each other.

Section 510.05

Subd. 83. "Wind energy conversion systems (WECS)." A device that converts wind energy into a usable form of power; also known as a wind turbine or windmill. The mechanism may include a rotor, shaft or gearing, generator or alternator, supporting structure, foundation and guy wires.

Kaltsas stated the City also mentions windmills in the physical standards section of the Agriculture ordinance. This section excludes windmills from any height limitations in the Agriculture zoning district. It may be possible to construe this section to suggest that windmills are permitted in the Agriculture zoning district.

Subd. 3. Physical standards. All lots and construction thereon must meet the following physical standards:

- (d) Height. The maximum height of all buildings must not exceed the lesser of two and one-half stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.

Kaltsas said Staff has prepared draft ordinance language for consideration by the Planning Commission. Following the public hearing and additional discussion, staff will be seeking further direction or a recommendation by the Planning Commission relating to the draft ordinance. The draft language is as follows:

Ordinance Amendment – DRAFT LANGUAGE

510.05. Definitions. Subdivision 1. The following words and terms, and their derivations have the meanings given in this zoning code.

Subd. 83. "Wind energy conversion systems (WECS)." A device that converts wind energy into a usable form of power; also known as a wind turbine, ~~or windmill~~. The mechanism may include a rotor, shaft or gearing, generator or alternator, supporting structure, foundation and guy wires.

530.03. Physical Standards. Subdivision 1. Subdivisions within the agricultural district shall be limited to lot line rearrangements and creation of rural view lots, according to the standards and procedures of subsection 500.09, subdivision ordinance.

- (d) Height. The maximum height of all buildings must not exceed the lesser of two and one-half stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, ~~windmills~~, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.

530.01. Agricultural district established. Subdivision 1. The agricultural district is established for the purpose of promoting continued farming of agricultural lands.

Subd. Accessory uses. The following accessory uses are permitted in the agricultural district:

- (a) private garages for single family dwellings,
- (b) home occupations operated in accordance with subsection 515.09 of this zoning code;
- (c) fences;

- (d) detached agricultural storage buildings, barns, or other structures, accessory to an existing single family dwelling, the total square footage of which may not exceed the following standard:

Lots of Record

- | | | |
|-----|--|------------------|
| (1) | One acre or less | 1600 square feet |
| (2) | Greater than one acre but less than two and one-half acres | 1850 square feet |
| (3) | Two and one-half acres but less than five acres | 2100 square feet |
| (4) | Five acres but less than ten acres | 2600 square feet |

- (e) aeration or decorative windmills provided the following performance standards are satisfied:

- (1) Permit required. A building permit shall be required for the construction of a recreational or aeration windmill.
- (2) Minimum lot size requirement. Lot must be 5 acres in total area or larger
- (3) Setback requirements. The windmill must be setback from all property lines and residential structures, 10 feet plus the height of the windmill.
- (4) Height restrictions. The maximum height of the windmill must not exceed the height of the principal structure or 35 feet, whichever is less.
- (5) Stability. The windmill shall be designed and installed to withstand so as to withstand a wind force of 90 miles per hour.
- (6) The function of the windmill cannot create or generate electric power, either for use or sale, on or off site except for the purpose of water aeration.
- (7) No more than one (1) windmill shall be permitted per property.

Thompson asked for clarification on numbers 1 and 5 on whether permits and stability were something that would be found in a kit or not. Kaltsas said they would create zoning provision or a building permit. He said the issue is that if the structure is not attached to the ground it could easily blow over. The Building Official has said the standard is a 90 mile wind load on structures. Kaltsas said the reason a building permit would be beneficial is that the City would have a checkpoint to ensure the structure meets setbacks and other requirements. Kaltsas said it is important to have these checkpoints. He said this would be creating a separate piece, not purely agriculture. Olson asked if per the picture if the structures could withstand 90 per mile an hour winds. Kaltsas said yes and that was not an excessive wind load.

Palmquist stated he liked the language but would have some changes to numbers 5 and 6 as follows: The function of the windmill can only be used for the purpose of water aeration or decoration, and not for any other on or off-site use; including the generation of electric power for use or sale.

Phillips asked if there were any other comments before opening the Public Hearing. There was none.

Public Hearing Open

Vandeneinde and stated he was the person who brought this forward. He said he appreciates the Commissions work on this ordinance and clarification. He said the proposal is awesome in regards to clarifying the language around the energy created. He stated the permit requirement makes sense as well as the minimum lot size, etc. He said it is fairly common for these structures to go over 40'. He said his desire is to aerate his pond. He asked if the way this will be written if it would require a permit for a small windmill to go in a garden.

Palmquist stated decorative windmills 6' and under should not need a permit.

Brenno questioned the limit of one per property. She said if someone had a large property with multiple ponds, it would seem to be a good use to aerate those ponds. Kaltsas said this is not trying to over-regulate but we just need a process so a neighbor has an opportunity to say whether this 35' structure will be a hindrance or not. Palmquist stated that in three years he does not envision a lot of people coming in to ask about this. He said he is comfortable with the language as written.

Motion by Gardner to close the Public Hearing, second by Olson.

Public Hearing Closed

Thompson said the language could state that a decorative windmill should not exceed 10'. Kaltsas asked what the height is measured to for the exact language and it was discussed that it should be to the top of the unit.

Motion by Olson to bring the item back for review at the July meeting, second by Palmquist. Ayes: Gardner, Olson, Palmquist and Thompson. Nays: None. Motion approved.

6. Discussion – Event Center Ordinance

Kaltsas said this is being brought for review by the Commission from the City Council. They want to know what the recommendations would be if and where possible; event centers may be located throughout the City. Kaltsas asked if Planning Commission thought they could come up with locations that would be appropriate for this. Phillips said no. He said event centers do not belong here. He stated his neighbor had a graduation party 1100 yards away and he could hear it going on.

Thompson asked if there was some sort of frustration or why we need to entertain this at this time. He felt it could be a very involved procedure and wondered what the catalyst for it was. Palmquist stated that if Council wanted a response they needed to have on to send back to them. Phillips said the response would be that it is impossible to codify. Kaltsas stated there are quite a bit of ordinance changes that are going to come back to the next meeting.

7. Open/ Misc.

Kaltsas stated that at the next meeting Verizon is asking for a site visit for a cell tower. Verizon did not like the recommendation to move the tower 1000 ft. Kaltsas said they would post that the next Planning Commission meeting would begin on-site for that site visit and then move back to City hall after that. Gardner said it is an open meeting and wanted to know if Bendickson would be there. Kaltsas said that was the intent. Palmquist asked if a field visit was typical. Phillips said they did it for Windsong. Olson stated the neighbors are against the visual. Gardner said the tower would be closer to the neighbors than Bendickson's. Kaltsas stated the tower is not possible to hide, it is the base and equipment and the sheer proximity of the location to neighbor's they will be looking at. Phillips noted that there were no lights.

9. Adjourn

Motion by Palmquist, second by Gardner to adjourn the meeting at 9:45 p.m. Ayes: Gardner, Olson, Palmquist and Thompson. Nays: None. Absent: None. Motion declared carried.

Respectfully Submitted,

Trish Bemmels, Recording Secretary