

**MINUTES OF A PLANNING COMMISSION MEETING HELD,  
TUESDAY, JULY 14, 2009 – 6:30 P.M. – ROCKVILLE CITY HALL**

Shannon & Bretta Wicker @ 21265 County Road 8, Cold Spring, MN 56320 site visit was cancelled due to weather.

The meeting was called to order by Chair Toni Honer. Roll call was taken and the following members were found to be present: Chair Toni Honer, Jerry Bechtold, Dale Borgmann, Jerry Tippelt, Steve Dietman & Liaison Duane Willenbring. Absent Dan Hansen.

Staff members present were: Zoning Administrator Rena Weber, Billing Clerk/Administrative Assistant Judy Neu & City Engineer Scott Hedlund.

Others present: Charles Craft, Jackie, James, Mike & Lonnie Voigt, Craig Theisen, Shannon & Bretta Wicker, David Shay & Linda Brown.

**APPROVAL OF AGENDA/AMENDMENTS – Motion by Member Bechtold, second by Member Dietman, to approve the agenda with the change. Motion carried unanimously.**

**APPROVAL OF MINUTES 06/09/09 – Motion by Member Bechtold, second by Member Borgmann, to approve the minutes of 06/09/09 as presented. Motion carried unanimously.**

**NEW BUSINESS**

**KISSNER CONDITIONAL USE PERMIT:** Zoning Administrator Rena Weber read the notice of public hearing which states that the Rockville Planning Commission will hold a public hearing on **Tuesday, July 14, 2009 at approximately 6:30 p.m. at Rockville City Hall (229 Broadway Street East)** to consider the request of Kevin H & Rebecca L Kissner for a **Conditional Use Permit** for New Single Family Dwelling Requirements. The address of the property is: 23301 93<sup>rd</sup> Ave. St. Cloud, MN 56301 with a legal description of:

That part of the East Half of the Southeast Quarter of Section 15, Township 123, Range 29, Stearns County, Minnesota, described as follows:

Commencing at the southwest corner of said Southeast Quarter; thence North 88 degrees 28 minutes 52 seconds East, assumed bearing along the south line of said Southeast Quarter a distance of 298.08 feet to the east line of the West 298.00 feet of said Southeast Quarter; thence North 00 degrees 10 minutes 48 seconds West along said east line, a distance of 200.05 feet to the north line of South 200.00 feet of said southeast Quarter; thence North 88 degrees 28 minutes 52 seconds East along said north line, a distance of 1280.95 feet to the west line of the East 1100.00 feet of said East Half of the Southeast Quarter, also being the point of beginning; thence North 00 degrees 19 minutes 44 seconds East along said west line, a distance of 1762.55 feet to the centerline of Ahles Road (as traveled); thence South 86 degrees 37 minutes 03 seconds East along said centerline, a distance of 165.08 feet to the southwesterly line of a tract of land as described in document number 572899; thence South 47 degrees 01 minutes 16 seconds East along said southwesterly line, a distance of 799.15 feet to the southerly most corner of said tract; thence North 68 degrees 32 minutes 14 seconds East along the southeasterly line of said tract, a distance of 374.10 feet to the east line of said Southeast Quarter; thence South 00 degrees 19 minutes 44 seconds West; along said east line, a distance of 1515.81 feet to the southeast corner of said Southeast Quarter; thence South 88 degrees 28 minutes 52 seconds West along the south line of said Southeast Quarter, a distance of 824.43 feet to the west line of the East 824.00 feet of said Southeast Quarter; thence North 00 degrees 19 minutes 44 seconds East along said west line, a distance of 200.10 feet to the north line of the South 200.00 feet of said Southeast Quarter; thence South 88 degrees 28 minutes 52 seconds West along said north line a distance of 276.14 feet to the point of beginning.

SECTION 24 Subdivision 3: Conditional Uses (17) reads:

1. New Single Family Dwellings as provided for below:
  - a. New single family dwellings at a maximum density of one per Forty (40) acres on platted lots recorded after April 16, 2003 and that meet minimum lot size requirements in this Ordinance as well as the requirements of Subdivision 6 of this Section 24.
  - b. With the exception of construction upon platted lots of record existing as of April 16, 2003, no more than four (4) conditional use permits for single family dwellings will be issued in any calendar year.

The request is to construct a single family dwelling in the **SP-1 SPECIAL PROTECTION DISTRICT**.

**KISSNER STAFF REPORT 7/8/09**

RE: SITE PLAN APPROVAL

76.41627.0014 Owners: Kevin H &amp; Rebecca L Kissner

Property Address: 23301 93<sup>rd</sup> Ave, St. Cloud, MN 56301

SECTION 24 Subdivision 3: Conditional Uses (17) reads:

1. New Single Family Dwellings as provided for below:
  - a. New single family dwellings at a maximum density of one per Forty (40) acres on platted lots recorded after April 16, 2003 and that meet minimum lot size requirements in this Ordinance as well as the requirements of Subdivision 6 of this Section 24.
  - b. With the exception of construction upon platted lots of record existing as of April 16, 2003, no more than four (4) conditional use permits for single family dwellings will be issued in any calendar year.

The request is to construct a single family dwelling in the **SP-1 SPECIAL PROTECTION DISTRICT**.

## RELEVANT INFORMATION

1. Property is zoned SP-1
2. Property is 40.02 acres approximately.
3. Kevin & Rebecca hope to build a single family dwelling with a barn attached to the house. This was approved by the building official already.
4. The parcel was not a lot of record on 4/16/03.
5. This is the first request for a CUP for 2009.
6. The neighboring feedlot has been identified.

## RECOMMENDATION

1. Approve as presented.

Zoning Administrator Rena Weber reported the following written/oral report:

- ◆ The Building Official Ron Wasmund –“The owner of the land is looking to build a garage and horse stable with a living quarter attached. We can make it work from Building Code perspective but need to have the zoning reviewed before we go any further with a plan review.”
- ◆ Stearns County Environmental Greg Bechtold regarding the wetland impact-“2000 square feet of impact to a type 2 wetland is the maximum allowed in Stearns County without an approved Wetland Replacement Plan. If the driveway is less than 30-feet wide from toe of slope to toe of slope of the driveway and the driveway is installed as shown on the sketch, the wetland impact will be less than 200-square feet.”
- ◆ Stearns County Environmental Becky Von Holdt provided a map showing the feedlot-related setbacks.

Zoning Administrator Rena Weber explained that the property owner would need to sign a Declaration of Restriction if the conditional use permit is granted.

Zoning Administrator Rena Weber reported that there were 11 notices that were sent out.

Nobody spoke from the public.

***Motion by Member Bechtold, second by Member Borgmann, to close the public hearing at 6:37 p.m. Motion carried unanimously.***

***Motion by Member Bechtold, second by Member Borgmann, to recommend approval of the Conditional Use Permit. Motion carried unanimously***

**WICKER VARIANCE REQUEST:** Zoning Administrator Rena Weber read the notice of public hearing which states that the Rockville Planning Commission will hold a public hearing on **Tuesday, July 14, 2009 at approximately 6:45 p.m. at Rockville City Hall – 229 Broadway Street East** to consider the request of Shannon & Bretta Wicker for a variance from Shoreland Requirements. The address of the property is: 21265 County Road 8 with a legal description of:

That part of Government Lot Three (3), of Section Twenty-nine (29), in Township One Hundred Twenty-three (123) North, of Range Twenty-nine (29) West, described as follows, to-wit: Commencing at a point 1305.50 feet North and 791.80 feet East of the Southwest corner of Government Lot 4 of said Section 29, Township and Range aforesaid; thence due North 100 feet; thence North 01 degrees 25 minutes West 30 feet to an Iron Monument in place, said point being the point of beginning of the tract herein described; thence continue North 01 degrees 25 minutes West 90 feet; thence Easterly and parallel with the South line of said Government Lot 3 to the shoreline of Grand Lake; thence Southerly along the shoreline of Grand Lake, a distance of 90 feet, more or less, to an Iron Monument; thence Westerly and parallel with the Southerly line of said Government Lot 3, 154.5 feet, more or less, to the point of beginning and there terminating, subject to existing highways, all being in Stearns County, Minnesota.

The request is to construct a 24' x 30' unattached garage in the R-1 – Shoreland District. Variances from the following will be discussed:

**Add: *Setback from center line of County Road should be 100' (actual 89')***

- Setback requirements from principal structure (less than 10')
- Impervious surface (exceeds 12%)
- Height of structure (exceeds 8' sidewall)
- Total square footage of structure (exceeds 600 sf allowance)
- Detached building to be located in rear yard (structure to be in line with house)

#### **WICKER STAFF REPORT 7/8/09**

Re: Variance Request(s)  
76.41652.0000: Owners: Shannon & Bretta Wicker  
Property Address: 21265 County Road 8

#### Variance(s) Requested:

1. Variance to construct a 24' x 30' unattached garage and to locate it in the front yard of property abutting Grand Lake – General Development Lake instead of the rear yard.
2. Said request is to also locate said structure 89 feet from the centerline of the roadway – (should be 100') County Road 8 and
3. Structure to be located 5' from the principal structure (should be 10').
4. Height of Structure exceeds 8' sidewall
5. Total square footage of structure exceeds 600 sf allowance by 120 sf
6. Impervious Surface – Total lot area is 14,289 sf of which 47.2% is covered already not including the paving blocks or deck. This amounts to 209 sf for the paver patio and 204 sf for the deck or  $7,159 \div 14,289 = 50.1\%$ .

#### Construction Requests:

1. Construct new unattached garage and match the existing residential structure.

#### Relevant Information:

1. This property is located within the 1000' Shoreland Overlay District.
2. Property contains 14,289 square feet more or less.
3. 7 notices of public hearing were sent out.
4. The Wicker's have documentation from Craig Theisen of Theisen Building Supplies as to why an attached garage would not be feasible.
5. The shed in the SW corner of the lot is proposed to be removed.

#### Recommendations:

1. This requires six variances on a non-conforming lot that was in place before the ordinance was adopted.
2. Staff has worked with the owners on possible ways to reduce the number of variances.

3. We looked at the land on the east side of County Road 8 as a possible place for a rain garden, however, that will not work – steep incline and not much room.

**ENGINEER REPORT:**

- 1) Per the City's Stormwater Management Plan ordinance, the existing impervious lot coverage exceeds the allowable limits for residentially zoned property in the Shoreland District, on a General or Recreational Development Lake. The property is an existing nonconformity (i.e. it is allowed to stay as is). However, it appears the proposal is to increase the impervious lot coverage. If this is the case:
  - a) A variance is required for lot coverage.
  - b) A stormwater management plan is required and treat all the run off on the property.
    - i) Treatment of (the Water Quality Volume of) stormwater runoff from both the new impervious surface and all existing impervious surfaces is required. This may require the applicant to hire a professional to design an appropriate water quality treatment system for them.

Member Tippelt questioned the overhang on the garage.

Craig Theisen explained that it would be a 2 foot overhang.

Chair Honer had concerns that if you have a 2 foot overhang on the house and the garage there would only be 1 feet between them.

Craig Theisen explained the reason for the 5 feet between the buildings is so they can meet side yard setbacks but there wouldn't be a problem cutting back to a 1 foot overhang on the garage.

Member Tippelt questioned if there were any concerns about the snow building up between the buildings.

Shannon Wicker explained that the snow can be shoveled away between the 2 buildings it is the ice that is his concern.

Member Dietman questioned if the garage could be attached to the house.

Shannon Wicker explained there is a spot in the house where a door could be framed in but they would have to reroute some water pipes that run the heat for their house.

Craig Theisen explained that if the garage was attached to the house this would create a valley where the 2 roofs meet, in which it would cause water/ice to come directly on the front door step.

Craig Theisen explained the reason for the detached garage is so that the water can follow to the back of the lot easier and the ice would build up on the front.

Member Tippelt explained if you run the same roof line as the house you wouldn't have the valley and you would gain at least 5 more feet on the side lot line.

Member Tippelt questioned if any of the ideas that were discussed would be considered.

Shannon Wicker explained that they looked at different options and this was the best way to protect the lake, best looking for the property and to have the water drain to the back of the yard. If we need to remove a variance we would be willing to remove the 9 foot side walls but would want to make sure the roof pitches match up.

Member Tippelt questioned if the garage could be 24x24.

Shannon Wicker stated it could be a possibility but I look at it as the property would never be able to receive anymore variances and would like to make sure they have enough garage space to store all their stuff.

Zoning Administrator Rena Weber explained that the Wicker's should explore ways to reduce the number of variances and also provide a storm water management plan before the July 28, 2009 meeting.

Liaison Duane Willenbring questioned if the garage could be moved toward County Road 8.

Chair Honer explained that there is a variance request from County Road 8 already.

Chair Honer would like to have a site visit on July 28, 2009 @ 6:00 p.m.

Member Dietman stated that he went to the site tonight and with all the rain that we received there was no standing water on the lot.

***Motion by Member Borgmann, second by Member Bechtold, to continue public hearing until the July 28, 2009 special meeting. Motion carried unanimously.***

**VOIGTS MINOR SUBDIVISION:** Zoning Administrator Rena Weber explained that the Voigt's are requesting a qualified minor subdivision. In the process the City Attorney and the Engineer reviewed the subdivision. The written/oral report from the City Attorney was read into record. (A copy is hereby attached and marked Exhibit A)

**ENGINEER REPORT:**

1. Show dedication of twelve (12) feet wide side and rear lot line Drainage and Utility Easements.
2. Consider applying same conditions as set forth for Pleasant Estates Plat 2 with respect to requiring the property owner to provide additional necessary easements for, connect to, and not contest assessments and fees for future water main extended past their property, when available (see attached language from Pleasant Estates Plat 2 development agreement).
3. An equitable portion of existing assessments against the Voigt property should be apportioned to 5 acre property described in the Certificate of Survey.

Attorney David Shay stated that Linda Brown (Voigt's Surveyor) received an email stating that the City want to see a twelve (12) feet Drainage and Utility Easement on the survey. (New survey with that change was provided at tonight's meeting). The Voigt's are requesting an approval to split off the 5 acres home site from the 141.79 acres.

Member Borgmann questioned that the 5 acres never be subdivided.

***Motion by Member Dietman, second by Member Borgmann to recommend approval of the Minor Subdivision with the Council addressing the concerns of the City Attorney and the City Engineer. Motion carried unanimously.***

**STORAGE OF BATTERIES IN WIND TOWER:** Zoning Administrator Rena Weber questioned Stearns County regarding shadowing or flickering. At this time Stearns County has nothing referring it. Rena Weber reported that she contacted Darryl Nemeth (State Electrical Inspector) regarding the storage of batteries. Mr. Nemeth stated that it would follow under the electrical guidelines. There is no need to have it addressed in the ordinance.

**PROPOSED DOG ORDINANCE:** Zoning Administrator Rena Weber reported that a resident emailed some comments regarding the proposed dog ordinance. She made some suggestion on improving the ordinance before final adoption. The City Council would like for the Planning Commission to review her comments and make a recommendation back.

**Section 91.02: Collar Identification.** All dogs shall be harnessed or collared with proof of rabies shot attached.

**Resident suggestion:** To either remove this section, or to call it "Identification" and have the option of having a collar with identification tag, or have the dog tattooed or micro-chipped.

**Section 91.05: Animals creating nuisance prohibited.** No person shall keep or harbor an animal which barks or howls, or otherwise constitutes a nuisance.

**Resident suggestion:** I think the wording could be clearer. The way it stands, it sounds like you can't keep an animal that barks or howl and I can guarantee that all dogs will bark or howl at some point! Maybe this instead" No person shall keep or harbor an animal that constitutes a nuisance, such as excessive barking, howling, or other disruptive.

**Section 91.09: Dogs which cannot be impounded.** If a dog is rabid, or otherwise diseased, vicious, or dangerous, and cannot be impounded after a reasonable effort or without serious risk to the impounder or others, such animal may be immediately killed.

**Resident suggestion:** I would like to see this section struck. You cannot tell by looking at a dog if it is rabid. A scared loose dog may exhibit signs of aggression. I'm not so much concerned for my own dogs as they probably would help you carry out all my valuables, but there are times where I have seen other dog's exhibit signs that can be misinterpreted by people not trained in reading dog behavior.

Zoning Administrator Rena Weber will question the Sherriff's regarding striking it.

**Section 91.11: Rabies shots- vaccination required, penalties for violation.** It shall be unlawful for any person to own, possess, or harbor a dog within the city, if the dog has not had a vaccination for rabies within the time required under standard veterinary practices.

**Resident suggestion:** To change the title to "Rabies vaccination required, penalties for violation and add a statement such as "Written waiver from a veterinarian accompanied by a rabies titer may be accepted as proof of vaccination when circumstances are indicated." (This would be to cover situations such as when an immune-repressed dog would be harmed by a rabies booster shot and a titer shows the dog has immunity).

Add an additional statement "Proof of rabies vaccination must be readily available upon request." This in relation to 91.02 above where I think your intent is such that the owner should be able to show the dog has been vaccinated, either through a rabies tag or certificate. I have copies of my rabies certificates in both of my vehicles and at home, in addition to tag on their collars.

***Motion by Member Borgmann, second by Member Dietman, to recommend adopting the Dog Ordinance with the changes as presented. Motion carried unanimously.***

**PROPOSED FEEDLOT ORDINANCE CHANGES:** Zoning Administrator Rena Weber reported that the County would like to clean up the language in their Feedlot Ordinance. (A copy of the draft document with the proposed language is hereby attached and marked Exhibit B)

***Motion by Member Borgmann, second by Member Honer, to recommend adopting the changes.***

***AYES: Honer, Bechtold, Dietman & Borgmann***

***ABSTAINING: Tippelt***

***Motion passed on a 4 to 0 vote.***

**PLANNING COMMISSION MEMBER/STAFF REPORT: None**

**ADJOURNMENT – Motion by Member Borgmann, second by Member Dietman, to adjourn the meeting at 7:52 p.m. Motion carried unanimously.**

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**JUDY NEU  
BILLING CLERK/ADMINISTRATIVE ASST**

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**TONI HONER  
CHAIR**