

**MINUTES OF A REGULAR PLANNING COMMISSION MEETING HELD,  
TUESDAY, SEPTEMBER 08, 2009 – 6:30 P.M. – ROCKVILLE CITY HALL**

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.

Others present: Ron Welle, Norm Heinen, David Regnier, Judy Ikeogu, Don Simon & Councilor Jerry Schmitt.

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

**APPROVAL OF MINUTES 08/11/09 – *Motion by Member Bechtold, second by Member Tippelt, to approve the minutes of 08/11/09 as presented. Motion carried unanimously.***

**NEW BUSINESS**

**QUALIFIED MINOR SUBDIVISION-HUNSTIGER'S AND ASSOCIATES:** Zoning Administrator Rena Weber reported that the Hunstiger's and Associates have 98 acres and they want to subdivide off 5 acres and restrict the other 35 acres for no buildings.

Zoning Administrator Rena Weber reported that in the City Ordinance there is no restriction on the number of times you can split something off.

Chair Honer explained that the Hunstiger's and Associates would have another 54+ acres that they could possibly split and restrict one more time.

Zoning Administrator Rena Weber explained that Tract A is the 5 acres that Dan Welle will be purchasing, Tract B is the 35 acres that will be restricted and 54+ acres is what is remaining. The Hunstiger's and Associates will need to sign the Certificate of Transfer of Development Rights and Declaration of Restriction.

Zoning Administrator Rena Weber reported that when Dan Welle wants to build he would need to apply for a Conditional Use permit.

David Regnier stated that Dan Welle understand that he need to pull that permit.

Chair Honer questioned if Dan Welle is aware of the feedlot.

David Regnier stated "yes".

Member Tippelt stated the Dan Welle would have to build accordantly to the SP-1 requirements and not in an open field.

Member Tippelt explained that in the SP-1 it states a Single Family Dwellings requiring a conditional use permit must meet the following requirements.

1. The structure must be located to avoid impacts on tillable land and on highly productive soils. This includes both the location of the structure, the driveway, and outbuildings. This also includes the impacts on tillable lands adjacent to the dwelling (for example dwellings will not be permitted to be sited in the center of an otherwise tillable field).

David Regnier stated that the land is an open field.

Chair Honer explained that her understanding is that the Hunstiger's are only selling Dan Welle the 5 acres and that they would keep farming the other 35 acres. It would be a very minimum impact where the house would be located.

Member Dietman questioned that the SP-1 requirements will be discussed when we are reviewing the Conditional Use permit.

Member Bechtold explained that we need to follow the intent of the ordinance. The intent is to allow a one time split and to allow one single family dwelling.

***Motion by Member Dietman, second by Member Borgmann, to approve the Qualified Minor Subdivision plat as presented.***

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

***NAYS: Tippelt***

***Motion passed on a 4 to 1 vote.***

**MIKE NISTLER – LODGING:** Zoning Administrator Rena Weber reported that Mike Nistler received an approval to put an event center in the barn. Mr. Nistler decided not to do that because the building official is requiring that the barn have a sprinkler system in it and it would be too costly. Mr. Nistler is now looking at wanting to put cabins behind the barn. The City ordinance does not have any language addressing that. Mr. Nistler provided some information from the Department of Health on lodging and Stearns County does allow lodging in the AG-40 district.

Some questions that were brought up:

- The cost to amend the ordinance
- Bed & Breakfast
- Cabins (3-4)
- Septic

Chair Honer will contact Mike Nistler to find out the intent of the lodging and ask him to attend the next Planning Commission meeting.

**DISCUSSION ON SPOT ZONING:** Zoning Administrator Rena Weber reported that a resident that has 10 acres would like a horse on her property. The property is currently zoned R-2 and the Comprehensive Plan on the future land use map states Commercial Reserve.

Discussion was held on:

- ◆ Rezoning
- ◆ Previous use
- ◆ Conditional Use permit/Interim Use
- ◆ Feedlot
- ◆ Petition

Zoning Administrator Rena Weber read the written report from Paul Merwin at the League of Minnesota Cities. As usual, it may depend somewhat on the full circumstances.

Spot zoning usually refers to the proverbial "doughnut hole" situation, where one parcel is granted a zoning classification that does not match those around it. It is suspect because it often results from or creates preferential treatment for one property owner at the expense of others. It is often called "the antithesis of planned zoning." A prime example is if someone gets special zoning to build the only convenience store in the middle of a residential zone. They get the benefit of having lots of customers and no competition, while the neighbors do not have the same opportunity and have to deal with an incompatible use. They get the benefit of the neighborhood but do not share the costs.

The questions I would want to know more about include:

1. How well does it match the zoning in the surrounding area?
2. Will it burden other adjacent property owners?
3. What would happen if everybody got this zoning classification? Would it be good or bad?
4. Is this a desirable classification that others would like but are denied?
5. How different is it from the zoning around it?

In this case, the things that make it look like spot zoning would be if, say, the owner in question got the benefit of living in a nice quiet residential area but got privileges that surrounding owners did not. If everyone got to have Ag zoning, the area would be noisy and smelly. But since she's the only one, she gets the right to be noisy and smelly but the neighbors do not.

Things that would make it not look like spot zoning are: Maybe it is very near a larger residential area so it matches the overall character. Others have the opportunity to get this zoning. It is not that different from surrounding uses. The comprehensive plan describes the area as appropriate for a mix of uses.

I am not sure if I see the impact on taxes. Possibly on property values, but that is always tenuous to quantify.

Member Bechtold questioned if it could follow under the conditional use guidelines.

Member Tippelt questioned maybe it should come under an interim use permit and then the City can put some conditions on it.

Zoning Administrator Rena Weber read the ordinance referring to the Conditional Uses and doesn't see anywhere that it would allow a horse.

#### **Subdivision 4: CONDITIONAL USES**

The following uses require a Conditional Use Permit based on the procedures set forth in this Ordinance:

1. Governmental, municipal and public utility buildings and structures necessary for the community's health, safety, and general welfare.
2. Public or semi-public recreational buildings and community centers.
3. Churches, public libraries, museums, primary and secondary schools which are accredited by the State Department of Education, and hospitals.
4. Townhouses containing four (4) or fewer units whether in a single unit or on a combination of lots.
5. Essential Services structures.
6. Towers and Antennas as regulated by this Ordinance.
7. Uses the City Council determines to be substantially similar in nature to the conditional uses listed above and not detrimental to the City's general health and welfare.

Zoning Administrator Rena Weber explained that she would explore the interim use guidelines and bring it back at the October meeting.

Chair Honer stated she had a problem with waiting until the next meeting because Judy Ikeogu addressed the City with it already and the time frame to allow the horse to settle in before the winter. Chair Honer is going to request a special meeting for the Planning Commission and City Council. (Scheduled a special Planning Commission meeting September 28 @ 6:30 p.m.)

Zoning Administrator Rena Weber referenced the City ordinance and stated under the General Standards an interim use must comply with the following-The use must conform to all applicable zoning regulations.

Zoning Administrator Rena Weber will discuss it further with the applicant.

**HUNTING IN CITY LIMITS:**

Zoning Administrator Rena Weber read the City ordinance.

**130.02 DISCHARGING FIREARMS.**

(A) *Shooting upon, over or near a cemetery.* No person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

(B) *Hunting near a city park.* No person shall hunt, shoot, or kill game within 1/2 mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.

(C) *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(F) If any of the above provisions are found to be in conflict with M.S. ' 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.  
Penalty, see ' 130.99

Zoning Administrator Rena Weber explained that the area that needs to be looked at is hunting near a city park.

Member Tippelt stated that he spoke to Chuck Wocken from Stearns County and asked him what the County had for hunting regulations.

Stearns County regulations are:

- ◆ It shall be unlawful for any person to discharge any missile or other projectile from a weapon into a park from beyond park boundaries.
- ◆ It shall be unlawful for any person to discharge any missile or other projectile from a weapon within a County Park.

And under the Minnesota Hunting and trapping Regulations handbook the Department of Natural Resources states:

- ◆ On another person's private land or a public right-of-way, a person may not take wild animal with a firearm within 500 feet of a building occupied by humans or livestock without written permission.

- ◆ A person may not take a wild animal with a firearm within 500 feet of a corral containing livestock without permission.
- ◆ A person may not take a wild animal on any land where the person is prohibited from lawfully entering by this law.

Zoning Administrator Rena Weber questioned if the Minnesota Hunting regulation sites a statue in the handbook because under the City ordinance it site M.S. ' 624.717. (Research the Statue)

Member Tippelt stated that if we went with the Department of Natural Resource regulation that would eliminate hunting in the Core City.

Don Simon 600 Othmar Lane-Let people hunt their property so we control the animal population.

Chair Honer explained that the City is not looking at stopping people from hunting in the city limits. The City may need to change part of the ordinance it states "No person shall hunt, shoot, or kill game within 1/2 mile of a city park" and if that is the intent then we need to look at changing that.

Member Tippelt explained that the City should look at adopting:  
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- ◆ A person may not take a wild animal with a firearm within 500 feet of a corral containing livestock without permission.
- ◆ A person may not take a wild animal on any land where the person is prohibited from lawfully entering by this law.

Liaison Duane Willenbring stated he agrees with Member Tippelt and that the City should look at adopting those statues.

Ron Welle explained he is from Mid West Outdoors unlimited and they are a non-profit group that organizes special hunts, private hunts, citizen hunt for people the have a disability or an illness. This group is here to help disable people do want they love to do and that is to hunt.

Chair Honer explained that Stearns County would like to allow control hunting for disabled people in the Rockville County Park.

**PLANNING COMMISSION MEMBER/STAFF REPORT:**

Zoning Administrator Rena Weber reported that a resident would like to put a gazebo on an existing concert pad that would be in the shore impact zone.

Members stated nothing within the shore impact zone.

**BUSINESS FOR NEXT MEETING:**

**ADJOURNMENT – Motion by Member Bechtold, second by Member Tippelt, to adjourn the meeting at 7:54 p.m. Motion carried unanimously.**

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JUDY NEU  
BILLING CLERK/ADMINISTRATIVE ASST

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TONI HONER  
CHAIR