

**MINUTES OF A JOINT PLANNING COMMISSION/CITY COUNCIL MEETING HELD,
TUESDAY, APRIL 14, 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, Dan Hansen and liaison Duane Willenbring.

Staff members present were: Zoning Administrator Rena Weber & Billing Clerk/Administrative Assistant Judy Neu.

Others present: Mayor Hagen, John Koerber, Susan Palmer, Jerry Schmitt & Randy Volkmuth.
Absent: Bill Becker.

Also present was Paul Merwin – League of MN Cities

Rena Weber introduced Paul Merwin from the League and indicated that he works closely with Jed Burkett who presented information on planning/zoning issues one year ago. This is somewhat the same presentation with more time for specific questions. We have new people on the Council who will benefit as well.

Questions/Concerns addressed were:

Event Centers in the A-40 District – allowed by CUP

Conditional Uses –

- Uses that are generally allowed in a particular district
- But only if they meet standards because of special concerns
- As set forth in the ordinance both general and specific standards
- CUP's run with the land and are allowed by permit
- Permit is granted after public hearing
- Reasonable condition may be attached based upon factual evidence contained in public record
- Can revoke if they don't comply with the CUP

The Planning Commission/Council has broad discretion in the adoption of the ordinance during the development phase.

Member Volkmuth asked if you can change the CUP after it is granted.
Paul Merwin indicated that to amend a CUP requires additional process. Interim Use Permits are also allowed for specific time, event, or zoning change.

Member Palmer asked if an IUP is something you could use for the event center. Paul Merwin stated yes if spelled out in the ordinance.

Rena Weber asked for Paul's thoughts on the SP1 District which allows four houses per year by CUP. Paul Merwin suggested the city might want to give more thought to that, but it could be defensible.

Re-zone A-40 to R-10 –

Paul Merwin indicated that he is okay with spot zoning as long as you are not creating something where nobody else can do the same thing.

- Have to go through a re-zoning process first though.
- Because the neighbors don't like it doesn't mean it should not be allowed.
- Property rights are at stake here.

Member Palmer asked if you can create it as a zone even though there is no land currently zoned that. – Sure

- Comp plan can indicate that we would consider re-zoning - legally this is better for defense.

Member Palmer asked how Conservation Design is handled. Paul Merwin stated that if you make conservation design the rule so there is no more discussion and this is how it is going to be then you have lost your discretion to allow something different.

Wind Towers – Paul Merwin stated this is something new and urged staff to watch the League for more information.

Rena Weber asked where towers should be allowed. Paul Merwin indicated that most ordinance take into consideration the amount of decibels that can be heard.

Planning Commission – City Council Relationship – most cities do things like we do where the Planning Commission holds the public hearing, takes testimony and recommends action to the Council. The 60 day rule comes into play though.

Foolproof Findings of Fact -

1. Summarize Facts
2. State Legal Standard
3. Apply Facts to Standard
4. Make Legal Conclusions

Undue Hardship –

3 factor test – or 5 factor test

1. Reasonable – property can't be put to reasonable use without a variance
Simply means that what the landowner would like to do is reasonable.
Does not mean land cannot be put to any reasonable use without the variance.
2. Unique – Plight is due to circumstances unique to property not created by landowner
Physical characteristic of the particular piece of property (land or structure).
Not like other pieces of property.
Physical uniqueness: topography, wetlands, trees, irregularly shaped sized lot, shape or size of existing buildings, placement of existing structures on lot.
3. Character – Variance, if granted, will not alter locality's essential character.
Will resulting structure be out of scale, out of place or otherwise inconsistent with surrounding area?

Economic considerations alone cannot create an undue hardship.

Non-conforming uses -

Member Willenbring asked about Nonconforming uses and do they have grandfather clauses/rights.

Non-conformity is something that does not comply with existing zoning ordinance.

Non-conformity could be a non-conforming use, a non-conforming structure, or a non-conforming lot.

Non-conformity has statutory rights if it was legal before ordinance was enacted.

Paul suggested that the word expansion should be described in your ordinance.

Sign Ordinance -

Member Willenbring asked how the sign ordinance and the CUP for the Freedom Auto sign should be addressed. Paul Merwin stated the CUP for the sign being allowed should be linked to a particular use.

At this point the joint session ended and the Planning Commission met to discuss:

JERRY TIPPELT FEEDLOT APPROVAL – Rena Weber reported that she and Judy Neu have had discussions recently with Stearns County Environmental Services regarding feedlots. The city did adopt the County standards in 2008, but there still are some questions that need to be

addressed for proper administration of the standards. Don Adams and Becky Schlorf Von Holdt will be present at the May 11th Planning Commission (note date change to a Monday instead of Tuesday) to clear up the issues.

Rena further indicated that Jerry Tippelt is requesting approval of a feedlot that has been in existence for 10 years; however, paperwork has not been recorded at the County. The parcel is: 76.41636.0900 with a legal description of: 80.00 AC Section 19, Township 123, Range 029.

Motion by Member Bechtold, second by Member Dietman, to approve the location of the wetland for Jerry Tippelt as shown on the data view map.

AYES: Bechtold, Dietman, Hansen and Chair Honer.

ABSTAINING: Tippelt

Motion passed on a 4 to 0 vote.

Jerry Bechtold asked that the next time we have a meeting such as this there should be an agenda.

ADJOURNMENT – Motion by Member Tippelt, second by Member Dietman, to adjourn the meeting at 8:28 p.m. Motion carried unanimously.

VERENA M. WEBER-CMC
ZONING ADMINISTRATOR

TONI HONER
CHAIR