MINUTES OF A REGULAR PLANNING COMMISSION MEETING HELD, TUESDAY, FEBRUARY 12, 2013 – 6:30 P.M. – ROCKVILLE CITY HALL

The meeting was called to order by Acting Chair Dale Borgmann. Roll call was taken and the following members were found to be present: Dale Borgmann, Jerry Bechtold, Jerry Tippelt. Duane Willenbring – Liaison.

Absent were: Chair Toni Honer

Staff members present were: Zoning Administrator Rena Weber & Administrative Assistant Mandy Lais.

Others present: Sue Nistler, Bill Molitor, Andrew & Eunice Molitor, Don Simon.

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

APPROVAL OF MINUTES 1/08/13 – ***Motion by Member Bechtold, second by Member Tippelt, to approve the minutes of 1/08/13 as presented. Motion carried unanimously.***

NEW BUSINESS

Election of new Planning Commission member

Zoning Administrator Rena Weber stated that no one has applied yet.
The members stated they are going to extend the application, and table this discussion for next meeting.

PUBLIC HEARING APPROXIMATELY 6:30 P.M. – MIKE AND SUE NISTLER. Zoning Administrator Rena Weber read the notice of public hearing on **Tuesday February 12, 2013 at approximately 6:31 p.m. at Rockville City Hall – 229 Broadway Street East** to consider the request of Michael A. Nistler for a **Conditional Use Permit** for a home extended business in the A-40 District. The address of the property is: 25417 County Road 2, St. Cloud, MN 56301with a legal description of:

The Northeast Quarter of the Southwest Quarter (NE ¼ SW ¼) northerly of Road, Section Six (6), Township One hundred Twenty-three (123) North, Range Twenty-nine (20) West. Stearns County, Minnesota.

SECTION 16 Subdivision 4: Ag-40 Conditional Uses reads:

16. Home Extended Business

Request is to convert present child day care into an idea called Eldergarten. This is a place for elderly people to spend time, play games, etc.

Zoning Administrator Rena Weber stated Sue Nistler is present and Mike Nistler is absent due to illness. They are requesting approval to establish a home extended business in the Ag – 40 district. She is verifying this with the League of Minnesota Cities attorney whether it is an amendment to the conditional use permit or if it is another conditional use permit. She thinks it is just an amendment.

Member Tippelt asked if it is specific to the building?

Zoning Administrator Rena Weber stated when you do a conditional use permit it is for the whole lot. We've been making it more specific. She made reference to the permits the Nistlers received for their other businesses.

Sue Nistler stated that in 1997, they opened the Prairie Valley Store and got a conditional use permit and when they opened the daycare in the barn, they did not.

STAFF REPORT

RE: CONDITIONAL USE PERMIT REQUEST
76.41609.300 Owner: Michael A. Nistler
Property Address: 25417 County Road 2
Legal description:
The Northeast Quarter of the Southwest Quarter (NE ¼ SW ¼) northerly of Road, Section Six (6), Township One hundred Twenty-three (123) North, Range Twenty-nine (20) West. Stearns County, Minnesota.

REQUEST

Approval to establish a Home Extended Business in the A-40 District by amending a conditional use permit.

RELEVANT INFORMATION

1. Property is zoned A-40.
2. Property is 6.45 acres approximately.
3. Michael Nistler and his wife would like to move the day care center back to its original spot and offer Eldergarten in its place.
4. Mike and Sue Nistler stated they were not expanding, but instead using the existing daycare facility for the new non-profit business idea called Eldergarten. This is a place for elderly people to spend time, play games, etc. They had Gary Utsch, Inspector, come out and he stated they need to limit it to 15 people. They will not be serving meals, but meals could be catered in. Jim Thelen is going to volunteer as a teacher. They are going to talk to churches and see if they know of others who would like to come to Eldergarten. It would provide them with additional socialization opportunities. It would be operated as a non-profit. The existing day care is moving to the barn, where it used to be located. They are not expanding, just using the current day care facility to house the Eldergarten members. They stated this is not going to be an adult daycare. They will have plenty of parking with handicap parking. Not interested in adult daycare, too much regulation.
4. 15 parking spaces are required. The parking lot, access road will be constructed of Class V gravel. Ordinance calls for the road to be a dust free surface maintained or paved.
5. There are no neighbors within 150 of the structure – headlights shining on structures should not be an issue.
6. No residential building is within 200 feet of the access road unless the day care center is considered residential. The commercial use was allowed by CUP before consolidation.
7. The facility has to comply with existing building, zoning and health code regulations. Stearns County Environmental Services issues the septic system permit and Mr. Nistler has contacted them regarding such. Mr. Nistler to provide the information received from Stearns County. **Provide proof that it is still in compliance.**
8. Setbacks from neighboring property, residential structures and road right-of-way are in compliance.

RECOMMENDATION

1. Discuss hours of operation.
2. Discuss number of parking spaces.
3. Discuss if the moving of the day care to the barn is in compliance with building code – provide proof.

Zoning Administrator Rena Weber stated she looked at the parking ordinance and it said nothing regarding number of parking spaces. She recommends there be at least 15 parking spaces required. And after speaking with Sue Nistler most likely the Eldergarten members will be picked up and dropped off, so there is plenty of room for parking. The plan they provided had 14 spaces. She stated that there are no neighbors within 150 ft. of structure, so headlights on structure should not be an issue. Or residential buildings within 200 ft., distance from the structure, should not be an issue. They have to comply with the City's building, zoning, and health code regulations. Gary Utsch was out to look at the property and he gave his report at last meeting, Stearns County Environmental Services issues the septic

system permit, she requests that they have proof it is in compliance. Setbacks from neighboring properties, they are not adding on, just using what they have there. The hours of operation would be 8 am – 12 noon and 1 pm – 5 pm.

Member Tippelt asked how many people do they expect?

Sue Nistler stated up to 15 people.

Member Tippelt asked if it has to be licensed with the county?

Sue Nistler stated it does not have to be licensed with the county.

Zoning Administrator Rena Weber stated that according to building official Gary Utsch, there can be no more than 15 people and it would be a home extended business, not an event center.

Member Tippelt asked why couldn't it be under event center?

Zoning Administrator Rena Weber looked under section 8 definition of event center, and it was more about private banquettes and special events with reservations only and not open to the public and that is not what the Nistlers are trying to do. That is why it is going under the home extended business.

Liaison Willenbring has a concern about the number of people for the septic system? Should we have the Nistlers check this at the county level?

Member Tippelt asked how the septic systems are set up right now.

Sue Nistler- Barn and Daycare share the same one, house is separate.

Don Simon asked if people have to pay a fee to come there?

Sue Nistler stated they are trying to do this as a non-profit and we are working with Tony Nathe.

Member Bechtold asked if there will be alcohol offered there?

Sue Nistler stated there would be no alcohol, but you could go to Boomerville for a beer, not at Eldergarten.

Member Tippelt asked if they will have structured time.

Sue Nistler state yes that the time is structured time.

Motion by Member Tippelt, second by Member Bechtold to close the public hearing. Motion carried unanimously.

Motion by Member Tippelt, second by Member Bechtold to approve the conditional use permit with the approval from Stearns County Environmental Services for the septic system that services Eldergarten and the daycare. Motion carried unanimously.

DRAFT

Bill Molitor – 805 – 1st St South – Requesting to divide part of the Molitor's Estate into 2 – 10 acre parcels for residential development.

Bill Molitor stated he is here representing his parents Andrew and Eunice Molitor – 22942 – County Road 140, speaking on their behalf, and that they are interested in selling part of their estate. They would like to take this 20 acre parcel and split it into 2 – 10 acre parcels for residential development. They had it surveyed it into 2-10 acre parcels. He state there is 2.3 acres in one field and 3.2 acres in other field where someone could build. Elwood (septic professionals) did 2 septic site locations per parcel and they met the requirements. Bill Molitor recognizes that there are some hurdles with the feedlots. This property has 2 feedlot setbacks. Property has been in our family since 1860 and they would like to be able to split this and sell the 2 parcels.

Zoning Administrator Rena Weber stated that they are looking to rezone to Rural Residential. In order to approve, it has to be land that is not tillable and there are feedlots covering this property.

Member Borgmann stated the feedlots are a big concern.

Bill Molitor stated that Jerry Tipplet has one of the feed lots with 32 animal units and there is a corral at that location. They are there late May to early June, to mid-November. And Hodels have a structure with 56 animal units. He stated that it would be a financial benefit for the city possibly $1300 tax revenue into the city. I understand feed lots requirements, we have one too, we have been there for 123 years. They would like to get a variance for conditional use that they could sell the lots for residential use so someone can build there.

Member Tippelt has a concern as to who would referee the fight when the smells come and the people who build the house don't like it. That is why they establish these boundaries.

Zoning Administrator Rena Weber asked where the homes and septic would be located on each property.

Bill Molitor stated that the North lot would be in the middle of the field and it would be located in the 700 ft. set back feedlot buffer. In the south lot could be in the middle as well.

Zoning Administrator Rena Weber expressed concern about the wetlands, and houses couldn't be built on in the wetlands.

Bill Molitor stated that Elway septic specialists were able to locate 2 septic sites per lot.

Chair Borgmann expressed his concern about the feedlot.

Member Tippelt has a concern about the feedlot as well.

Don Simon raised a concern regarding the smell and future home owners.

Zoning Administrator Rena Weber stated she could check into what Stearns County variances with feedlots. This is ag-40 land.

Member Bechtold stated Stearns is looking at changing feed lots issues in the near future.

Bill Molitor spoke to the county commissioners and he knows they will be talking about this.

Liaison Willenbring stated if it is proposed for the council to look at this we would need to have a motion with a statement that no decision was reached by the planning commission. He also asked if the feedlots are on record.

Bill Molitor stated that the feedlots are on record.

Liaison Willenbring is recommending it be brought before council. Stated he is related to the Molitors and can't vote but can express his opinion.

Chair Borgmann asked if there are other situations where this was worked out.

Zoning Administrator Rena Weber stated that part of the adoption of the Rural Residential Ordinance was adopting the Right To Farm Ordinance.

Liaison Willenbring stated an idea of researching adding a deed restriction so that the new buyer would know that there is a feedlot with in the 700 ft diameter.

Member Tippelt stated that is why he got the feedlot permit in the first place, so the new buyer would know that the feedlot is there. Not to restrict the neighbors but to let the buyers know what they are buying.

Member Willenbring stated that septic and drain fields are allowed in the feedlot setbacks.

Member Tippelt stated residential is not.

Member Bechtold is concerned about the noise and smell for the buyer, especially if there are late night operations.

Zoning Administrator Rena Weber asked if there is a concern with the well and if the water would be affected by the feedlot and how far away from the feedlot?

Bill Molitor stated he thought it would be a distance maybe 100 feet from the barn.

Motion by Member Tippelt, second by Member Bechtold. to add the Molitor's request to City Council's next week agenda to get their input. No action was taken. Motion carried unanimously.

PLANNING COMMISSION MEMBER/STAFF REPORT –

Liaison Willenbring questioned if Sue Palmer stepped down?
Zoning Administrator Rena Weber stated the position has been posted. And no one has come forward.

ADJOURNMENT – ***Motion by Member Tippelt, second by Member Bechtold, to adjourn the meeting at 7:28 PM. Motion carried unanimously.***

MANDY LAIS
ADMINISTRATIVE ASST

DALE BORGMANN
ACTING CHAIR

DRAFT