

October 3, 2017

The Scandia Planning Commission held their regular monthly meeting on the above date.

The following were in attendance: Commissioners Jan Hogle, Travis Loeffler, Tom Noyes and Dan Squyres. Absent: Commissioner Walt Anderson. Staff present: City Administrator Neil Soltis, City Planner Sherri Buss and Deputy Clerk Brenda Eklund. Council member Chris Ness was also in attendance.

Chair Squyres called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

Loeffler, seconded by Noyes, moved to approve the agenda as presented. The motion carried 4-0.

PUBLIC HEARING: VARIANCE FROM WETLAND SETBACK FOR SHARED DRIVEWAY ON MINOR SUBDIVISION KNOWN AS MANTHEY ACRES AT PID 27.032.20.44.0003, LOCATED ALONG OLD MARINE TRAIL. DAN MANTHEY, APPLICANT (PC RESOLUTION NO. 10-03-17-01)

A public hearing was held at the September 5, 2017 Planning Commission meeting for a Minor Subdivision to create 2 buildable lots and an outlot from an existing 23.6-acre parcel located along Old Marine Trail. The application was tabled so that applicant Dan Manthey could apply for a variance from the required setbacks from wetlands for the proposed shared driveway.

Planner Buss presented her staff report with details of the request. Lots 1 and 2 would be approximately 5.7 and 5.1 acres in size and meet the lot size, width, and buildable area requirements of the development code. A shared driveway for access to the 2 lots is proposed that does not meet the required setback from wetland boundaries. The revised survey showed the proposed location 71' from basins 5 and 6 instead of the required 75'. Buss explained that there is no area to fit a driveway solely on Lot 1 due to wetland locations, and the area impacted by the driveway is less than 100 square feet. Jay Riggs, wetland specialist with the Washington Conservation District, noted that the wetlands are of moderate quality, the driveway location is reasonable for minimizing impacts, and he had no concerns in granting the variance.

Planner Buss summarized the findings for the minor subdivision and variance to grant approval with 15 conditions written into a resolution. Conditions include driveway specifications, Watershed District approval, park dedication fees in lieu of park land, and that Outlot A is not required to remain a part of the subdivision, but may be combined with the parcel to the west in a future lot combination procedure.

Chair Squyres opened the public hearing at 7:09 p.m.

Curt Peterson, 21617 Meadowbrook Avenue, asked if the driveway can be constructed over the drainage easement shown adjacent to Old Marine Trail. Buss replied that is allowed with culverts and was reviewed by the City Engineer. Peterson asked if the proposed septic location

shown on the survey meets the setback requirements. Buss stated that County staff said there was enough area and approved the location.

City Council member Steve Kronmiller, 13450 188th Street, said he would share his statements that he made at the September 19th Council meeting in which he is generally opposed to granting variances as the laws should change to make variances the exception and not the norm; rarely are variance requests denied. He said that philosophically the owner is causing the need for a variance in order to make this property buildable.

Applicant Dan Manthey, 14633 Old Marine Trail, said there are instances where a variance is denied such as the adjacent property he tried to develop that had a septic system too close to the lake. He said that reasonable requests are needed in order to build in this county. He had the property surveyed 15 years ago and these wetlands were not identified then.

There were no further comments and Chair Squyres closed the hearing at 7:15 p.m.

Commissioner Hogle said that wetland delineations can change and have variability decade to decade. She said that she has few concerns about this request based on the expertise of the wetland specialist, in which she is not qualified to overrule his assessment.

Buss noted that a driveway on Lot 1 cannot be located without a variance and the common driveway with a setback of 71' from each of the wetlands is the minimum action necessary to develop the property. Since Scandia uses a blanket setback of 75' instead of a functions and values assessment that could have a smaller 50' setback based on the quality of the wetland, as Riggs assessment noted. Buss also explained that the City uses the League's guidance on granting variances, and if there are repeated requests for the same thing, the city should look at changing the code. Staff uses their experience to filter applications that come before the city and explains to the applicants if their request is reasonable to approve. If denial is likely, the applications generally do not move forward.

Noyes, seconded by Hogle, moved to approve PC Resolution 10-03-17-01, Approving a Minor Subdivision and Variance for Manthey Acres at PID 27.032.20.44.0003 located on Old Marine Trail as presented. The motion carried 4-0.

The recommendation to approve the minor subdivision and variance will be presented to the City Council at their October 17, 2017 meeting.

PUBLIC HEARING: AMENDMENT TO RURAL EVENT FACILITY ORDINANCE

Planner Buss presented a draft ordinance amending language in Chapter 2, Section 4.32 regarding Rural Event Facilities. Following Jeff Gacek's Annual Operator Permit renewal for Redeemed Farm in which compliance with all conditions was met, the Council requested that the Planning Commission consider an administrative process to review and renew the AOP if the facility is complying with conditions of the permits, so as to not unnecessarily burden small businesses with consultant costs. An option to bring the review to the Council exists if the

facility is not complying with permit conditions or for reasons determined by the City Administrator's discretion.

Chair Squyres opened the public hearing at 7:30 p.m.

Joanne Benick, 12400 213th Street, stated that it does not make sense to change the ordinance for one event center that has only been operating for one year, and that there should be a history of operations for a couple of years before making this change.

Patty Peterson, 21617 Meadowbrook Avenue, said the Commission should vote this down because Council review allows the people of Scandia to speak.

Paul Schwope, 21174 Newberry Court, said that there is all of one event center in Scandia.

Erin Snicale, 21097 Meadowbrook Circle, said that there should be a timeline to allow rural event centers time to operate and see how things go before relaxing the review procedures.

Planner Buss explained that the annual review is not a public hearing as is the case with the Interim Use Permit for the facility. It is the discretion of the Council to take public comments for the AOP review, and this amendment considers how to handle the annual renewal if there are no complaints.

Jeff Gacek, 21325 Meadowbrook Avenue, stated that his discussion with the Council was about putting undue burden on businesses in Scandia, because the review is costly and he had no complaints registered with the operation of Redeemed Farm. He said no other businesses have to go through an AOP renewal, and he is just asking that the City Administrator conduct the review, and it can be raised to Council level if needed. It's not to eliminate the AOP, but to change the parameters of the code to allow administrative review without the additional costs for consultant reviews each year.

Paul Peterson, 21617 Meadowbrook Avenue, questioned why Gacek had the annual review already when he was granted the IUP on October 20, 2016. Planner Buss explained that the operator must apply for AOP renewal at least 60 days before the annual date to allow enough time for an additional meeting if needed to deal with any issues.

Joanne Benick, 12400 213th Street, stated her concerns if the ordinance is changed. The operators will be accommodating in the first year, and then will get lax if there is no Board level review of the operations. She said to keep it in place until a history is established over a few years. The city hasn't had a full year operating any event center yet, and it's much harder to add this back in once taken out – let the dust settle first before changing the ordinance.

There were no further comments and Chair Squyres closed the public hearing at 7:41 p.m.

Commissioner Hogle said there is a trend to keep barns preserved and there will be others in Scandia in the future – it's hesitant to look only at Redeemed Farm regarding this ordinance.

Planner Buss clarified that the Administrator can ask for consultant review, but the Commissioners are being asked if it's reasonable for the AOP to be administratively reviewed if everything has gone well. To her knowledge of other rural wedding facilities, Scandia is the only one to require an Annual Operating Permit because it's hard to take away an Interim Use Permit (a property right) for the event facility. The AOP allows for a chance to cease operations for a period of time to clean up the center if necessary. The Council asked if all is fine, can the monetary burden be taken off. The Administrator will still report to the Council on his findings. Or should the process remain more formal, time-consuming and costly? The consultants can still be involved if needed.

The Commissioners discussed the amendment language and noted if in non-compliance, the "AOP application shall be reviewed by Council" and that they would need to trust the Administrator to take it to this level if he needs to.

Commissioner Noyes said that he is all for simplifying and it would be a waste of time for mundane things to go to the Council. Commissioner Hogle said it's not mundane to the neighbors when they have complaints. Hogle said she would emphasize this doesn't change the review process if there are problems.

Loeffler, seconded by Noyes, moved to approve the Ordinance Amending the Development Code, Chapter 2, Section 4.32, Rural Event Facility, as presented. The motion carried 4-0.

The recommendation to approve the ordinance amendment will be presented to the City Council at their October 17, 2017 meeting.

PUBLIC HEARING: INTERIM USE PERMIT AMENDMENT FOR REDEEMED FARM RURAL EVENT FACILITY AT 12680 SCANDIA TRAIL. JEFF AND JULIE GACEK, APPLICANTS (PC RESOLUTION NO. 10-03-17-02)

Jeff and Julie Gacek, operators of Redeemed Farm at 12680 Scandia Trail, have requested an amendment to the Interim Use Permit to increase the maximum number of guests that are permitted for each event from 150 to 200. They provided a traffic management study which identified no negative impacts for this number of guests, adequate parking for 125+ vehicles, and statements from the Fire Chief and Building Official that the existing buildings can accommodate 200 guests. The City recently renewed the Annual Operating Permit for the facility, and had received no complaints up to the renewal date on August 15, 2017.

Planner Buss explained that the rural event facility ordinance allows for a maximum of 300 guests, and staff recommends approval of this request. The facility meets the development code's criteria and standards for a rural event facility. A resolution with all existing conditions written into one document was prepared. Buss stated that since the staff report was written, sound complaints were reported to the Sheriff's Department on September 23rd and 30th. Deputies investigated and determined that sound levels were in compliance.

Chair Squyres opened the public hearing at 8:03 p.m.

Paul Schwope, 21174 Newberry Court, noted that Condition #10 of the resolution requires all doors, windows and other openings to be closed while sound amplification is occurring, and questioned why neighbors across the highway could hear the music. He said that by increasing the number of people, all sounds will increase and residents nearby are already hearing it. Chair Squyres said that he has been on site while music in the barn played at the upper sound level, with doors and windows open, and could not hear the sounds at the property line.

Joanne Benick, 12400 213th Street, said that Paul Mack has been contacting the city with complaints and thought that was adequate representation of the neighborhood. She thought it was frivolous to call the Sheriff's Department for loud sound when she can hear the music from her home, especially the bass thuds. She said it's ridiculous to allow the event center in a residential neighborhood, and she is beside herself.

Camille Schwope, 21174 Newberry Court, said there are a considerable number of people making U-turns on her road and also turning around on Highway 97 once they see the entrance on this roadway is blocked. She could call 2 or 3 times each event but doesn't want to bother the Sheriff's Department, so who else should she complain to? She said it's bad for the neighbors to put up with this. Administrator Soltis reiterated that the Washington County police are the city's enforcement authority and should be called. Schwope said this is a waste of money for them to respond and what was done to the community is wrong.

Patty Peterson, 21617 Meadowbrook Avenue, said she lives 1/3-mile directly north of Redeemed Farm, and the parking lot was quiet at the beginning and there was nothing to complain about then. But the parties ramped up in July with increased traffic and noise, especially drums and party sounds. A loud party bus parked in front of her home at one time. She said that things can be done to make it quieter.

Scandia Deputy Brandon Yetter was present and explained that complaints are investigated by the deputy on duty for the area. Gacek hires off-duty Washington County deputies who can be contacted on scene to investigate. Sound is monitored with a decibel meter in the direction the complaint was made. If complaints were non-relevant, he hadn't reported these to staff because they were unfounded. He told residents to call 911 when observing dangerous driving conduct.

Curt Peterson, 21617 Meadowbrook Avenue, said the neighborhood has been violated. Scandia is a quiet town where this use doesn't fit. He cited a news report where he stated that the facility is allowed 75 events per year with no more than 150 people per event, and the city is breaking a promise if it allows more. He said that Gacek hasn't been honest when he told him that the barn he moved in would be renovated for Sunday services and couple retreats, not large wedding parties. He said he feels betrayed because the community has been good to Gacek up to this point. Peterson said the City Engineer wrongly stated that Meadowbrook meets ASHTO standards, but at 18' in width, is too narrow and not safe for this level of traffic. He said they all need to heal this process and get the truth out.

Applicant Jeff Gacek, said the accusations being said are not true, as he was truthful about small weddings and retreats. Thirteen events were held with no complaints, and after the public notice

went out about an IUP amendment, 2 complaints were made and he expects more, but the city needs to consider if they are valid. The deputy on duty is monitoring the sound level with a decibel meter, and the DJ is also under strict watch. The sound level has never exceeded the upper limit of 65 decibels, and has been considerably under this. Sound levels in the yard typically measure 45-50 decibels. He said the neighbors have a right to speak their opinions, but let the facts speak for themselves.

Gacek said MnDOT will be installing Meadowbrook Avenue identification signs along the highway to better mark the entrance, he puts out temporary sandwich boards to identify the turn at Meadowbrook, and has staff directing traffic for events larger than 50 cars. He has corrected Google maps to pin the accurate location for his site which could have contributed to cars going to the end of Meadowbrook. His request indicated 175-185 guests, but was advised by staff to request 200 attendees. Because his events end at 10pm rather than midnight like other wedding barns, he hosts events that are mellow and not raucous party goers. Regarding the sound complaints, he has not been turning down the music or modifying sounds in any way since the sound is in compliance and he is operating completely within the code.

Gacek noted an error in Condition #10 requiring barn openings to be closed during sound amplification. He reminded staff that this sentence was removed before final approval. Staff checked the final approved resolution #10-20-16- 02 and confirmed that correction.

Commissioner Hogle said that sound frequency can travel further under certain conditions, and noted the weather has warm and humid on the dates of the 2 sound complaints. She said that she did hear the music at her home a ½-mile away, but it was not a nuisance and stopped by 10pm.

Erin Snicale, 21097 Meadowbrook Circle, said that the 15 events he had this past year are not enough to know a full operation that could have up to 75 events in one year. It's too soon to increase his guest count to 200.

Curt Peterson said that if the guest count is increased, at least require proper screening for the neighbors, such as a line of pine trees along the north property line. Right now the site is very open and airy and the lights are disturbing to see from the cars, barn, flashlights, etc.

Jeff Gacek replied that he did offer to plant 6 trees on Peterson's property last fall, but was turned down -- Peterson wanted them 25' into Gacek's property. Gacek said he followed his approved landscape plan for the site at a cost of \$20,000 which did not require screening along the north side.

Tim Husnick, 21460 Meadowbrook Avenue, said he was not concerned about traffic or the number of guests at an event, but the main issue is the sound traveling from the open barn. He's not sure how to fix this, because the initial events were fine, and the last two a problem. He suggested lowering the sound level 10% at a time to see if the sound travels to the neighbors.

There were no further comments and Chair Squyres closed the hearing at 8:58 p.m.

Commissioners discussed the request and noted that sound is the real issue with the site, and increasing the number of people shouldn't affect the sound level. They questioned if they could lower the maximum sound limit to 50 decibels from the current 65 in the ordinance. Planner Buss advised that this is set in state statute and communities are prohibited from changing this for certain land uses, as it is perceived as discriminating against one use. Buss said all kinds of things affect sound travel, and bass vibrations can be heard further. A sound expert could be consulted to see if there is a general way to measure bass sounds and keep them below a certain threshold.

In answer to questions on what changed for the past events which prompted noise complaints, Gacek replied that barn openings have been consistently open for events and the same sound system in the barn has always been used – no changes that he could account for. Commissioners noted atmospheric conditions may have been different, or neighbors were prompted to call as a log for the record.

Additional landscape screening for sound was discussed, but Buss advised that MnDOT studies show a 300' stand of solid conifers are necessary to provide an adequate sound barrier, not a practical solution. Buss stated that if the event facility meets the criteria of the ordinance, only reasonable conditions can be placed on the operations. To address traffic concerns, a solid barricade at the entrance from Scandia Trail may not be compliant because of right-of-way interference and blocking sight lines at Meadowbrook Avenue. It was noted that MnDOT's signage should help mitigate the problem of vehicles that try to enter the site on Scandia Trail. Buss summarized that the operator needs to identify any changes with the most recent events and deal with this at the next AOP review.

Noyes, seconded by Hogle, moved to approve PC Resolution No. 10-03-17-02, Approving an Amended Interim Use Permit for Redeemed Farm Rural Event Facility, as amended with the correction to Condition #10 to reflect the original language approved with Resolution No. 10-20-16-02, and to direct staff to consult a noise expert regarding how to substantiate and mitigate bass levels. The motion carried 4-0.

The recommendation to approve the amended IUP for Redeemed Farm will be presented to the City Council at their October 17, 2017 meeting.

DISCUSSION ON SHORELAND ORDINANCE, CONDITIONAL USE PERMITS AND SOLAR ENERGY SYSTEMS

Discussion on Agenda Items 7)a-c were tabled to the next meeting.

ITEMS FOR FUTURE AGENDAS

Chair Squyres recommended looking at wetland setbacks for a potential change in the ordinance.

The Planning Commission will meet November 14th at 6pm in a work session before the regular meeting begins at 7pm, for the purpose of discussing the Shoreland Management ordinance update.

ADJOURNMENT

Hogle, seconded by Loeffler, moved to adjourn the meeting. The motion carried 4-0.

The meeting adjourned at 9:38 p.m.

Respectfully submitted,

Brenda Eklund
Deputy Clerk