

**WILLMAR PLANNING COMMISSION
CITY OF WILLMAR, MN
WEDNESDAY, JULY 23, 2014**

MINUTES

1. The Willmar Planning Commission met on Wednesday, July 23, 2014, at 7:00 p.m. at the Willmar Fire Hall Training Room-515 2nd St. SW.

** Members Present: Mark Klema, Randy Czarnetzki, Sandy Bebler, Bob Poe, Scott Thaden, Margaret Fleck, and Aaron Larson.

**Members Absent: Gary Geiger, Andrew Engan.

** Others Present: Andrew Steil, Cathy Hedlof, Zack Liebl, Josh Thelen, Adam Hedlof, Gary Hedlof, Marshall Brinton, Peter Jaekel, Peter Blume, Bruce D. Peterson- Director Planning and Development Services, and Megan DeSchepper- Planner.

2. MINUTES: The minutes of the July 9, 2014 meeting were approved as submitted.

3. SPICHKE DOG GROOMING SALON HOME OCCUPATION CUP FILE # 14-07:
The public hearing opened at 7:03 p.m. Staff presented the request on behalf of Debra Spichke, for a home occupation dog grooming salon conditional use permit on property legally described as follows: Lot 16 excluding the northerly 25', Highland Addition to Willmar (319 Becker Ave. SE). The home occupation will take place in the basement, Ms. Spichke's daughter, Brenna, will do dog grooming, and Ms. Spichke will do bookkeeping. Both women reside at the home. There is adequate off-street parking in the driveway for three vehicles. And there will be no exterior modifications to the home or exterior storage of product.

No one appeared to speak for or against the request and the public hearing closed at 7:07 p.m.

Staff comments were reviewed and discussed (see Attachment A).

The Planning Commission talked about the rear yard and perhaps requiring fencing to ensure dogs are contained on the property. Barking dogs and animal waste were discussed. They talked about the hours of operation and what are generally acceptable hours in a residential setting.

Mr. Thaden made a motion, seconded by Ms. Bebler, to approve the home occupation conditional use permit with the following conditions:

- A. Home occupation signs require a sign permit separate from CUP approval.
- B. Hours of operation shall be limited to the hours of 8 a.m. to 8 p.m. on weekdays and 8 a.m. to 12:00 noon on Saturdays.

- C. The use shall meet all applicable local, state, and federal rules and regulations at all times.
- D. There shall be no exterior storage of animals or kenneling.

The Planning Commission made affirmative findings of fact as per Section 9.E.3.a.1-7.

The motion carried.

- 4. BRINTON MEDICAL MARIJUANA PRODUCTION LAB/DISPENSARY CUP FILE # 14-06: Marshall K. Brinton, DVM, Willmar, MN, presented his request for a conditional use permit for the operation of a medical marijuana production lab/dispensary on property legally described as follows: the east 168' of Government Lot 5 south of RR r-o-w AND the west 130' of the east 298' excluding the south 306' all in Government Lot 5 south of RR r-o-w (208 Lakeland Dr. SE). Dr. Brinton explained that his building was a veterinary vaccine lab until about a year ago when he retired and closed the lab. The building has been for sale since that time and is 15,000 sq. ft. with 6 laboratories with lab equipment still in place. When he read about the State of Minnesota's newly adopted medical marijuana law, he determined that his lab could do the work to extract the THC for the medicine production.

Dr. Brinton researched the state law and made the following salient points: Patients have to register for the medicine annually and only those with specified ailments qualify. The State will license two facilities and each of those two facilities will operate 3 dispensary sites. Security is required with closed circuit cameras inside and outside the facility and scan cards to enter the facility. The Minnesota Department of health will license and inspect the facility and set up independent testing of the product being produced. Each dispensary will be run by a licensed Pharmacist and all employees at each facility will have to pass an extensive background check. There are 20-30 parking spaces available for patients in the front of the building including handicapped accessible spaces. The facility is handicapped accessible. Employees could park on the rear/side of the property which could be expanded as needed. And finally, even if the City grants the conditional use permit there is no guarantee that the use will ever occur or that the state will license the facility for such a use.

The public hearing opened at 7:29 p.m.

Peter Jaekel, a Willmar resident, has lived in the community for 16 years and worked in the poultry vet center for Dr. Brinton for 10 years. He said he just wanted to let the Commission know that Dr. Brinton is a stand up professional with an excellent reputation and will follow all the rules and regulations.

Andrew Steil, an Attorney for Best Vet Services, spoke on behalf of his client, a nearby property owner with concerns regarding the proposed use. There is concern about how the use with the high security will negatively affect abutting property values. The current vacant building could be used for a multitude of uses, and the equipment could be sold as well. He said the proposal is simply a marketing ploy by the applicant. Mr. Steil

inquired what the safety plan will be. The whole process statewide is very preliminary at this point. There are some nearby residences in the area with children's play equipment in the yard etc. The facility could include growing of plants, production, and distribution. He asked the Commission does Willmar want to be known for allowing this.

With no further comment from the public, the hearing was closed at 7:35 p.m.

The Planning Commission reviewed and discussed staff comments (see Attachment A).

The Planning Commission reviewed the stipulations of the Statute. There is no school within 1000' of the property. Signage is regulated by the Zoning Ordinance as well as any regulation at the state level. Dr. Brinton stated he won't be operating the facility, but could partner with or sell to an entity that could apply for a license to grow, produce, and dispense out of the facility. They inquired about patient capacity. Dr. Brinton said the State estimates that there are 5,000 people in the entire State that would utilize the medicine.

Staff reviewed the matter via the land use perspective. Minnesota Department of Health will dictate the licensing and security. An argument for land values would have to have value studies/statistics from similar situations elsewhere to show a factual shift in values in other communities. The properties in the area are all zoned commercial or industrial; the two homes in the area are non-conforming uses.

The Commission discussed public safety concerns at the local level. They inquired if the cameras would be run by the company on site or a third party independent company. Dr. Brinton stated that the Statute did not specify the running of the cameras.

The Commission then talked about the use being no more dangerous or different than pharmacies where narcotic prescriptions are filled.

Mr. Czarnetzki made a motion, seconded by Ms. Fleck, to approve the conditional use permit with the following conditions:

- A. The property, owner/operator, and operation shall be in full compliance with the Statute and receive all approvals, licenses, authorizations, and certifications as required from the Department of Health and any other applicable regulatory agency.
- B. Any future occupant using the building for the proposed purpose shall come back to the Planning Commission for operational approvals (such as parking, hours of operation, security measures, signage etc.).
- C. The use shall meet all applicable local, state, and federal laws and regulations at all times.

Staff commented that the hours of operation and security measures could be removed from the conditions as the State will regulate that portion of the use.

Mr. Klema made a motion, seconded by Mr. Larson, to remove hours of operation, and security measures from condition letter B.

The motion carried.

The Planning Commission reviewed and made the following affirmative findings of fact as per Section 9.E.3.a.1-7.:

1. That the conditional use, with such conditions as the Commission shall determine and attach, conforms to the purpose and intent of this Ordinance, and is in conformity with the Comprehensive Land Use Plan of the City as the use will be a similar use to medical labs and pharmacies which are permitted in the General Business District.
2. That there was no factual demonstration of a substantial/appreciable negative impact on values to properties in the neighborhood from the proposed conditional use as no value studies were submitted.
3. The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance to the community as the existing building is of no significance.
4. That the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district as zoned as the area is a fully developed neighborhood.
5. That adequate utilities, access roads, stormwater management, and other necessary facilities have been, or are being, provided as it's an existing facility and all utilities are already in place and functional.
6. That adequate measures have been, or will be, taken to provide ingress and egress in such a manner as to minimize traffic congestion and maximize public safety in the public streets as the street accesses and curb cuts are already existing and functional.
7. The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible with the existing or intended character of the surrounding area/neighborhood as it is a fully built out area and all the buildings have co-existed and functioned commercially and industrially for some time.

The Commission further discussed that often times the applicant is the operator of the business, and that this is a unique request in that the applicant is trying to market the property for the use. Staff added that a conditional use, once approved, goes with the property and any future buyer can continue to operate the conditional use if they meet all the conditions.

Planning Commission members then talked further about security fencing, as the statute is vague on the security measures. They discussed the possible need for intrusion protection around the building and parking area. Then the aspect of image and quiet function vs. high security in the area was discussed, as well. The Commission talked about pharmacy regulations and security measures.

Mr. Thaden made a motion, seconded by Mr. Poe, to amend the original motion by adding letter D. as follows:

- D. Fencing shall be added around the perimeter of the building and parking lot as per the Zoning Ordinance of 7' high and barb wired with a gate that would only be open during operating hours.

The motion failed with all members voting no, save for Mr. Thaden who voted aye.

The original motion with the amendment to letter B. carried with all voting aye, save for Mr. Klema who voted no.

- 5. HEDLOF HOUSE MOVE PLAN REVIEW- FILE # 14-06: Adam Hedlof, Willmar, MN, presented a request for plan review for a house move onto a vacant parcel legally described as follows: Lots 5, 6, 7, & the southerly 5' of Lot 4, Block 2, Sunnyside (1204 7 ½ St. SW). The property is zoned R-2 (One and Two Family Residential). Mr. Hedlof plans on living in the home and putting on new siding, roofing, and windows. The rambler is of similar style to other homes in the neighborhood and will fit in well.

Staff comments were reviewed and discussed (see Attachment A).

Mr. Hedlof commented he would finish the dirt work this fall and continue to work on it as he lived in it.

Mr. Thaden made a motion, seconded by Ms. Bebler, to approve the plan review with the following conditions:

- A. The main floor elevations above finished grade shall be consistent with those of nearby houses.
- B. The deadline for completing all exterior work i.e. house exterior, driveway, sidewalk and landscaping shall be May 31, 2015.
- C. A performance bond or certified check in the amount of \$2,500 shall be submitted to the City (prior to issuance of a building permit) as security to ensure completion of the exterior work.
- D. The water and sewer hook-up plans shall be submitted for review and approval by the Engineering Department prior to issuance of a building permit.
- E. The use shall conform to all applicable local, state, and federal laws and regulations at all times.

The Planning Commission reviewed and made affirmative findings of fact in Zoning Ordinance Section 9.4.a.1-7.

The motion carried.

- 6. MISCELLANY- BEEKEEPING DISCUSSION CONTINUED: Mr. Larson made a motion, seconded by Mr. Poe, to take the matter off the table and open it up for Commission discussion.

The motion carried.

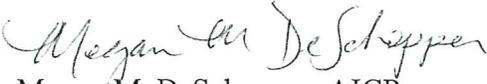
Beekeeping was further discussed in relation to nuisance and allergy concerns and the measurability and enforceability of bee nuisances. The Commission debated the option to do nothing and continue to omit the matter from regulation vs. limiting the number of hives, size, setbacks etc.

As requested by the Commission, Staff contacted the County Sanitarian and he does not regulate or license bee keeping. Staff also contacted the County Zoning Administrator, who said their Ordinance allows bee keeping and honey production as an Ag use and does not address it in any other way. Finally staff contacted the Willmar Police Department. They have only dealt with two bee complaints over the last five years and they both were in the same neighborhood.

Mr. Klema will contact some bee keeping organizations and will bring information from them to a future meeting for further discussion.

7. There being no further information to come before the Commission the meeting closed at 8:31 p.m.

Respectfully submitted,


Megan M. DeSchepper, AICP
Planner/Airport Manager

PLANNING COMMISSION-JULY 26, 2014

STAFF COMMENTS

1. SPICHKE DOG GROOMING SALON HOME OCCUPATION CUP FILE # 14-07:

- The applicant is Debra Spichke, Willmar, MN.
- The applicant is requesting a home occupation dog grooming salon conditional use permit on property legally described as follows: Lot 16 excluding the northerly 25', Highland Addition to Willmar (319 Becker Ave. SE).
- The property is zoned R-2 (One and Two Family Residential).
- The property is accessed via Becker Ave. SE.
- The dog grooming salon will operate in the basement and the business will be run by the applicant's daughter, Brenna Spichke, who also resides in the home. Debra will assist with the bookkeeping.
- The driveway has three off-street parking spaces, to accommodate two clients whose appointments overlap.
- No exterior changes will occur to the home, except for a sign which requires a separate permit and must follow the Zoning Ordinance size requirements.
- No exterior storage of materials or products will occur.
- Hours of operation?

RECOMMENDATION: Approve the conditional use permit with the following conditions:

- A. Home occupation signs require a permit separate from CUP approval.
- B. Hours of operation shall be limited to the hours of 8 am to 5 pm.
- C. The use shall meet all applicable local, state, and federal rules and regulations at all times.

2. BRINTON MEDICAL MARIJUANA PRODUCTION LAB/DISPENSARY CUP FILE # 14-06:

- The applicant is Marshall K. Brinton, DVM, Willmar, MN.
- The applicant is requesting a conditional use permit to market the use of an existing vacant building which was a veterinary vaccine production lab as a medical marijuana production lab/dispensary on property legally described as follows: the east 168' of Government Lot 5 S of RR r-o-w AND The west 130' of the east 298' excluding the s 306' all in government Lot 5 S of RR r-o-w (208 Lakeland Dr. SE).
- The Minnesota Department of Health will be selecting and registering a total of two manufacturers. And of those two manufacturers, each will be required to operate no more than four distribution facilities within the state. The applicant has not submitted an application with the State, nor does he have any state license or approvals. He plans on marketing his building for such a use and does not plan on operating the business himself, but first wanted to know if the City of Willmar would permit such a use at the property. There is no guarantee that an application with the Minnesota Department of health for this property would be approved.

- The property is zoned GB (General Business). The building is 13,640 sq. ft. in size. The lot is 58,050 sq. ft.
 - The property is accessed via Lakeland Dr. SE.
 - The state will be soliciting bids for medical cannabis manufacturers in late summer or fall of 2014. The Commissioner of Health will assess applications using several factors, including: technical expertise in growing cannabis and in making medicine in acceptable forms, qualifications of employees, financial condition, security precautions, and projected fees to patients.
 - As the proposed use is not listed in any zoning district in the Zoning Ordinance, the conditional use permit process is required.
 - There are no striped parking spaces on site; number of proposed employees and patients is unknown as the applicant would not be running the facility.
 - Hours of operation are unknown.
 - Building modifications required for State License would be increased security measures (cameras inside/outside etc.). The applicant is unaware of any other exterior modifications that may be required.
 - Growing, production, and dispensing could all occur inside the facility.
- RECOMMEDATION: approve the conditional use permit with the following condition:
- A. The property, owner/operator, and operation shall be in full compliance with the statute and receive all approvals, licenses, authorizations, certifications as required from the Department of Health and any other applicable regulatory agency.
 - B. Any future occupant using the building for the proposed purpose shall come back to the Planning Commission for operation approvals (such as parking, hours of operation, security measures, signage etc.).
 - C. The use shall meet all applicable local, state, and federal laws and regulations at all times.

3. HEDLOF HOUSE MOVE PLAN REVIEW- FILE # 14-06:

- The applicant is Adam Hedlof, Willmar, MN.
- The applicant is proposing to move a house to a vacant parcel legally described as follows: Lots 5, 6, 7, & the southerly 5' of Lot 4, Block 2, Sunnyside (1204 7 ½ St. SW).
- The applicant proposes moving a house from 1218 13th Ave. SW to his property at 1204 and residing the home etc. The home is a rambler, similar in style to other homes in the neighborhood.
- The applicant plans on living in the single family home.
- The property is zoned R-2 (One and Two Family Residential).
- The applicant proposes residing, reroofing, and installing new windows on the home.
- All the building setback requirements are met on the site plan. The driveway shall be setback a minimum of 5' from the north property line, not up to the property line as depicted on the site plan.

- The Planning Commission can assign a performance bond or other security to ensure that the exterior improvements are completed and done in a timely fashion.
- Water and sewer hook-ups and plan shall be submitted for review and approval by the Engineering Department prior to issuance of a building permit.

RECOMMENDATION: to approve the house move with the following conditions:

- A. The main floor elevations above finished grade shall be consistent with those of nearby houses.
- B. The deadline for completing all exterior work i.e. house exterior, driveway, sidewalk, landscaping, etc. shall be May 31, 2015.
- C. A performance bond or certified check in the amount of \$2,500 shall be submitted to the City (prior to the issuance of a building permit) as security to ensure completion of the exterior work.
- D. The water and sewer hook-up plans shall be submitted for review and approval by the Engineering Department prior to issuance of a building permit.
- E. The use shall at all times conform to all applicable local, state, and federal laws and regulations.

NOTICE OF HEARING ON A REQUEST TO SUBDIVIDE PROPERTY

Notice is hereby given that the City of Willmar Planning Commission will meet on Wednesday, August 27, 2014, at 7:03 p.m. at the City Office Building (Conference Room #2 upstairs), 333 6th St. SW, Willmar, Minnesota, to conduct a public hearing to hear reasons for and against a subdivision plat submitted by RAK Construction LLC, Willmar, MN. Said plat is a six lot subdivision of property described as: Lots 6, 7, 8, 9, 10, 11, 12, 13, and 14, Block 1, Terraplane Addition (2400 Block of 3rd Ave. SE).

All property owners or residents living in the vicinity of the above described property are hereby notified of the public hearing and that they may appear in person or be represented by counsel to be heard on this matter.

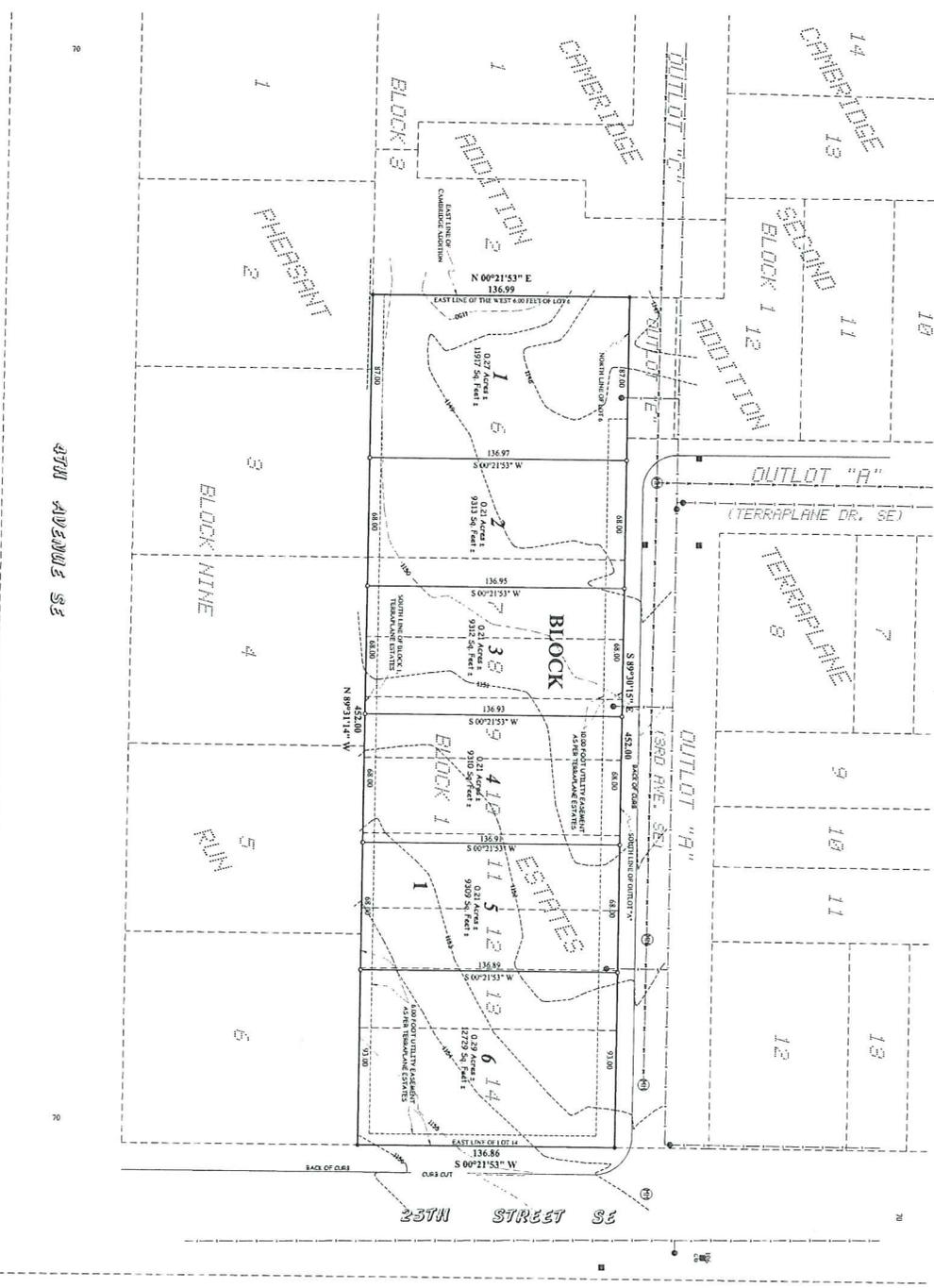
August 15, 2014
Date

Megan M. DeSchepper
Planner

Si Usted no lee inglés o si este aviso no contiene una explicación suficiente, por favor comuníquese con Jill al 231-8575, de la Cooperativa de Integración del Oeste Central.

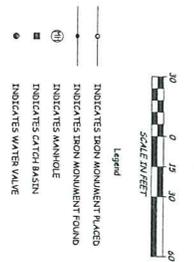
Hadii Aadan Akhriyi Karin Ama Aadan Fahmeeynin Ogeeysiiskan, Fadlan Soo WAC Contact:
Lul Yusaf, Somali Women & Family Center (320)235-0532 or (678)467-3217.

PRELIMINARY PLAT OF CAMBRIDGE THIRD ADDITION



LEGAL DESCRIPTION

Lots 6, 7, 8, 9, 10, 11, 12, 13, and 14 of Block 1, TERRAPLANE ESTATES as of public record, and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16 of Block 1, CAMBRIDGE THIRD ADDITION, less and except the West 6.00 feet of said Lot 6. Subject to easements of record. Containing 1.42 acres more or less.



JOB NO: 2014-285
 FILE NAME: 2014-285PP.DWG
 LOCATION: 13-119-35

PRELIMINARY PLAT PREPARED FOR:
KOOSMAN HOMES

NOTE: THIS SURVEY IS INTENDED ONLY FOR THE BENEFIT OF THE PARTY TO WHOM IT WAS PREPARED FOR AND SHOULD NOT BE RELIED UPON BY ANY OTHER PARTY WHO RECEIVES AND MAKES THIS DRAWING UNAUTHORIZED REPRODUCTION OF THIS DOCUMENT IS PROHIBITED.

370 CHAPEL HILL RD, SUITE 105
 COLD SPRING, MN 55320
 PH. 320-485-5905
 FAX 320-685-3056

PRELIMINARY PLAT PREPARED BY:
O'MALLEY & KRON
 LAND SURVEYORS, INC.

1004 3rd ST SE
 WILLAMAN, MN 56201
 PH. 320-239-4012
 FAX 320-685-3056

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED AND REGISTERED IN ACCORDANCE WITH THE SURVEYING ACT AND THAT ALL DATES REGISTERED AND EXCEPTED ARE CORRECT AND THAT I AM A DULY REGISTERED LAND SURVEYOR IN THE STATE OF MINNESOTA. DATE: 11-11-14 MINNESOTA REGISTRATION NO. 2188

SHEET 1 OF 1

**NOTICE OF HEARING ON A REQUEST FOR
A CONDITIONAL USE PERMIT**

Notice is hereby given that the City of Willmar Planning Commission will meet on Wednesday, August 27, 2014, at 7:01 p.m. at the City Office Building (Conference Room # 2 upstairs), 333 6th St. SW, Willmar, Minnesota, to conduct a public hearing to hear reasons for and against a conditional use permit requested by RAK Construction, Willmar, MN, to allow a planned unit residential development for six twin home rentals on property described as: Lots 6, 7, 8, 9, 10, 11, 12, 13, and 14, Block 1, Terraplane Addition (2400 Block of 3rd Ave. SE).

All property owners or residents living in the vicinity of the above-described property are hereby notified of the public hearing and that they may appear in person or be represented by counsel to be heard on this matter.

August 15, 2014
Date

Megan M. DeSchepper
Planner

Si Usted no lee inglés o si este aviso no contiene una explicación suficiente, por favor comuníquese con Jill al 231-8575, de la Cooperativa de Integración del Oeste Central.

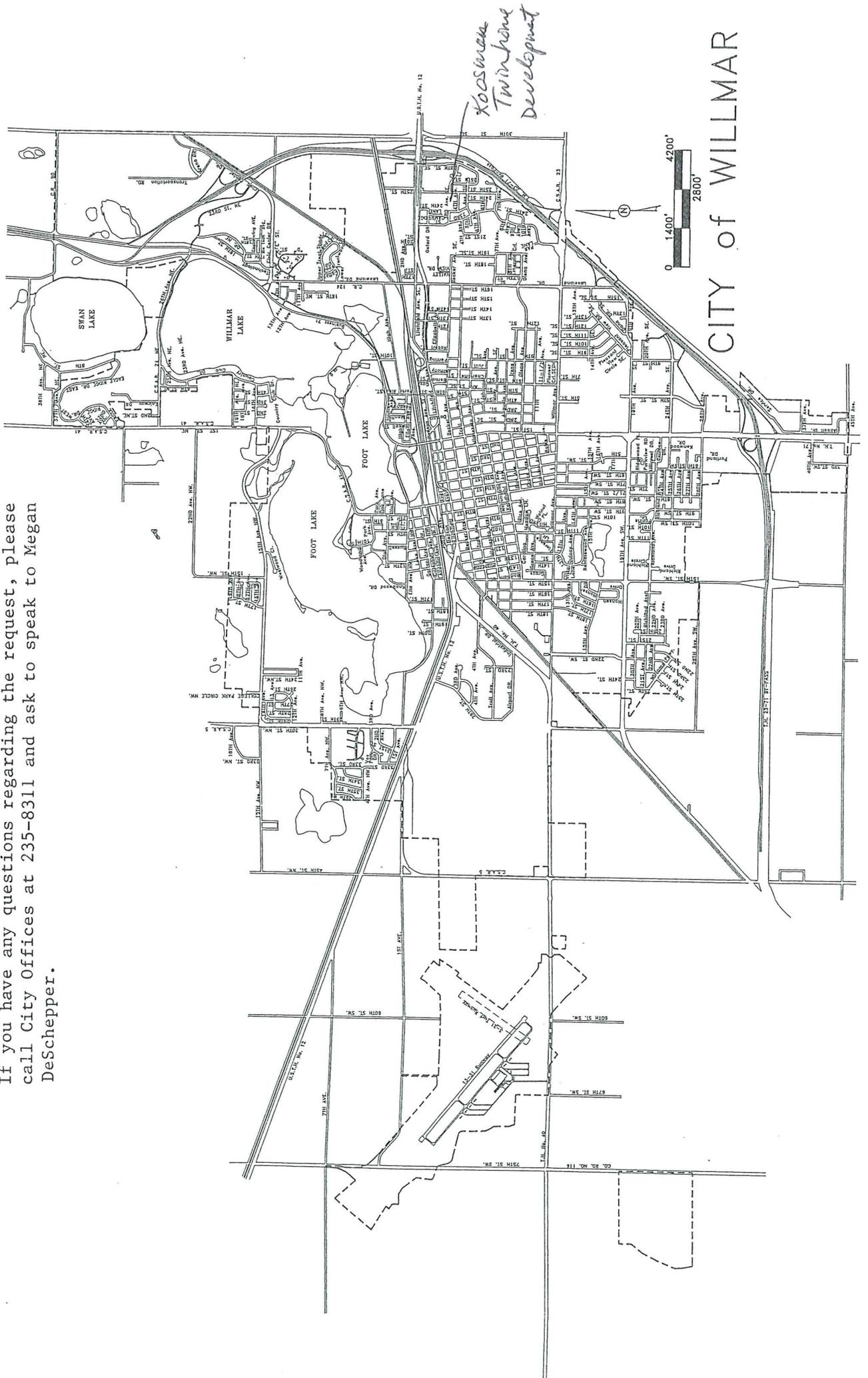
Hadii Aadan Akhriyi Karin Ama Aadan Fahmeeynin Ogeeysiiskan, Fadlan Soo WAC Contact:
Lul Yusaf, Somali Women & Family Center (320)235-0532 or (678)467-3217.

To approve a conditional use permit, the Planning Commission must make, where applicable, the following affirmative findings:

1. That the conditional use, with such conditions as the Commission shall determine and attach, conforms to the purpose and intent of this Ordinance, and is in conformity with the Comprehensive Land Use Plan of the City.
2. That there was no factual demonstration of a substantial/appreciable negative impact on values to properties in the neighborhood from the proposed conditional use.
3. The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance to the community.
4. That the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district as zoned.
5. That adequate utilities, access roads, stormwater management, and other necessary facilities have been, or are being, provided.
6. That adequate measures have been, or will be, taken to provide ingress and egress in such a manner as to minimize traffic congestion and maximize public safety in the public streets.
7. The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible in appearance with the existing or intended character of the surrounding area/neighborhood.

If you have any specific questions regarding the request, call City Offices at (320)235-8311 and ask to speak to Megan DeSchepper, City Planner.

If you have any questions regarding the request, please call City Offices at 235-8311 and ask to speak to Megan DeSchepper.



Megan DeSchepper

From: Mark Klema <markkl@bolton-menk.com>
Sent: Thursday, July 31, 2014 1:49 PM
To: Megan DeSchepper
Subject: FW: City of Willmar - Beekeeping Ordinance

From: Terry McDaniel [mailto:toplinephoto@q.com]
Sent: Monday, July 28, 2014 5:06 PM
To: Mark Klema
Subject: Re: City of Willmar - Beekeeping Ordinance

Hello Mark,

I am a past president form 2012 and now one of our web masters.

I have an old model ordinance from 2007. I've attached it. I will see if there is anything more current. I

highly recommend that you let folks raise honeybees.

The more people that can help keep the population up the better. The more people learn about our pollinators the less people are afraid of the honeybees. The wasps, and hornets are the bees that usually bother people at picnics etc. Honeybees just want to do their work and go about their business. They do not like refined sweeteners and basically are foraging flowers for nectar and pollen to bring back to their hives. Nectar is their source of carbohydrate and pollen is their protein.

People generally have to take a class to learn how to keep healthy honeybees. On our website there is a link to classes you are welcome to use our website for educational purposes. We are a very active group of beekeepers from all over the state but mostly locally around the metro and suburbs. I'm sure one of the other people you emails will have some comments as well. You're always welcome to email me again with more question.

Terry McDaniel
612-483-4402

From: "Mark Klema" <markkl@bolton-menk.com>
To: "president@mnbeekeepers.com" <president@mnbeekeepers.com>
Cc: "past.president@mnbeekeepers.com" <past.president@mnbeekeepers.com>, "editor@mnbeekeepers.com" <editor@mnbeekeepers.com>, "membership@mnbeekeepers.com" <membership@mnbeekeepers.com>, "librarian@mnbeekeepers.com" <librarian@mnbeekeepers.com>, "webmaster@mnbeekeepers.com" <webmaster@mnbeekeepers.com>
Sent: Monday, July 28, 2014 3:10:13 PM
Subject: City of Willmar - Beekeeping Ordinance

Hello. I am chair of the City of Willmar's Planning Commission. We are responsible for land use planning, zoning, and ordinances within the City.

We are considering revising our zoning ordinance regarding allowing hobby beekeeping within the city limits. Would the MHPA have an opinion

for/against allowing hobby beekeeping in our city? If so, is there any information you would like to provide for us to consider?

I would also be happy to talk with you on the phone, my cell number is 320-905-6154, please feel free to contact my anytime. Thank you.

Sincerely,

Mark Klema
Willmar Planning Commission Chair

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

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Terry McDaniel
612-483-4402
<http://terrymcdanielphotography.com>

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MODEL BEEKEEPING ORDINANCE

prepared by the
Minnesota Hobby Beekeepers Association

This model ordinance is not intended to be adopted without legal review by counsel representing the jurisdiction considering it. Like any proposed ordinance, it must be reconciled with existing ordinances and may be revised to fit community standards and needs. Our purpose in advancing the model ordinance is to offer a document with the apicultural framework we believe will enable hobbyist and sideliner beekeepers to safely and successfully pursue this pleasurable and economically, culturally and agriculturally critical activity in urban and suburban areas.

WHEREAS, honey bees (*apis mellifera*) are of benefit to mankind, and to Minnesota in particular, by providing agriculture, fruit and garden pollination services and by furnishing honey, and other useful products; and

WHEREAS, Minnesota is among the leading states in honey production and agricultural by products associated with beekeeping throughout the United States; and

WHEREAS, domestic strains of honey bees have been selectively bred for desirable traits, including gentleness, honey production, tendency not to swarm and non-aggressive behavior, characteristics which are desirable to foster and maintain; and

WHEREAS, gentle strains of honey bees can be maintained within populated areas in reasonable densities without causing a nuisance if the bees are properly located and carefully managed;

NOW THEREFORE, be it ordained and enacted by _____:

Section 1. Preamble Adopted.

That the findings contained in the preamble of this ordinance are hereby adopted as a part of this ordinance.

Section 2. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed in this section unless the context of their usage indicates another usage.

- 2.1 "Apiary" means the assembly of one or more colonies of bees at a single location.
- 2.2 "Beekeeper" means a person who owns or has charge of one or more colonies of bees.
- 2.3 "Beekeeping equipment" means anything used in the operation of an apiary, such as hive bodies, supers, frames, top and bottom boards and extractors.

- 2.4 “Colony” means an aggregate of bees consisting principally of workers, but having, when perfect, one queen and at times drones, brood, combs, and honey.
- 2.5 “Hive” means the receptacle inhabited by a colony that is manufactured for that purpose.
- 2.6 “Honey bee” means all life stages of the common domestic honey bee, *apis mellifera* species.
- 2.7 “Lot” means a contiguous parcel of land under common ownership.
- 2.8 “Nucleus colony” means a small quantity of bees with a queen housed in a smaller than usual hive box designed for a particular purpose.
- 2.9 “Undeveloped property” means any idle land that is not improved or actually in the process of being improved with residential, commercial, industrial, church, park, school or governmental facilities or other structures or improvements intended for human occupancy and the grounds maintained in associations therewith. The term shall be deemed to include property developed exclusively as a street or highway or property used for commercial agricultural purposes.

Section 3. Purpose of Ordinance.

- 3.1 The purpose of this ordinance is to establish certain requirements for beekeeping within the City, to avoid issues which might otherwise be associated with beekeeping in populated areas.
- 3.2 Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony constitutes a nuisance, but such compliance may be offered as evidence of the beekeeper’s efforts to abate any proven nuisance.
- 3.3 Compliance with this ordinance shall not be a defense to a proceeding alleging that a given colony violates applicable ordinances regarding public health, but such compliance may be offered as evidence of the beekeeper’s compliance with acceptable standards of practice among hobby beekeepers in the State of Minnesota.

Section 4. Standards of Practice.

- 4.1 Honey bee colonies shall be kept in hives with removable frames, which shall be kept in sound and usable condition.
- 4.2 Each beekeeper shall ensure that a convenient source of water is available to the colony so long as colonies remain active outside of the hive.
- 4.3 Each beekeeper shall ensure that no wax comb or other material that might encourage robbing by other bees are left upon the grounds of the apiary lot. Such materials once removed from the site shall be handled and stored in sealed containers, or placed within a building or other insect-proof container.
- 4.4 For each colony permitted to be maintained under this ordinance, there may also be maintained upon the same apiary lot, one nucleus colony in a

hive structure not to exceed one standard 9-5/8 inch depth 10-frame hive body with no supers.

- 4.5 Each beekeeper shall maintain his beekeeping equipment in good condition, including keeping the hives painted if they have been painted but are peeling or flaking, and securing unused equipment from weather, potential theft or vandalism and occupancy by swarms. It shall not be a defense to this ordinance that a beekeeper's unused equipment attracted a swarm and that the beekeeper is not intentionally keeping bees.

Section 5 Colony Density.

- 5.1 Except as otherwise provided in this ordinance, in each instance where a colony is kept less than 25 feet from a property line of the lot upon which the apiary is located, as measured from the nearest point on the hive to the property line, the beekeeper shall establish and maintain a flyway barrier at least 6 feet in height. The flyway barrier may consist of a wall, fence, dense vegetation or a combination thereof, such that bees will fly over rather than through the material to reach the colony. If a flyway barrier of dense vegetation is used, the initial planting may be 4 feet in height, so long as the vegetation normally reaches 6 feet in height or higher. The flyway barrier must continue parallel to the apiary lot line for 10 feet in either direction from the hive, or contain the hive or hives in an enclosure at least 6 feet in height. A flyway barrier is not required if the property adjoining the apiary lot line (1) is undeveloped, or (2) is zoned agricultural, industrial or is outside of the City limits, or (3) is a wildlife management area or naturalistic park land with no horse or foot trails located within 25 feet of the apiary lot line.
- 5.2 No person is permitted to keep more than the following numbers of colonies on any lot within the City, based upon the size or configuration of the apiary lot:

a. One half acre or smaller lot	2 colonies
b. Larger than 1/2 acre but smaller than 3/4 acre lot	4 colonies
c. Larger than 3/4 acre lot but smaller than 1 acre lot	6 colonies
d. One acre but smaller than 5 acres	8 colonies
e. Larger than 5 acres	no restriction
- 5.3 Regardless of lot size, so long as all lots within a radius of at least 200 feet from any hive, measured from any point on the front of the hive, remain undeveloped, there shall be no limit to the number of colonies. No grandfathering rights shall accrue under this subsection.
- 5.4 If the beekeeper serves the community by removing a swarm or swarms of honey bees from locations where they are not desired, the beekeeper shall not be considered in violation the portion of this ordinance limiting the number of colonies if he temporarily houses the swarm on the apiary lot in compliance with the standards of practice set out in this ordinance for no more than 30 days from the date acquired.

Section 6. Inspection.

A designated City official shall have the right to inspect any apiary for the purpose of ensuring compliance with this ordinance between 8 a.m. and 5 p.m. once annually upon prior notice to the owner of the apiary property, and more often upon complaint without prior notice.

Section 7. Presumed Colony/Hive Value.

For the purpose of enforcing City ordinances against destruction of property, each colony/hive shall be presumed to have a value of \$275.

Section 8. Compliance.

8.1 Upon receipt of credible information that any colony located within the City is not being kept in compliance with this ordinance, [the designated City official] shall cause an investigation to be conducted. If the investigation shows that a violation may exist and will continue, [the designated City official] shall cause a written notice of hearing to be issued to the beekeeper, which notice shall set forth:

- a. The date, the time and the place that the hearing will be held, which date shall be not less than 30 days' from the date of the notice;
- b. The violation alleged;
- c. That the beekeeper may appear in person or through counsel, present evidence, cross examine witnesses and request a court reporter, and
- d. That if [the designated City official] finds that they have been kept in violation of this ordinance, and if the violation is not remediated within the time allowed, the bees may be ordered removed and/or destroyed.

Notices shall be given by certified US Mail return receipt requested or personal delivery. However, if the beekeeper cannot be located, then notice may be given by publication in a legal newspaper for the county in which the apiary property is located, at least seven days before the hearing.

8.2 The hearing shall be conducted by [the designated City official]. The burden shall be on the City to demonstrate by a preponderance of evidence that the colony or colonies have been kept in violation of this ordinance. If [the designated City official] finds a violation, then he/she may order that the bees be removed from the City or such other action as may address the violation, and that the apiary lot be disqualified for permitting under this ordinance for a period of 2 years from the date of the order, the apiary lot ownership changes, in which case the prohibition shall terminate. If the order has not been complied with within 20 days of the order, the City may remove or destroy the bees and charge the beekeeper with the cost thereof. Upon destruction of bees by the City, all equipment shall be returned by the City to the beekeeper, with expenses of

transportation to be paid by the beekeeper. The City's destruction of the bees shall be by a method that will not damage or contaminate the equipment, include wax foundation.

- 8.3 The decision of the hearing officer may be appealed by the beekeeper as provided in the City's rules and procedures. If no provision for appeal exists, then the beekeeper may file a notice of appeal with the City secretary within 15 days of the date the order is placed in US Mail to the beekeeper, or 10 days if the decision is announced at the hearing by [the designated City official]. An appeal shall not stay [the designated City official]'s decision, and the beekeeper shall be required to comply with such order pending the outcome of the appeal.
- 8.4 No hearing and no order shall be required for the destruction of honey bees not residing in a hive structure that is intended for beekeeping.

Section 9. Savings Clause.

In the event any part of this ordinance or its application to any person or property is held to be unenforceable for any reason, the unenforceability thereof will not affect the enforceability and application of the remainder of this ordinance, which will remain in full force and effect.

Section 10. Effective Date.

This ordinance shall become effective on _____, 20_____.

h. ~~Bus~~ *Vehicle Signs.*

~~Bus Vehicle signs and wraps shall only be permitted on public transit buses business owned or use vehicles (not permissible on privately owned vehicles for advertising purposes only), and shall be regulated as follows:~~

~~Maximum sign area shall not exceed fifteen (15) square feet per side or rear of the bus.~~

Signs are to be flush-mounted or adhesive-backed on *horizontal and vertical surfaces* of the vehicle only, *vertical signs that are not flush cannot exceed 2 sq. ft.* in size. *Vehicle wraps are permitted.*

~~A Special Sign Permit shall be required for each transit bus vehicles carrying such advertising. Each permit shall be valid for a period of one (1) year from the date of issuance.~~