

CITY OF GRANT
MINUTES

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DATE : June 27, 2023
TIME STARTED : 6:36 p.m.
TIME ENDED : 7:49 p.m.
MEMBERS PRESENT : Councilmember Carr, Tufty, Rog, Giefer,
and Mayor Huber
MEMBERS ABSENT : None

Staff members present: City Engineer, Brad Reifsteck; City Planner, Jennifer Swanson; City Attorney Christina Benson; City Treasurer, Sharon Schwarze and Administrator/Clerk, Kim Points

CALL TO ORDER

The meeting was called to order at 6:30 p.m.

PUBLIC INPUT

Mr. Jim Opp, 9130 Knollwood Drive, came forward and inquired about the Knollwood Road Project.

Mr. Jeff Schafer, 8688 Jamaca Ave N, came forward and commented on the Fire Warden appointment.

PLEDGE OF ALLEGIANCE

SETTING THE AGENDA

Council Member Rog moved to approve the agenda, as presented. Council Member Tufty seconded the motion. Motion carried unanimously.

CONSENT AGENDA

May 3, 2023 City Council Meeting Minutes	Approved
June 2023 Bill List, \$73,234.26	Approved
Washington County Sheriff, Jan-June Police Services, \$84,249.53	Approved
Kline Bros. Excavating, Grading, \$42,942.50	Approved
Resolution No. 2023-14, Support of County State Aid Highway 96	Approved

1 ARC Paving, Potholing, \$16,124.70

Approved

2
3 **Council Member Giefer moved to approve the consent agenda, as presented. Council Member**
4 **Tufty seconded the motion. Motion carried unanimously.**

5 .
6 **STAFF AGENDA ITEMS**

7
8 **City Engineer, Brad Reifsteck**

9
10 **Consideration of Resolution No. 2023-12, Declaring Costs and Set Assessment Hearing, Honeye**
11 **Avenue, 115th Street and Hillcrest Court Street Improvement Project** – City Engineer Reifsteck
12 advised the proposed improvements include street reclamation, subgrade preparation and bituminous
13 paving for Honeye Ave, 115th Street and Hillcrest Court.

- 14
15 • The City Council received the feasibility report at the March 7, 2023, regular council meeting.
- 16
17 • The City Council ordered the public improvement for the project following a noticed public
18 hearing at the April 4, 2023, regular council meeting.
- 19
20 • The City Council approved the Plans and Specifications and Ordered the Advertisement for
21 Bids on May 2, 2023, regular council meeting. Bids were received on June 8th, 2023. The
22 apparent low bidder is OMG Midwest Inc with a bid amount of \$299,873.30. Bids may be
23 considered for award at the September 5th, 2023, regular council meeting.
- 24
25 • The project costs to be incurred for the improvement is estimated at \$350,873.30. Project
26 costs includes items, such as, construction, engineering, legal, financing and administrative
27 costs. The city may contribute 10% of the costs or \$34,785.30 to the project, therefore, the
28 total amount to be assessed is estimated at \$313,067.70 and the preliminary assessment per
29 buildable unit is estimated at \$12,157.97.
- 30
31 • Projects funded using special assessments are required by law to follow Minnesota State
32 Statute, Chapter 429. A public hearing is required to consider the adoption of assessments.
33 This hearing is proposed to be held at the regular City Council meeting on August 1, 2023.

34
35 **Council Member Giefer moved to adopt Resolution No. 2023-12 as presented. Council Member**
36 **Tufty seconded the motion. Motion carried unanimously.**

37
38 **Consideration of Resolution No.2023-13, Ordering Preparation of Plans and Specifications,**
39 **Calling Public Hearing, Knollwood Drive Street Improvement Project** – City Engineer Reifsteck
40 advised to authorize by resolution the receipt by the City Council of a revised Feasibility Report,
41 Preparation of Plans and Specifications, and scheduling a Public Improvement Hearing to order the
42 improvements.

43
44 **Facts:**

- 1 1. The original feasibility study was accepted by Council on December 5, 2020, and included the
- 2 following streets:
- 3 • 105th Street N
- 4 • Inwood Avenue N
- 5 • Knollwood Drive N
- 6 2. Recently a parcel owner along Knollwood Drive has informed the city in writing that they
- 7 would like to move forward with the petitioned improvements to Knollwood Drive.
- 8 3. The original feasibility report has been revised to reflect 2023 costs and a mock assessment
- 9 roll for Knollwood Drive. The revised costs and mock assessments are attached for Council’s
- 10 review. If accepted by the Council, the revised report will be made available to residents via
- 11 the City’s website.
- 12 4. The total project cost is estimated at \$219,836.82, including construction, engineering, legal
- 13 and administrative costs. The city had allocated \$16,431 in budgeted maintenance dollars for
- 14 street improvements in 2020.
- 15 5. The project is anticipated to be funded using city maintenance dollars and special assessments
- 16 in accordance with the city’s special assessment policy. A preliminary assessment roll is
- 17 included in the revised report that identifies assessment amounts for the benefitting properties.
- 18 6. The staff is recommending the public hearing considering the improvements be held at the
- 19 August 1st regular council meeting.
- 20

21 **Council Member Rog moved to adopt Resolution No. 2023-13, as presented. Council Member**

22 **Giefer seconded the motion. Motion carried unanimously.**

23

24 **Consideration of Special Roadway Improvement Projects, Paved Aprons, Keats/65th, Jasmine**

25 **Ave/63rd and 88th St/Kimbrow** – City Engineer Reifsteck advised The proposed improvements

26 include new pavement aprons on existing gravel roads and a major road repair on Imperial Avenue.

- 27
- 28 • The paved aprons on gravel roads are proposed to be 100-feet long by the full width of the
- 29 roadway. The paved aprons will eliminate the gravel road wash boarding and rutting that
- 30 occurs at the approaching intersections. The proposed locations are as follows:
- 31
- 32 ○ Keats Ave at 68th Street
- 33 ○ Jasmine Ave at 63rd Street
- 34 ○ 88th Street at Kimbro Avenue
- 35
- 36 • A major roadway repair is required along Imperial Avenue near the intersection of 120th
- 37 Street. The roadway pavement at this location has deteriorated and is no longer serviceable.
- 38 The roadway repair will include new aggregate base class 5 to prepare the roadway subgrade
- 39 and a new 3-inch bituminous mat. The cost of this repair is estimated at \$25,000.
- 40
- 41 • 2 quotes for the work were received. The lowest responsible bidder is TA Schifsky & Sons in
- 42 the amount of \$52,710.00 The project would be funded using special roadway funds.
- 43

44 **Council Member Giefer made a motion to approve the bid from TA Schifsky, as presented with**

45 **the addition of completion of the 80th Street apron. Council Member Tufty seconded the**

46 **motion. Motion carried unanimously.**

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City Planner, Jennifer Swanson

Consideration of Resolution No. 2023-11, Conditional Use Permit for 8-ft Tall Fence and Small-Scall Agricultural Farm, 8495 80h St N – City Planner Swanson advised The Applicant and Owner, Chee Her, is requesting a Conditional Use Permit (CUP) to allow for agricultural production on a portion of their property that includes the construction of an eight (8) foot fence to protect the crop from nuisance animals such as deer. The Applicant and Owner will manage and operate the small agricultural operation from the property that will include off-site sales of the crop at local farmers markets on weekends. The proposed fence is located behind the principal structure along the property lines of the subject property.

A duly noticed public hearing was held on June 13, 2023, and property owners within 1,320-feet were notified of the subject application. A couple members of the public provided public testimony. They expressed concern that the fence, as proposed by the Applicant, would not be structurally sound and that it would fall into disrepair and become an eyesore.

The Public Hearing was closed and the Planning Commission discussed the public testimony and application request. After discussion, the Planning Commission unanimously recommended approval of the CUP request with conditions. The conditions as recommended by the Planning Commission are provided in the attached Draft Conditional Use Permit (CUP).

The following staff report is generally as presented to the Planning Commission, with additions noted by underline.

Application Summary

Applicant and Owner: Chee Her	Site Size: 9.0 Acres (~5.6 Acres of agricultural crop contained within the fenced area)
Zoning: A2 - Agricultural Small Scale Future Land Use: Rural Residential/Ag	Request: Conditional Use Permit (CUP)
Address: 8495 80 th Street N. Grant, MN 55082	Location Description and PIDs: PID 2803021210004 Parcel lies south of 80 th Street N.

City Planner Swanson stated the Applicant is requesting a Conditional Use Permit (CUP) to allow for agricultural operations on a portion of their property and to construct an eight-foot fence around the crop area of the subject parcel. The proposed fenced area is located behind (south) of the existing principal structure and is connected/south of the existing barn on the property. The purpose of the fence is to keep deer out of the agricultural field and protect the crop. The following summary of the proposed operations is provided:

- The Applicant is the owner of the property, and it is their primary residence. The property is homesteaded.

- 1 • The Applicant and their family members will be responsible for operations and management
- 2 of the agricultural production.
- 3 • There are no employees proposed for the agricultural operations.
- 4 • The agricultural products (vegetables) are intended to be grown on site and brought to local
- 5 farmers’ markets for sale.
- 6 • There are no on-site retail sales proposed as part of this operation, all produce/vegetables will
- 7 be brought off-site for sale.
- 8 • The proposed fence is 8-feet tall, and is a T-Post agricultural fence (T-Posts with Barbless
- 9 wires). The area proposed to be fenced is approximately 5.62 Acres and this area would be
- 10 used for agricultural production.
- 11 • Typical agricultural operations extend through the growing season (generally April through
- 12 October/early November).
- 13 • While there are no specific hours of operation (typical farm activities are sun up to sun down
- 14 during the growing season) the Applicant has indicated that Monday through Thursday will be
- 15 field days tending to the vegetables and Friday through Sunday are the farmers market days
- 16 (activities bringing vegetables off site for sale).
- 17 ○ The narrative indicates that on farmers market days, traffic/trip pick up is generally 6
- 18 AM and return trips are 5 PM.

19
 20 City Planner Swanson state the City Code states the following for consideration when reviewing a
 21 Conditional Use Permit (32-141):

- 22
- 23 “(d) In determining whether or not a conditional use may be allowed, the City will consider the
- 24 nature of the nearby lands or buildings, the effect upon traffic into and from the premises and on
- 25 adjoining roads, and all other relevant factors as the City shall deem reasonable prerequisite of
- 26 consideration in determining the effect of the use on the general welfare, public health and safety.”
- 27 (e) If a use is deemed suitable, reasonable conditions may be applied to issuance of a conditional use
- 28 permit, and a periodic review of said permit may be required.”
- 29

30 Section 32-345 Agricultural Operations establishes that the City is a “Right to Farm” community; and
 31 expressly states that “Agricultural operations may occur on parcels of five or more contiguous acres
 32 in agricultural and residential districts...may include the production of farm crops, such as
 33 vegetables, fruit trees, grain and other crops and their storage on the area...” While this is expressly
 34 permitted, the Applicant has requested a CUP be granted to allow for the express permission to farm
 35 in the area and to permit the installation of the fence to protect the crop field. Subsection (h) of this
 36 section further stipulates that under certain conditions a CUP may be granted for agricultural
 37 activities.

38
 39 Section 32-315 Fences does not expressly address agricultural fences, which has been an issue in the
 40 past since the function and design of such fences is different than what is generally addressed within
 41 the code. As such, several of the CUPs granted for other agricultural uses (such as commercial horse
 42 stables) have addressed fencing as part of their conditions.

43

1 The subject site is approximately 9.0 acres and is oriented north-south with the primary frontage
 2 along 80th Street North that forms the northerly property boundary. There is an existing principal
 3 structure (home) and accessory structure (barn) located on the property. That portion of the property
 4 lying south of the existing structures is an agricultural field. Adjacent properties are used primarily
 5 for rural residential uses.

6
 7 The site is guided RR/AG – Rural Residential/Agricultural in the City’s adopted Comprehensive
 8 Plan. Land within the RR/AG land use designation is generally described as supporting rural
 9 residential and agricultural uses with limited non-residential uses that require a CUP. The proposed
 10 principal use of the property is residential use with agricultural production sold off-site as an
 11 accessory use. Both the rural residential use and agricultural production are consistent with the
 12 purpose and intent of the Comprehensive Plan.

13
 14 The Applicant submitted a site plan, aerial and proposed materials for the proposed operation. The
 15 following dimensional review is provided for review and consideration.

16
 17 City Planner Swanson stated the following site and zoning requirements in the A2 district related to
 18 the proposed application. The following review is conducted focusing on the submitted site plan.
 19 Staff comment is in italics.

Dimension	Standard
Minimum Lot Area for Agricultural Production	5 Acres
Frontage on an Improved Public Road	300’
Front Yard	65’
Side Yard Setback (from street in case of corner lot)	65’
Side Yard Setback (from interior lot lines)	20’
Rear Yard Setback	50’
Height of Structure	35’
Fence Location/Height	If at property line, requires permit; up to 8’ within the buildable area of a property

21
Proposed Use

The Applicant’s narrative describes their request for a CUP to expressly allow for agricultural production and sale of such agricultural product off-site at local farmers markets. Section 32-345 establishes Grant as a right-to-farm community, and it was common for commercial agricultural operations to be interwoven with rural residential uses. Over the past few years, the City has transitioned to a predominantly rural residential community, and as such the agricultural uses have become less common and the commercial agricultural plots (while still present) are less common especially on smaller properties. Additionally, since the proposed agricultural production is a smaller operation, they wish to use

the “setback” area as part of the agricultural field and as such the 8-foot agricultural fence is proposed along the property lines.

As previously stated, the proposed agricultural operations are permitted, but staff understands that the Applicant is requesting a Conditional Use Permit (CUP) to secure the right to farm because they are concerned about protecting their agricultural rights given the adjacent predominantly residential uses. While this request is not common, we have evaluated similar requests (e.g., the covenants expressly protecting agricultural uses as part of the Farms of Grant project). As such, the Applicant’s request is being processed to protect the agricultural use and to establish where on the property the agricultural fence is permitted.

Given the request for a CUP, draft conditions related to the agricultural use are provided in the draft CUP attached to this report.

Lot Area, Lot Frontage and Access

Lot Area

The subject property is approximately 9.0 acres and the area proposed to be contained within the fenced area is approximately 5.6 acres. The City’s ordinance requires a minimum of five (5) contiguous acres for agricultural production and the proposed agricultural production area meets this requirement.

Lot Frontage

Per the submitted site plan and GIS records, the subject property has 300-feet of frontage on 80th Street N. The subject property meets this standard.

Access

The subject property is accessed by a single driveway from 80th Street North. The driveway is located near the eastern property line that connects to the existing home and accessory building. No new access is proposed for the use.

Setbacks (Agricultural Field and Fencing)

As shown on the proposed Site Plan, the agricultural operations will be located south of the existing principal and accessory structures on the site. The agricultural production area is proposed to be fully enclosed by an eight-foot-tall agricultural fence on the side and rear property lines. Section 32-315 Fences stipulates that fences up to 8-feet tall are permitted provided that 1) in the side yard that they meet the minimum yard setback; and 2) on the rear yard that they are setback a minimum of 8-feet from the property line. The City’s ordinance does not contemplate agricultural fencing specifically, and therefore the appropriate setback and height has been addressed by the city as part of a CUP process or other land use permitting process in past applications.

As demonstrated on the attached aerial, the principal structure and accessory uses on the adjacent property to the west will have a direct view to the proposed agricultural operation. The presence of the

agricultural fence will not alter this view or provide any sort of visual screening since its construction is essentially stakes and wire. However, it would potentially setback the operations by 20-feet from the property line (note that a farm road/drive could be located outside the fence to access the field, which would be permitted within 5-feet of the property line and that a 6-foot-tall fence is permitted at the property line which may also be an option).

The property lying east of the proposed operations is fully screened and enclosed by significant vegetation. However, again, if applying the strict application of the fence standards it must be setback 20-feet from the property line. The south property line (rear) adjoins the Mahtomedi School campus which has a row of evergreen trees that was a required condition of their CUP. As such, staff believes fencing along this property line will not adversely impact the adjacent property.

Through the course of the discussion at the Planning Commission meeting it was determined that the placement of the proposed agricultural fence can be placed in the same location of the previous/existing fence. The offset of the fence is between 1-5' from the side and rear property lines. This has been included as a condition in the attached draft CUP.

In response to public testimony, the Planning Commission also requested review of the fence design by the City Engineer and the Building Official. That review has been completed, and their recommendations included the following:

- A Building Permit should be obtained for the fence.
- The fence posts should be spaced no further than 15-feet apart.
- Installation of the fence post to 2-feet in depth below ground is consistent with how these fences are typically installed, since there is very little wind shear given its construction.

The conditions are noted in the attached draft CUP for your review and consideration.

Operations

The Applicant submitted a narrative describing the proposed agricultural operations. Their intent is to use an approximately 5.6-acre portion of their property as an agricultural plot to grow vegetables and to sell the crops at local farmers markets throughout the area. The operations and management of the field will be conducted by the Applicant and their family and no employees are proposed. Daily activities are summarized as follows:

- Monday through Thursday: Field Days. Hours of operations will not exceed sun-up to sun-down and no exterior lighting of the fields is proposed (this is standard for farmers hours).

- Friday through Sunday: Farmers Market sale days. Pick-up of product typically around 6 AM and drop off/return around 5PM.
- No retail sales from the site are proposed.

With respect to operations, staff recommends consideration of the following conditions:

- *No retail sales from the site are permitted as part of the CUP. If, in the future any sales from the site, including but not limited to, a roadside stand is proposed an amendment to the CUP may be required.*
- *Vehicle/truck idling must be minimized to the extent possible during load-up on Farmers Market days. Pick-up/loading must be completed efficiently with minimal idling.*
- *All parking must be handled on-site, if other family members not residing on the property assist with the production (Field Days) and/or loading on Farmers Market days.*

1
 2 City Planner Swanson noted the City Engineer and Building Official provided comments and
 3 recommendations regarding the fence construction. Their recommendations are included as
 4 conditions within the draft CUP.

5
 6 The property is within the Rice Creek Watershed District, and it is the Applicant’s responsibility to
 7 obtain any necessary permits. While not stated in the application, if an additional well for irrigation is
 8 needed in the future all permits must be obtained. The Applicant is responsible for obtaining any
 9 other permits that are needed regarding the sale of agricultural products from the site.

10
 11 The Planning Commission unanimously recommended approval of the Conditional Use Permit with
 12 the conditions as noted and included in the attached Permit.

13
 14 **Council Member Rog moved to adopt Resolution No. 2023-11 as presented, with additional**
 15 **conditions relating to setbacks, depth of posts and obtaining a building permit. Council**
 16 **Member Tufty seconded the motion. Motion carried unanimously.**

17
 18 **City Attorney, Nick Vivian (no action items)**

19
 20 **NEW BUSINESS**

21
 22 **Schedule 2024 Budget Work Session** – A 2024 Budget Work Session was scheduled on Tuesday,
 23 August 1, 2023 at 5:30 p.m.

24
 25 **Updated JPA, Washington County, 2024 Elections** – Staff advised a revised Joint Powers
 26 Agreement with Washington County for year 2024 elections was provided in the Council packets.

1
2 **Council Member Giefer moved to approve the Updated JPA, as presented. Council Member**
3 **Tufty seconded the motion. Motion carried unanimously.**

4
5 **UNFINISHED BUSINESS**

6 There was no unfinished business.

7 **DISCUSSION ITEMS (no action taken)**

8 **Staff Updates (updates from Staff, no action taken)**

9 **City Council Reports/Future Agenda Items**

10 Modify language to City Council Procedures was added to the August agenda.

11

12 **COMMUNITY CALENDAR JULY 1 THROUGH JULY 31, 2023:**

13 **Mahtomedi Public Schools Board Meeting, Thursday, July 13th and July 27th, Mahtomedi**
14 **District Education Center, 7:00 p.m.**

15 **Stillwater Public Schools Board Meeting, Thursday, July 13th, Stillwater City Hall, 7:00 p.m.**

16 **Washington County Commissioners Meeting, Tuesdays, Government Center, 9:00 a.m.**

17

18 **ADJOURNMENT**

19 **Council Member Giefer moved to adjourn at 7:49 p.m. Council Member Tufty seconded the**
20 **motion. Motion carried unanimously.**

21

22

23 These minutes were considered and approved at the regular Council Meeting August 1st, 2023.

24

25

26

27

28 _____
29 Kim Points, Administrator/Clerk

28 _____
29 Jeff Huber, Mayor

30