



## MAYOR AND COUNCIL COMMUNICATION

DATE: 10/4/2016

**CONSENT**

ITEM #: 20

**AGENDA ITEM:** Interim Use Permit for the Keeping of Horses in Conjunction with a Church in the Public and Quasi-Public Open Space Zoning District

**SUBMITTED BY:** Emily Becker, City Planner

**THROUGH:** Kristina Handt, City Administrator

**REVIEWED BY:** Stephen Wensman, Planning Director

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### **BACKGROUND:**

Common Ground Church, located at 10240 Stillwater Boulevard North (PID # 1402921320024), for an Interim Use Permit for the keeping of horses in conjunction with a church. The property is zoned PF – Public and Quasi-Public Open Space and is currently being used as a place of worship. Horses are also kept on the premises, which is allowed in this zoning district by Interim Use Permit. The Interim Use Permit to keep horses in conjunction with the church was first issued in 2008, again renewed in 2009, but expired at the end of year in 2011. The Interim Use Permit has not been renewed since. The applicant is requesting the City issue an Interim Use Permit so that the property may be brought in to compliance with City Code.

### **ISSUE BEFORE COUNCIL:**

The Council is respectfully requested to consider a request for an Interim Use Permit by Common Ground Church for the keeping of horses in conjunction with a church for the property located at 10240 Stillwater Boulevard North (PID # 1402921320024).

### **PROPOSAL DETAILS/ANALYSIS:**

#### **Proposal Details:**

The property was granted an Interim Use Permit that was valid from late 2007 through late 2011. At this time, the Interim Use Permit has expired. Staff can find no record of the property being notified that the Permit was due to be renewed, though Resolution 2009-046 that granted the Interim Use Permit and the Consent Agreement both state that the expiration date of the Permit was December 31, 2011.

Although the Interim Use Permit expired almost five years ago, horses have continued to be kept on the site. Earlier this year, Staff conducted a City-wide review of Conditional and Interim Use Permits to ensure compliance. It was during this review that Staff discovered that the Interim Use Permit for the subject property had not been renewed, yet the use has continued. Since 2009, to Staff's knowledge, no complaints have been received about the use.

Terminated or suspended interim use permits cannot be renewed unless the Director of Planning received an application for and approved a 1-time 30-day extension to continue processing the renewal application. As such, this property cannot technically "renew" their Interim Use Permit

following the process outlined by Section 154.107 (H), which allows an Interim Use Permit to be renewed by sending notices of the requested renewals to all property owners within 350 feet of the parcel containing the use. As such, this application must be processed in the manner of a new application, and therefore Common Ground has submitted an application for an Interim Use Permit.

**Planning and Zoning Issues:**

- *Property Size.* The property totals 24.5 acres in size, divided by Kelvin Avenue North. The church is to the west side of Kelvin Avenue North, and the horses reside to the east side. Approximately four acres have been identified for the pasture of horses.
- *Requirements of Section 154.600: Public and Quasi-Public Open Space; Subd. C.* The keeping of horses in conjunction with churches is allowed by Interim Use Permit, provided that:
  - The keeping of horses does not constitute a feedlot per Minn. Rules.
    - The property is not a feedlot, as it is considered a pasture, as it meets the requirement of at least two acres of grazable land per horse.
    - The property is directly adjacent to only Agricultural (A) and Rural Residential (RR) zoned properties that are not developed as open space preservation subdivisions.
    - Evidence has been provided to show adherence to all livestock and horse regulations in the City Code.
- *Previous Comments from City Engineer, Valley Branch Watershed District, and Minnesota Department of Natural Resources.* At the time of the initial Interim Use Permit application and its renewal, there were no foreseen issues with the current number of horses on the property. The Valley Branch Watershed District had stated that at least a two-inch high vegetative cover such as Kentucky Bluegrass to properly maintain pastures to prevent negative environmental impacts. The City Engineer determined existing drainage conditions would not be adversely affected by the proposed use but that adequate fencing should be confirmed to keep animals off of adjacent roadways. The parcel of land complies with this suggestion as it is completely enclosed by animal fencing that has proved to be adequate thus far. The present application has been forwarded to these parties and no further issues have been communicated.
- *Fencing.* The area where the horses are kept is enclosed by a solar-powered electrical fence.
- *No Change to Existing Use.* Approving the requested Interim Use Permit would effect no change of use on the parcel, as it has been used as such for the past nine or so years. Granting the Interim Use Permit would, however, bring the property in to compliance with City Code. The operation is ran as part of the “Hoof Prints” organization, which is a non-profit, faith-based, volunteer-run group. The purpose of the organization is to benefit people who may be dealing with abuse, sickness, or other troubles through work with horses.
- *Term of Interim Use Permit.* At the time the Interim Use Permit was first granted for the property and at the time of its renewal, Interim Use Permits, by Code, were allowed for a time period of two years. This standard has since changed, and so the applicant is requesting a renewal period of ten years.
- *Request for Waiving Fee.* The applicant has requested that the fee for the Interim Use Permit be waived. The organization, Hoof Prints, is a non-profit organization that is operated by donations and pays for the horses’ food, vetting, hooves, and teeth maintenance. Throughout the years, the

organization has served the Lake Elmo community by working with the Willow Haven Group home, Washington County Adult and Youth Bureau Services, along with many others.

**Required Findings:**

- The attached Resolution details recommended findings.

**Conditions:**

- The recommended conditions of approval are outlined in the attached Resolution. A condition was added by the Planning Commission in response to a public hearing comment outlined below.

**FISCAL IMPACT:**

There is no expected fiscal impact to the City.

**PLANNING COMMISSION/PUBLIC HEARING:**

A public hearing was held on the proposed Interim Use Permit at the September 26, 2016 Planning Commission meeting. The meeting minutes are attached to this report. Bob Taverna of 10174 Stillwater Ln N spoke, saying he was not against the use but wanted to address erosion that is caused by tire tracks, etc. of the area near the gate by Stillwater Lane and the stop sign off of Kelvin Avenue, as it is sometimes used for parking and is not covered by gravel or other material. The Commission recommended approval with an affirmative vote of 7 to 0. A concern was raised that the area is a retention pond, and it was thought there were drainage issues. The City Engineer has been contacted regarding this. Engineering review of the past Interim Use Permit requests provided there were no perceived issues. There was also a question of where manure is stored, and the applicant has been contacted to verify this.

**OPTIONS:**

The Council may:

- Approve the Interim Use Permit request, with recommended conditions of approval.
- Amend the recommended conditions of approval and approve the Interim Use Permit request with amended conditions of approval.
- Deny the Interim Use Permit request.

**RECOMMENDATION:**

Staff respectfully requests that the Council approve, as recommended by the Planning Commission and Staff, and as part of tonight's Consent Agenda, the request made by Common Ground Church for an Interim Use Permit for the keeping of horses in conjunction with a church for the property located at 10240 Stillwater Lane North. If removed from the Consent Agenda, the Council may approve the request by making the following motion:

***“Move to approve request made by Common Ground Church for an Interim Use Permit for the keeping of horses in conjunction with a church for the property located at 10240 Stillwater Lane North, subject to the outlined conditions of approval.”***

Common Ground Church has also made the request that the fee for an Interim Use Permit, which is \$1050.00 (\$300.00 for renewal), be waived, as the organization that runs the keeping of horses is a non-profit organization that runs on donations. Approval of this fee being waived may be made through the following motion:

***“Move to approve request that the fee for an Interim Use Permit request made by Common Ground Church for the keeping of horses in conjunction with a church for the property located at 10240 Stillwater Lane North be waived.”***

**ATTACHMENTS:**

- Resolution 2016-88
- Interim Use Permit application and materials
- Planning Commission meeting minutes (9/26/16)