

**CITY OF GRANT, MINNESOTA
RESOLUTION NO. 2011-03**

**RESOLUTION APPROVING AN APPLICATION FOR AMENDED
CONDITIONAL USE PERMIT FOR CHRIS' MP, INC.,
CHRISTINE FLUG AND DAN FLUG**

WHEREAS, Chris's MP, Inc., Christine Flug and Dan Flug ("Applicants") have requested an Amended Conditional Use Permit which would authorize their property to be used for Horse Boarding and would increase the number of permitted animal units from forty four (44) to sixty seven (67); and

WHEREAS, the application is for property located at 8324 60th Street North (the "Property"), legally described as follows:

That part of the Southwest One Quarter of Section 33, township 30, Range 21, Washington County, Minnesota described as follows:

Commencing at the northwest corner of the East One Half of the Southwest One Quarter of said Section 33; thence North 88 degrees 39 minutes 59 seconds East on an assumed bearing along the north line of said Southwest One Quarter a distance of 7.80 feet; thence south 00 degrees 50 minutes 27 seconds East a distance of 334.01 feet to the point of beginning; thence continuing south 00 degrees 50 minutes 27 seconds East to the south line of said Southwest One Quarter a distance of 2300.71 feet; thence North 88 degrees 41 minutes 13 seconds East along said south line a distance of 528.72 feet; thence North 00 degrees 50 minutes 59 seconds West a distance of 1518.72 feet; thence North 88 degrees 41 minutes 13 seconds East a distance of 115.52 feet; thence North 00 degrees 50 minutes 59 seconds West a distance of 782.22 feet; thence South 88 degrees 39 minutes 59 seconds West a distance of 643.88 feet; to the point of beginning and there terminating; and

Parcel A

The Southeast Quarter of the Northwest Quarter (SE 1/4 of NW 1/4) of Section Thirty Three (33) in Township Thirty (30) North, Range Twenty-one (21) West of the Fourth Meridian, except the portion thereof conveyed to the St. Paul and St. Croix Railroad Company by deed dated May 27, 1984 and recorded in Book 14 of Deeds, Page 368, Washington County, Minnesota; and

Parcel 1

That part of the Southwest One Quarter of Section 33, Township 30, Range 21, Washington County, Minnesota described as follows:

Commencing at the northwest corner of the East One Half of the Southwest One Quarter of said Section 33; thence North 88 degrees 39 minutes 59 seconds East on an assumed bearing along the north line of said Southwest One Quarter a distance of 7.80 feet to the point of beginning; thence continuing North 88 degrees 39 minutes 59 seconds East along said north line a distance of 1303.11 feet to the east line of said Southwest One Quarter; thence South 01 degrees 14 minutes 23 seconds East along said east line a distance of 334.00 feet; thence South 88 degrees 39 minutes 59 seconds West a distance of 334.01 feet to the point of beginning and there terminating; and

Easement Acreage

An easement for pasture purposes, over, under and across the Southwest One Quarter of Section 33, Township 30, Range 21, Washington County, Minnesota, described as follows:

Commencing at the Northeast One Corner of the Southwest One Quarter of said Section 33; thence South 01 degree 14 minutes 23 seconds East on an assumed bearing along the east line of said Southwest One Quarter a distance of 334.00 feet to the point of beginning; thence continuing South 01 degree 14 minutes 23 seconds East along said east line a distance of 578.00 feet; thence South 88 degrees 39 minutes 59 seconds West a distance of 665.48 feet; thence North 88 degrees 39 minutes 59 seconds East a distance of 661.55 feet to the point of beginning and there terminating.

WHEREAS, the use of the Property is presently subject to an existing conditional use permit issued by the City in April 2000 (the "2000 CUP") authorizing the operation of a private riding stable on the property and further authorizing the applicants to keep forty four (44) animal units on the property; and

WHEREAS, the 2000 CUP currently prohibits use of the Property in any commercial manner; and

WHEREAS, in July of 2008, the Grant City Council denied an application for the amendment of the 2000 CUP; and

WHEREAS, thereafter, City of Grant filed a zoning enforcement action seeking Applicants' compliance with the 2000 CUP; and

WHEREAS, in the same action, Applicants sought relief from the Court requesting an Order requiring the City of Grant approve and issue the Amended Conditional Use Permit in accordance with the application; and

WHEREAS, on August 18, 2010, Judge Ellen Maas issued an Order granting Applicant's request for relief and directed the City of Grant to issue the Amended Conditional Use Permit subject to the recommendation of the City Planner; and

WHEREAS, on October 12, 2010, the City of Grant filed an appeal of the Court's Order; and

WHEREAS, the appeal is currently pending, awaiting briefing and argument to the Court of Appeals; and

WHEREAS, through legal counsel, the City Council for the City of Grant has engaged in settlement negotiations with the Applicants and has considered the request of Applicants for their Amended Conditional Use Permit; and

WHEREAS, the City Council for the City of Grant, on March 1, 2011, conducted a public hearing on Applicants' request for Amended Conditional Use Permit; and

WHEREAS, the City Council, after having received all testimony on the applicant's request for amendment deliberated and voted _____ to _____ to approve the application for amendment to the 2000 CUP and further directed the City Attorney to prepare findings and this resolution as a contemporaneous record of the Council's decision.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRANT, WASHINGTON COUNTY, MINNESOTA, that it does hereby approve the request of Dan and Christine Flug for an Amended Conditional Use Permit, based upon the following findings of fact:

FINDINGS:

1. Ordinance 2004-109 of the Code of Ordinances for the City of Grant, permits the operation of Horse Boarding and Training Facilities boarding

more than ten (10) horses upon the issuance of a conditional use permit by the City.

2. The issuance of a conditional use permit pursuant to Ordinance 2004-109 of the Code of Ordinances for the City of Grant requires consideration of the following factors:
 - a. The number of horses to be boarded on the property.
 - b. The number of grazeable acres contained within the property.
 - c. Arrangements for storage and disposal of manure.
 - d. Arrangements to preclude surface and/or groundwater contamination.
 - e. Compliance with City Lighting Ordinance.
 - f. Compliance with City Noise Ordinance.
 - g. Traffic and parking for the operation.
 - h. Frequency of equestrian events.
 - i. Hours of operation.
 - j. Fencing and building plans for operation.
3. Each of the considerations outlined in Ordinance 2004-109 is designed to protect the health, safety and welfare of the residents of the City of Grant.
4. The applicants have submitted a request which would change their allowed use of the property from private riding stable to horse boarding and training facility. The request would also increase the number of permitted animal units from forty four (44) to sixty seven (67).
5. The use of the Property is regulated by an existing conditional use permit approved by the City in 2000.
6. On August 18, 2010, the Honorable Ellen Maas issued an Order compelling the City of Grant to issue an Amended Conditional Use Permit to the Applicants consistent with the recommendations of its City Planner.

7. A copy of the Court's Order is attached as **Exhibit A** to this Agreement.
8. The City Council for the City of Grant has determined that the recommendations as made by its City Planner represent an acceptable basis for approval of the Amended Conditional Use Permit.
9. The City Council for the City of Grant has determined that the Amended Conditional Use Permit will not adversely affect the health, safety and welfare of the residents of the City of Grant
10. Accordingly, the City Council for the City of Grant approves the Amended Conditional Use Permit subject to the following terms and conditions:
 - A. The Applicants shall be permitted to board and train 67 animal units on the property. The Applicants have obtained a Permit for an Animal Feedlot from the MPCA. The Applicants shall supply to the City a copy of the Manure Management Plan supplied to the MPCA.
 - B. If not already completed, the Applicants shall implement the recommendations of the Washington Conservation District regarding pollution abatement, surface water management and wetlands management.
 - C. Periodic review of the CUP on a complaint and annual basis is permitted by the City to allow for annual review of compliance with the terms of the CUP. The Applicants shall comply with City Ordinances that require Applicant to pay a CUP review fee.
 - D. All relevant conditions and requirements of the existing CUP (except those modified by these conditions) on the property shall be incorporated into the Amended CUP.
 - E. Lighting and noise must meet the requirements of the City's ordinances.
 - F. No public events may be held at the site, and no amplified sound may be used at any event.
 - G. Hours of operation shall be 7 a.m. to 9 p.m.

- H. Fencing shall be required and maintained as approved in the previous CUP, and as recommended by the WCD, to protect wetlands on the site.
- I. All fees and escrow must be paid.
- J. The City shall provide Applicants with not less than 24 hour notice of all inspections and Applicant's operation shall be subject to five spot inspections per year at no cost to the Applicant.
- K. Applicants shall be fined \$300 per animal unit in excess of the number allowed by Applicant's permit (67). The fine shall be due and payable within ten days of the date of notification from the City. Failure to make payment of the fine shall constitute a violation of the Conditional Use Permit and shall subject to the permit to suspension or revocation.

Adopted by the Grant City Council this 1st day of March, 2011.

Tom Carr, Mayor

State of Minnesota)
) ss.
County of Washington)

I, the undersigned, being the duly qualified and appointed Clerk of the City of Grant, Minnesota do hereby certify that I have carefully compared the foregoing resolution adopted at a meeting of the Grant City Council on March 1, 2011 with the original thereof on file in my office and the same is a full, true and complete transcript thereof.

Witness my hand as such City Clerk and the corporate seal of the City of Grant, Washington County, Minnesota this _____ day of _____, 2011.

Kim Points
Clerk
City of Grant