



PLAN COMMISSION AGENDA

Tuesday, December 15, 2015 - 6:00 p.m.
Town Hall - 1900 W. Grand Chute Blvd.

1. Roll Call.
2. Pledge of Allegiance.
3. Approval of Agenda.
4. Approval of Minutes – December 1, 2015 meeting.
5. Public Input.
6. Community Development Director's Report.
7. **Special Exception (SE-27-15)** – *(continued from previous Plan Commission meetings)*
Request by Joseph E. & Karla J. Berken, dba J&B Home Improvement, 3225 E. First Avenue, to allow contractor storage use of a building on property zoned AGD General Agricultural District. **Action:** Recommend approval/denial of SE-27-15. (TOWN BOARD ACTION 1/5/2016)
8. **Site Plan Amendment (SPA1-02-15)** – Request by James M. Petr, dba Westhill Retail Center & Milwaukee PC, 330 N. Westhill Boulevard for construction of multi-tenant pylon sign. **Action:** Approve/deny SPA1-02-15.
9. Presentation to Joe Malenofski, on his final meeting as a Plan Commission member.
10. Adjournment.

A quorum of the Town Board, Park Commission, Police and Fire Commission, Board of Appeals, and Licensing Committee may be present at this meeting. No official action of these bodies will be taken.

Accommodation Notice-Any person requiring special accommodation who wishes to attend this meeting should contact **(Administration at 832-1573)** at least 48 hours in advance.

GRAND CHUTE PLAN COMMISSION MINUTES

December 1, 2015

Members Present: Vice Chairman Bruce Sherman, Commissioners Robert Stadel, Vivian Huth, Joe Malenofski, Julie Hidde, Pam Crosby, Duane Boeckers

Members Absent: Chairman Dave Schowalter

Also Present: James March, Town Administrator; Thomas Marquardt, Public Works Director; Bob Heimann, IT Director; Michael Patza, Town Planner; Robert Buckingham, Community Development Director; other interested parties (audience attendance = approx. 4) Supervisor Nooyen

1. **ROLL CALL.**

Vice Chairman Sherman opened the meeting at 6:00 p.m.

2. **PLEDGE OF ALLEGIANCE.**

3. **APPROVAL OF AGENDA.**

Motion (Malenofski/Huth) to approve the agenda. Motion carried, all voting aye.

4. **APPROVAL OF MINUTES.**

Motion (Hidde/Crosby) to approve the November 17, 2015 minutes. Motion carried, all voting aye.

5. **PUBLIC INPUT**

There was no public input.

6. **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT** – NO REPORT.

7. **PUBLIC HEARING #1** – GRAND CHUTE OFFICIAL MAP 2015 AMENDMENTS.

Vice Chairman Sherman opened Public Hearing #1 at 6:02 p.m.

There was no public input.

Motion (Stadel/Malenofski) to close Public Hearing #1 at 6:03 p.m. Motion carried, all voting aye.

8. **GRAND CHUTE OFFICIAL MAP 2015 AMENDMENTS**

Motion (Hidde/Huth) to recommend approval of the 2015 amendments to the Grand Chute Official Map. Motion carried, all voting aye.

9. **SPECIAL EXCEPTION (SE-27-15)** – REQUEST BY JOSEPH E. & KARLA J. BERKEN, DBA J&B HOME IMPROVEMENT, 3225 E. FIRST AVENUE, TO ALLOW CONTRACTOR STORAGE USE OF A BUILDING ON PROPERTY ZONED AGD GENERAL AGRICULTURAL DISTRICT.

Motion (Stadel/Hidde) to table consideration of Special Exception Permit SE-27-15 until the 12/15/15 Plan Commission meeting. Motion carried, all voting aye.

10. **SITE PLAN AMENDMENT (SPA1-19-15)** – REQUESTED BY MEIJER STORES LP, DBA MEIJER, 3801 & 3995 N. RICHMOND STREET FOR INSTALLATION OF 2 MONUMENT SIGNS.

Motion (Malenofski/Hidde) to approve the Site Plan Amendment SPA1-19-15, requested by Meijer Stores LP, dba Meijer, 3801 & 3995 N. Richmond Street, for the installation of two monument signs of 144 sq. ft. and 140 sq. ft. in size. Motion carried, all voting aye.

11. **SITE PLAN AMENDMENT (SPA1-00-92)** – REQUEST BY THEDACARE PHYSICIANS, 4480 W. SPENCER STREET, TO REPLACE AN EXISTING MONUMENT SIGN WITH A NEW MONUMENT SIGN.

Motion (Hidde/Huth) to approve the Site Plan Amendment (SPA1-00-92) requested by ThedaCare Physicians, 4480 W. Spencer Street, for replacement of the existing monument sign with a new 50 sq. ft. monument sign. Motion carried, all voting aye.

12. **ADJOURNMENT.**

Motion (Malenofski/Boeckers) to adjourn at 6:09 p.m. Motion carried, all voting aye.

Respectfully Submitted,

Tracy Olejniczak
Community Development Secretary

DRAFT

7.

Town of Grand Chute

Special Exception Request

Joseph E. & Karla J. Berken, dba J&B Home Improvement

To: Plan Commission

From: Robert Buckingham, Community Development Director

Date: October 29, 2015; *UPDATED* – December 10, 2015

Address: 3225 E. First Avenue

App. #: SE-27-15

REQUEST

1. **Proposed Use(s):** Contractor storage use of existing building
2. **Project Description:** Special Exception Permit requested to make the existing, unauthorized use of the building compliant with the Zoning Code
3. **Plat/CSM Accurate parcel lines/lot recorded:** Yes

BACKGROUND

Applicant (Mr. Berken) owns the subject property and adjacent vacant farmland (reference map attached). Since 2012, staff has had discussions with Mr. Berken on potential plans for the conversion of the farmland to commercial service type uses, including a building for his window and home improvement business. A number of critical approvals and development steps were identified that would need to be completed for this conversion to occur. In July 2014, Mr. Berken informed staff that he would no longer be pursuing development of this land. Shortly thereafter, Mr. Berken inquired about building a commercial storage building on the property at 3225 E. First Avenue. He was advised that this use could only be authorized if the property were rezoned to Commercial classification, or if he was granted a Special Exception Permit to allow the use to operate under the prevailing AGD General Agricultural District standards. In October 2014, Mr. Berken applied for a building permit to build an agricultural storage building for farm equipment used on his adjoining land. It was made clear by the Building Inspector that this building could only be used for agriculture purposes. The building permit was issued based upon representations from Mr. Berken that its use would be for Ag purposes only. The permit was issued for an "Unoccupied Agricultural Storage Building." Construction of the building was completed in March 2015 (photos attached). Shortly thereafter, the Town was notified by an attorney representing the adjacent homeowner that it appeared Mr. Berken was using the building for his contractor business. The matter was referred to the Town Attorney and has been under investigation. It has been determined that Mr. Berken is using the building for storage of windows and building materials. The request for a Special Exception Permit is to establish the conditions by which Mr. Berken could use this building for contractor storage use in compliance with the Zoning Code.

Public Hearing testimony was given at the Plan Commission meetings of November 3, 2015 and November 15, 2015. The applicant and his attorney, along with residential neighbors near 3225 E. First Avenue, all spoke at the public hearing. The minutes of those meetings are attached. Subsequent to the hearings, I reached out to the four owners of residential properties that are adjacent to or in the vicinity of the Berken property. I was able to speak to 3 of the 4 owners (I was unable to speak to Mr. and Mrs. Ebben, 3217 E. First Avenue, but they have clearly stated their opposition to the Special Exception Permit, both in written correspondence and hearing testimony). Of the three owners I spoke to, one is strongly opposed to granting the Special Exception Permit. That owner subsequently wrote a letter to the Town to confirm their opposition and provided photographic evidence that semi's continued to deliver to the Berken property as recently as November 4, well past the date Mr. Berken told the Commission such deliveries had ceased (letter attached). The other 2 owners, after hearing public testimony and gathering more facts, said they do not support the Special Exception if Mr. Berken violated Town codes by operating a business without proper approvals. Both of these owners are concerned about the value and welfare of the investments in their homes if commercial uses are allowed to operate near them.

FINDINGS OF FACT IN GRANTING OF A SPECIAL EXCEPTION

- a. **The establishment, maintenance or operation of the proposed Special Exception use or structure at the proposed location will not be detrimental or injurious to the use and enjoyment of existing uses on adjacent properties or properties in the vicinity.** *The standard has not been met.* Testimony and supplemental information have been provided by all four owners of residential property that are adjacent to or in the vicinity of the applicant's property. All have expressed concern for the negative impacts of this commercial use, negative effect from commercial traffic that is generated on a residential road (First Avenue), the harm to the investments in their properties, and concerns over the long range prospect of having commercial uses operate near them.
- b. **The establishment, maintenance or operation of the proposed Special Exception use or structure, alone or in combination with other existing Special Exception uses and structures in the vicinity will not cause traffic hazards.** *The standard has not been met.* The unauthorized operation of this business without proper permitting has provided evidence of the negative traffic impact to the neighborhood. The design of the structure requires commercial vehicles to back into the property directly from First Avenue. This causes deterioration of a rural section residential road that was not built to accommodate commercial vehicle traffic. Photographic evidence of semi vehicles making deliveries to the property enhances the traffic hazards associated with the business.
- c. **Adequate provision is made for surface water drainage, ingress and egress to the property, and off-street parking.** *The standard has not been met.* The building at the subject property was approved by the Town as an unoccupied agricultural storage building. Due to the underlying AGD General Agricultural District zoning classification, the building did not require Site Plan approval, Drainage and Erosion Control Plan approval, on-site stormwater management facilities, or review for ingress-egress and off-street parking accommodation. All of these plans are required for a commercial use building, which is what Mr. Berken has used the property for without authorization.
- d. **Adequate public facilities and services are available for the proposed Special Exception use of structure.** *The standard has not been met.* First Avenue is a rural section residential road. It is not built to withstand the commercial truck traffic and vehicle turning that Mr. Berken's window business requires. Commercial vehicle access to First Avenue is via French Road, which is also a rural section road in poor condition. In its current configuration and level of traffic, adding any amount of commercial traffic will further deteriorate this road surface.

RECOMMENDATION

Staff has reviewed all the information and findings of facts, and supports a Plan Commission recommendation for denial of the Special Exception Permit (SE-27-15) requested by Joseph E. & Karla J. Berken, dba J&B Home Improvement, 3225 E. First Avenue, to allow contractor storage use of a building on property zoned AGD General Agricultural District. In denying the Special Exception, the Plan Commission and Town Board find that: (1) The establishment, maintenance or operation of the proposed Special Exception use or structure at the proposed location will be detrimental or injurious to the use and enjoyment of existing uses on adjacent properties or properties in the vicinity; (2) The establishment, maintenance or operation of the proposed Special Exception use or structure, alone or in combination with other existing Special Exception uses and structures in the vicinity will cause traffic hazards; (3) Adequate provision is not made for surface water drainage, ingress and egress to the property, and off-street parking; and, (4) Adequate public facilities and services are not available for the proposed Special Exception use of structure.

J&B HOME IMPROVEMENT

Location of Storage Unit:

3325 E. First Ave
Appleton, WI

Plans for use:

Windows and Door Storage

Number or employees:

1 owner
2 employees

Hours of Operation:

7:00 a.m. – 5:00 p.m.

Includes 7:00 a.m. loading truck and approximately 5:00 p.m. finish day
Work truck is stored at this location.

Use of this building includes:

Storing of windows and doors.

Storing plywood – insulation – nails – storm doors, that we pick up from local supply centers (Menards, Lowes, Home Depot).

Home Guard delivers steel insulated doors every 2 to 3 months.

Great Lakes Windows deliver twice a month.

ABC supply delivers trim coil on a skid twice a year

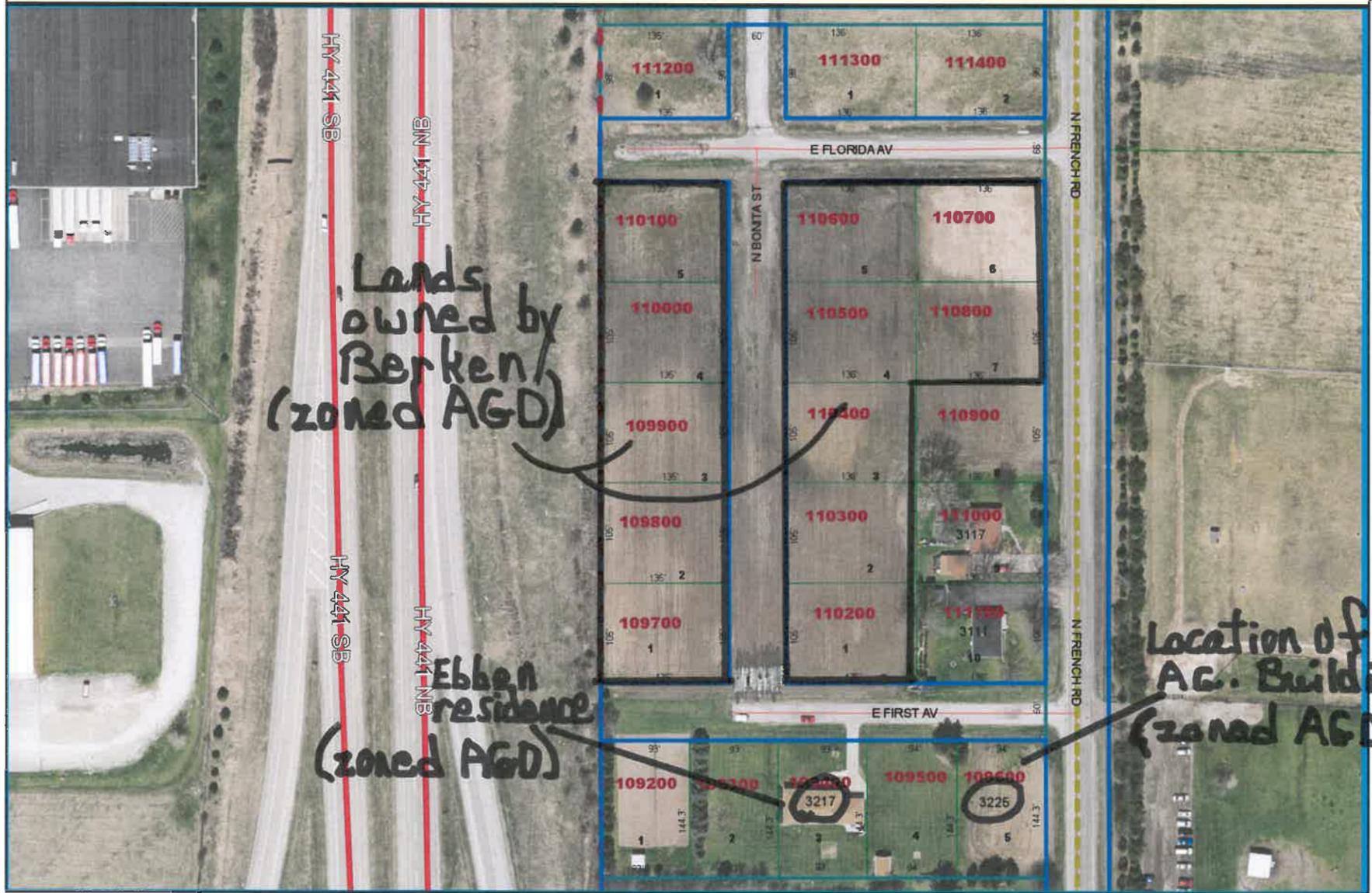
Alsie Supply Center delivers sill-seal insulation once a year, and garage windows 3 to 4 times a year.

Joe Berken (Owner) checks on operations 2 to 3 times daily and to restock plywood-insulation, nails, caulk, storm doors, lumber, etc.

Additional Information:

There is no dumpster located on this site. We have an account with the Outagamie County Landfill.

Grand Chute GIS Map



This map was compiled using data believed to be accurate; however, a degree of error is inherent in all maps. This map was distributed "AS-IS" without warranties of any kind, either expressed or implied, including but not limited to warranties of suitability to a particular purpose or use. No attempt has been made in either the design or production of the maps to define the limits or jurisdiction of any federal, state, or local government. Detailed on-the-ground surveys





GRAND CHUTE PLAN COMMISSION MINUTES

November 3, 2015

Members Present: Chairman Dave Schowalter, Commissioners Robert Stadel, Bruce Sherman, Julie Hidde, Joe Malenofski

Members Absent: Commissioner Duane Boeckers, Pam Crosby, Vivian Huth

Also Present: James March, Town Administrator; Thomas Marquardt, Public Works Director; Bob Heimann, IT Director; Julie Wahlen, Finance Director/Treasurer; Michael Patza, Town Planner; Robert Buckingham, Community Development Director; other interested parties (audience attendance approx. 9 Supervisors Pleuss

1. **ROLL CALL**

Chairman Schowalter opened the meeting at 6:00 p.m.

2. **PLEDGE OF ALLEGIANCE.**

3. **APPROVAL OF AGENDA.**

Motion (Sherman/Malenofski) to approve the agenda. Motion carried, all voting aye.

4. **APPROVAL OF MINUTES** – OCTOBER 20, 2015 MEETING.

Motion (Hidde/Stadel) to approve the October 6, 2015 minutes. Motion carried, all voting aye.

5. **PUBLIC INPUT**

6. **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT** – NO REPORT.

7. **PUBLIC HEARING #1** – SPECIAL EXCEPTION (SE-27-15) REQUESTED BY JOSEPH E. & KARLA J. BERKEN, DBA J&B IMPROVEMENT, 3225 E. FIRST AVENUE, TO ALL CONTRACTOR STORAGE USE OF A BUILDING ON PROPERTY ZONED AGD GENERAL AGRICULTURAL DISTRICT.

Chairman Schowalter opened Public Hearing #1 at 6:02 p.m.

Ron Ebben, 3217 E. First Avenue said that he was attending to ask what exactly is going on over at 3225 E. First Avenue as it is a residential neighborhood and wanted to know about covenants.

Jerry Dorn, 3111 E. First Avenue stated that his concern was the semi's with trailers backing up in the road and also said that he does not wish to pay for the fixing of the road as it is not built to carry that type of weight.

Motion (Malenofski/Hidde) to close Public Hearing #1 at 6:04 p.m. Motion carried, all voting aye.

8. **SPECIAL EXCEPTION (SE-27-15)** – REQUEST BY JOSEPH E. & KARLA J. BERKEN, DBA J&B IMPROVEMENT, 3225 E. FIRST AVENUE, TO ALL CONTRACTOR STORAGE USE OF A BUILDING ON PROPERTY ZONED AGD GENERAL AGRICULTURAL DISTRICT.

Director Buckingham provided history saying that since 2012 Mr. Berken did have discussions with staff regarding the conversion of his farmland to a commercial service such as a building for his window and home improvement business. Mr. Berken was told of the requirements, including Plan Commission/Town Board approval, to allow a commercial service business. Director Buckingham said that in July of 2014, Mr. Berken informed staff that he would no longer be pursuing development of his land. In October 2014 after participating in Staff Site Plan Review meeting, again, Mr. Berken was told the requirements to allow for a commercial service business, however Mr. Berken stated that he would be using the building for agricultural purposes to store machinery only. Chief Building Inspector Nate issued the building permit

and stressed and wrote on the permit that the building was for an "Unoccupied Agricultural Storage Building". The construction of the building was completed in March 2015 and shortly thereafter, the Town was notified by an attorney representing the adjacent homeowner that Mr. Berken was using the building for a commercial storage contractor-type business.

Commissioner Hidde said however Mr. Berken did not apply for a property rezoning or the special exception.

Director Buckingham said that he did not.

Commission Stadel asked what can be done in this situation.

Director Buckingham said that our Town Attorney could recommend we begin to process citations up to \$1000/day and/or issue a cease and desist order.

Commissioner Malenofski asked Director Buckingham what the Comprehensive Plan shows for that property.

Director Buckingham stated that it shows agriculture/residential and then stated that he would like the Plan Commission to take some time to digest the information and review the facts.

The Chairman said he would like to suggest to re-open the Public Hearing and take no action tonight.

Motion (Sherman/Hidde) to defer action of the Special Exception (SE-27-15). Motion carried, all voting aye.

Motion (Sherman/Stadel) to hold open Public Hearing for Special Exception (SE-27-15) requested by Joseph E. & Karla Berken, dba J&B Improvement, 3225 E. First Avenue. Motion carried, all voting aye.

9. **CONDO PLAT (CP-02-15)** – REQUEST BY ALLIANCE DEVELOPMENT LLC, ON BEHALF OF 4890, 4914 & 4938 INTEGRITY WAY CONDOMINIUM, 4890-4954 W. INTEGRITY WAY, FOR CONVERSION OF A MULTI-TENANT COMMERCIAL BUILDING TO A 3-UNIT CONDOMINIUM.

Director Buckingham said this was originally built for Sam's Clue in 1988 and since their relocation in 2001, it has been leased as multi-tenant retail space.

Motion (Sherman/Malenofski) to recommend approval the Condo Plat (CP-02-15) requested by Alliance Development LLC, on behalf of 4890, 4914 & 4938 Integrity Way Condominium, 4890-4954 W. Integrity Way for conversion of a multi-tenant commercial building to a 3-unit condominium. Motion carried, all voting aye.

10. **SITE PLAN (SP-25-15)** – REQUEST BY TOWN OF GRAND CHUTE FOR DEVELOPMENT OF A NEW TOWN PARK AND ASSOCIATED SITE IMPROVEMENTS AT 3739 N. MAPLE EDGE COURT.

Planner Patza said that the park will consist of playground equipment, an open recreation space and a trail to connect to N. Casaloma Drive. He said after discussing with an adjacent neighbor, a modification to the landscape berm was made and will be constructed on the north end to create a buffer between the park and residential uses. The Park Commission will be charged with the official naming of the new park on November 9th, 2015.

Motion (Malenofski/Stadel) to approve the Site Plan (SP-25-15) requested by Town of Grand Chute, 3739 N. Maple Edge Court, for development of a new Town park and associated site improvements. Motion carried, all voting aye.

11. **GRAND CHUTE 2016-2020 CAPITAL IMPROVEMENT PLAN** – REVIEW OF THE PROPOSED 5-YEAR CAPITAL IMPROVEMENT PLAN.

Director Marquardt said there was a revision to Sanitary District #3 due to the quote of the Lanser Lane Culvert Repair as the \$20,000. Our Town Engineer McMahon examined the culvert and to repair the situation and accommodate the 100 year flood level, the road will need to be increased 9" for 500'.

Motion (Stadel/Hidde) to recommend approval of the Grand Chute 2016-2020 Capital Improvement Plan. Motion carried, all voting aye.

12. ADJOURNMENT.

Motion (Malenofski/Sherman) to adjourn at 6:24 p.m. Motion carried, all voting aye.

Respectfully Submitted,

Tracy Olejniczak
Community Development Secretary

GRAND CHUTE PLAN COMMISSION MINUTES

November 17, 2015

Members Present: Chairman Dave Schowalter, Commissioners Bruce Sherman, Joe Malenofski, Julie Hidde, Pam Crosby, Duane Boeckers

Members Absent: Commissioners Robert Stadel and Vivian Huth

Also Present: James March, Town Administrator; Thomas Marquardt, Public Works Director; Bob Heimann, IT Director; Michael Patza, Town Planner; Robert Buckingham, Community Development Director; other interested parties (audience attendance = approx. 13)

1. **ROLL CALL.**

Chairman Schowalter opened the meeting at 6:00 p.m.

2. **PLEDGE OF ALLEGIANCE.**

3. **APPROVAL OF AGENDA.**

Motion (Sherman/Malenofski) to approve the agenda. Motion carried, all voting aye.

4. **APPROVAL OF MINUTES** – NOVEMBER 3, 2015 MEETING.

Motion (Hidde/Crosby) to approve the November 3, 2015 minutes. Motion carried, all voting aye.

5. **PUBLIC INPUT**

There was no public input.

6. **COMMUNITY DEVELOPMENT DIRECTOR'S REPORT** – No report.

7. **PUBLIC HEARING #1** *(continued from November 3, 2015 Plan Commission meeting)* – SPECIAL EXCEPTION (SE-27-15) REQUESTED BY JOSEPH E. & KARLA J. BERKEN, DBA J&B HOME IMPROVEMENT, 3225 E. FIRST AVENUE, TO ALLOW CONTRACTOR STORAGE USE OF A BUILDING ON PROPERTY ZONED AGD GENERAL AGRICULTURAL DISTRICT.

Chairman Schowalter announced the hearing open for comment at 6:02 p.m.

Ron Ebben, 3217 E. First Avenue, stated his opposition to granting the Special Exception Permit.

Tracy Ebben, 3217 E. First Avenue, stated her opposition to granting the Special Exception Permit.

Melba Dorn, 3111 N. French Road, stated her opposition to granting the Special Exception Permit. She also stated that it was her understanding the Town originally denied Mr. Berken a permit for a commercial building, then issued a permit for an agricultural building. Mr. Berken has informed her that he has done everything the Town asked of him, so she does not understand how it is possible he can use an agricultural building for storage of doors and windows. She also expressed a concern that the Town must have known he was having products delivered by semi, so she does not understand why it was not stopped if the road is not equipped for trucking.

Clint DeKeyser, 2909 N. French Road, questioned whether the Town permitted this to happen or if Mr. Berken made a mistake by doing something that is not allowed. He stated that if this was a mistake made by Mr. Berken, he agrees with other neighbors opposed to granting the Special Exception Permit. He stated that he personally does not see a big difference between using the building for Ag storage versus windows, except for the trucking concern voiced by other neighbors. He said his real concern has more to do with development of the vacant land to the north. He asked that the Town keep the neighbors informed as plans progress, as this will impact the investments the current residents have in their properties,

Director Buckingham clarified what the building permit received by Mr. Berken allowed him to do. The Town did not deny him a permit and then later re-issue it. The permit the Town issued was for an agricultural unoccupied storage building. The permit did not grant Mr. Berken any right to store anything except machinery or equipment used for agricultural purposes. Before the permit was issued, Mr. Berken was informed that if he intended to use the new building for anything other than agricultural storage, he would either have to rezone the property to commercial classification, or be granted a Special Exception Permit to allow contactor storage use. The building permit issued was for agricultural storage use only. The Town told Mr. Berken what the permit allowed and he then put the building to a use that is not allowed.

Toni Hoh, 3117 N. French Road, stated that she and her husband are not as concerned about the building as those neighbors who are directly adjacent to it, although she is opposed to truck deliveries. She stated her opinion that the building is a symptom of a bigger issue and would be happy to be bought out for future development. She described the area as an island nobody wants, with heavy traffic, a bad road and services that are extremely limited.

Attorney Bob Sweeney, representing Mr. Berken, provided Commissioners with a handout and talked about the history of this area. He said the land was platted for single family lots in 1956 and in 1957 covenants were placed on the land that stated only residential single-family development was allowed. He stated that his client was not aware of these covenants when he purchased the property in 2010. Three houses were built within the plat in the later 1950's and early 1960's. At that time, County zoning was in effect. Town zoning became effective in 1990. In 1999, the land was placed in trust by the Romenesko's and in March 2010, Mr. Berken purchased 16 vacant platted lots. The building being discussed was built in 2014. In May 2015, Mr. Berken received a letter from Attorney David Winkel, representing the Ebbens, stating that their property value was diminished by \$30,000 as a result of his building. The letter stated that Mr. Berken should pay them that amount or the Ebbens would enforce the matter in court. He said that before the structure was built, Mr. Berken received a letter from Mr. Ebben, in which Mr. Ebben wrote the following: "To whom it may concern, Joe Berken has been keeping me informed and it would be better to set the building back as far as possible which will allow for maximum land use for the future." Attorney Sweeney stated that Mr. Berken obtained a similar letter from Mr. DeKeyser.

Attorney Sweeney stated that the land itself is zoned General Agricultural District and he quoted from the Zoning Code concerning the intent of this district being primarily for farming and agricultural related uses with some non-ag uses for small-scale, family-oriented businesses on a case-by-case basis. Attorney Sweeney said an argument could be made that Mr. Berken's use of the building would be the type of business that would be suitable here. He quoted excerpts from the Zoning Code Exclusive Agricultural classification noting the agricultural uses that are allowed by right without a Special Exception Permit, as well as permitted uses in the AGD classification that do not require a Special Exception Permit. Those uses are parks and nature preserves and single-family detached dwellings unrelated to farm operations and which are built on individual lots not part of a recorded subdivision. Attorney Sweeney stated that what that means is that Mr. Berken's only permitted use of the land in question would be for Ag purposes.

Attorney Sweeney informed the Commission that he was just brought onto this case last Thursday and his objective was to try to table this again so that he could have the opportunity to talk to the neighbors and see what could be worked out before coming back to the Plan Commission. He said it was his understanding through communication with Director Buckingham that if the neighbors are opposed to granting the Special Exception Permit, the Plan Commission most likely would oppose it too. He has asked if the property can be used for keeping livestock, such as cows or pigs. Director Buckingham has informed him that the minimum lot size for keeping livestock is 4 acres. He questions if the neighbors actually would want livestock on the property. Another question he raised is what is the highest and best use of the land and what does the Comprehensive Plan indicate as future land use in the area.

Director Buckingham corrected a statement he had made at the November 3 Plan Commission meeting. The Comprehensive Plan projects future land use to be Urban Development with a mix of commercial and industrial uses.

Attorney Sweeney said that as vacant land becomes developed Mrs. Hoh's question becomes relevant.

Attorney Sweeney said his client has represented that the Town continually stressed the building could not be occupied with an office. Mr. Berken did not understand that there would be a restriction to agricultural storage use only.

Joe Berken, 73 Bellevue Place, Appleton, stated that he should not have allowed semis to make deliveries to the building. He has stopped that from happening now.

Attorney Sweeney stated for the record that he would like the opportunity of time to talk with Director Buckingham and the neighbors. He stated that if the Special Exception Permit is denied, Mr. Berken could seek to have the property rezoned commercial. He does not know if the Town or the neighbors would be in favor of that. He noted that Mr. Berken owns the majority of the vacant land within the platted subdivision. If the Special Exception Permit is denied and the property is not rezoned, it can be questioned if the property can even be put to its full Ag use. Even if it can, do the neighbors want that, and how would Ag use affect property values? Attorney Sweeney concluded by stating that based on the Comprehensive Plan and what Mr. Berken represented, the Special Exception Permit should be granted. He stated that if this permit is denied and if Mr. Berken cannot build a single-family home or conduct farming operations on a lot less than 4 acres in size, this could be considered a taking. In other words, Mr. Berken could explore just compensation from the Town.

Tracy Ebben spoken again and stated that she has been provided information that refutes Mr. Berken's claim he was unaware of the covenants and restrictions at the time he purchased land from the Romenesko Trust. Concerning the letter her husband signed, she was unaware of that letter initially, and soon after began researching the matter and discovered some of the issues now being discussed.

Attorney Sweeney said that Mr. Berken did not have direct, personal knowledge of the covenants at the time he purchased the property.

Motion (Sherman/Hidde) to close Public Hearing #1 at 6:28 p.m. Motion carried, all voting aye.

8. **SPECIAL EXCEPTION (SE-27-15)** – REQUEST BY JOSEPH E. & KARLA J. BERKEN, DBA J&B HOME IMPROVEMENT, 3225 E. FIRST AVENUE, TO ALLOW CONTRACTOR STORAGE USE OF A BUILDING ON PROPERTY ZONED AGD GENERAL AGRICULTURAL DISTRICT.

Motion (Sherman/Hidde) to table consideration of Special Exception Permit SE-27-15 until the 12/01/15 Plan Commission meeting.

Director Buckingham advised the Commission to isolate the various decision-points that were made over the past 6 decades when considering the Special Exception Permit. Plans and regulations dating to the 1950's had a very different purpose than what we are faced with today. Concerning the existing vacant lots that were platted in the 1950's, they are valid lots of record but the Zoning Code would only permit homes to be constructed if the land were rezoned from AGD General Agricultural to RSF Single-Family Residential. Regarding the long-range plan, an intermunicipal boundary agreement between Grand Chute and Appleton provides that this part of the Town is within the City's growth area. Any future development requiring sewer and water service will have to annex to the City. In the meantime, the status quo continues and there is little incentive for the Town to invest significant funds to rebuild roads that will eventually be annexed. He stated that while the topic of long-range planning and zoning issues is a good

one, discussion should occur at a later date. These topics do not directly relate to the decision regarding the Special Exception Permit.

Director Buckingham re-iterated that Mr. Berken received a building permit for a new agricultural unoccupied storage building but is using the building for another purpose. He noted that if the Town had understood Mr. Berken's true intentions, the review process would have been quite different. The use for contractor storage would have required a Special Exception Permit and Site Plan approval before the building permit was issued. The building construction plans would have been reviewed against commercial code requirements. Placement of the building on the site would have been different in order to accommodate all truck turning movements on the property.

Commissioner Sherman asked if there was any interest from the Commission to hold the public hearing open for continuation at the 12/01/15 meeting.

Chairman Schowalter stated his opinion that after two meetings, the Town has received all the testimony we can get on the subject.

Chairman Schowalter and Commissioner Sherman both stated that if there would be some resolution reached between Mr. Berken and the neighbors before the next Commission meeting, information could be conveyed to the Town through the attorneys involved.

Motion to table SE-27-15 until the 12/01/15 Plan Commission meeting carried, all voting aye.

9. **PUBLIC HEARING #2** – SPECIAL EXCEPTION (SE-28-15) REQUESTED BY JOHN LINDSAY/XTRA AUTO SALES, 2010 W. WISCONSIN AVENUE, FOR OWNERSHIP AND OPERATION OF AN EXISTING AUTOMOBILE SALES ESTABLISHMENT.

Chairman Schowalter opened Public Hearing #2 at 6:38 p.m.

There was no input.

Motion (Malenofski/Sherman) to close Public Hearing #2 at 6:38 p.m. Motion carried, all voting aye.

10. **SPECIAL EXCEPTION (SE-28-15)** – REQUEST BY JOHN LINDSAY/XTRA AUTO SALES, DBA WEST END AUTO SALES, 2010 W. WISCONSIN AVENUE, FOR OWNERSHIP AND OPERATION OF AN EXISTING AUTOMOBILE SALES ESTABLISHMENT.

Motion (Hidde/Crosby) to recommend approval of the Special Exception Permit (SE-28-15) requested by John Lindsay/Xtra Auto Sales, dba West End Auto Sales, 2010 W. Wisconsin Avenue, for ownership and operation of an existing automobile sales establishment. Motion carried, all voting aye.

11. **PUBLIC HEARING #3** – SPECIAL EXCEPTION (SE-29-15) REQUESTED BY TOM VANDE HEY, DBA FLIP AUTOS, LLC, 1237 N. LYNNDALE DRIVE, FOR OWNERSHIP AND OPERATION OF AN AUTOMOTIVE WHOLESALE BUSINESS.

Chairman Schowalter opened Public Hearing #3 at 6:40 p.m.

There was no public input.

Motion (Sherman/Boeckers) to close Public Hearing #3 at 6:40 p.m. Motion carried, all voting aye.

12. **SPECIAL EXCEPTION (SE-29-15)** – REQUEST BY TOM VANDE HEY, DBA FLIP AUTOS, LLC, 1237 N. LYNNDALE DRIVE, FOR OWNERSHIP AND OPERATION OF AN AUTOMOTIVE WHOLESALE BUSINESS.

Motion (Sherman/Boeckers) to recommend approval of the Special Exception Permit (SE-29-15) requested by Tom Vande Hey, dba Flip Autos LLC, 1237 N. Lynndale Drive, for operation of an automotive wholesale business. Motion carried, all voting aye.

13. **SITE PLAN AMENDMENT (SPA1-09-14)** – REQUEST BY WERNER ELECTRIC SUPPLY CO., 4800 W. PROSPECT AVENUE, FOR INSTALLATION OF A MONUMENT SIGN.

Motion (Sherman/Hidde) to approve the Site Plan Amendment (SPA1-09-14) requested by Werner Electric Supply Co., 4800 W. Prospect Avenue, for a monument sign. Motion carried, all voting aye.

14. **SITE PLAN AMENDMENT (SPA1-10-15)** - REQUEST BY BANK FIRST NATIONAL, 4201 W. WISCONSIN AVENUE, FOR INSTALLATION OF A MONUMENT SIGN.

Motion (Malenofski/Sherman) to approve the Site Plan Amendment (SPA1-10-15) requested by Bank First National, 4201 W. Wisconsin Avenue, for a monument sign. Motion carried, all voting aye.

15. **SITE PLAN AMENDMENT (SPA1-25-00)** – REQUEST BY TOONEN COMPLANIES INC., DBA MCCARTHY CREEK APARTMENTS, 1395 N. MCCARTHY ROAD, FOR CONSTRUCTION OF A DETACHED GARAGE FOR TENANT AND MAINTENANCE VEHICLE PARKING.

Motion (Malenofski/Hidde) to approve the Site Plan Amendment (SPA1-25-00) requested by Toonen Companies Inc. dba McCarthy Creek Apartments, 1395 N. McCarthy Road, for construction of a detached garage, subject to staff approval of a Lighting Plan. Motion carried, all voting aye.

SITE PLAN AMENDMENT (SPA1-33-00) – REQUEST BY HCA PROPERTIES, LLC & AG II PROPERTIES, LLC ETAL, DBA RANGEVIEW VILLAS APARTMENTS, 1618 W. EVERGREEN DRIVE, FOR CONSTRUCTION OF A LEASING OFFICE AND ASSOCIATED SITE IMPROVEMENTS.

Motion (Sherman/Boeckers) to approve the Site Plan Amendment (SPA1-33-00) requested by HCA Properties, LLC & AG II Properties, LLC etal, dba Rangeview Villas Apartments, 1618 W. Evergreen Drive, for construction of a leasing office and associated site improvements, subject to staff approval of Lighting and Landscape Plans and building elevations. Motion carried, all voting aye.

16. **SITE PLAN AMENDMENT (SPA1-15-15)** – REQUEST BY ANAGEN 11 SALON, 2320 N. CASALOMA DRIVE, FOR INSTALLATION OF A MONUMENT SIGN.

Motion (Hidde/Crosby) to approve the Site Plan Sign Amendment (SPA1-15-15) requested by Anagen 11 Salon, 2320 N. Casaloma Drive, for a monument sign. Motion carried, all voting aye.

17. ADJOURNMENT.

Motion (Sherman/Malenofski) to adjourn at 6:48 p.m. Motion carried, all voting aye.

Respectfully Submitted,

Tracy Olejniczak
Community Development Secretary

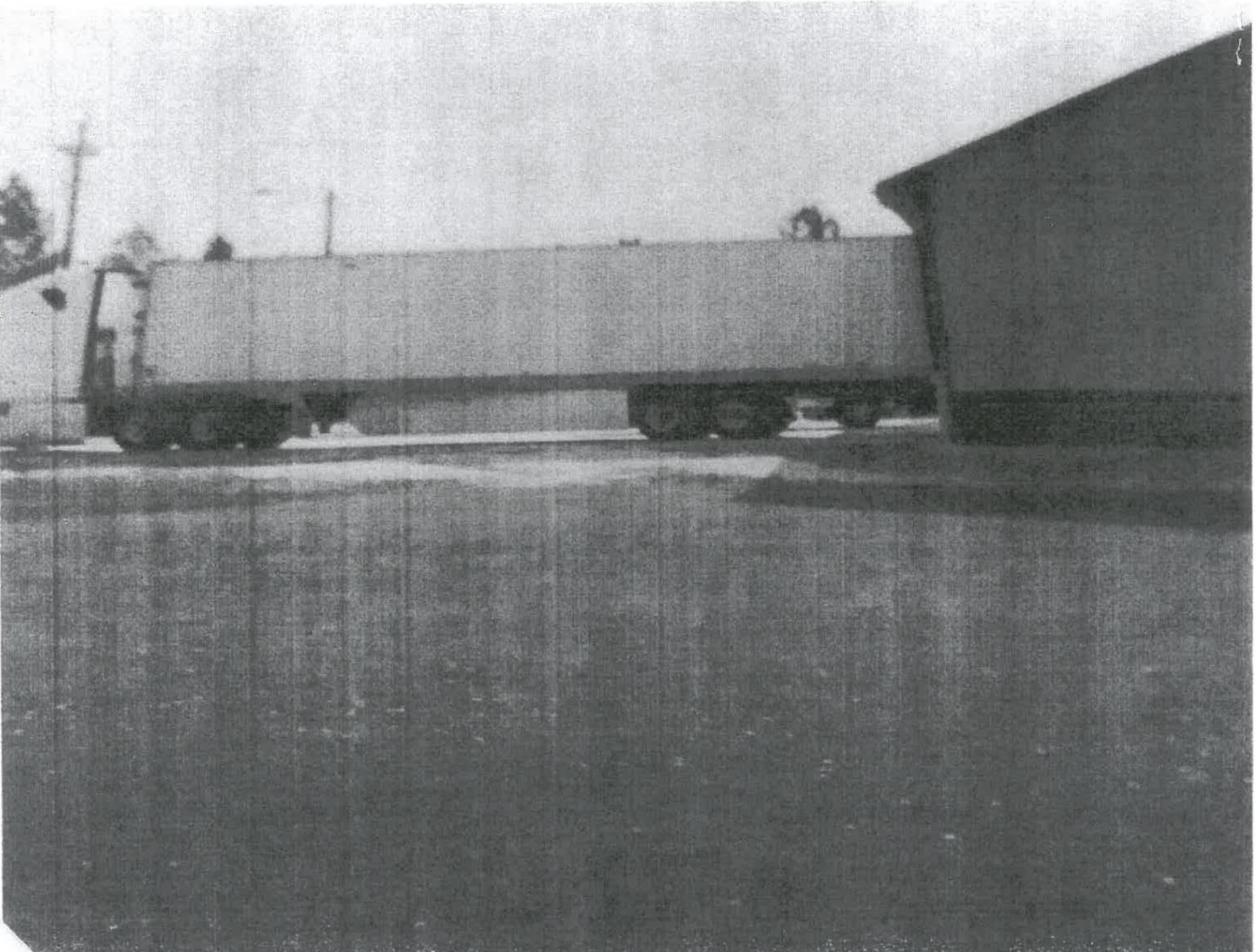


Photo From April or May 2015

RECEIVED
NOV 25 2015

November 23, 2015

Robert Buckingham
Community Development Director
Town Grand Chute

Hello Mr. Buckingham,

This is regarding your reaching out to the neighbors about being available if we would like to meet with you about our concerns with Mr. Berken's property. I feel we have already stated our opposition to a special exception permit for Mr. Berken.

On the November 3rd. Meeting it was stated that no semis or commercial vehicles were allowed on 1st street because it basically is a residential rd. I am enclosing pictures that were taken since then showing commercial vehicles delivering to J&B windows. Please note the date on the pictures.

Regards,

Jerry & Melba Dorn

Jerry Dorn
Melba Dorn



Photo Taken 11/4/15

**Town of Grand Chute
Site Plan Sign Amendment Review
James M. Petr, dba Westhill Retail Center & Milwaukee PC**

To: Plan Commission

From: Michael Patza, Town Planner

Date: November 24, 2015

Address: 330 N. Westhill Blvd.

App. #: SPA1-02-15

REQUEST

- 1. Proposed Use(s):** Commercial/Retail
- 2. Project Description:** Install 88 sq. ft. multi-tenant pylon sign
- 3. Plat/CSM Accurate parcel lines/lot recorded:** Yes

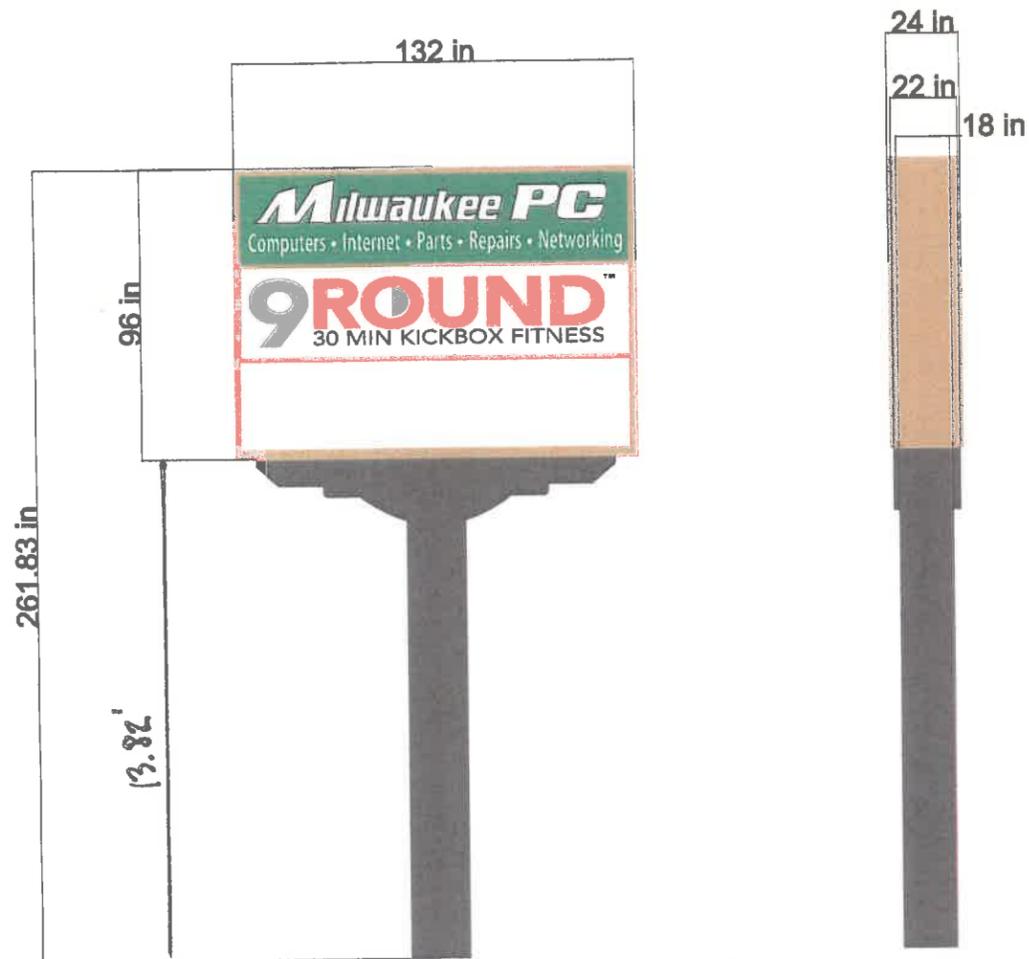
ANALYSIS

Applicant seeks approval to install a new multi-tenant pylon sign for its new retail building. The sign will be located on the frontage of N. Westhill Blvd. It will be 21'-10" in height and 88 sq. ft. in size. All size and dimensional code requirements are met with this request.

RECOMMENDATION

Staff has reviewed and supports Plan Commission approval of the Site Plan Sign Amendment (SPA1-02-15) requested by James M. Petr, dba Westhill Retail Center & Milwaukee PC, 330 N. Westhill Blvd., for the installation of a 88 sq. ft. multi-tenant pylon sign.

SIGN DESIGN PROPOSAL



88 sq

DOUBLE SIDED BOX SIGN
ALUM CABINET WITH 1.5 DIVIDER BARS
INTERNALLY ILLUMINATED LED
LEXAN PANELS WITH VINYL GRAPHICS
PAINTED TBD
SQ FT = 88

Customer:	TOM
Company:	MILW PC
Address:	
City:	State/ZIP:
Phone:	
Fax:	



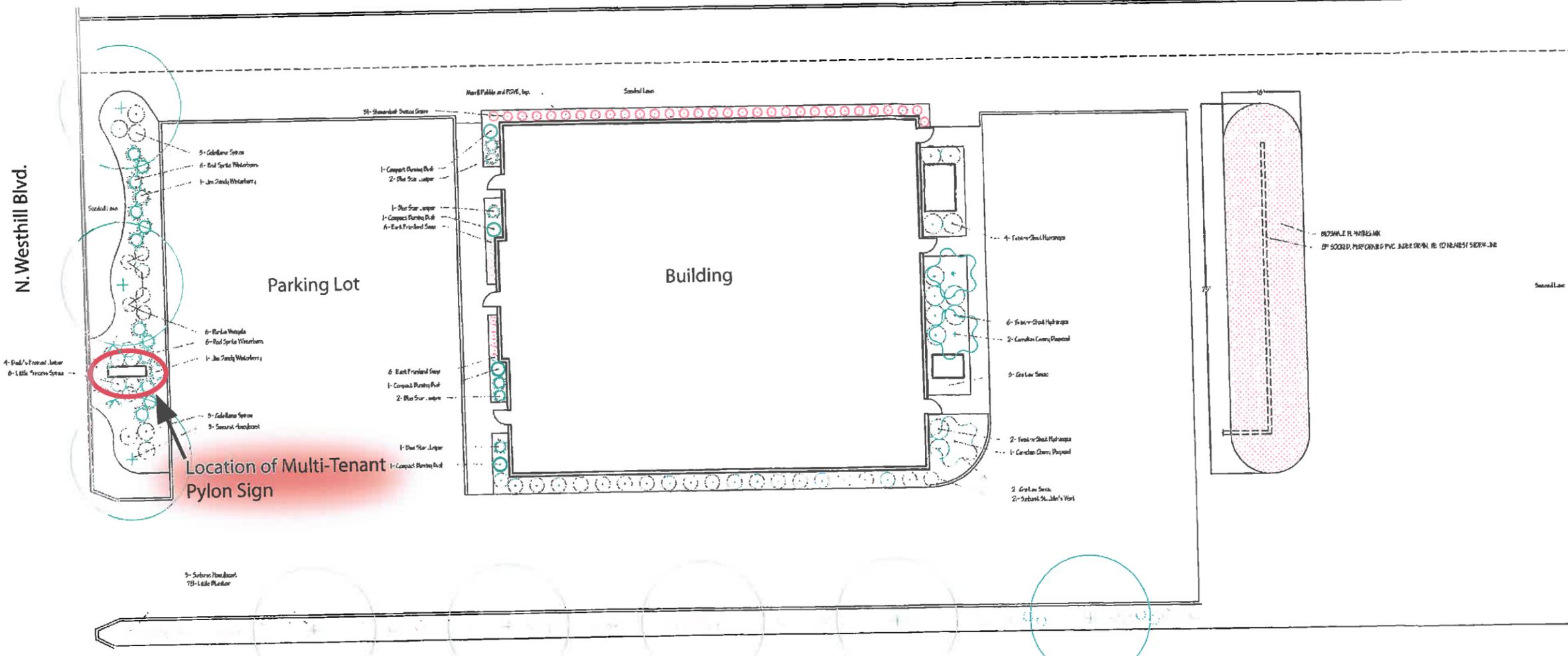
S83 W 18408 SATURN DR
MUSKEGO, WI 53150
414-350-1215

Job No.:	Date:
Order Date:	Salesperson:
Sign Dimensions:	Estimate:
239.611in x 263.417in	\$ 10000
Comments: PRICES INCLUDES INSTALLATION, DIGGING AND CONCRETE FOOTING	

REVISIONS	DATE
B. DEMLINCK	12/10/20

Vande Hey Company, Inc
 N2093 CTY HWY N * Appleton, WI 54913
 (920) 788-6344 * Fax (920) 788-6381
<http://www.vandeheycompany.com>

N. Westhill Blvd.



MILWAUKEE PC
 N. WESTHILL BOULEVARD
 GRAND CHUTE, WI

BOGUS LAKE	COMMON NAME	# OF PLUGS
FORBS		
AGLPTIS INCARNATA	WASH WILLOW	109
ASPERNOVE-ANGULIC	NEW ENGLAND ASPEN	99
LINUM SPICATUM	ZONE BLAZING SPIRE	109
LOBELIA CARDINALIS	CAROLINA FLOUNDER	21
PODSYPHIS PROSTRATUS	FOREGOATS BEARD TONGUE	99
PODIUM SPERMATOPHYTES	WINDMILL WHEAT	99
RUPESTRIS FULGIDA SPECIOSA	SHOWY BLACK-BEED SUNSH	64
VERONICA FASCICULATA	SMOOTH BROOMBEE	09
ZONA ALBA	GOLDEN ALEXANDERS	09
GRASSES		
CAREX AMBICOSTA B. VERNIPYRACARA	YELLOW TAIL SEED	92
C. PINNAR	FRANK'S SEED	77
C. SPHALLERIS	BEADY SEED	26
C. VULSITA	ILLUS OVAL SEED	11
C. SCOPARIA	LANE-FRUITED OVAL SEED	11
C. VILPINOXIA	FOX SEED	11
CASSIA HESPERIA	MILP'SIANA	99
SCYRUS SPERMATOPHYTES	LITTLE BLUE-BEY	206
SURTUS PONDICULUS	SEPPER BULLDOG	26

CUSTOMER NO.	-
DRAWN	B. DEMLINCK
CHECKED BY	B. BASTEN
DATE	11/21/2014
SCALE	3/32" = 1'-0"
SHEET	Master For Presentation



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