

TOWN OF GRAND CHUTE
1900 W. Grand Chute Blvd.
REGULAR MEETING OF PLAN COMMISSION
REGULAR MEETING MINUTES

April 19, 2011
6:00 pm, Tuesday

Although a quorum of the Town Board of Supervisors may have been present, no Town Board action was taken.

MEMBERS PRESENT: Chairman Dave Schowalter, Commissioners Bruce Sherman, Julie Hidde, Joe Malenofski

MEMBERS EXCUSED: Commissioner Bob Stadel, Vivian Huth

ALSO PRESENT: Tim Bantes, Fire Chief, Mark Heling, Road Superintendent; Tom Marquardt, Public Works Director; Jim March Town Administrator; Robert Buckingham, Community Development Director; other interested parties, (audience attendance = approx. 26) Supervisors Nooyen, Pleuss, Thyssen

1. ROLL CALL.

Chairman Schowalter called the meeting to order at 6:03 p.m.

2. PLEDGE OF ALLEGIANCE.

3. APPROVAL OF AGENDA.

Motion (Hidde/Malenofski) to approve the agenda as printed. Motion carried, all voting aye.

4. APPROVAL OF MINUTES - REGULAR MEETING & PUBLIC HEARING OF MARCH 17, 2011.

Motion (Sherman/Hidde) to approve the minutes as printed. Motion carried, all voting aye.

5. PUBLIC INPUT.

There was no public input.

6. COMMUNITY DEVELOPMENT DIRECTOR'S REPORT. (See attached).

7. **NEIGHBORHOOD INFORMATION MEETING** – CONDITIONAL USE PERMIT REQUEST FOR AUTO SELECT, 2212 W. WISCONSIN AVENUE FOR FILLING AND GRADING WITHIN THE FLOOD FRINGE DISTRICT. **ISSUE:** HEAR TESTIMONY AND CLOSE NEIGHBORHOOD MEETING.

Chairman Schowalter opened the neighborhood information meeting at 6:07 p.m.

Kristi Lynch, Ganther Construction, spoke on behalf of the owner in requesting approval of the request.

Motion (Sherman/Hidde) to close the Neighborhood Meeting. Motion carried, all voting aye.

8. CONDITIONAL USE PERMIT REQUEST FOR AUTO SELECT, 2212 W. WISCONSIN AVENUE FOR FILLING AND GRADING WITHIN THE FLOOD FRINGE DISTRICT. **ISSUE:** SHALL THE PLAN COMMISSION RECOMMEND APPROVAL/DENIAL OF THE CONDITIONAL USE PERMIT REQUEST. (TOWN BOARD ACTION 4/19/11)

Motion (Malenofski/Sherman) to recommend approval of the Conditional Use Permit request by Auto Select, for filling and grading within the Flood Fringe District at 2212 W. Wisconsin Avenue. Motion carried, all voting aye.

9. **PUBLIC HEARING #1** – SPECIAL EXCEPTION APPLICATION (SE-06-11) REQUESTED BY DANIEL GILBERT, 2720 W. SPENCER STREET, TO ALLOW FOR A 1,500 SQUARE FOOT DETACHED GARAGE. **ISSUE:** HEAR TESTIMONY AND CLOSE PUBLIC HEARING.

Chairman Schowalter opened the Public Hearing at 6:09 p.m.

Clarence Hartwig, 2821 Eighth Street, questioned why there was a need for a 1,500 square foot garage on a street with all homes, and questioned if the applicant was going to store junk cars in this garage.

Director Buckingham stated that the Zoning Code requires a public hearing and Special Exception Permit if a residential garage is planned to be more than 1,000 square feet in size. Given the large size of the property in question, the proposed garage meets code in all other aspects.

Hartwig added that this structure would be bigger than his house.

Dan Gilbert, 2720 W. Spencer Street, said they previously combined 2 lots, which resulted in the frontage along Eighth Street being available. He is requesting permission to build a garage large enough to provide storage space for a 29' motor home. He said he has no plans to repair or sell vehicles from the property, nor is the garage intended to store any other vehicles. Storage space within the garage would

be used for lawn equipment other items. The exterior of the new garage would look exactly like his house. He also noted that the existing machine shed, which is approximately the same square footage as the requested new garage, will be demolished to create space for the new structure.

Bill Lopas, 2750 W. Eighth Street, asked for confirmation that the existing machine shed will be torn down.

Chairman Schowalter said that is correct.

Lopas asked if the new garage would be accessed from Eighth Street.

Director Buckingham confirmed that the garage would be accessible from Eighth Street. The plan is to have overhead doors on both the north and south ends, to allow drive-through access by the motor home.

Lopas asked if the location of the existing Eighth Street culvert would be utilized for the new driveway.

Director Buckingham said the new driveway would be east of the existing culvert.

Lopas said he had a little trouble with that plan.

Ruth Schroeder, 2740 W. Eighth Street, said she lives across from the existing shed and that it was a machine shed years ago when it was on the farm. She said she has had to look at firewood piled up against the back of the shed, which faces her lot. She said she knows there is a culvert off of west Eighth Street onto that property and she asked if that driveway is going to be used often.

Director Buckingham said the existing culvert would be abandoned and a new culvert and driveway would be located further to the east. He also noted that as a condition of approval, the new driveway at Eighth Street would need to be a concrete surface to match other driveways on the street.

Schroeder asked which way the garage doors would face.

Director Buckingham said that one door would face north toward Eighth Street and the other would face south towards Spencer Street.

Chairman Schowalter asked for the size of the current machine shed.

Dan Gilbert said it was 27' by 54'.

Director Buckingham said the new garage would be 30' x 50', or approximately the same square foot area as the existing machine shed.

Chairman Schowalter noted that this would be a new building replacing an old run-down shed.

Ms. Schroeder provided pictures to the Commission.

Chairman Schowalter advised that the wood pile has nothing to do with the issue at hand.

Schroeder said she has lived there for 45 years and noted the subject property is the only empty lot on the street. She would rather see a house on the lot.

Dan Gilbert noted that the former lot that contained the machine shed was too small to place a home on it, which is the reason he combined this land with his homestead property.

Chairman Schowalter said that this would look like a house and that his expectation is that it would look much nicer than what is there right now.

Director Buckingham noted that a condition of approval would require that the garage be sided and roofed to match the applicant's home.

Motion (Hidde/Malenofski) to close Public Hearing #1 for Special Exception request SE-06-11 at 6:19 p.m. Motion carried, all voting aye.

10. SPECIAL EXCEPTION APPLICATION (SE-06-11) REQUESTED BY DANIEL GILBERT, 2720 W. SPENCER STREET, TO ALLOW FOR A 1,500 SQUARE FOOT DETACHED GARAGE. **ISSUE:** SHALL THE PLAN COMMISSION RECOMMEND APPROVAL/DENIAL OF SE-06-11. (TOWN BOARD ACTION 5/3/11)

Commissioner Hidde asked for Director Buckingham's recommendation.

Director Buckingham advised that staff recommendation is for approval with conditions. In addressing concerns expressed by neighbors, he noted that the proposed garage would have a residential style and it would replace an old, rundown machine shed of about the same size. He noted that because the garage would be built in a north-south direction, the neighbors would see less of a structure than they currently do because the machine shed is facing in an east-west direction.

Motion (Malenofski/Hidde) to recommend approval of the Special Exception request (SE-06-11) of Daniel Gilbert, 2720 W. Spencer Street, to allow construction of a 1,500 square foot detached garage, with the condition that the garage siding, windows, doors and roofing materials match those of the residence; that a driveway permit for access from Eighth Street be secured from the Town of Grand Chute; and, that the new Eighth Street driveway surface be paved in concrete to match driveway surfaces at neighboring residential properties.

Commissioner Sherman asked if the wood pile is on the applicant's property or on the next door neighbor's property.

Dan Gilbert advised that the wood pile is on his property.

Sherman asked if it would be appropriate to require that the wood be stored inside.

Director Buckingham said that it does not directly relate to this approval, but that if the Commission requested this, the property owner might take it under advisement to either store the wood indoors or move it to a spot that is less visible from Eighth Street.

Motion to approve the Special Exception request carried on a 3-1 vote.
Sherman voting no.

11. REZONING APPLICATION (Z-07-11) REQUESTED BY APPLETON ALLIANCE CHURCH, TO REZONE THE PROPERTY AT 2693 W. GRAND CHUTE BOULEVARD, FROM RSF SINGLE-FAMILY RESIDENTIAL DISTRICT TO PDD PLANNED DEVELOPMENT DISTRICT. (CONTINUATION OF DISCUSSION AND CONSIDERATION FROM 3/1/11 MEETING) **ISSUE:** SHALL THE PLAN COMMISSION RECOMMEND APPROVAL/DENIAL OF Z-07-11. (TOWN BOARD ACTION 5/3/11)

Chairman Schowalter asked Director Buckingham to speak to the issue.

Director Buckingham provided an in-depth overview of the issues surrounding the rezoning request and of the additional work and discussions that took place since the March 1 Public Hearing. He highlighted neighborhood meetings, Master Plan elements, traffic, property value impacts, and tax-exempt status of church property. He stated that in his opinion, all outstanding issues and concerns have been addressed and resolved; therefore, staff recommendation is to approve the Master Plan and to rezone the property to PDD Planned Development District.

Chairman Schowalter suggested that the Commission allow public input on this issue, with a three-minute limit per speaker.

Motion (Hidde/Malenofski) to allow public input, with a limit of three minutes per speaker. Motion carried, all voting aye.

Karl Koenig, Director of Operations for Appleton Alliance Church, provided a written response to neighborhood concerns expressed at the March 1 Public Hearing. He noted that the church met with both the Warner Creek Property Owners Association and the Warner Creek Condominium Association. He provided a response to concerns over traffic, narrow roads, right of way, parking, and property values.

Jim St. Mary, 3999 N. Foxglove Lane, stated that he is on the governing board of the Warner Creek Property Owners Association. He said that he lives directly across the street from the church and does not have a problem with the traffic on Sundays. He has learned to adapt his schedule or route for the peak times vehicles are entering or leaving the church. He said the church has been a wonderful neighbor and has been very accommodating to everyone they have spoken with. He concluded by saying that he sees no reason to not go forward with the rezoning request, and is in full support of it.

Motion (Sherman/Malenofski) to close the public input session at 6:37 p.m.
Motion carried, all voting aye.

Motion (Hidde/Malenofski) to recommend approval of the Master Plan for Appleton Alliance Church and for approval of the request (Z-07-11) to rezone the property at 2693 W. Grand Chute Blvd. from RSF Single-Family Residential district to PDD Planned Development district. Motion carried, all voting aye.

12. SITE PLAN AMENDMENT (SPA1-00-80) REQUESTED BY TILTIN WINDOWS, 1300 S. VAN DYKE ROAD FOR EXPANSION OF A COMMERCIAL DRIVEWAY AND PARKING LOT. **ISSUE:** SHALL THE PLAN COMMISSION APPROVE/DENY SPA1-00-80.

Director Buckingham advised that this is a small expansion of driveway and parking areas to accommodate increased customer service capacity. The driveway modifications are minor, and an existing gravel parking area will be expanded and paved. The project adds less than 4,000 square feet of impervious surface; therefore, by Town Code there is no requirement for water quality or quantity controls. Stormwater management will be handled by overland flow through drainage swales either to Van Dyke Road or to USH 41. The property will be subject to the new landscape standards ordinance on the north side, where three shade trees will be required. He concluded by advising that staff recommends approval with conditions.

Motion (Sherman/Hidde) to approve Site Plan Amendment SPA1-00-80 for parking lot and driveway modifications at Tiltin Windows, 1300 S. Van Dyke Road, with the condition that a driveway permit be secured from the Town of Grand Chute; that a permit be obtained from the Wisconsin Department of Transportation to construct a drainage swale that empties into the USH 41 drainage ditch; and, that the project meet the perimeter and interior landscaping standards of the Town Zoning Code, Section 27.06(11) (f) (2) and (3). Motion carried, all voting aye.

13. SITE PLAN AMENDMENT (SPA1-00-93) REQUESTED BY DISCOVERY CLOTHING CO., 4651 W. MICHAELS DRIVE, FOR ADDITION OF ILLUMINATED SIGN PANELS ON TWO EXISTING MULTI-TENANT SIGNS. **ISSUE:** SHALL THE PLAN COMMISSION APPROVE/DENY SPA1-00-93.

Commissioner Malenofski asked for Director Buckingham's recommendation.

Director Buckingham said this request meets code, space is available on the sign, there will be no vision clearance blockage, and he recommends approval.

Motion (Sherman/Malenofski) to approve Site Plan Amendment (SPA1-00-93) to permit the addition of illuminated sign panels, for Discovery Clothing Co., on two existing Fox River Plaza multi-tenant signs. Motion carried, all voting aye.

14. SITE PLAN AMENDMENT (SPA1-00-90) REQUESTED BY M&G AUTOMOTIVE AND GRAND CHUTE STORAGE, 5000 GREENVILLE DRIVE, FOR AN ILLUMINATED POLE SIGN. **ISSUE:** SHALL THE PLAN COMMISSION APPROVE/DENY SPA1-00-90.

Motion (Malenofski/Hidde) to approve Site Plan Amendment (SPA1-00-90) requested by M&G Automotive and Grand Chute Storage, 5000 W. Greenville Drive for the placement of an illuminated pylon sign. Motion carried, all voting aye.

15. AFFIDAVIT OF CORRECTION – FIRST ADDITION TO STARVIEW HEIGHTS, REMOVING THE CONDITION FOR INSTALLATION OF A BERM ADJACENT TO ELSNER ROAD. **ISSUE:** SHALL THE PLAN COMMISSION RECOMMEND APPROVAL/DENIAL OF THE AFFIDAVIT OF CORRECTION. (TOWN BOARD ACTION 5/3/11)

Director Buckingham noted that when this plat was approved, the lot grading plan included the developer's request to require rear yard berms along lots that had double frontage on Elsner Road. It was intended that the berm would be a source for using topsoil from the project and would provide a buffer from noise and visibility on Elsner Road. As the development was being finished, the developer instead began installing staggered rows of evergreens and hardwoods in lieu of the berm. Only 1 of the 10 affected lots has a berm in place at this time. The developer is requesting the affidavit of correction to remove the berm requirement. Director Buckingham advised that the Town Engineer has reviewed the request and notes that the berm had no function for plat drainage, so its removal as a requirement of the lot grading plan has no engineering impact. Director Buckingham also noted that Lots 42, 74 and 78 are not bermed or planted at this time, so a condition of approval would be that the staggered row planting scheme be installed in this locations. Staff recommendation is for approval with conditions.

Motion (Sherman/Hidde) to recommend approval of the Affidavit of Correction for the First Addition to Starview Heights, with the condition that Lots 42, 74, and 78 will be required to have double row staggered evergreens and hardwoods planted along the Elsner Road frontage to match similar landscaping on adjoining lots.

Commissioner Sherman asked if this was requested by the property owners.

Buckingham said it was requested by the developer, in recognition that the berm has effectively been replaced with another form of visual and sound protection. However, the recorded document for the plat still identifies the berm as a requirement.

Commissioner Sherman asked if anyone had spoken with the owners of the lots that have not had the berm installed to determine how they feel about this change. We are changing a requirement of the development and we are unsure if the people who own affected property are in favor of it or not.

Director Buckingham advised that to the best of his knowledge, other than the one home that has been built, the developer still owns most if not all of the remaining lots that are subject to the berm requirement.

Sherman asked if the lots in question are vacant lots.

Director Buckingham said that all but one of the lots is vacant at this time. The one lot with a home on it has a berm installed.

Chairman Schowalter asked if the properties had been notified of the pending change to the plat requirements.

Director Buckingham noted that it is not required to make notification for this type of approval, and he reiterated that 6 of the 9 vacant lots already have the staggered row of landscaping installed.

Commissioner Sherman stated that he does not think we should move ahead if the property owners have not been notified of the pending change to the plat.

Motion (Sherman/Hidde) to withdraw the previous motion to recommend approval. Motion carried, all voting aye.

Chairman Schowalter said that perhaps a notice could be sent out to property owners advising of the proposed change.

Commissioner Malenofski asked Director Buckingham if the berms were on right-of-way or owned by the property owner or were a different type of easement.

Director Buckingham said the required berm would be on private property.

Motion (Sherman/Malenofski) to defer action on the Affidavit of Correction for the First Addition to Starview Heights until the affected property owners are notified of the proposed amendment to the plat. Motion carried, all voting aye.

16. TOWN BOARD REFERRAL FOR POSSIBLE ZONING CODE AMENDMENTS:

- DOG KENNELS AS A SPECIAL EXCEPTION USE IN THE RSF SINGLE FAMILY RESIDENTIAL DISTRICT.

Director Buckingham provided historical background on an existing dog kennel at a residentially zoned property at 3101 W. First Avenue. After repeated enforcement actions, the Town and the property owner are at a point where both parties are seeking a means to recognize this as an existing legal use, subject to future restrictions. Staff recommendation is to amend the Zoning Code to require approval via Special Exception for a dog kennel in an RSF district. Approval conditions would be tightly structured to isolate the possibility for approval of a residential dog kennel to few, if any properties other than the First Avenue property.

Director Buckingham noted that some of the conditions that we might consider would be to restrict eligibility for approval only for an RSF zoned lot of a minimum 2 acres in size and with a back yard that abuts a County, State or Federal highway. He said that there would only be four other properties in the Town that would meet these two requirements. He noted that the First Avenue property owner voluntarily agreed to reduce the number of dogs from 12 to 8. This could be incorporated as a condition of the Special Exception request. Director Buckingham further noted that the advantage of taking this action in this manner would be that the operation could legally continue, but only by the current property owner (Snell) of the First Avenue property. Snell could not transfer the Special Exception to another residence, nor could a new owner of the First Avenue property assume the Special Exception granted to Snell.

Director Buckingham said he was seeking a recommendation from the Commission to direct staff research and drafting of a Zoning Code amendment for presentation at a future Plan Commission meeting

Chairman Schowalter said he agreed with Director Buckingham's proposed code amendment. He said that Mr. Snell has operated a kennel at this property for 25 years and has never had a complaint.

Motion (Sherman/Hidde) to direct staff to prepare and draft an ordinance change for dog kennels as a Special Exception use in the RSF Single-Family Residential District.

Commissioner Sherman noted for the record that the Commission should exercise care in creating ordinance provisions specifically targeted to one property.

Motion carried, all voting aye.

- SITE PLAN ENFORCEMENT LANGUAGE AND/OR PROVISIONS RESTRICTING SEMI-TRACTOR/TRAILERS AS A SPECIAL EXCEPTION USE IN CL LOCAL COMMERCIAL DISTRICT.

Director Buckingham provided historical background on the commercial parking lot at the southwest corner of Lynndale Drive and Spencer Street. This lot was constructed in the early 1990's to support employee parking for what is now known as Johnstone Supply, located at the southeast corner of Lynndale and Spencer. There have been a number of complaints from residential property owners who abut the parking lot. Their complaint stems from frequent parking of semi tractor/trailers, often with the vehicle engine left idling for extended periods of time. Director Buckingham said when this lot was rezoned from Residential to Local Commercial, the site plan presented a parking layout that was designed to accommodate employee parking of cars motorcycles, pickup trucks, vans, SUV's. There was no indication on the plan that semi tractor/trailers would park there. The ownership of the business and parking lot has changed at least twice since the original approvals were granted and these owners have been somewhat cooperative and have worked with Town staff in placing some signage at the entrances of the lot to prohibit overnight truck parking. As Town Code is currently written, the Town can only enforce noise complaints as a public nuisance, or trespassing, if a complaint is filed by the property owner.

This has been a six year problem and has been increasing in intensity. From research undertaken, it is clear that the Zoning Code does not provide for enforcement of a site plan violation. Additionally, semi tractor/trailer parking is not a prohibited use in the Local Commercial District.

Director Buckingham explained four possible options through code amendments: 1) Adopting an enforcement ordinance for violation of site plans, which would allow the Town to issue citations to non-compliant vehicles; 2) Adopting a Special Exception Permit requirement for parking semi tractor/trailers or other large commercial trucks in the CL Local Commercial District; 3) Adopt an amendment to the current parking lot ordinance to deal with this type of issue; and, 4) Rezone the parking lot property back to RSF Single Family Residential District. He said that option #4 would be the most severe step and could be subjected to a legal challenge, so it is not recommended. He said that in his opinion, the most responsible action would be to establish site plan enforcement capabilities, which would directly address this specific case, while providing a tool to help solve issues with other project site plan violations. He said his recommendation would be to direct staff to research and draft a Zoning Code amendment for presentation at a future Plan Commission meeting.

Commissioner Malenofski asked Director Buckingham how a notice for violation of an approved site plan would apply to existing parking lots that may have been used for semi parking for years now.

Director Buckingham said after talking to the Town Attorney, a code amendment would need to be drafted in such a way as to grant enforcement powers for current violations of previously approved site plans.

Motion (Sherman/Malenofski) to prepare and draft an ordinance change for consideration of adopting Zoning Code amendments, establishing enforcement powers for violations of approved site plans. Motion carried, all voting aye.

17. ADJOURNMENT.

Motion (Hidde/Malenofski) to adjourn the meeting at 7:01 p.m. Motion carried.

Respectfully Submitted,

Tracy Olejniczak
Community Development Secretary