

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

September 6, 2011

**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, Bob Stadel, Vivian Huth, Pamela Crosby

**MEMBERS EXCUSED:** none

**ALSO PRESENT:** Tim Bantes, Fire Chief, Mark Heling, Road Superintendent; Tom Marquardt, Public Works Director; Jim March Town Administrator; Mary Baxter, Executive Secretary; Kevin Vonck, Special Project Coordinator/Grants Administrator; Robert Buckingham, Community Development Director; other interested parties, (audience attendance = approx. 7 Supervisors Noonan, Thyssen, Pleuss entered at 6:05 p.m.

1. ROLL CALL.

Chairman Schowalter called the meeting to order at 6:00 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 JULY 19, 2011.

**Motion (Hidde/Sherman) 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.

Community Development Director Buckingham's report available upon request.

7. **PUBLIC HEARING #1 (Continued from 07/19/11) Plan Commission meeting) – PUBLIC HEARING FOR SPECIAL EXCEPTION SE-15-11 REQUESTED BY DANNY L. SNELL, 3101 W. FIRST AVENUE, FOR OPERATION OF A DOG KENNEL. ISSUE: HEAR TESTIMONY AND CLOSE NEIGHBORHOOD MEETING.**

Chairman Schowalter announced the continuation of the Public Hearing at 6:05 p.m.

Dan Snell, 3101 W. First Avenue stated that he has lived at the property for 25 years and that the dog kennel would be the same as it has been for that entire time.

Keith Krull, 3435 W. First Avenue said he is in favor of granting the Special Exception Permit.

**Motion (Huth/Stadel) to close Public Hearing #1 for SE-15-11 at 6:08 p.m.**  
Motion carried, all voting aye.

8. SPECIAL EXCEPTION APPLICATION (SE-15-11) REQUESTED BY DANNY L. SNELL, 3101 W. FIRST AVENUE, FOR OPERATION OF A DOG KENNEL. **ISSUE: SHALL THE PLAN COMMISSION RECOMMEND APPROVAL/DENIAL OF SE-15-11. (TOWN BOARD ACTION 9/20/2011)**

Community Development Director Buckingham noted that the Commissioners were provided documentation on the history of the dog kennel at this property. Additionally, they were provided copies of two letters of objection submitted by neighbors at the July 19 Commission meeting, and a letter received subsequent to that meeting. He referred Commissioners to his updated report and recommendation, which provides guidance on conditions that might be appropriate if a motion for approval is presented.

Commissioner Sherman said that right now we have eight neighbors or households that have stated their objections to this use. He asked if any of them have since changed their position. He said that basically if they don't withdraw their objections, they will remain that way for the record.

Director Buckingham noted that it appeared that many of the neighbors came to the July 19 hearing with a notion that this would be a more expansive kennel operation than what has been requested. One common concern is the barking associated with the number of dogs at the residence. He informed the Commission that he had a phone conversation today with David Plank, who had presented the letter of objection from the Selma Court and Sunnyview Circle property owners. Mr. Plank spoke with Mr. Snell after the July 19 meeting. He stated that his basic position has

not changed, although the extent of noise from barking dogs has diminished. After hearing the staff recommendation for approval with conditions, Mr. Plank stated that seemed like a reasonable compromise that would allow the kennel to operate, while protecting the interests of the neighborhood.

Chairman Schowalter noted that Mr. Snell did speak to several of the neighbors after the July 19 meeting, and assured them that this kennel would only be for dogs he owns.

Commissioner Sherman restated his concern that as the record stands, eight neighbors are opposed to granting this permit. He stated that in his opinion, these objections have to be taken into consideration when rendering a decision.

Commissioner Malenofski said that in reading through the letters of objection, it seemed the neighbors may have misunderstood that the special exception permit would allow an expansion of the kennel operation from what it is now. He noted that from all the information gathered, the intention is to restrict the operation to nothing greater than what exists now.

Commissioner Sherman asked Mr. Snell how many independent dog runs were in place at the property.

Mr. Snell said there were nine independent dog runs.

Commissioner Hidde noted that past citations issued to Mr. Snell related to both barking and the number of dogs being kept in a residential district. She asked how many dogs can be kept at a property in a residential district.

Director Buckingham said the maximum number is three dogs, unless a property meets the criteria for consideration of a Special Exception Permit. In that case, the Town can consider allowing no more than 12 dogs.

Commissioner Stadel stated that there is a lingering question as to whether or not there was a violation at this property, because of the zoning laws that existed at the time the applicant built the home and started boarding dogs. At that time, it was under the County's jurisdiction. He noted for the record that he supports approval of the Special Exception Permit, given the conditions that would be placed on the kennel operation.

**Motion (Stadel/Schowalter) to recommend approval of the Special Exception Permit (SE-15-11) requested by Danny L. Snell, 3101 W. First Avenue, for operation of a dog kennel, with the following conditions:**

**1) That the number of dogs being kept in the kennel be capped at a maximum of eight (8), effective October 1, 2012;**

- 2) That there be no boarding, breeding, or training of dogs that are not owned and properly licensed by Mr. Snell;**
- 3) That Mr. Snell secure a major home occupation permit from the Town no later than thirty (30) days after approval of the Special Exception Permit;**
- 4) That the Plan Commission review this case within one (1) year after approval of the Special Exception Permit to verify continued compliance with these approval conditions.**

Commissioner Malenofski asked if condition #4 would require another public hearing.

Director Buckingham said no, that this would merely be a check point for continued compliance. A Special Exception Permit carries with it the responsibility for continued compliance with the Zoning Code and any conditions specific to the permit. There is a process by which the Town could initiate a permit revocation action, with just cause. In that case, a public hearing would be held.

Commissioner Sherman said that condition #3 requires Mr. Snell to secure a major home occupation permit, yet we're saying this is not a commercial kennel. If that is the case, why does he need a home occupation permit?

Director Buckingham said the definition of the kennel does not preclude conducting this for a business. It is incumbent on the Plan Commission and Town Board to set the parameters around which a business operation would be allowed. In this case, that would be defined by the condition that there be no boarding, breeding, or training of dogs that are not owned and properly licensed by Mr. Snell.

Commissioner Huth asked for confirmation that all the dogs being kept at the kennel are owned by Mr. Snell.

Commissioner Schowalter confirmed that all 12 dogs are owned by Mr. Snell.

Commissioner Sherman asked if the one-year review would take into account any neighbor complaints.

Buckingham said yes, and that also during that time period, Town staff would request the opportunity to make a site visit and inspect the operation for continued compliance with the terms and conditions of the Special Exception Permit.

Commissioner Sherman asked Commissioner Stadel and Chairman Schowalter how they would feel about changing the Commission review timeline from one (1) year to six (6) months. He stated that the neighbors would then know that if there is a problem, the Town would address it within a half-year rather than a full year.

Both Commissioner Stadel and Chairman Schowalter said they would not be opposed to six months.

**Motion amended (Stadel/Schowalter) to recommend approval of the Special Exception Permit (SE-15-11) requested by Danny L. Snell, 3101 W. First Avenue, for operation of a dog kennel, with the following conditions:**

- 1) That the number of dogs being kept in the kennel be capped at a maximum of eight (8), effective October 1, 2012;
- 2) That there be no boarding, breeding, or training of dogs that are not owned and properly licensed by Mr. Snell;
- 3) That Mr. Snell secure a major home occupation permit from the Town no later than thirty (30) days after approval of the Special Exception Permit;
- 4) That the Plan Commission review this case within six (6) months after approval of the Special Exception Permit to verify continued compliance with these approval conditions.

Motion carried with all voting aye, except Commissioner Hidde voting nay.

9. SITE PLAN APPLICATION (SP-05-11) REQUESTED BY GAROT LAND DEVELOPMENT LLC, FOR EVERGREEN LAKE APARTMENTS – PHASE 2, LOCATED AT 4055-4095 N. ORION LANE. **ISSUE:** SHALL THE PLAN COMMISSION APPROVE/DENY SP-05-11.

Director Buckingham said this would be the second and final phase of the multi-family portion of the Butterfly Fields neighborhood and that the plan is consistent with the original master plan.

**Motion (Hidde/Sherman) to approve the Site Plan (SP-05-11) requested by Garot Land Development LLC, for Evergreen Lake Apartments – Phase 2, located at 4055-4095 N. Orion Lane, conditioned on staff approval of landscaping and lighting plans, and approval by the Town Engineer of stormwater management and erosion control plans.** Motion carried, all voting aye.

10. SITE PLAN AMENDMENT APPLICATION (SPA1-15-09) REQUESTED BY GAROT LAND DEVELOPMENT LLC, FOR EVERGREEN LAKE APARTMENTS IDENTIFICATION SIGN, LOCATED AT 1150 W. EVERGREEN DRIVE. **ISSUE:** SHALL THE PLAN COMMISSION APPROVE/DENY SPA1-15-09.

Director Buckingham noted that this will be a neighborhood identification sign for the multi-family project and will be placed at the corner of Orion Lane and Evergreen Drive. All code requirements are met.

**Motion (Sherman/Huth) to approve the Site Plan Amendment (SPA1-15-09) requested by Garot Land Development LLC, for an Evergreen Lake Apartments identification sign located at 1150 W. Evergreen Drive.** Motion carried, all voting aye.

11. SITE PLAN AMENDMENT APPLICATION (SPA1-00-86) REQUESTED BY KOLOSSO CHRYSLER JEEP DODGE, 2445 W. COLLEGE AVENUE, FOR NEW SITE SIGNAGE. **ISSUE:** SHALL THE PLAN APPROVE/DENY SITE PLAN AMENDMENT SPA1-00-86.

Director Buckingham noted that this is the former Bergstrom Automotive property, which fronts on an access-controlled County Highway. Consequently, two pole signs are allowed on the property. There is an existing electronic message unit sign at the corner of Lynndale Drive and College Avenue that will remain as-is. The proposed new sign will replace a previous pylon sign in the same location. There is a standing variance for this sign location that would allow this sign to be a maximum height of 35 feet. The proposed sign is 30 feet in height and 103 square feet in size. All code requirements are met.

**Motion (Huth/Malenofski) to approve the Site Plan Amendment (SPA1-00-86) requested by Kolosso Chrysler Jeep Dodge, 2445 W. College Avenue, for new site signage.** Motion carried, all voting aye.

12. CERTIFIED SURVEY MAP APPROVAL (CSM-08-11) FOR KONZ WOOD PRODUCTS, 616 N. PERKINS STREET. **ISSUE:** SHALL THE PLAN COMMISSION RECOMMEND APPROVAL/DENIAL OF CSM-08-11. (TOWN BOARD ACTION 9/6/11)

Director Buckingham stated that the property owned and operated by Konz Wood Products encompasses three subdivided lots. A planned building addition would cross over one of the interior lot lines; therefore, the CSM is needed to consolidate all the property into one lot. Along with that change, the CSM dedicates reserved right-of-way along Perkins Street.

**Motion (Hidde/Huth) to recommend approval of the Certified Survey Map (CSM-08-11) for Konz Wood Products, 616 N. Perkins Street.** Motion carried, all voting aye.

13. CONSIDERATION OF RESOLUTION R-21-2011, VACATING AND DISCONTINUING PART OF WREN DRIVE. **ISSUE:** SHALL THE PLAN COMMISSION RECOMMEND APPROVAL/DENIAL OF RESOLUTION R-21-2011. (TOWN BOARD ACTION 9/20/2011)

Director Buckingham advised that this street vacation is related to the Preliminary Plat and Conditional Use Permit the Commission approved for White Hawk Meadows III. With the subdivision design in place, the need for Wren Drive, south of Barley Way, no longer exists.

**Motion (Sherman/Malenofski) to recommend approval of Resolution R-21-2011, vacating and discontinuing part of Wren Drive.** Motion carried, all voting aye.

14. REVIEW AND DISCUSSION OF POTENTIAL REZONING OF CERTAIN LOTS IN THE STARVIEW HEIGHTS 1<sup>ST</sup> ADDITION SUBDIVISION FROM RTF TWO-FAMILY RESIDENTIAL DISTRICT TO RSF SINGLE-FAMILY RESIDENTIAL DISTRICT.

Director Buckingham stated that Carl Romenesko, representing Starview Heights 1<sup>st</sup> Addition Subdivision, has requested an appearance before the Plan Commission to gauge the feasibility of rezoning 17 lots along Star Ridge Lane and Hubble Lane from RTF to RSF. In 2009, the Town received a request to rezone 56 lots in the eastern half of the subdivision from RTF to RSF. After extensive discussion, the Town rezoned 39 lots RSF, but retained the RTF designation on the 17 lots that form the eastern and southern boundary of the plat. It was concluded that RTF zoning on these lots would provide a buffer between single-family homes in the interior of the plat and commercial development planned to border the plat from the east and the south. Director Buckingham stated that there may be new considerations that were not in place at the time the decision was made to retain RTF designation on the boundary lots. The newly adopted Landscape and Screening Standards code now establishes appropriate levels of screening and landscaping that a commercial use must provide when it abuts single-family or two-family residences. Whereas in the past, two-family residences were viewed as the only viable buffer from commercial uses, now landscaping requirements place the burden of a buffer on the abutting business property.

Commissioner Sherman said his concern remains that history has shown every time an area that is being developed for single-family homes abuts future commercial use, new residents approach the Town with complaints of commercial zoning next to their properties. He said when we did the Comprehensive Plan, we believed that a two-family buffer would help eliminate some of those concerns. He also noted that while the developer has placed covenants on the 17 lots, stating that only single-family homes can be developed there, the Town does not monitor or regulate private restrictive covenants. He stated that before the Town would re-consider this rezoning request, he would want to see evidence that there is clearly identifiable wording on the plat and property deeds that they share a common lot line with property planned for commercial use.

Commissioner Malenofski said that he agrees with Commissioner Sherman, however, he is unsure how the Town could enforce such a requirement. Due diligence is the responsibility of the buyer and seller.

Carl Romenesko noted that originally his group agreed with the concept of building some duplexes, but they soon got negative feedback from the property owners to the west in the original Starview Heights subdivision. He said that while duplex

construction would have been a more profitable venture for the development group, they respected the concerns of the neighbors, and thus pursued the rezoning action with the Town to classify the 56 lots as RSF. He noted that he owns 25% of the future commercial lands that border the east end of the subdivision, so he has a vested interest in creating a good environment for both residential and commercial development to thrive. Additionally, he noted the severe drop in elevation of the commercial land from the east edge at STH 47 to the west property line that abuts Starview Heights. Because of that terrain and the extreme depth of the commercial lots at 460', he does not envision any commercial activity at the west ends of the properties. Therefore, the distance between commercial buildings and residential properties will serve as a buffer.

Commissioner Hidde asked Mr. Romenesko if he intends to plant trees now along the common property line between commercial and residential uses, or if that would be required of individual businesses when the property is developed.

Mr. Romenesko said that would be a site improvement requirement when businesses begin building there.

Commissioner Sherman concurred that whether the adjoining residential property was developed with duplexes or single-family homes, the Town's landscape and screening standards would require the commercial property to provide the bufferyard plantings.

Commissioner Stadel said that he agrees with Commissioner Sherman concerning the need for adequate notice to future owners of the residential lots that abut property to either the east or south that will someday be zoned and developed with commercial uses. He said that if there was a way to place a comment or information on the records of the impacted lots, as kept by the Register of Deeds office, this would become part of the routine due diligence undertaken when real estate is sold.

Director Buckingham advised that the future commercial land along STH 47 is already zoned CL Local Commercial, so the desired disclosure would be easy since it is of record that this land is commercially zoned.

Mr. Romenesko concluded the discussion by stating that he will continue placing a disclaimer on offers to purchase that the boundary lots are restricted to single-family use, and that these lots abut future commercial development land.

15. ADJOURNMENT.

**Motion (Sherman/Huth) to adjourn the meeting at 6:45 p.m.** Motion carried, all voting aye.

Respectfully Submitted,

Tracy Olejniczak  
Community Development Secretary

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