

## **Minutes Plan Commission Meeting**

**May 16, 2016**

**Members Present:** Kate Barrett, Brad Czebotar, Bruce Fischer, Cathy Kirby, Ron Berger, Dan Kolk

**Members Absent:**

**Staff Present:** Pauline Boness, Brian Berquist, Town & Country Engineering, Karen Knoll

**Others Present:** Cathie Taylor, Emerson Taylor, The Dog Hut; Jim Lacy, Virginia Barresi, Anthony Barresi, John Grell, Patrick Kennedy, Dale Carmichael, Kay Carmichael, Matthew Coan, Tom Thorson, Royal Oak Associates Inc.; Tom Gannon, Gannon Construction; Mark Shubak & Jim McCarthy, Strand Associates; Jerry Dietzel, Michele Stoffel-Rosales, Hugo Stoffel-Rosales

- 1. Call to order.** Czebotar called the meeting to order at 7:03 p.m.
- 2. Review and approval of draft Minutes of the April 18, 2016 Plan Commission minutes,**  
Czebotar moved to approve the April 18, 2016 minutes Kirby seconded the motion. Motion carried.
- 3. Public Hearing - Review and possible action regarding a Conditional Use Permit (CUP), requested Cathie Taylor (CEBK Investments LLC), allowing The Dog Hut LLC at 4311 Triangle Street, property zoned C-H Commercial Highway**

Czebotar opened the public hearing at 7:04 p.m.

Cathie Taylor – 2404 Hwy Ab – reviewed the history of their business at 4311 Triangle Street, which they started 5 years ago with a CUP. They understood they are in a TIF zone and there has been no indication the Village has any other plans for the location at this time. Their business has grown from 4 – 5 dogs a day to 55 – 60 dogs per day, with 13 employees. They would like to extend the CUP for another 5 years if a permanent one is not possible. Their location is key to their success and referral based, if they had to relocate they could but would prefer not to.

Jim Lacy 5800 Osborn Drive – Is in favor of this approval and encourages the Commissioners to approve the CUP. He is a customer, but feels this is in a perfect location. The owners have made many improvements, and, he does not feel noise is an issue due to the location next to a highway and in a light industrial location.

Boness inquired if there is a limit to how many dogs can be at the facility. Taylor responded there is no limit.

Czebotar closed the public hearing at 7:09 p.m.

Czebotar moved to approve a Conditional Use Permit (CUP), requested by Cathie Taylor (CEBK Investments LLC), allowing The Dog Hut LLC at 4311 Triangle Street, property zoned C-H Commercial Highway for an additional five years. Seconded by Kirby.

Boness asked in light of the conversation of making this permanent is there a reason they wish to do another 5 year CUP? Czebotar responded because it is in a TIF district and the possibility of something else being done with the property. Boness indicated since Taylors now own the property, a temporary CUP will not make a large difference. Czebotar revised the motion to indicate a permanent CUP, Kirby agreed. Motion carried 6-0.

**4. Public Hearing - Review and possible action regarding a Conditional Use Permit (CUP), requested Adam L. Frydenlund allowing for construction of a duplex at 6104 Rivercrest Drive, property zoned C-G, General Commercial.**

Czebotar opened the public hearing at 7:11 p.m.

Mathew Coan 6211 Rivercrest Drive – Showed a slide presentation of neighborhood and indicated concerns, they have been having meetings with neighbors to discuss the proposal. The site plan is different from the rest of the neighborhood and not in keeping with the character of the neighborhood, there are many mature trees, it will not be an owner occupied property and is a very basic plan in a neighborhood of custom homes. There is a neighborhood sign just past the proposed lot, with plantings by the neighbors to beautify the neighborhood, which will likely be removed. One of the main problems is this is a very narrow lot without a wide side yard, the setback does not conform with the neighborhood. While they welcome multifamily, concerns over maintenance, lack of room due to small garages, outside storage issues. They have been told Frydenlund has indicated he will keep an eye on the property, but they are concerned over what that really means, and, what the recourse is if it is poorly maintained. Coan would like to see this turned down as proposed. He feels there is the possibility to build something which goes deeper into the lot and is not so close to the road and crowding the lot lines.

Barrett asked are setbacks, or rentals the main concern? Coan responded while they would prefer something which was owner occupied, the layout, plan, and the setbacks are the main concern.

Adam Frydenlund – He feels the house does look uniform with others in the neighborhood. He is leaning towards making this a higher end product, with nice landscaping and will try to get tenants who will appreciate the property. Frydenlund reviewed his landscape plans, he would like to maintain the front of the property with tree's along the side by the neighbor's home. He is doing this project as an investment and wants to make it as large as he can between 1500 – 1800 square feet in size with two car garages facing Rivercrest Drive. He feels the setbacks do meet the commercial setback guidelines, but doesn't feel he can make the building longer due to the backyard setbacks.

Boness feels there is room to go back further based on the plot map as shown, she will have to look into this. Boness stated she will take a look into where the home can sit on the lot per setbacks. Kirby suggested he work with staff on where the home is placed on the lot to help with the concerns of the neighbors. Barrett asked about converting this property to R-2. Boness stated if it is left C-G they have the ability to review the proposed project, site design, etc. if it is zoned R-2 we do not review site plans at the Plan Commission level. In the long run if it is R-2 you have more to say in the future of the lot, if left at C-G someone could potentially place a business in one half of the duplex.

Hugo Stoffel- Rosales 6109 Rivercrest Drive – he would like to have clarification why this cannot be considered for a single family home.

Kirby responded because it is zoned commercial at the present time, you would have to have someone who is interested in changing the zoning and putting up a single family home. It can be changed from Commercial to R-2, but without an interested party the zoning remains the same.

Frydenlund reviewed his planned color palette for the property. Czebotar inquired what the rental amounts would be for the property. Frydenlund replied it will be approximately \$2400 per unit. Barrett inquired if he is interested in moving his family to McFarland. He replied they currently purchased a property in Sun Prairie where they reside and will for two more years, in 2 years they will make a decision as to where they wish to live. Barrett encouraged him to explore moving the property back from the street, the front of the home is the calling card. She would like to see him work with staff on this. Kirby feels we need to keep with the truth in zoning, if you are going to use a lot as R-2, it should be zoned R-2. Fischer inquired if he had looked at designing something where one unit is more the main property and the other has a different design to give it some curb appeal, and make it not look so much as a rental. Frydelend replied one of the units will be set back a little bit. Fischer asked for confirmation, will both be the same floor plan and size? Frydenlund replied yes they will be.

Czebotar closed the public hearing at 7:42 p.m.

Boness referred Commissioners to the letters in their packets, and to take those into consideration. Fisher responded in reviewing them there was one indicating Frydenlund has no ties to the Village and has flipped properties, this is something the neighbors are concerned about, and something which does happen. How can he reassure neighbors this will not happen. Czebotar asked of Frydenlund if he would be open to changing the zoning of the property. Frydenlund replied he would be willing to change the zoning of the property, he has structured the building accordingly to fit both setbacks. Kolk inquired if we had to issue a permanent CUP in a C-G, and who requests the zoning change. Boness responded it would be a permanent CUP if it was C-G, the owner would be the applicant to request a zoning change. Czebotar asked if Frydenlund would be willing to request a zoning change. Frydenlund replied if that is what it would take to get approval he would. Kolk asked what his main business is. He replied he does remodeling of both residential and commercial and has flipped homes. He did get his real estate brokers license in 2012 so he can purchase and sell real estate, he does not have any interests in flipping this property, and his sole purpose is to keep this for his income.

Kirby stated we do have ordinances on the books to use to keep properties up. This property is on the edge of the neighborhood, and a duplex can be better than commercial. She understands the neighbors' valid concerns about maintenance if it becomes a problem the Village will become involved.

Kirby moved to approve a Conditional Use Permit (CUP), requested Adam L. Frydenlund allowing for construction of a duplex at 6104 Rivercrest Drive, property zoned C-G, General Commercial. With the understanding Mr. Frydenlund will approach the Village for rezoning to R-2 and staff approval of setbacks and landscaping plans. Berger seconded the motion.

Kolk asked for clarification the zoning. Kirby responded she feels there should be truth in zoning, this way the project can keep moving forward, but he will have to apply for the rezoning. This is one of the conditions of the conditional use permit. Fischer was not sure we would have grounds for approval if it was R-2. Kirby replied she is making that a condition of the CUP as we are seeing the plans tonight, and he will have to meet with staff for further approval. Boness asked for clarification, it is Kirby's understanding before he can build, he will have to come back to the Plan Commission for the zoning? Kirby replied yes along with the setbacks and landscaping. Berger asked if this is a problem. Boness replied it may be because if he does not get the zoning then the project would be dead, as it would be a condition of the CUP. Kirby would like it to be zoned R-2 and not stay commercial for the benefit of the neighborhood. Kolk felt the only way to do it would be to deny the CUP and have Frydenlund to come back with a request for R-2 zoning. Commissioners discussed the various options to accomplish what they feel is best for this request.

Kirby amended her motion to remove the condition of applying for R-2 zoning, Berger accepted the amendment. Kirby moved to approve a Conditional Use Permit (CUP), requested Adam L. Frydenlund allowing for construction of a duplex at 6104 Rivercrest Drive,

property zoned C-G, General Commercial, conditional upon staff approval of setbacks and landscaping plans. Berger seconded the motion.

Kirby strongly encourages Frydenlund to move forward with the rezoning to better fit in with the neighborhood. Barrett would like to see the duplex moved as far back on the site as possible.

Czebotar called for the vote, motion carried 6-0.

**5. Public Hearing - Review and possible recommendation to the Village Board on a request by Thomas Gannon regarding Preliminary Plat approval for Prairie Place Subdivision located on 33.5 acres east of Holscher Road and north of MN.**

Czebotar opened the public hearing at 8:00 p.m.

Tom Gannon 2860 Cty. Road AB, representing Gannon Company – In 2008 the Prairie Place subdivision was approved but they did not move forward or record the plat. In 2015 they received approval of a Preliminary Plat identical to the one in 2008. Since then it was confirmed there are 6.83 acres of wetlands in the center of the plat. Gannon reviewed the proposed plat, with 56 single family lots, adding one large multi-family lot with up to 120 units on it, and the connection to the Veridian development, and location of the future bike path. There is one less road through the center of the development from prior plats due to the wetlands. Staff requested removal of a through street and identifying a cul-du-sac on White Daisy. Boness informed Commissioners this is due to the new owner of the adjoining property Skaalen most likely wanting a campus type layout on their property in the future, therefore a through street will not be necessary. Barrett asked about the proposed multifamily lot, is there the possibility of duplexes there? Gannon responded there is not a lot of depth there to give them the ability to construct duplexes, they feel the site lends very well to a P.U.D.

Patrick Kennedy asked if they are planning to put in all multifamily on the corner of Holscher and MN, he was not in favor of such a plan. Gannon advised he would come in with a proposal; they are seriously looking at a 55+ rental on the site. Boness inquired if they would be moving forward with the rental first or the single family. Gannon replied both will be coming on line at the same time, but they do not have a specific timeline.

Tim Thorson from Royal Oaks reviewed the sanitary lift station, connections, inverts, street grades on the preliminary plat with 8" mains and 4" laterals to the single family. They hope to connect to the 10" mains for the multifamily and would like them to be as deep as possible. The water mains will be used off of MN. There was also review of the proposed storm sewer layouts. Streets will be standard structure. Barrett asked if there will be sidewalks. Thorson replied yes throughout the project.

Mark Shubak of Strand Associates, discussed the wetland delineation maps and photographs of the site. The site was cultivated farmland for as long as records exist. They will focus their efforts on restoring it to its pre-farm condition rather than protecting it. Fischer stated there has been standing water on the site in previous years. Shubak responded they are not proposing to fill in the site and have been meeting with specialists to discuss plans. Kirby asked if they are asking for a variance for the 75' barrier as there are some lots which are infringing on the barrier. Shubak reviewed a larger overview of the stormwater management plan, there are certain unique challenges to the plan, one being the restoration plan for the property. In order to advance the plan, CARPC has certain wetland requirements, one condition is there are certain setbacks to wetlands. It wasn't until last year the wetlands were regulatory identified. The 75' for setback for impervious surface and the 30' setback for grading. This is a unique case, as the setbacks are normally for established wetlands. The quality of this wetland is limited as it was farmed. They have met with regulators who agree with this, but there is a certain process which has to be gone through in order to obtain a variance or sponsorship and the support of the Village to make that petition. They are looking to see, as they are going to restore it to its native variability. Shubak said the feedback they received from CARPC staff appeared to be in support, they have to go back before CARPC commission members for approval. From a CARPC staff level this is a proposal they can support due to the type of restoration.

On the west side of the plat there is a 500' area which has been replaced with fill over the years, this was before they knew of any wetlands in the area. There is now a very steep erosive slope which exists there now, they would propose to regrade it so it would be a gentler slope.

Shubak explained the types of grasses, vegetation and the bio retention facilities. There will be a path with a 10' offset to meet requirements. They would be asking for variances on the impervious area setbacks of five of the lots. There are regulatory hurdles they need to overcome, and have to approach CARPC for variances.

Kirby stated CARPC may not have problems with this but she does, due to past experience in the Village there are homes which were allowed to be built in an area which is not particularly wet, but have issues with flooding, it is one thing to have a small corner of the lot in the wetland, it is another to have 85% of the lot in the wetland. She feels the wetland would have been larger had dirt not been brought in to fill the area along Holscher Road. Once you start building homes, and have driveways and streets you are adding a lot of impervious surface, you will see that area become wetter. Shubak did not feel it would be as large of a problem as the Juniper Ridge development is containing its own runoff, he also feels if they waited five to ten years this area would dry up.

Jim McCarthy Strand and Associates – The buffer is meant to be a protection of inherent habitat which is meant to be protected, they are planning on not moving dirt but putting the vegetation there which they feel will be most successful in establishing a quality area. The intention is to ask for the ability to put a trail on the west side which will be 10' feet from the edge and get an exemption for the four east side lots. They do not think they will need any subsurface drainage tile. Kirby stated the reality is, even if you get the variance of the buffer,

people will push their backyards further out and take over the buffer and you will have backyards right up against the wetland, people will mow as far back as they can. Shubak stated there will be restrictions as to what can and cannot be done within the buffer, there will not be sheds or impervious surfaces allowed. Kirby inquired who would regulate the restrictions. Shubak replied the Village would be in charge. Shubak stated due to the sandy soil ground water will not be found, people will have sump pumps to run, it is a very well drained depression. Fischer pointed out, while they state they have cut off 2/3 of the hydrology flowing in, they have also filled in about 1/4 of the area, water has stood out in that area for a significant time, it was not due to frozen ground. Barrett added, as they have stated these are hydric soils, by definition hydric soils do not drain well. McCarthy replied they have done testing, and borings on the site, if it is wetland, it is not a highly organic wetland, vegetation is not going to come on its own, they will use seed mixes to create a focal point, but he does agree someone can mow it to make it look like their yard. Barrett stated they are not disputing it, and commends them on what they are proposing to do, but to say that some of these lots are not going to be wet at some time, when they have seen it before in similar situations.

Gannon replied he feels people who have a 75' setback will do the same thing, the Village will need to police it and put up signs, and it will be part of the process. The buffer only means you cannot put impervious surface in the area, which is why they are going for a variance. He feels this is a huge opportunity. Gannon asked of McCarthy what area would fill in the event of a 100 year storm. McCarthy replied it would fill to the wetland boundary, as shown on the map. Barrett stated the hydrology will probably balance out, the question is regarding the variance for the parcels where people will later on have to deal with water issues. Gannon replied that is his issue to deal with. They will build homes at a particular elevation to try to avoid this and they will have sump pumps or walk out basements to control the issue. Boness stated the Village did have to pay to mitigate the situation on East Open Meadow due to water issues and in regards to CARPC she would not go as far to say they are automatically going to approve this at the staff level.

Kirby stated the bottom line was the Village had to go in and correct a problem, and while she agrees with Barrett and commends them on what they are proposing to do, however wetlands are still wetlands, whether Gannon agrees or not, it still deserves the buffer around it. Fischer asked if someone is thinking to develop further to the east, how that will impact this development. Berquist stated water would flow in the other direction. Gannon reviewed the proposal and feels without the variance they will not be able to build on some of the lots, isn't it worth the small variance to allow someone to build on them? They will put signs up to prevent people from mowing into the wetlands, it is a reasonable compromise.

Berquist summarized his review letter, most are achievable at the time of the final plat. Specific to the right of way on Holscher, it is not built at this time, they are waiting on Veridian to provide sufficient right of way to start the construction. They also need sidewalk easement or dedication. They are waiting for Veridian to resolve their right of way issues, and Berquist has indicated if that does not get resolved they can ask to secure land from Gannon. The other items on Holscher Road are not insurmountable. Boness asked Berquist his viewpoint of potential wet basements. Berquist replied, it is tricky, his advice would be they do not go hand

in hand with wetlands, groundwater is difficult to predict, and the best defense is elevation and having the basement levels higher. It is a horizontal buffer and he is more concerned with the vertical, what is the level of the wetland when it is dry and when it is wet, the level in the 100 year storm, elevations need to be set on the worst case scenario. It is a policy decision for the Village. He would suggest deed restricting the basement levels, similar type subdivision require private rain gardens on each lot, it does come down to policy.

Czebotar asked of Berquist, a lot of the concerns raised today are not necessarily the same concerns he has? Berquist replied he feels they are concerns which can be addressed, his biggest concern is the long-term issues. The Village has the ability to decide whether or not they want to allow residence within 75' of a wetland. The other issues he feels are solvable. Czebotar asked would Berquist be reasonably comfortable advancing this to the Village Board. Berquist responded he thinks there are a lot of conditions, not only those in his letter, not all have been addressed, some of these can be discussed with Gannon and their staff, the Village should provide some guidance if you're comfortable with near term grading in the 75' buffer and comfortable with rooftops long term in that 75' buffer. Those would be the two biggest questions. Czebotar felt with those questions there are answers which would be needed. Boness felt there would be a lot to talk about, we did receive some new information tonight and we will work with Berquist and the rest of staff on conditions for next month's meeting. Unidentified gentleman from audience had question regarding filling in of the land, also he is not in favor of the apartment complexes proposed to be on Holscher Road. Gannon responded this was approved years ago and he took out erosion control plans to do this, he feels the location is ideal for multi-family.

Brian Utter 5703 Paulson Road – how is the Veridian system going to interface with the proposed development, there is a pipe running under MN draining it all out, he does not feel the original plan was to dump water onto neighboring properties. He wanted to know how the Veridian property will drain onto the proposed Gannon site in the case of a flood; will this be through a pipe? He is concerned as when this area flooded previously, it was in the center of the area as it was cropland, in a heavy event when you now have homes and more impervious surface you will have more issues.

Shubak feels the plan which was developed for Juniper Ridge is self-containing in a 100 year issue, the pipe is there in case the infiltration system did not function as designed.

Czebotar closed the public hearing at 9:37

Czebotar moved to continue the review and possible recommendation to the Village Board until the June 20, 2016 Plan Commission meeting. Kirby seconded the motion, Motion carried 6-0.

**6. Review and possible action regarding a Site/Design review, requested by Tim Neitzel, for approval of a single building office and warehouse structure for property located at 4761 McFarland Court currently zoned C-H Highway Commercial.**

Jerry Berquin – Dimension IV Architects - there originally was a small building approved for this site in 2008, but they did not move forward with it at that time, they now have a tenant for the site, Sunset Ridge Exteriors, whom they feel will be a good fit for the area. It will be a 3000 sq.ft. building with area for a later addition. They will be adding 6 parking stalls to what is already on site, and the dumpster will be moved towards the back of the site. Berquin reviewed the plans and materials to be used for the building. The building will be in line with other buildings in the area. There is potential for one more building in the subdivision. Stormwater has already been prepped and is in place.

Berquist stated the stormwater management was done for the entire project a few years ago, they would need the erosion control plan, and the site plan showing stormwater, and the parking lot still needs dimensions identified.

Berquin stated the landscaping plans had previously been submitted, the back area is wetlands, and they did put a buffer along the side of the lot. There are new plantings along the dumpster area. Boness compared the buildings from 2009 and the current submission. Berquin stated the reason for the change is who the building is designed for. Barrett asked for verification this is not going to be used for storage, it is designed for a tenant. Berquin responded there will be offices in the front and the materials will be kept inside, which is where the loading will be taken place. Barrett stated she is not impressed with the design, she would like to see it spruced up a bit, if there is any way they can do this.

Czebotar moved to approve the site/design requested by Tim Neitzel, for a single building office and warehouse structure for property located at 4761 McFarland Court currently zoned C-H Highway Commercial. Conditioned upon no outdoor storage without issuance of a Conditional Use Permit by the Plan Commission, an erosion control plan reviewed and approved by the Village Engineer, site plan completed and approved by staff. Seconded by Kirby. Motion carried 6-0.

**7. Department Reports:**

- a. **Highlights and Updates** – Boness updated Commissioners Mr. Grell was in attendance tonight, but has left. She has included an email from the DNR in packets, as Mr. Grell wanted the condition attached to his CUP regarding oil tank removal deleted, she feels it should stay based on the email. We can extend this to the June meeting. Czebotar asked if there is a requirement for the tank has to be removed, what is the likelihood, due to the cost, anything would happen with the lot. Boness replied it will all depend on what is found, how much if any

residual soil. The suggestion was to do some samples to see what would be found there. Czebotar referred this to the June meeting.

- b. Property Maintenance Report** – Barrett pointed out Neitzel property next to the Walgreens needs to be mowed. Kirby inquired about people who mow and leave the grass on the sidewalk. Barrett responded you cannot mow into the street, there is no ordinance about the sidewalks.

Boness informed Commissioners there is a proposal for a gas station to be put on the corner of Siggelkow and Valley, in the City of Madison. There is a public hearing in June at which time Berquist and Allan Coville will be there to represent the Village and their opposition due to the closeness of our municipal well. The meeting conflicts with our June Plan Commission meeting, Village Board members will likely be in attendance. They have met with parties from Madison to indicate our concern due to the closeness to the well. Czebotar advised they will also possibly be discussing public safety issues as well.

- 8. Adjournment** – Kirby moved to adjourn, Barrett seconded the motion, motion carried meeting adjourned at 9:50 p.m.