

**APPROVED MINUTES
PLANNING COMMISSION
CITY OF WYOMING, MINNESOTA
JULY 23, 2024
7:00PM**

CALL TO ORDER:

Planning Commission Vice-Chair West called the Regular Meeting of the Wyoming Planning Commission for July 23, 2024 to order at 7:00 PM

CALL OF ROLL:

On a Call of the Roll the following members of the Wyoming Planning Commission were present: Katie West, Dan Iverson, Mark Holl, and Chris Ortwerth

ABSENT: Commissioner Mark Lobermeier

Also Present: Fred Weck Zoning Administrator, Robb Linwood, City Administrator, and Council Liaison Lisa Iverson

DETERMINATION OF A QUORUM:

PLEDGE OF ALLEGIANCE:

OPEN FORUM: NONE

APPROVAL OF MINUTES:

- 1. Consider approving the minutes of the “Regular Meeting” of the Wyoming, Minnesota Planning Commission for July 9, 2024**

Commissioner Iverson pointed out two instances where comments and motions he had been had been credited to Commissioner Holl by mistake.

A MOTION WAS MADE BY COMMISSIONER IVERSON, SECONDED BY COMMISSIONER HOLL, TO APPROVE THE MINUTES OF THE “REGULAR MEETING” OF THE WYOMING, MINNESOTA PLANNING COMMISSION FOR JULY 9, 2024, AS AMENDED.

Voting Aye: Ortwerth, West, Holl, and Iverson

Voting Nay: None

Abstain: None

Absent: Lobermeier

SCHEDULED PUBLIC HEARINGS:

- 2. Amend the Conditional Use Permit for a Planned Unit Development: C-24-001**

Location: The Summer Fields residential development

Applicant/Owner: Jesse Moxness of Summer Field, LLC

Property ID Number: 21.10582.XX

Zoning Administrator Weck explained that the applicant had requested an amendment to the CUP for a PUD. He stated that in January of 2020 the Joint Park Planning Commission had agreed to accept cash in lieu of land for the park dedication and in September of 2020, WSB finalized an

EAW which determined that the proposed project did not have the potential for significant environmental effects. He stated that in October of 2020, the City approved a Preliminary Plat and rezoning and in November of 2020 approved a CUP for a PUD that applied to the entire development and had also approved the Final Plat for a 19 lot subdivision which was the first phase of Summer Fields. He explained that the applicant had requested amendments to the setback requirements on Lots 1-9 of Block 1 and Lots 1-6 of Block 2. He noted that it would reduce the side yard setbacks from 7.5 feet to 5 feet and the setbacks at an intersection by reduced from 20 feet to 15 feet. He explained that part of the reason for this reduction would be to allow for 3 car garages to be built. Staff recommends approval, with the conditions as outlined in the staff report.

Jesse Moxness, owner, stated that he would be happy to answer any questions that the Commission may have.

Commissioner Iverson noted the roof run-off locations and asked if the proposed narrowing between the properties would change anything about how that would work.

Mr. Moxness stated that between each house pad they will have a drain and noted that they will have to cut in a swale that would basically push the water to where it is supposed to flow. He explained that a few feet difference would not really change much of that, so he did not see any issues with that. He noted that he usually installs gutters or at least recommends that his clients put on gutters, which makes it a bit easier to control the water and reiterated that he really did not see this creating any issues with water.

Commissioner Iverson asked if it was too late in the process to take out a few lots in order to make each lot a bit wider.

Mr. Moxness stated that they cannot do that at this time and explained that they were trying to keep the costs down on everything. He explained that the current market is tough right now because cost and interest is high and noted that they have been getting a lot of feedback from customers that they want to have a 3 car garage. He stated that with the current property widths, he did not think it would be aesthetically appealing to put in the 3 car garage. He explained that he likes the developments to look nice and not like you would be essentially looking at a storage building, which he feels it would be if they put in 3 car garages with the current lot configurations.

Commissioner Iverson asked what the added value would be to the price of a home in going from a 2 car garage to a 3 car garage.

Mr. Moxness stated that the added value would be between \$15,000 to \$20,000.

Commissioner Holl asked if making the setbacks smaller would create the need to have any fire walls.

Mr. Moxness stated that it would not create the need for a fire wall. He stated that there are a few things that they will need to do but he and Zoning Administrator Weck can discuss those details.

Commissioner Ortwerth asked what this would do to the City's Comprehensive Plan.

Zoning Administrator Weck stated that this would not change anything and noted that for a PUD the setbacks are proposed by the developer and then approved by the City. He clarified that Mr. Moxness could have made this proposal at the beginning of the process, but noted that if approved, it would not change the density.

Mr. Moxness stated that he has a development in Lindstrom that is exactly like what they are proposing with 40 foot wide pads on a 50 foot wide lots that has been very successful and would like to have the same success in the City.

MOTION BY COMMISSIONER IVERSON, SECONDED BY COMMISSIONER ORTWERTH, TO

OPEN THE PUBLIC HEARING AT 7:10 P.M.

Voting Aye: Ortwerth, West, Holl, and Iverson
Voting Nay: None
Abstain: None
Absent: Lobermeier

Phillip Russell, 25869 Emerald Avenue, stated that he had moved into this area a few years ago because it was nice, open, and rural looking. He stated that when the development started going in, he objected to some of the plans because of the density. He noted that he feels that they will literally be able to spit onto each other houses which reminded him of where he came from and was also the reason he left. He explained that he did not want the rural, small-town feel to go away and felt that this proposed density is bringing that into the City. He stated that he liked the idea that was raised to take 1 or 2 lots out of the plans in order to give more space. He questioned the price of the homes and felt that they will end up being more than he paid for his house which had 3 acres. He explained that he did not want maximizing the developer's profits to be put ahead of the City's look and feel, which was his objection to these plans.

MOTION BY COMMISSIONER HOLL, SECONDED BY COMMISSIONER ORTWERTH, TO CLOSE THE PUBLIC HEARING.

Voting Aye: Ortwerth, West, Holl, and Iverson
Voting Nay: None
Abstain: None
Absent: Lobermeier

MOTION BY COMMISSIONER HOLL, SECONDED BY COMMISSIONER IVERSON, TO RECOMMEND APPROVAL TO AMEND THE CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT: C-24-001, LOCATED AT: THE SUMMER FIELDS RESIDENTIAL DEVELOPMENT FOR LOTS 1-9 OF BLOCK 1 AND LOTS 1-6 OF BLOCK 2 AS OUTLINED, APPLICANT/OWNER: JESSE MOXNESS OF SUMMER FIELD, LLC, PROPERTY ID NUMBER: 21.10582.XX, SUBJECT TO THE 4 CONDITIONS LISTED IN THE STAFF REPORT.

Voting Aye: Ortwerth, West, Holl, and Iverson
Voting Nay: None
Abstain: None
Absent: Lobermeier

Zoning Administrator Weck noted that this would go before the City Council on Wednesday, August 7, 2024, due to the Night to Unite activities on the normal meeting night.

NEW BUSINESS

OLD BUSINESS:

3. Interim Conditional Use Permit for a Residential Kennel: I-24-003

Location: 24567 Elmcrest Avenue

Applicant: Alexander Kabalan

Property ID Number: 21.10624.30

Zoning Administrator Weck stated that he did not have anything to add from his original presentation to the Commission, but noted that the applicant was present at tonight's meeting.

Vice-Chair West asked the applicant to outline his interest in the CUP for a residential kennel.

Alexander Kabalan, 24567 Elmcrest Avenue, stated that he had purchased this property in October and explained that his reason for moving to Wyoming was because he has 6 dogs and wanted to be able to keep them on their 5 acres with the personal kennel license.

Commissioner Iverson asked if Mr. Kabalan was currently living on the property.

Mr. Kabalan stated that he was not living there full-time and was basically awaiting this permit.

Commissioner Iverson asked if the dogs were on the property.

Mr. Kabalan stated that he lived in Coon Rapids with the dogs.

Commissioner Iverson asked if Mr. Kabalan had reviewed any of the feedback that was received from the previous meeting.

Mr. Kabalan stated that he had not reviewed that information and explained that he had missed the meeting because he thought it was on Thursday and not Tuesday.

Commissioner Iverson asked if Mr. Kabalan was familiar with the staff recommendations.

Mr. Kabalan stated that he was not really familiar with them.

Commissioner Iverson stated that at the last meeting residents addressed the Commission and shared some of their concerns. He stated that one of the recommendations was that there be no more than 6 dogs and asked about the kennel size.

Mr. Kabalan explained that they had fenced in the property a few months ago so the dogs would be able to run wild and free on the entire property. He noted that the dogs mostly stay inside the home with them and are essentially their kids.

Commissioner Iverson stated that neighbors expressed concerns about things like barking and escaping by digging.

Mr. Kabalan stated that was why they had installed the fence.

Commissioner Iverson stated that, just like everything else, dogs poop and asked Mr. Kabalan to address some of those types of concerns.

Mr. Kabalan stated that he has not had any issues with the dogs barking. He stated that he was not there full-time, but when he is there and the dogs are out, he seldom has issues with anybody. He noted that there is one neighbor to his left that has 2 dogs and sometimes when they see the dogs they bark, but the other dogs do too. He stated that when that has happened he usually just brings the dogs back inside.

Vice-Chair West asked if the dogs were mostly indoor dogs and they would not be left outdoors in a kennel.

Mr. Kabalan stated that was correct and reiterated that the dogs live inside the home with them. He stated that they go outside and run around and play and when they burn up the energy they go back inside.

Commissioner Holl noted that there was a pole barn on the property and asked if the dogs would be kept in the barn.

Mr. Kabalan stated that they would not be kept in the barn.

Commissioner Holl asked if Mr. Kabalan planned to move into this home as a full-time resident.

Mr. Kabalan stated that is what they plan to do and explained that they had already homesteaded the home, but they do plan to keep their current house in Coon Rapids as their secondary home.

Vice-Chair West asked about the fence compliance issues and whether he would make the necessary changes to comply.

Mr. Kabalan explained that there was barbless wire on top and noted that he was not aware that this was not supposed to be on the fencing. He stated that the builder had told him that he usually puts up the barbless wire for extra safety to prevent the dogs or deer from jumping.

Vice-Chair West clarified that this is one of the conditions that would have to be met for approval. She stated that he will have to watch the noise, have no more than 6 dogs, and not have an angry or aggressive dog.

Mr. Kabalan stated that the dogs are just protective by nature, but assured the Commission that they were not aggressive dogs. He stated that they are German Shepherds that range in age from 13 months to 8 years old and he has 3 males and 3 females.

Commissioner Holl referenced the house off of Elmcrest that is very close to Mr. Kabalan and the backyards of the others and asked if he would be open to providing any kind of fence-line screening in this area.

Mr. Kabalan stated that he had asked his contractor to give him some quotes for doing some slats on both sides of the property because he does not want there to be any accidents.

Commissioner Iverson stated that with an ICUP there are conditions listed. He stated that hopefully these will be well behaved dogs that do not cause any public nuisance issues. He asked about a situation where the City received complaints and made a determination that there were issues with some of the dogs, what recourse the City may have.

Zoning Administrator Weck stated that the City could revoke the ICUP.

Vice-Chair West explained that the concerns from the neighbors is if the dogs got out and there were children there.

Mr. Kabalan explained that they took all precautionary measures with the builder and noted that he had added an extra hardwires on the bottom of the fence that will prevent the dogs from digging so they will not be able to go underneath the fence.

Vice-Chair West noted that the public hearing had already been held for this item so they would not open it up again.

Zoning Administrator Weck clarified that the Commission could decide to open it up again for comments, if they wanted to.

A few people spoke from the audience and stated that they would like a chance to make a statement in front of the applicant.

Zoning Administrator Weck reiterated that it was up to the Commission if they wanted to re-open the public hearing, but they did not have to.

Vice-Chair West stated that since they had already held the public hearing, she would not re-open it again.

More people spoke from the audience expressing their frustration that they would not be allowed to address the Commission or the applicant.

Zoning Administrator Weck clarified that during a public hearing, all comments are addressed to the Commission, so the audience would not be able to directly ask the applicant any questions.

MOTION BY COMMISSIONER IVERSON, SECONDED BY COMMISSIONER HOLL, TO RE-OPEN THE PUBLIC HEARING AT 7:23 P.M.

<i>Voting Aye:</i>	<i>Ortwerth, West, Holl, and Iverson</i>
<i>Voting Nay:</i>	<i>None</i>
<i>Abstain:</i>	<i>None</i>
<i>Absent:</i>	<i>Lobermeier</i>

Hayley Morin, 24645 Kettle River Boulevard, stated that she was the neighbor directly to the north that abuts the back of the fence. She stated that she has 2 dogs so she had nothing against dogs and noted that her dogs have an electric invisible fence. She asked the Commission to recommend denial of this permit because of the effects the 6 dogs would have on her family. She explained that she has a small child and was worried about her safety with the big dogs. She stated that they have not heard anything about the dogs training and thinks it is obvious that Mr. Kabalan has concerns about their jumping and had also used the phrase 'extra protection'. She noted that she thinks it is clear that Mr. Kabalan has some hesitation about his dogs if he had to install preventative hard wiring underneath the fence as well as the wire on top. She stated that Mr. Kabalan had also made a comment that the wiring on top would help to keep the deer out which brings her to her second point regarding the effects this will have and has had, on the wildlife in the neighborhood. She stated that if you fence in 5 acres in order for the dogs to be wild and free, that will have an effect on the wildlife. She stated that Mr. Kabalan mentioned that he has a place in Coon Rapids that allows the 6 dogs and if that is the case, she did not feel like the City needed to bend the rules and change things in order for him to get an additional permit, because they could just stay in Coon Rapids. She stated that Wyoming has great rules, regulations, and ordinances which is why many people choose to live here. She reiterated that she would like the City to deny this request and asked the Commission if they would want 6 dogs living next door to them that could be barking or were a possibly dangerous breed of dog.

Michael Woehl, 24733 Kettle River Boulevard, stated that they have 12 acres and noted that his concern was primarily about the barking. He stated that he cannot imagine what it would be like if there were 6 dogs barking. He noted that he felt that there was a reason for the City to have ordinances and regulations so they can come up in front of the Commission. He stated that the residents had brought up how the property currently looks which he thinks speak to character and believes that should come into play in this situation. He stated that he felt it would be different if the applicant had come in and said, hey, we have 10 neighbors that have all signed a document saying that everything was great and had been showed pictures and videos of the dogs. He stated that if it were him, he would have given them a presentation in order to make sure that they were very comfortable with the quietness of the dogs. He reiterated that he could not imagine trying to quiet down 6 dogs and get them back in the house when somebody walks by. He stated that they own a farm and have contemplated sometime in the future coming before the City and asking to develop it, but questioned how they would be able to sell anything if people come out and found out that it was very loud because of the dogs. He stated that currently it is a peaceful 12 acre parcel out in the country. He stated that he felt that the demonstration of how the property currently looks when you drive by represents how this could go on. He stated that he did not believe it was fair to have somebody else's property bring the value of the nearby properties down.

Brendan Woehl, 4581 250th Street N, stated that one thing that struck him as not being 'good' tonight that he felt the character of the applicant was when the Commission had asked Mr. Kabalan if he had reviewed the material from the last meeting and he replied that he had not. He stated that

he essentially felt that Mr. Kabalan came in and said he made a mistake on the meeting date, had chosen not to read through any of the comments or concerns, didn't mow his lawn, and then turned around and said that he just wants to have 6 dogs because they are his family, but that he also did not know how to control them. He stated that if someone has 6 kids, they don't just put up a 6 foot tall fence with wire on top because they were a bit worried that the kids would attack the neighbors, because that would be bad parenting. He stated that he was not trying to speak ill of Mr. Kabalan but they do not want this in their community and explained that if takes a bit of speaking ill in order to get their point across, that is the point he has gotten to.

Dayn Kubitschek, 24553 Elmcrest Avenue, stated that his biggest concern was his daughter's safety because he lives right next door. He stated that as he shared at the last meeting, he has seen a dog go under the fence already, which scares him. He stated that he met Mr. Kabalan and didn't really have a problem with him, but he also did not really feel safe with his daughter being outside with 6 dogs running around, regardless of what kind of dogs they are or who owned them. He stated that it makes him uncomfortable and it is his dream to live out there in peace with his daughter and not have to worry about things every time she goes outside and explained that now he feels like he will always need to right there by her side. He stated that there are rules for a reason and understands that people can ask for exceptions to the rule, but he felt that this request was a bit extreme. He stated that property values were already mentioned and he is sure that this will affect them because there is a giant fence next door with a bunch of dogs running around and barking and does not think people will want to buy his home because of that. He stated that he also wanted to mention the upkeep of the yard. He noted that he understood that Mr. Kabalan was not currently living there right now but he was still the owner so he needed to maintain it, regardless of how many homes he owns and did not believe that the fact that he was not living there should be an excuse to not maintain the yard. He stated that the state of the yard right now did not speak well for what the future will bring when there are 6 dogs running wild. He noted that the wire under the fence was meant to help, but does not see it actually stopping a dog from digging out especially because it is 4.8 acres which will allow a lot of area for an animal to be able to dig under and find its way through which was something that he did not want to worry about.

MOTION BY COMMISSIONER ORTWERTH, SECONDED BY COMMISSIONER HOLL, TO CLOSE THE PUBLIC HEARING.

<i>Voting Aye:</i>	<i>Ortwerth, West, Holl, and Iverson</i>
<i>Voting Nay:</i>	<i>None</i>
<i>Abstain:</i>	<i>None</i>
<i>Absent:</i>	<i>Lobermeier</i>

Commissioner Iverson stated that based on some of the feedback there were some concerns raised that this would violate some of the City ordinances and asked if that was true.

Zoning Administrator Weck explained that they would not be violating any of the City ordinances and noted that what the ordinance requires is that if you have more than 3 dogs, you can get an ICUP for a residential kennel. He clarified that was not bending the rules and shared various examples of when a resident would and would not need to get a permit from the City. He stated that Mr. Kabalan is following the City's procedures for applying to be allowed to have the ICUP in order to keep 6 dogs. He noted that he did not mean to imply that anyone's opinion was not valid, but explained he cannot take into account fears for what 'may' happen, if someone is following the rules.

Commissioner Iverson stated that if the conditions within the permit were not met as outlined, the City can revoke the permit.

Vice-Chair West asked if people had complaints if they should just report them to Zoning Administrator Weck or the City.

Zoning Administrator Weck stated that was correct.

Commissioner Iverson stated that Commissioner Holl had brought up the possibility for additional screening which Mr. Kabalan seemed open to and asked if they could add that to the conditions.

Zoning Administrator Weck stated the City is allowed to make conditions that are pertinent to the applicant, and he felt screening would be pertinent. He noted that there were a number of ways to provide screening such as slats and vegetation and asked if the Commission planned to prescribe what type of screening be done.

Commissioner Iverson stated that he would like to see the screening be on the fence and not done with vegetation. He noted that he thinks the intent is to prevent eye to eye contact with another dog or another person.

A man from the audience asked to speak again.

Vice-Chair West reminded the audience that the public hearing had been closed.

The gentleman stated that comparing this to a permit was not the same as this situation because they do not have to all have a meeting and all be here to talk about a permit. He stated that this was different or they would not be sitting here doing this. He reiterated that this situation is not the same as a permit and should not be used in comparison.

Commissioner Holl stated that the City was not changing any of the rules nor were they giving a variance. He stated that Mr. Kabalan had done everything he was supposed to and if he doesn't, then he will have a problem.

A different gentleman from the audience asked if the City had a mowing ordinance rule that Mr. Kabalan was currently breaking.

Zoning Administrator Weck stated that Mr. Kabalan had already been contacted about that issue.

Vice-Chair West banged the gavel and reminded the audience that the public hearing was closed.

A gentleman spoke and stated that the last time they were here there was no opportunity to ask questions of the applicant and they would like to have that opportunity.

Vice-Chair West explained that the intent was for the Commission to ask questions and not for the residents to ask questions directly of the applicant. She stated that the Planning Commission makes a recommendation to the City Council who will be the ones who determine what will happen. She explained that the Commission's job is to follow the rules, regulations, and the Comprehensive Plan.

The gentleman asked if Mr. Kabalan planned to breed the dogs since there were 3 males and 3 females.

Zoning Administrator Weck stated that the ICUP is for 6 dogs that are over 4 months of age.

Vice-Chair West noted that the Commission cannot speculate on what Mr. Kabalan will do and stated that they are bound by the City ordinances with their recommendations.

A gentleman asked if the fence was permitted when he put it up.

Zoning Administrator Weck confirmed that Mr. Kabalan had a permit to install the fence, but it was found to be too tall upon inspection, so he has been told that he needed to remove the wires on the top.

MOTION BY COMMISSIONER IVERSON, SECONDED BY COMMISSIONER HOLL, TO RECOMMEND APPROVAL INTERIM CONDITIONAL USE PERMIT FOR A RESIDENTIAL KENNEL: I-24-003, LOCATED AT 24567 ELMCREST AVENUE; APPLICANT: ALEXANDER KABALAN; PROPERTY ID NUMBER: 21.10624.30, WITH THE ORIGINAL 10 CONDITIONS AND 1 ADDITIONAL CONDITION RELATED TO SCREENING, AS DISCUSSED.

Voting Aye: West, Holl, and Iverson
Voting Nay: Ortwerth
Abstain: None
Absent: Lobermeier

4. Rezoning of Parcels to Match the Comprehensive Plan

Zoning Administrator Weck stated that once again he was hoping that Chair Lobermeier would be able to attend tonight's meeting for this discussion.

Vice-Chair West stated that she felt the Commission should wait to discuss this item until Chair Lobermeier could attend.

COMMUNICATIONS:

Zoning Administrator Weck noted that the City needs to adopt an ordinance related to adult cannabis rules, regulations, and also determine which zoning districts they can go in. He stated that the City had gotten a draft ordinance from the League of Minnesota Cities.

City Administrator Linwood explained that the City had previously passed a moratorium because of the recent legislation legalizing cannabis. He stated that the moratorium is nearing an end so the City needs to make some determinations for the City. He explained that the Office of Cannabis Management (OCM) is coming out with rules and regulations as well, and the City needs to move forward and include this in their ordinances.

Zoning Administrator Weck stated that the League of Minnesota Cities had given them a draft that essentially has a bunch of 'fill in the blank' sections for the City to use that he will be bringing back to the Commission at their next meeting.

UPDATES:

ADJOURN:

A MOTION WAS MADE BY COMMISSIONER ORTWERTH, SECONDED BY COMMISSIONER HOLL, TO ADJOURN THE JULY 23, 2024 "REGULAR MEETING" OF THE WYOMING, MINNESOTA PLANNING COMMISSION AT 7:45 PM.

Voting Aye: Ortwerth, West, Holl, and Iverson
Voting Nay: None
Abstain: None
Absent: Lobermeier