

**CITY OF DE SOTO
PLANNING COMMISSION**

City Hall, 32905 W. 84th Street
January 23, 2007 – 7:00 P.M.

MINUTES

1. The meeting was called to order by Chairman Kevin Honomichl.

2. Roll Call:Friday	Present	Hemphill	Absent
Honomichl	Present	Kroeger	Present
Krudwig	Absent	Moberly	Present
Templin	Absent		

3. **General Business:**

A. Approve Planning Commission agenda.

Motion by Commissioner Moberly to approve the Agenda as published; second by Kroeger.

All Commissioners approved by “ayes”.

Motion carried.

B. Approve minutes of the December 26, 2006 Commission meeting.

Motion by Commissioner Moberly to approve the Minutes as published; second by Friday. Commissioners approved by “ayes”. Commissioner Honomichl abstained as he was absent from the December meeting.

Motion carried

(The record reflects Commissioner Hemphill joined the meeting at 7:05 p.m.)

C. Disclosure of conflicts of interest. None.

D. Disclosure of outside communications regarding Commission business. None.

4. **Call to Public:**

Members of the public who wish to address the Planning Commission regarding items not on the agenda may do so at this time. Any presentation is for information purposes only. No action will be taken. There is a four-minute time limit.

No one appeared.

5. **Public Hearing:**

A. Public hearing to consider a zoning map revision from the ‘RUR’ Johnson

County Rural district to the 'R-0' Residential Suburban district for property located at 28203 W. 85th Terrace. Planner Buttrum reviewed the findings in the staff report. The applicant, Ed Otto, is present this evening. The applicants wish to construct a sunroom on their home. The property is zoned 'RUR' Johnson County Rural, which zoning was retained upon the property's annexation into the City in 1998. In order for the City to enforce its' zoning or land use controls, the property must be rezoned to a City standard district.

Planner Buttrum reviewed the Golden criteria for the Commissioners as referenced in staff's report dated January 16, 2007. This property is a legally non-conforming lot, which prevents any further subdivision of the property.

Engineer Brungardt stated the property does not have direct public access to the street, and the property has been put to its highest use at its present zoning.

(The record reflects Commissioner Templin joined the meeting at 7:10 p.m.)

None of the twelve matters for consideration were found to be negative. Four items were found to be neutral; the remaining eight were positive. The finding related to the recommendation of professional staff is "positive", in favor of granting the application.

Commissioner Hemphill asked Engineer Brungardt about the annexation of the property that was currently zoned by the County. Engineer Brungardt stated the City does not have an 'RUR' zoning classification. The properties are allowed to retain whatever zoning they have unless and until the land use changes or a building permit is requested. Commissioner Hemphill agreed with staff that there needs to be a better way for the property owners to address these concerns without having to go through a rezoning process.

Discussion by Commissioner Templin on whether to do a mass rezoning or deal with it on a case-by-case basis. Discussion by Commissioner Friday on whether or not this applicant is now under the City regulations and loses his "grandfathered" uses under the County's zoning. Further discussion with staff regarding the zoning.

Ed Otto, applicant, 28203 W. 85th Terrace, stated he has resided there for 29 years. Their property is surrounded by four other residences. The purpose of the sunroom is for the applicants to enjoy their mature years with the family.

Commissioner Friday asked Mr. Otto if he first became aware of the rezoning requirement when he started the plans for his sunroom.

Chairman Honomichl opened the public hearing. No one appeared. Chairman Honomichl closed the public hearing.

Commissioner Templin said he has no problem with the application and the staff report looked great. He discussed the concern that should staff go further with the "mass rezoning", there may be some legal concerns to be addressed.

Discussion by Commissioners and staff on rezoning applications from County zonings. Commissioners said they didn't want to pursue a "mass rezoning" study at this time. There is a \$400-\$500 fee for a rezoning application to rezone from the County's original zoning class to City zoning. Discussion by staff and Commissioners regarding lowering this fee for 'RUR' rezonings.

Motion by Commissioner Templin to recommend approval of the rezoning application; second by Kroeger.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Absent	Moberly	Yes
	Templin	Yes		

Motion carried.

6. Old Business:

- A. Consider Preliminary Plat for Cedar Hill Estates, located at the southwest corner of 89th Street and Waverly Road. Engineer Brungardt stated there were two items to discuss. One is whether or not the Planning Commission sees fit to deviate from the Comprehensive Plan. There are some revisions to the preliminary plat. Commissioner Kroeger stated there is a concern about the consistency with the Comprehensive Plan. Engineer Brungardt further stated it is clear from the Subdivision Regulations that it takes a majority of all the Commissioners to act on a final plat.

Engineer Brungardt reviewed the staff report dated January 16, 2007. He reviewed the comments pertaining to the Comprehensive Plan as presented to Commissioners at their December, 2006, meeting. The existing proposal of 15 lots on 19.5 acres is more harmonious with the surrounding area than a higher density development. Engineer Brungardt further discussed the preservation for future sewer service and defined the sewer master plan. Other off-site improvements to 89th Street and Waverly Road were discussed, and staff determined that a higher density would require upgrades of these roads. The standards for the Planning Commission's approval of a Preliminary Plat application do reference to consistency with the Comprehensive Plan; but, it is not weighed as heavily as for a rezoning.

Chairman Honomichl referred to comments discussed in the November, 2006, meeting. He stated the Commissioners need to decide whether they wish to remain consistent with the Comprehensive Plan, or deviate from it. Discussion by Commissioner Templin with Engineer Brungardt on the lot size of the development and whether or not the lots can be tied to a sewer system when it is available. Discussion that economics were not a part of the planning thought when the Comp Plan was determined. Commissioner Kroeger discussed Lots 13, 14 and 15 with Engineer Brungardt.

Commissioner Moberly said there was a lot of thought put into the Comprehensive Plan; however, he said there are compelling reasons why we

need to make exceptions to the Comprehensive Plan. This particular site has a lot of compelling reasons why this subdivision should be approved. By approving this, it makes more sense, on this specific site. Commissioner Kroeger said he is concerned that this area is 5 lots deficient from the Comprehensive Plan. The other concern is precedent, and he isn't inclined to forego the Comp Plan. Commissioner Friday said he is reluctant to forego the Comp Plan. He views a septic system subdivision as "leap frog" development. There has obviously been a lot of thought put into the Comp Plan and he is leaning away from approving this plat.

Commissioner Templin said this plan does not create downstream problems in future for the sewer. He said had this been proposed with dry sewers, he would feel better about the plan. Commissioner Templin said it is problematic; but, he wouldn't necessarily vote against it. Commissioner Hemphill stated he agrees with staff. It doesn't bother him to have this type of development due to the flavor of the land in the surrounding area. He said he supports it. Chairman Honomichl said he agrees with Commissioner Friday in that if this plan isn't approved, then there will be larger lot homes. He said he would personally rather see six homes on larger lots and he is supporting the Comprehensive Plan. Commissioner Templin said this is an urban development that is not sewered. Chairman Honomichl said he would support six homes there, rather than the proposed 15.

Motion by Commissioner Friday to deny the preliminary plat for Cedar Hills Estates; second by Kroeger.

Eric Mahr, owner of the property, said he would like to make a few points. He said the four or six homes would be of less income benefit to the City; the City would lose the ability to run sewer through the properties, and the City wouldn't have the development control it would have with the subdivision. He further discussed his points with Commissioner Templin. Mr. Mahr said he is aware of how much time and work went into the Comprehensive Plan, but the land east of the Waverly Road line supports non-sewered subdivision. He cited Brome Road and that subdivision. Mr. Mahr said the 15 homes proposed would be more in line with the Comp Plan. He thanked Commissioners for their time.

Roll Call:	Friday	Yes	Hemphill	No
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Absent	Moberly	No
	Templin	Yes		

Motion carried.

- B. Consider a Special Use Permit application for a general office use in the 'R-H' Residential-Historic zoning district, addressed 32955 W. 83rd Street. TABLED AT REQUEST OF APPLICANT.
- C. Discuss Section 11 of Article 5 of the Zoning Regulations regarding home occupations. Discussion by Planner Buttrum on the request of Councilman

Maniez to review home occupations as they relate to barber and beauty shops. Staff has found that more communities allow them than do not as home occupations. Staff recommends that if the text amendment moves forward, the regulations no longer allow for a non-resident employee and limit traffic to two (2) additional vehicles at a time.

Commissioner Templin said he thinks the change will affect home-occupations that are not being thought of at this time. Discussion that he would hesitate to take away a secretarial assistant for a home-based business that has no drive-in traffic. Chairman Honomichl discussed the home-based barber that cuts hair on a part-time basis. Discussion by Commissioners and staff. Commissioner Friday and Commissioner Kroeger discussed the non-resident employee who drives daily to a home-based business. Discussion by Planner Buttrum on the numerous calls received regarding having a massage therapy business in a home. Commissioners discussed home occupation differences. Planner Buttrum will bring this back as a public hearing item at the next meeting.

7. New Business:

- A. Consider Site Plan for Intervet, Inc., located on 87th Street west of Penner Avenue (Parcel AF221229-4003). Planner Buttrum reviewed the comments in staff's report dated January 17, 2007. Because of the excise tax requirement, Intervet's plat application is for only the area that contains the proposed building and the existing access road to 87th Street. The Final Plat is being submitted concurrently with the site plan. Planner Buttrum discussed the architecture as proposed and the keeping with the other Intervet building designs. The building is internal to the Intervet property and not visible to the general public. Staff recommends relaxing the standards in this case.

Engineer Brungardt discussed the utility layouts as described in the staff report. The water lines are privately owned and maintained by Intervet. The sewage disposal for the building is currently permitted through KDHE as a "zero discharge" facility. The wastewater collected from the shower and toilet facilities will be routed to a new septic tank and lateral field north of the proposed structure. The runoff from this building will run into an existing pond before it is discharged into the flood plain on the Intervet property. Staff recommends approval of the site plan.

Gary Leeds, Kaw Valley engineering, 14700 W. 114th Terrace, Lenexa, said City Staff were very helpful on this project. Mr. Leeds stated this is a secure facility and not open to public access.

Commissioner Templin stated this request is virtually contrary to all the City's requirements. He said his concern is if this is approved, it is going to bring up something in future regarding internal campus guidelines. Discussion that the City does need to discuss guidelines to address future requests. Public access and visibility were discussed by Commissioners. Commissioner Templin said there is also a concern regarding the excise tax and the platting of acreage. Chairman Honomichl said this request is littered with discrepancies.

Commissioner Friday asked about the discharge of the wastewater. Engineer Brungardt stated it is run underground to the lagoon. Mr. Scott Atkins of Intervet discussed the waste remediation plan for the lagoon. KDHE has approved the waste management plan and procedures.

Motion by Commissioner Moberly to approve the Site Plan as published; second by Kroeger.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Absent	Moberly	Yes
	Templin	Yes		

Motion carried.

- B. Consider Final Plat for Intervet, Inc., located on 87th Street west of Penner Avenue (Parcel AF221229-4003). Engineer Brungardt stated this Final Plat follows City guidelines and meets all the submittal requirements; staff recommends approval. Chairman Honomichl asked how the other buildings were able to be constructed on the property. Engineer Brungardt stated they were built prior to the current regulations.

Motion by Commissioner Friday to approve the Final Plat application for the Intervet application as stated in Item 7. B.; second by Moberly.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Absent	Moberly	Yes
	Templin	Yes		

Motion carried.

- C. Discuss conditions of Preliminary Plat approval for Brook West subdivision, located north of 83rd and Primrose Street. Engineer Brungardt provided Commissioners with a past history of this project and the issue of the completion of Primrose Street since November 25th, 2003. During the past month, an agreement has been reached between Mrs. JoAnn Thompson, Mr. Harding and the City of De Soto. Engineer Brungardt explained the terms of the agreement and the Council's desire to work toward completion of Primrose.

Chairman Honomichl said he would like to make a clarification as discussed in City Administrator Guilfoyle's letter regarding the "substitution" of the condition. The warranty deed has been received from Mrs. Thompson. Discussion by Commissioner Templin and Mr. Harding regarding the benefit district for Primrose. Commissioner Kroeger asked about Brook West not being a part of the benefit district. Discussion by Commissioners and Mr. Harding. Discussion on the completion of Primrose before the houses are built. Further comments by Engineer Brungardt, Nate Harding and Commissioners regarding the agreement.

Motion by Commissioner Templin to modify the conditions of the approval of the final plat to substitute the agreement dated December 7, 2006, in lieu of the requirement to have Primrose Street constructed, Exhibit A., condition 1; second by Kroeger.

Roll Call:	Friday	Yes	Hemphill	Yes
	Honomichl	Yes	Kroeger	Yes
	Krudwig	Absent	Moberly	Yes
	Templin	Yes		

Motion carried.

8. Calendar:

- A. February 1, 2007 - City Council
- B. February 8, 2007 - Joint Capital Improvements Plan Meeting (5:30p)
- C. February 15, 2007 - City Council
- D. February 27, 2007 - Planning Commission

Discussion by a citizen with Planner Buttrum regarding the rezoning application for 28203 W. 85th Terrace. Comments by Chairman Honomichl on the rezoning process. Discussion by Commissioner Templin with the citizen.

Motion by Commissioner Moberly to adjourn at 9:03 p.m.; second by Kroeger.

All Commissioners approved by "ayes".

Respectfully submitted:

Lana R. McPherson, CMC
City Clerk