

TOWN OF SOUTH PRAIRIE
RECESSED COUNCIL MEETING/PUBLIC HEARING
TUESDAY, AUGUST 15, 2006, 7:00 PM

CALL TO ORDER:

Mayor Peggy Levesque called to order and presided over the Recessed Council Meeting/Public Hearing of Tuesday, August 15, 2006 at 7:02 PM.

ROLL CALL:

Council Members: Dave Lykstad, Laura Heideman, Virginia Thompson, Anthony Caldwell and Sibyl Thurston were present.

Also in attendance: Mart Kask, Town Planner; Dannie Oliveaux, Gazette Reporter; Karen Leming, Tom Haneline, Lois Erath, Lawrence Levesque, Eric and Alicia Satterthwaite, Jay and Jamie Osborn, Michael and Veronica Sullivan, citizens; and Marla Nevill, Clerk/Treasurer

FLAG SALUTE:

Mayor Peggy Levesque requested everyone stand for the "Pledge of Allegiance."

OPEN PUBLIC HEARING:

Brad Padon, Wagon Wheel Restaurant and Lounge
Conditional Use Permit Application – Out-door Beer Garden

❖ At 7:10 PM, **Councilor Dave Lykstad** moved to open the Public Hearing for the Conditional Use Permit Application for an Out-door Beer Garden submitted by Brad Padon, Wagon Wheel Restaurant and Lounge. **Councilor Sibyl Thurston** seconded the motion. **Motion carried unanimously.**

Mayor Peggy Levesque said she would have Mart Kask, Town Planner, give his presentation; and then she would have Donna Hopkins, Wagon Wheel Restaurant and Lounge Manager, give her presentation and then it would be open for public comment. She asked that if anyone had any questions to jot them down and ask them after we hear from the Town Planner and the Applicant. She asked that questions or comments from citizens be limited to about three minutes. **Mart Kask, Town Planner**, gave a presentation and read his Findings of Fact, Conclusions and Recommendations on the Conditional Use Permit Application submitted by Brad Padon, Wagon Wheel Restaurant and Lounge, for an Out-door Beer Garden. (See Exhibit "A" attached). He said the applicant proposes to construct a 529 (five hundred twenty-nine) square foot Outdoor Beer Garden, attached to the Wagon Wheel Restaurant and Lounge at 121 State Highway 162, South Prairie. He said the beer garden is to be bounded by a six to eight foot sight-obscuring board fence. An Outdoor Beer Garden is not a principally permitted use in Chapter 17.04.040 of the South Prairie Unified Development Ordinance. Therefore, the applicant must obtain a conditional use permit from the Town Council. A conditional use permit is subject to SEPA review and a public hearing before the Town Council, as specified in Chapter 17.09.090 of the South Prairie Unified Development Ordinance.

The Town Planner's Recommendations are as follows:

1. That the Town Council deny the conditional use permit application for the following reasons:
 - a. Does not meet the minimum off-street parking requirements.
 - b. The applicant has not proposed to bring the non-conforming conditions up to the Town standards.
 - c. The existing noise level generated by smokers outdoors of the restaurant and lounge plus the potential additional noise generated by the patrons in the beer garden is detrimental to the health and welfare of the nearby residences.

2. That the applicant may apply again for a conditional use permit after producing written evidence of having met the off-street parking requirements and mitigating the potential noise problem caused by patrons of the beer garden. In that case, the Town Council should wave the payment of the filing fee for the repeat conditional use permit application.

Mayor Peggy Levesque thanked Mart Kask for his presentation. She stated we would now hear from the representative from the Wagon Wheel Restaurant and Lounge, Donna Hopkins.

Donna Hopkins said she would soon be the owner of Wagon Wheel Restaurant and Lounge. She addressed Mart Kask and asked when he came to the Wagon Wheel and observed all this? She said she was not there and she had never met him before. **Mart Kask** asked the Town Clerk when he had reviewed the site? **Marla Nevill, Clerk/Treasurer**, said

she believed it was last Thursday. **Donna Hopkins** asked if he could tell her whom he had spoken with? **Mart Kask** said one of her employees tending the bar had showed him around. **Donna Hopkins** said this is news to her and she had no idea that he was even there. **Mart Kask** said he had asked for her and was told that she was not there. **Donna Hopkins** said you made all of these conclusions without even speaking to her or having any contact with her. **Mart Kask** said she could dispute any facts stated in the memo. **Donna Hopkins** asked Mart to elaborate on the non-conformance to the South Prairie Unified Development Ordinance and asked what is the South Prairie Unified Development Ordinance? She asked him to explain why the proposal is potentially injurious to the health and general welfare of some of the citizens of South Prairie? **Mart Kask** and **Mayor Peggy Levesque** asked that she address one issue at a time. **Mart Kask** said the Town Council adopted the Unified Development Ordinance on September 28, 1999. He said it covers general provisions, environmental regulations, zoning, land division, development standards and miscellaneous approvals. He said it's an ordinance of the Town of South Prairie. **Donna Hopkins** said don't you think it would be fair for her to have some knowledge and read this before... **Mart Kask** said that is your responsibility... **Donna Hopkins** said he was making all these statements and she had never spoken to him. **Mart Kask** said let me answer your question before you go to the next one. He said the applicant has the responsibility of getting the application and becoming familiar with the Town's rules and regulations. These documents are available at the Town Hall and she could sit here and review it or purchase all or part of it for her own use. **Donna Hopkins** asked what would be injurious to the health and general welfare of some of the citizens of South Prairie? **Mart Kask** said he has reviewed the letters and notations the Town had received from citizens complaining of the noise and other distractions taking place on the lounge and restaurant property. He said those written statements signed by citizens are on file at the Town of South Prairie; and she is welcome to read them. He said that is where that information comes from. **Donna Hopkins** said basically she would not even ask any more questions. She said this is a pretty cut and dry situation. She said she could not change the way that... to still go out there and smoke and the noise is going to continue. She said she was trying to rectify a lot of that by putting it in an enclosed area and putting in a noise buffer, but she guessed that was not going to happen. She said there is not much more for her to say, and it would just continue to go on the way it is. She said that is basically it, and if they did not want the beer garden she understood. She said she had no qualms about that, but she could not control the patrons of the Wagon Wheel in the sense that there is no smoking allowed in the building so therefore they would go outside the building... And, if you don't want alcohol out there, she understood that and she did not have a problem with that. But, unfortunately the bar was here before a lot of you people ever moved in. She said you bought your property knowing there was an existing tavern there. She said she guessed everybody in town would kind of have to get along, and that was about it. She said she was going to walk out of this meeting. She said thank you very much for your time and your effort. **Lawrence Levesque** asked if he could speak to her for just a second please? He said he is Lawrence Levesque and he lives behind the Town Hall. **Donna Hopkins** said yes, you're Peggy's husband. **Lawrence Levesque** said in regard to that, he said he knew that it had been brought up in conversations several times that the Wagon Wheel was here before some of us, and that is true. No argument. But, some of these houses were here before the Wagon Wheel was. **Donna Hopkins** said okay. **Lawrence Levesque** said the house on the corner here is on the National Historic Register, and our house was built in 1887. **Donna Hopkins** said but you chose to move here. **Lawrence Levesque** said he was just saying that the argument that the Wagon Wheel was here before us only holds so much weight. He said houses were here before the Wagon Wheel. **Donna Hopkins** said but you chose to move here, that is my point. **Lawrence Levesque** said you're right. Several people were speaking at the same time. **Lawrence Levesque** said but he did not choose to have a beer garden added to that. **Donna Hopkins** said that is what she said, she is not arguing with that... **Lawrence Levesque** said he was not going to argue with her, but he was just pointing that out and that logic needed to go both ways. **Donna Hopkins** said that's fine and she did not have a problem, and if you don't want to accept it that is okay. She said the only thing... she could honestly say realistically patrons are going to continue to go outside and smoke because of the Pierce County laws. She said she had really worked hard to try to comply with their wishes. She said she moved the smoking area and has done as much as she could. **Lawrence Levesque** said and he appreciated that. **Donna Hopkins** said thank you very much for your time. **Councilor Dave Lykstad** said nobody anticipated the County or State passing a law... Several people were speaking at the same time. **Donna Hopkins** said thank you guys and you have a great evening. **Mayor Peggy Levesque** asked Donna is she was withdrawing her application. **Donna Hopkins** said there is not much more for her to say... **Mayor Peggy Levesque** said they would continue the public hearing and there would be a vote on it at the end... **Donna Hopkins** said you have already kind of told me right where it's at and that's okay. Several people were speaking at the same time. **Mayor Peggy Levesque** said actually there is a vote. **Lawrence Levesque** said in terms of the legalities, either you withdraw your application or they have to continue... **Donna Hopkins** said they could continue to the initial vote, but she did not need to be here. She said she kind of sees where it's at, and thank you for your time and your effort. She said have a nice night and left the meeting. **Mayor Peggy Levesque** opened the floor to questions and comments. **Karen Leming** said in light of all of that, some of her questions have been answered. She said she could read her speech anyway. She said that seems appropriate. She said her name is Karen Leming and

she lives in the blue house and she read her speech for the record. (See Exhibit "B" attached). **Karen Leming** said they were against the issuing of a permit for a beer garden at the Wagon Wheel. **Tom Haneline** said he would like to address one thing that Donna said about she could not control her people. He said well he thought they needed to be controlled. He said he did not think people could do anything that comes to mind when they are under the influence. He said he did not know what could be done, but so far nothing has been done about all of that. He said all of the instances they had sited are just the tip of the iceberg of what they have seen in the eleven years they have been here. He said if she doesn't control them then maybe we will have to go to a higher authority than the Town Council. He said he thought they needed to be controlled. **Mayor Peggy Levesque** said thank you. **Lawrence Levesque** said he had said his piece already. **Jamie Osborn** said she is Jamie Osborn and they basically live right next door. She said she is a business owner, and she would not allow her patrons to do as they please, just because they are her patrons. She said she has a duty as the bar owner to call the police if things get out of hand. She said she should be the first one on the phone. **Lawrence Levesque** said and in her defense, she has made a marked improvement. **Jamie Osborn** said absolutely. Several people were speaking at the same time. **Mayor Peggy Levesque** said thank you. **Lois Erath** said she just feels that she did not think it was a good thing having a beer garden. She said it's a lot of fun, but let's face it in Washington how much time are they actually going to spend in a beer garden. She said if they have to have the smoking area, move it closer to the street and as far away from these people as possible. She said to forget the beer garden and move the smoking area towards the street and put a big fence around it and make the noise go that way. **Marla Nevill** asked if she could clarify "street?" **Lois Erath** said move it so it's facing Highway 162 and have a high fence on two sides, so all the noise would go out that way. She said make the back door an emergency exit only, and her patrons could not come out that door. She said that would solve so much of the problem. Several people were speaking at the same time. **Mayor Peggy Levesque** asked the **Mart Kask** if the Town could require them to fence the smoking area and move it towards the front of the building. **Mart Kask** said he would not make any suggestions to the applicant. He said our attorneys tell us that the Town Planner has to be very careful not to get involved in shaping the application of the applicant. He said he thought the same logic would apply to the Council. He said his suggestion is that don't try to plan or design it for them. He said if they come in with a plan we could take a look at it and go from there. **Mayor Peggy Levesque** said okay and thanked **Mart Kask** for his input. **Lois Erath** said if this isn't working, couldn't the Council suggest that? She said it's obvious that it's causing problems with the neighbors. **Mayor Peggy Levesque** said evidently not, but we will look into it and see what we can do. **Eric Satterthwaite** said he would agree with **Lois'** and pretty much everyone else's comments. He said he would like to see it pushed further away from the residences. He said we have businesses on the highway and the noise isn't going to affect them as it does the residents. He said he would love to see the back door as an emergency exit only, because the fights come out the back door. He said the gun was flashed out the back door. He said it seems like all the problems have been out the back door. He said if there is something we could do about that that would be wonderful. **Veronica Sullivan** said she liked the idea of making it an emergency door. She said they actually live across town, but they do visit friends over here. She said she liked the idea of making it just an emergency door, and maybe not the whole enclosed beer garden but some kind of a barrier between the homes and the bar. She said from another point of view, what about the patrons who are drunk and obnoxious? What about their safety when they are out front right next to the highway? She said doesn't that impose more risk to them with the traffic on the highway? She said she is just trying to speak for the people who are the patrons who are not here... Several people were speaking at the same time. **Mayor Peggy Levesque** said you are generally not supposed to serve until people are so inebriated that they are going... **Veronica Sullivan** said yes she agreed that she does need to have some semblance of control over her patrons. She said she thought Donna was just giving up on the whole issue, but as an owner or even a manager you have to have... She said you have to know what you are doing to have that job. Several people were speaking at the same time. Someone stated when you're granted a Liquor License it comes with a responsibility. **Mayor Peggy Levesque** asked if **Veronica** was done? **Veronica Sullivan** said yes. **Alicia Satterthwaite** said she worries about raising her children over here. She said if a patron did leave the bar drunk, she would rather see them over there than hit her children or running a car through their house. She said she would not want them to run over her kids. She said she has seen a couple of them come out and they were so drunk they could barely stand up and they started screaming at her son because he was riding his bike on the sidewalk in front of our house. She said they told him he could not do that, and he just started crying. She said he did not know what to do because he did not know those people and they just started yelling at him. She said we have that and we had an RV parked out here and a guy was totally naked walking up and down with the windows wide open. She said her kids were over here. She said we have seen sexual acts going on in cars over there, drug usage, you name it and they have seen it. She said we've had people urinating in our tree right here. **Eric Satterthwaite** said and people urinating on their house. **Alicia Satterthwaite** said we've had people run into our walls... **Councilor Anthony Caldwell** asked if they had taken any pictures? **Alicia Satterthwaite** said we took pictures of the guy stealing stuff when he walked out of the bar... **Councilor Anthony Caldwell** said that is the problem that we've had... He said we have no proof. He said we're just getting verbal complaints. Several people were speaking at the same time. **Councilor Anthony**

Caldwell said when you see things; it is helpful to have it documented. **Alicia Satterthwaite** said there was a guy that had pulled a gun on another guy and they were aiming it right towards our house. She said there were pictures of that incident. **Mayor Peggy Levesque** said there was a video of that. She said she thought there were arrests made in that incident. **Alicia Satterthwaite** said we have pictures of the guy stealing stuff, and we just started documenting everything. **Mayor Peggy Levesque** said she found out today where to send those to. **Veronica Sullivan** asked if the staff of the bar make trips outside to check on the people who are out there smoking? She said she has been to bars and was sure everybody had been to a bar with a beer garden, and the waitresses are constantly going in and out and keeping an eye on things or they have bouncers or some type of security keeping an eye on people and making sure they are behaving accordingly. **Mayor Peggy Levesque** said she believed they were asking for it to be a smoking area that was more or less self-serve. She said with the smoking ban they really could not require employees to go out there while people are smoking. She said one of her questions to the applicant would have been who would supervise the area if employees could not be out there? She asked Veronica if she were done? **Veronica Sullivan** said yes. **Michael Sullivan** said he really didn't have anything to add but he personally believed that that particular business should be separated completely from the residential areas. **Lawrence Levesque** said most of the comments have been made by most of the people who live within hearing distance of the tavern, but he did think we needed to try to be supportive of Donna because she is trying to make changes at the tavern. He said she has got a long history to undo because that has been a very rough tavern for a lot of years. **Alicia Satterthwaite** said every Friday night for the past three weeks we have been woke up from the bar's rock and roll band. She said last Friday we called over there probably three or four times and told them to close the door. She said they would close it and then reopen it and leave it open. She said about 1:15 AM it finally stopped and she was able to go to sleep. She said in that situation when they cannot control their customers to keep the doors closed, is she to call Glen and have him come out and deal with that? Several people were speaking at the same time. **Mayor Peggy Levesque** said she could try calling 911 and it would be up to the officer contacted whether he would show up or not. Several people were speaking at the same time. **Mayor Peggy Levesque** said she had been doing a lot of research on police and police contracts and even in a busier larger department they have to triage the complaints. She said if there were a robbery down the street, it would take precedence over a noise complaint. She said a noise complaint is pretty far down on the list. She said they could try contacting dispatch and see if they could send somebody out. **Lawrence Levesque** said you mentioned earlier that we now have a source where we could forward the complaints so do not give up on writing your complaints. **Mayor Peggy Levesque** said submit your written complaints and we'll forward them to the right sources. She said the Liquor Control Board wants the Town of South Prairie to forward the complaints to them. She said the police department is supposed to forward the complaints to the Liquor Control Board, but they don't seem to be making their way there. **Lawrence Levesque** said when it comes up for the liquor license review; the Liquor Control Board has the documentation too. **Mayor Peggy Levesque** said the documents are there already. **Councilor Anthony Caldwell** said one of the most cost-effective ways to handle this problem is to suggest to Donna that she have security or a bouncer to control the situation, instead of having an officer respond. He said usually in a tavern of any size that has dancing or live music they have a bouncer or some type of security to help control the patrons. **Veronica Sullivan** said they would also make sure the door remained closed. **Lois Erath** asked if we could suggest that to them? Several people were speaking at the same time. **Councilor Anthony Caldwell** said those suggestions would have to come from the residents. Several people were speaking at the same time. **Lois Erath** said it wasn't much compensation, but they could work with the Board of Equalization to get their taxes reduced because their property values have definitely gone down. She said if they did that, it would help in the all-out effort to get something done. She said if your taxes go down, the county is doing to say hmmm. She said she did it with a piece of property over here when the county raised their taxes to an exorbitant amount. She said we told them sewer was not available in town and the property was not worth very much, and they reduced it by an extraordinary amount. She said they could get the forms through the county. Several people were speaking at the same time. **Tom Haneline** said if he did the things that were going on over there, he would be doing hard time. He said with my hands in cuffs, they would haul me away. He said they continue to get away with doing anything they want and nobody seems to want to do anything about it. He said we have got rules and they are supposed to be enforced, and we're not getting any enforcement. He said this is what we've been facing the whole time we have lived here. He said we're trying to get the rules enforced. He said they would enforce them on me. Why couldn't they enforce the rules on them? He said you know its America, USA small town. He said he wanted to see some action... He said he didn't think they were ever going to get it and we're moving out and you can have this place. Several people were speaking at the same time. **Mayor Peggy Levesque** said we're working really hard to try to get things done here. Several people were speaking at the same time. **Tom Haneline** said we've been beating our heads against the wall for ten years. He said they could do anything they want. He said if he did that he would be in jail doing hard time. Several people were speaking at the same time. **Sibyl Thurston** said to hang in there we have a good Mayor and a good Council and everybody is trying. She said at least everybody is trying instead of brushing it under the rug. **Tom Haneline** said if he went over there and kicked somebody's butt because they're doing what they're doing he would go to jail. Several

people were speaking at the same time. **Mayor Peggy Levesque** said she thought we had the public comment and would entertain a motion to close the public hearing.

CLOSE PUBLIC HEARING:

❖ At 7:38 PM, **Councilor Anthony Caldwell** moved to close the public hearing. **Councilor Virginia Thompson** seconded the motion. **Motion carried unanimously.**

NEW BUSINESS:

1) Brad Padon, Wagon Wheel Restaurant and Lounge; Conditional Use Permit – Outdoor Beer Garden:

❖ **Dave Lykstad** moved to discuss the Conditional Use Permit submitted by Brad Padon, Wagon Wheel and Lounge, for an Outdoor Beer Garden to determine approval or denial of the application. **Councilor Laura Heideman** seconded the motion.

Mayor Peggy Levesque read the recommendations by **Mart Kask**, Town Planner and called for discussion. (See Exhibit "A" attached). **Councilor Anthony Caldwell** said he would like to see the applicant submit something addressing the complaints. **Mayor Peggy Levesque** said it is not appropriate for the Town of South Prairie to make suggestions to the applicant. **Councilor Dave Lykstad** said if there is a workable solution he would be willing to work with the applicant. He asked if the applicant was the owner of the parking lot? **Mart Kask** said no, the current owner lived in Gig Harbor and the property was currently in probate. **Mayor Peggy Levesque** stated they could not build on that lot if it belonged to someone else. Discussion followed regarding the size of the proposed beer garden. **Lawrence Levesque** said the smoking area has to be located 25' (twenty-five feet) from any door or window. **Councilor Sibyl Thurston** said Donna is trying to buy the business, but she did not think the Council could take action on the application if Donna submitted it since she was not the owner. **Mayor Peggy Levesque** said the Council has to decide whether to approve or deny the application. **Mart Kask** said Brad Padon is the applicant and Donna is listed as the agent. He said the owner could delegate another person to act as their agent.

❖ **Councilor Dave Lykstad** moved to amend his motion and deny the Conditional Use Permit application for an Outdoor Beer Garden submitted by Brad Padon, Wagon Wheel Restaurant and Lounge, based on the Town Planner's recommendations. **Laura Heideman** seconded the amended motion. **Mayor Peggy Levesque** called for discussion. No further discussion. **Motion carried unanimously.**

2) Police Agreement with Pierce County Sheriff's Department – Council Action to table to Recessed Council Meeting on August 22, 2006:

Mayor Peggy Levesque requested Council Action to table the Police Agreement with Pierce County Sheriff's Department to the amended date of August 24, 2006. She said the Town Attorney recommended that the Town of South Prairie have a Municipal Court Agreement in place before taking action on the Police Agreement. Discussion followed.

❖ **Councilor Sibyl Thurston** moved to table the Police Agreement with Pierce County Sheriff's Department to Thursday, August 24, 2006. **Councilor Dave Lykstad** seconded the motion. **Mayor Peggy Levesque** called for discussion. No further discussion. **Motion carried unanimously.**

3) Review Draft Agreement from City of Bonney Lake for Municipal Court Services:

Mayor Peggy Levesque said we have received a rough draft from the City of Bonney Lake for Municipal Court Services and said she would speak to the Court Administrator tomorrow. Discussion followed.

4) Resolution No. 275 – Interlocal Agreement with Pierce County for Road Maintenance:

"Resolution No. 275 – A Resolution of the Town of South Prairie, Pierce County, Washington authorizing the Mayor to execute a memorandum of agreement between Pierce County and the Town of South Prairie regarding road maintenance services."

Mayor Peggy Levesque said we generally just rolled over the Road Maintenance Interlocal Agreement, but the attorney for Pierce County did not want the old agreement and revised it. Discussion followed.

❖ **Councilor Dave Lykstad** moved to approve Resolution No. 275. **Councilor Sibyl Thurston** seconded the motion. **Mayor Peggy Levesque** called for discussion. **Councilor Anthony Caldwell** requested changing "City" to "Town" under Section I of the Interlocal Agreement. No further discussion. **Councilor Dave Lykstad** moved to amend his motion to approve Resolution No. 275, with correction

under Section 1 of the Interlocal Agreement. **Councilor Sibyl Thurston** seconded the amended motion. **Mayor Peggy Levesque** called for discussion. No further discussion. **Motion carried unanimously.**

OLD BUSINESS:

None.

CITIZENS' COMMENTS:

Karen Leming said there is a Safe Streets Meeting tomorrow at 7:00 PM at the Community Center.

MAYOR'S REPORT:

Mayor Peggy Levesque said we received a complaint from Brent Farr and it was forwarded to the Tow of Wilkeson.

PUBLIC WORKS' REPORT:

Councilor Anthony Caldwell said he is looking into the well on Third Street and we might have to do a title search. He said we might have to contact the White River School Board about purchasing the property where the well is located. He said the Town of South Prairie does own the water rights on the property. Discussion followed.

CLERK'S REPORT:

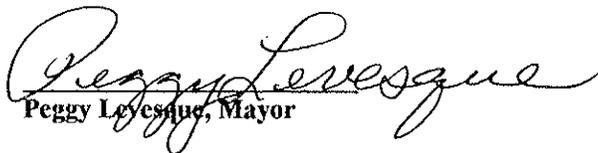
None.

COUNCIL MEMBERS' REPORT:

Councilor Sibyl Thurston said she would try to make the next meeting but she would not be here for the September Council Meeting because they were moving. **Councilor Anthony Caldwell** said she would have to submit a "Letter of Resignation." Discussion followed.

RECESS:

❖ At 8:27 PM, **Councilor Anthony Caldwell** moved to recess the Council Meeting to August 24, 2006, 7:00 PM. **Councilor Dave Lykstad** seconded the motion. **Motion carried unanimously.**


Peggy Levesque, Mayor


Maria Nevill, Clerk/Treasurer

Memorandum

TO: Mayor and Town Council
Town of South Prairie

FROM: Mart Kask, AICP, PE
South Prairie Town Planner

SUBJECT: Conditional Use Permit Application Review
Add a Beer Garden to the Wagon Wheel Restaurant
and Lounge at 121 State Highway 162, South Prairie

DATE: 7 August 2006

At Issue

Bradley V. Padon, is proposing to construct a 529 square foot out-door beer garden, attached to the Wagon Wheel restaurant and lounge at 121 State Highway 162, South Prairie. The beer garden is to be bounded by a six to eight foot sight-obscuring board fence. An out-door beer garden is not a principally permitted use in Chapter 17.04.040 of the South Prairie Unified Development Ordinance. Therefore, the applicant must obtain a conditional use permit from the Town Council. A conditional use permit is subject to SEPA review and a public hearing before the Town Council, as specified in Chapter 17.09.090 of the South Prairie Unified Development Ordinance.

Findings of Fact

1. The proposed site, 121 State Highway 162 (tax lot # 253000050), is in the "C - Commercial" zoned district in Chapter 17.04.040 of the South Prairie Unified Development Ordinance.
2. An outdoor beer garden is not a principally permitted use in Chapter 17.04.040 of the South Prairie Unified Development Ordinance, therefore requiring a conditional use permit, as specified in Chapter 17.09.090.
3. A conditional use permit requires a SEPA review as well as a public hearing before the South Prairie Town Council.

4. The conditional use permit application, as filed by Bradley V. Padon on 28 June 2006 is considered to be complete.
5. The proposed 529 square feet (23 feet by 23 feet) beer garden is to be located west of the existing building.
6. The applicant proposes to allow smoking in the beer garden.
7. The State law requires the smoking area to be at least 25 feet from a door or other entrance to a building. The current layout plan for the beer garden shows the beer garden/smoking area to be adjacent to the side door to the restaurant and lounge.
8. The applicant proposes to construct a six feet to eight feet high fir or cedar fence around the beer garden.
9. The restaurant and lounge and the beer garden are on a 6,000 square foot lot. The existing building footprint is approximately 3,300 square feet. The restaurant and lounge area amounts to about 3,000 square feet. On the second floor there is a residence.
10. The restaurant and lounge plus the residence are subject to off-street parking requirements, Chapter 17.05 South Prairie Unified Development Ordinance.
11. Chapter 17.05.040 South Prairie Unified Development Ordinance requires two off-street parking spaces for the residence plus one off-street parking space for each 100 feet of floor area for the restaurant and lounge. The restaurant and lounge area being 3,000 square feet, requires 30 off-street parking spaces. All off-street parking spaces are to be on the site of the business and the residence.
12. Chapter 17.05.030.C states as follows: "C. Other uses. For uses other than those described in subsection A. and B. of this section, required parking may be in areas other than on the premises if the required amount of parking area is set aside for a particular use in such a lot and such area is not located more than five hundred (500) feet from the premises. The lot or area to be utilized shall be legally encumbered by an easement or other appropriate means to ensure continuous use of the parking facilities. Documentation shall require review and approval of the Town attorney."
13. The 6,000 square foot lot (tax number 2530000040), west of the subject property is being used to park some of the vehicles used by the restaurant and lounge patrons. The 60 by 100 feet lot can accommodate about 20 parked vehicles.
14. The applicant has not produced a document that secures tax lot 2530000040 for off-street parking for continuous use.

15. There is a potential of noise being generated in the out-door beer garden.

Conclusions

1. The proposal is in conformance with the South Prairie Comprehensive Plan.
2. The proposal is not in conformance with the South Prairie Unified Development Ordinance.
3. The proposal is potentially injurious to the health and general welfare of some of the citizens of South Prairie.
4. The proposal may generate excessive noise at late evening hours. The timing, duration and intensity of the noise is very difficult to forecast in advance and to quantify.
5. The responsible environmental official has issued a SEPA determination of mitigated determination of nonsignificance (MDNS).
6. The application meets some of the standards and criteria for granting a conditional use permit, Section 17.04.060.D of the South Prairie Unified Development Ordinance.
 - a. The proposed use at the proposed location is not detrimental to other uses legally existing or permitted in the zoning district.
 - b. The size of the site is adequate for the proposed use, however, the site does not meet the off-street parking requirements. The restaurant and lounge are non-conforming uses since they do not meet the off-street parking requirements. Since the restaurant and lounge were in existence with no off-street parking at the time the South Prairie Unified Development Ordinance was adopted, the restaurant and lounge can continue to exist and operate as a non-conforming use. Chapter 17.08.090.C.2 prohibits the expansion of a non-conforming use without bringing the entire non-conforming conditions up to the Town standards. The exception is for the applicant to obtain a conditional use permit from the Town Council.
 - c. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity.

- d. The other performance characteristics of the proposed use are not compatible with those of other uses in the neighboring vicinity, particularly the noise generated by the restaurant and lounge patrons outdoors.
- e. Buffering devices such as fencing as proposed in the recommendations, may not protect adjacent properties from adverse auditory effects of the proposed use.
- f. The other uses in the vicinity of the proposed site are such as to permit the proposed use to function effectively.
- g. The proposed use does not comply with the parking requirements and of the South Prairie Unified Development Ordinance, Chapter 17.05.

Recommendations

1. That the Town Council deny the conditional use permit application for the following reasons:
 - a. Does not meet the minimum off-street parking requirements
 - b. The applicant has not proposed to bring the non-conforming conditions up to the Town standards.
 - c. The existing noise level generated by smokers outdoors of the restaurant and lounge plus the potential additional noise generated by the patrons in the beer garden is detrimental to the health and welfare of the nearby residences.
2. That the applicant may apply again for a conditional use permit after producing written evidence of having met the off-street parking requirements and mitigating the potential noise problem caused by patrons of the beer garden. In that case, the Town Council should wave the payment of the filing fee for the repeat conditional use permit application.

Attachment Conditional Use Permit Application

Impact Statement

From: Karen Leming, resident

Madam Mayor and Council:

The issue before you is: Should the Town grant the Wagon Wheel Tavern a conditional use permit for an outdoor beer garden?

Please allow me to address this issue on how this will impact my family as we live approx 50 feet from the tavern.

First of all, I want you to know that I have given this proposal a lot of thought in weighing all of the issues. I have tried to think up some creative ways to meet everyone's needs and to reach some common ground. I have taken into account the fact that Donna (Wagon Wheel Manager) has tried to improve the tavern and the issues that have needed to be addressed so that they can be a good neighbor.

However I keep drawing the same conclusion for myself and my family (as well as my neighbors): The Wagon Wheel's negative impact on our quality of life in our own home. Our right to some peace and quiet.

Our home is where we want to feel safe, relax after a hard days work and enjoy our family activities without unnecessary stress. This stress is in the form of commotion and noise from the patrons of the Wagon Wheel. When the indoor smoking ban went into effect our "quality of life" as we knew it changed dramatically. The party moved outside. It seems that most of the folks that patronize the Wagon Wheel smoke. So they spend as much time outside as they do inside.

These people may be nice folks most of the time but we have witnessed some obnoxious behavior from some of them while they are under the influence of alcohol. Some examples: Loud talking, yelling, screaming, using foul language, fighting, we have seen weapons, indecent exposure, public urination, burnouts with cars and motorcycles, driving while obviously intoxicated. All this and more right across the street from our house. Would any of you like to deal with this at your home from early morning until very late at night seven days a week?

All of this commotion from bringing the smokers outside. Why add to the problem by bringing alcohol outside? On July 13 at our request, Donna did move the smoking hut away from the rear of the business

EXHIBIT "B"

8/15/06
h1

and it gave us some relief. We have the same issues but at least they are mostly out of our line of sight. We feel that a beer garden will only increase the noise pollution and problems with people under the influence of alcohol and further compromise our quality of life. It is not in the best interest of the neighborhood. We are against the issuing of a permit for a beer garden at the Wagon Wheel.

Questions: If approved...

- Where will the beer garden be located?
- What type of enclosure?
- Seating for how many?
- Hours of operation
- Hours of uncontrolled noise levels?
- Will music be played (live or recorded) in the beer garden?
- Will smoking be allowed while drinking there?
- Does it comply with Town ordinances?
- What about enforcement of non compliance?
- How does it benefit the Town?
- How does it benefit the citizens?
- Is it in the best interest of the neighbors/community?
- Would you want it across the street from your home?
- Will it further devalue the neighboring properties?
- Will you be willing to revoke this permit if this causes more problems than anticipated?

Thank You..... Karen M. Leming

EXHIBIT "B"

8/15/06

87