

**VILLAGE OF PLEASANT PRAIRIE
COMMUNITY DEVELOPMENT AUTHORITY
Village Hall Auditorium
9915 39th Avenue
Pleasant Prairie, WI
May 16, 2007
4:30 p.m.**

A meeting of the Pleasant Prairie Community Development Authority was held on Wednesday, May 16, 2007. Meeting called to order at 4:30 p.m. Present were Mike Serpe, Gary Hutchins, Phil Godin, Tom Reiherzer and Larry Nelson. John Steinbrink and Kate Jerome were excused. Also present were Mike Pollocoff, Executive Director, Jean Werbie, Community Development Director and Jane Romanowski, Secretary.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. MINUTES OF MEETINGS - APRIL 18, 2007**

**REIHERZER MOVED TO APPROVE THE MINUTES OF THE COMMUNITY
DEVELOPMENT AUTHORITY MEETING OF APRIL 18, 2007 AS PRESENTED IN THEIR
WRITTEN FORM; SECONDED BY HUTCHINS; MOTION CARRIED 5-0.**

- 4. CITIZEN COMMENTS**

Mike Serpe:

If there is anybody wishing to speak now is your time to say your peace. All that we ask you to do is come forward and give your name and address. Anybody wishing to speak? Anybody wishing to speak?

- 5. COMMISSION COMMENTS**
- 6. NEW BUSINESS**

- A. Receive presentation on a redevelopment plan for property located at the southeast corner of 91st Street and 22nd Avenue.**

Mike Pollocoff:

Mr. President, we've been approached by representatives from Steve Mills Bear Reality about the possibility of a redevelopment of the property that's loosely identified as Sergio's. It's a former strip center or an existing strip center on 91st and 22nd. As a matter of fact, the Town offices used to be in that strip center back in the early '60s. We've known for probably about ten years that one of the original uses that was in that building was a dry cleaner. It was subsequently determined that the site is contaminated from cleaning fluids and waste from the dry cleaners. The previous owners of the property have endeavored to find those people to be able to close the

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loop. There's a fund for cleaning up sites from dry cleaners and that didn't happen. So one of the options that's available to the Village or any community, any city or village, is to create an environmental TIF for purposes of cleanup and a TIF for establishing a new use that would then generate tax revenues and those tax revenues in turn would pay for the cleanup.

I had indicated early on to the developer that given what we have on our plate with the Abbott development and some of the other things that we could use our abilities to facilitate making a blight determination, facilitate creating an environmental TIF or TIF but we would not want to tie up any bonding capacity for this project. But we would be open to structuring a developer bond or some type of financing vehicle where the developer would guarantee the bonds, the Village would guarantee the developer that the TIF increments, the tax increments would go back to the developer so that he could retire the bonds and proceed that way.

Where we're at is the very beginning of this process from a public standpoint. They've been doing quite a bit of work, but we'd be looking tonight for your request to forward this to the Village Board for them to make approval of this project to proceed for blight determination. By statute the Community Development Authority can't pick its own projects. The Village Board has to assign them the project or give them the authority to do it. That's what we'd be requesting tonight that the Village Board at their next meeting would consider that project proposal. Then we would start the notice process to make that blight determination.

Since the developer owns the property and there are no other owners involved in having their properties being determined as blighted, it's a little bit cleaner process. But we still have to go through the public hearing process because there are neighbors involved and it would constitute a number of actions not the least of which would be rezoning, preliminary condo, the final condo plat, the notice of creation of the TIF District, establishing a joint review board. There are a lot of things that will happen in order. That's the first thing we have to decide is whether or not this is blighted and this is a project we want to proceed. The developer is going to want to know whether they could make the numbers work given what we're willing to do and what they have to accomplish.

We've gotten some base information and what you have in front of you is what we have. The developer can show what they're proposing and open themselves up for some questions that you might have any questions they might have of staff to get started. We have a binder here with pictures of the site and just the pictures alone would indicate the blight. The staff will be providing additional information for the blight determination. The phase 1 typically puts us to the point where it's a blighted area to meet the requirements.

Mike Serpe:

Mike, before we go to the developers, the TIF District boundaries where would those go?

Mike Pollocoff:

There are three parcels that are involved in this and it would include all three parcels. At one point we thought there could be a way that some public storm water problems could be solved by

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doing this, helping them and helping ourselves, but after review by the engineer that's not the case so there won't be any public improvements involved in this parcel other than connecting to the sewer and connecting to the water.

Tom Reiherzer:

Mike, I've got a question. If we agree to this who is going to be responsible for tearing that building down and taking care of the cleanup?

Mike Pollocoff:

That would be the developer. That would be put into the development agreement where we would outline everybody's responsibilities. But tearing the building down and the cleanup that's the core of the project plan for the environmental TIF, getting that out of there and getting it remediated.

Mike Serpe:

Is there any possibility that the contamination could extend further than the three parcels?

Mike Pollocoff:

Yes, there's a chance.

Mike Serpe:

And if it does where is our obligation or the developer's or anybody's obligation to clean that up?

Mike Pollocoff:

They have their environmental consultants here. I'll let them answer that.

D.J. Burns:

Good afternoon. My name is D.J. Burns. I'm the project director or Drake Environmental here on behalf of BFU II, LLC. That is the entity that is currently the owner of the property. To directly answer your question Wisconsin Statutes 292 require that the owner of a piece of property that has contamination present at it either in the soil or the ground water have the responsibility to abate or remediate that contamination to the extent practical if it does go across property boundaries. And that's the intention of the creation—that's one of the purposes for the creation of the TIF is to allow the developer to have some certainty that those costs that are potentially open ended, although they're fairly well—the site has been investigated and the environmental risk has been identified and we've worked with the DNR to try to identify what the extent of the problem is, there is always that opportunity that contamination may present an issue off site and that greatly increases the cost.

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Jean Werbie:

I have a quick question. I think we might have talked about this a number of months ago. There were some situations where you wanted to put some ground water monitoring wells on adjacent properties to the east of this particular site, but the property owners refused to allow you access to do that. Is that correct?

D.J. Burns:

That is correct. The Department of Natural Resources, as I indicated earlier, holds a property owner responsible for the investigation and remediation of contamination so long as he or she or that entity is provided access to these adjacent properties. If access to these properties is not provided to the developer, the statute then requires that property owner to address that contamination. So when this contamination traveled to the east as Jean had pointed out, many efforts were made by the Department of Natural Resources to inform that adjacent eastern property owner of his or her responsibilities if they did not allow access onto that property. And the DNR had satisfied itself that if BFU is restricted from going over that property boundary that they then would hold that person under 292 responsible for any residual contamination.

I'll kind of say as an aside if we go ahead and do this remediation at this property and address the source of the contamination which is believed to be near this old dry cleaning operation, the chance is very high that natural attenuation will take care of any residual property located in a down gradient direction such as to the east or to the south of this property. That's one of the main benefits of going ahead and remediating the source area of contamination any time you're dealing with these types of brown field sites.

Mike Serpe:

Thank you. Anybody else have any questions of D.J.? Thank you.

Mike Pollocoff:

We could have the developer's representative describe the proposed project that would take place on that site.

Jonah Hetland:

My name is Jonah Hetland. I'm here on Steve Mills' behalf. He wanted to attend but unfortunately he had a death in the family that he had to leave town for. Basically what we're proposing, the end result once we clean up this site will be a residential use, multifamily, 28 condominium units. Our market would be empty nesters or young professionals. These units are going to range from 1,100 square feet to 1,800 square feet. Values we're thinking that they're going to range from the \$140,000's to the \$220,000's, so an average selling price would probably be in the \$170,000's. Like I said, it would be a condominium association so all responsibility for maintenance of the landscaping, interior roadways, buildings, detention basins would be part of the condominium association. That's I guess a basic summary of it.

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We have done this product elsewhere in the City. I believe Jean and perhaps Mike has toured it to see the quality. As you can see on the picture here it's North Point which is located at 30th Avenue and 20th—it's north of the City somewhere. So if you guys have any questions on our proposal I can answer them.

Jean Werbie:

I also took some photographs. There are three plastic sheets of photographs. I took about 11 pictures of those buildings up there we're routing out now.

Mike Serpe:

And the construction of these is of natural materials and any vinyl?

Jonah Hetland:

We'd have to abide by what the Village would require. I'm not sure if vinyl would be permitted or not. Probably not. None. Jean is shaking her head.

Jean Werbie:

Nope.

Mike Serpe:

Anybody else have any questions of the developer?

Mike Pollocoff:

Have you guys given any thought to what you think the absorption rate would be in this market?

Jonah Hetland:

At this point we're thinking this is probably going to be a five year project. It's going to be build and fill, so start with one building and see how it goes and fill it out from there. Probably three to five years.

Mike Serpe:

These are basement units?

Jonah Hetland:

These would not be. I think part of that would be due to the contamination on site. We'd have to preserve the existing subsurface.

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Mike Serpe:

Anybody else have any questions?

Tom Reiherzer:

How many did you say were in each unit?

Jonah Hetland:

There are seven units in each building.

Gary Hutchins:

I just have a question for Mike. Can you explain the legal part of why we would do it as a blight and what advantage it is to the developer for that to happen?

Mike Pollocoff:

Part of it is the developer and one of the things that has kept this property from selling over the last three or four years that I know of is assuming that liability for the environmental contamination. If we make this blight determination that the property is blighted and that we're willing to have a financing vehicle such as TIF, then the municipality is assuming through contract we'd be giving that to the developer to be able to get that out of there and not have it hanging there as something that a person who caused the contamination would have to have some responsibility for that nobody can find. So what it does is it takes—if this is going at \$140,000 to \$220,000 it's going to take a while to sell them out.

Being able to use the TIF to get the contamination out and have that money come up forward and get that out is going to be more advantageous than just coming out of their pocket. But I think it also helps us around who is responsible for the cleanup. Maybe the engineer from Drake has some more information on that, but I know that's been a hang up from everybody that's tried to develop that site up to this point.

At one point when the CDA was developed initially we looked at putting this on the project list and we actually thought about even before we thought about bringing it to the Authority making it an acquisition to acquire this parcel to get it in public ownership so we could clean it up. At the time we were thinking we'd just make it another strip center. But when you sit back and look at how this parcel has been historically it's never been a successful strip center. I think for us to have acquired it, one, we would have had to relocate businesses in there. We'd be paying a lot higher price to acquire the property than Mr. Mills acquired it at a foreclosure.

I think the value on this now the increment would be significant because we have this thing valued down fairly low. So it makes that income from the changed value more significant than what we've had. So it makes it easier to accomplish. I think on the larger scale you've seen the

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same thing happen on the Brass. That sputtered and it's had its problems, too. But I think also on that one the City is protected by that development as well.

Mike Serpe:

Do we have an approximate cost on this cleanup?

D.J. Burns:

Generally the estimated project cost for just the environmental aspect of the cleanup would run in the neighborhood of \$175,000 to \$200,000. That does not include any of the demolition-related costs or the site clearance and prep costs prior to allowing for the construction of the residential units. You had asked previously whether or not basements were incorporated into this design. Unfortunately due to the contamination that's present at the site we will have to rely on basically some passive venting or capping technologies to protect the occupants from exposure to any residual chemicals that might be in the environment. That's the standard practice now in the industry when you're dealing with brown field sites, chlorinated solvent sites in particular. So the developer at first blush would have loved to included basements in these units, however the site conditions restrict them. That has an effect on the marketability of these homes and perhaps what you can ask for those out on the market.

To kind of expand on the need for either the TIF or an E-TIF or other financing vehicles, what you have here is a situation that it's an upside down deal. Very few developers would enter into this type of an equation where their cost for environmental cleanup is unknown. The high cost of demolishing this building and preparing the site would typically lead these developers to go towards green field sites or sites that are actually going to create more of a burden on a municipality or a Village because you have to extend infrastructure to that.

Over the years TIFs and E-TIFs have now been used to help spur urban infill redevelopment. We've been working on this site, or I've been aware of this site for approximately five or six years. I've worked with the bank that held the mortgage on it. I worked with the prior owner, and now I'm looking at the potential developer to try to come up with a solution for the community that turns an upside deal into one that can be accomplished. Without the mechanism of a TIF, and personally in our business we see this oftentimes, if that can't be accomplished I think you're going to be looking at a vacant blighted site for a very long time. You have an opportunity here to make good use of a financial tool that the Department of Revenue created 50 years ago without any thought to using it to environmental development.

As Mike says, the City of Kenosha has used this on the Brass sites. There have been 11 E-TIFs created in the State of Wisconsin. We helped to originate two of those. They both have been fairly successful, one very successful, the other one is the slow starting mechanism. Almost all of these things we see them now as economic redevelopment tools. Without these things nothing is going to happen out there. That's our opinion.

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Mike Serpe:

You mentioned that the build out that you would build one or two or whatever and see how the market goes. If we create a TIF District here that TIF has to be retired at some reasonable time. If you elect to after building one or two units that TIF District will never get retired. Is my assumption right here?

Mike Pollocoff:

That's why the Village to backstop our risk is going to want some kind of financial assurance from the developer that those bonds will be paid off by the developer and not the Village. So they're incentive is to get this thing out on the market and develop it as quick as possible because the faster you generate increments to pay off the bonds then at some point how they're holding that capital in reserve or what they've got committed gets released once that's done. Plus they're going to make money on the project. What the TIF is doing, as the engineer as indicated, it's taken and finding a way to collect money to pay for all those improvements that otherwise would make the whole project undoable.

Mike Serpe:

One other question. The dirt being removed goes to where? The state line?

D.J. Burns:

There's a prohibition against taking this type of material into Illinois although it can come up here on occasion. It will go to a licenses landfill with appropriate requirements to handle that.

Mike Serpe:

And we get returned? What comes back?

D.J. Burns:

You'll have clean soil basically imported back in as fill material and that will be part of the design system for basically a passive venting which is, again, an additional safeguard to the occupants of the buildings that will be constructed in real close proximity to what's called the source area. If you're familiar with the property, the majority of the soil contamination is on the eastern edge of the strip mall itself. One of the units up on that drawing in the northeast corner of the project site that's really where the majority of the soil contamination lies.

Tom Reiherzer:

One other question. I'm assuming they're just going to take four feet all the way around and that's because they're not going to take basements? If they did basements could they do it if they took eight feet out?

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D.J. Burns:

The DNR has indicated an unwillingness to allow us to incorporate basements into the design. The DNR project manager is Ms. Shana Lowby. We've talked with her on a number of occasions. With chlorinated solvent contamination there's some residual vapors created. We will actually extend our excavation deeper than four feet. She's attempting to have us remove soil contamination so that it has a beneficial effect on cleaning up the ground water in that area. That's really the primary reason for the excavation of that is for the protection of ground water. DNR is concerned about public risk and exposure to contaminated soil. But their primary legislative directive is to protect our ground water and our surface waters here in the State.

Larry Nelson:

Is there a neighborhood plan

Mike Serpe:

We have a time line set up on here just for the CDA that's going to take us through into August on this whole thing. So it sounds encouraging. We'll see where it goes with the Board. It's a good way to develop an area that's going to sit as an eyesore for who knows how long.

Jean Werbie:

One of the things that we do need to add to that time line to respond to Larry's question was we were not going to require a specific neighborhood plan but we do need to amend the Comprehensive Plan and we need to add that, and we would do that at the same step as the conceptual plan and the rezoning are being considered. Because right now that area is shown as commercial which is like a B-2 designation, Community Commercial, and we'll need to put that into a residential classification in order to rezone it.

Mike Serpe:

You're talking the end of June for that?

Jean Werbie:

Correct.

—:

This fits into your overall plan for what the Village wants to do here?

Jean Werbie:

The staff has no objections. We think it would be a good use of the property.

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Mike Serpe:

Anybody else have any comments or questions? Thank you very much.

D.J. Burns:

We appreciate your time. Thank you.

Mike Serpe:

Hopefully this has a favorable review by the Board and I'm sure it will.

7. **Consider Entering into Executive Session Pursuant to Section 19.85(1)(g) Wis. Stats. to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved and Pursuant to Section 19.85(1)(e) Wis. Stats. to deliberate or negotiate the purchase of public property, investing of public funds, or conduct other specified public business, whenever competitive or bargaining reasons require a closed session.**

REIHERZER MOVED TO ENTER INTO EXECUTIVE SESSION; SECONDED BY GODIN; ROLL CALL VOTE - SERPE – YES; HUTHINS – YES; GODIN – YES; REIHERZER – YES; NELSON – YES; MOTION CARRIED 5-0.

Mike Serpe:

We'll return to open session only for the purposes of adjournment.

8. RETURN TO OPEN SESSION

After discussion was held, **REIHERZER MOVED TO RETURN TO OPEN SESSION; SECONDED BY GODIN - ROLL CALL VOTE - SERPE – YES; HUTHINS – YES; GODIN – YES; REIHERZER – YES; NELSON – YES; MOTION CARRIED 5-0.**

9. ADJOURNMENT

REIHERZER MOVED TO ADJOURN THE MEETING; SECONDED BY GODIN; MOTION CARRIED UNANIMOUSLY AND MEETING ADJOURNED AT 5:20 P.M.