

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
July 25, 2005**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on July 25, 2005. Those in attendance were Thomas Terwall; Michael Serpe, Larry Zarletti; Donald Hackbarth; Wayne Koessl; Jim Bandura; John Braig and Judy Juliana. Eric Olson was absent. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie-Community Development Director; Peggy Herrick, Assistant Planner and Zoning Administrator; and Tom Shircel, Assistant Planner and Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CONSIDER THE MINUTES OF THE JUNE 13 AND JUNE 27, 2005 PLAN COMMISSION MEETINGS.**

John Braig:

Move approval as presented in written form.

Wayne Koessl:

Second.

Tom Terwall:

MOTION BY JOHN BRAIG AND A SECOND BY WAYNE KOESSL TO APPROVE THE MINUTES OF THE JUNE 13 AND JUNE 27, 2005 PLAN COMMISSION MEETINGS AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

5. CITIZEN COMMENTS.

Tom Terwall:

If you're here for Items A through C on tonight's agenda, those items are matters of public hearing. We would ask that you hold your comments until the public hearing is held so that your comments can be incorporated as a part of the public record. However, if you're here for Items D through G, or if you're here about an item that's not on the agenda, now would be your opportunity to speak. We would ask you to step to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments? Anybody wishing to speak? Anybody wishing to speak?

6. NEW BUSINESS

A. PUBLIC HEARING AND CONSIDERATION OF A FINAL PLAT for the request of Nancy Washburn agent for Regency Hills-Creekside Crossing LLC., owner of the property generally located north of 93rd Street east of Old Green Bay Road in the Village of Pleasant Prairie for consideration of the Final Plat for the proposed Creekside Crossing Subdivision.

Jean Werbie:

Mr. Chairman, I'd like to briefly go over some background information. I'm not going to read it word for word because we've actually talked about this project a number of times over the last several months, as well as the last several years.

What the petitioner is requesting this evening is the final plat for the first stage of development in the Creekside Crossing project. This is a project that is located generally north of 93rd Street and it is east of Old Green Bay Road. The proposed development consists of approximately 120 acres of land that they are proposing to develop. There is a branch of the Jerome Creek which traverses through the property from the northwest down to the southeast. This entire subdivision is located within the Whittier Creek neighborhood, which is a much larger area, about a one mile square area. This matter was before us as part of a conceptual plan and a preliminary plan. Again, the first step of the development out there is coming to us as part of a final plat for the subdivision.

As you know, you previously approved, as did the Village Board, an early mass grading of this particular site, so they began that early mass grading work early summer to get a lot of the work done, especially since we had some drier weather earlier on in the summer.

With respect to the overall development, this stage one single family they're proposing to do 15 single family lots. Just as an overview stage 2 is nine single family lots. For the stage 2 of the condominium we've got 116 condos. Stage 2 is 124 condos and stage 3 is 48 condos.

As previously mentioned, we had gone through all the population projection information as it relates to this particular project. Based on the information received from Kenosha Unified School District, approximately 131 public school age children could come from this development. Traditionally what we have seen is that with condominium developments you do see much fewer numbers of children coming from those developments, but overall we try to balance that out with respect to the averages that are given to us from Unified when we make our projections.

With respect to the open space in this particular project, there's approximately 23 percent of the development site which is being maintained as open space. They've got parkland area identified. There's going to be a smaller park on the south end, as well as on the north end, with a connecting walkway or pedestrian walkway on the west side of the creek that will connect the two parks and allow for a walking trail within the development that's open to the public.

There are some wetland complexes, a few smaller ones at the southern end, a very large one at the northwest corner of the development site, all of which will be preserved and protected. There is a certain amount of floodplain and shoreland on the particular property. There's been a request and we've discussed the floodplain boundary adjustment that they're going to be doing on this particular property. Once the work is completed then those hearings will need to be held so they can finalize the process. They actually received their CLOMR from the Federal Emergency Management Agency. Now they have to complete the work then they follow it through with the final followup in the process when the as builts have been completed. There are several retention basins on the property that have been previously identified and are shown on the engineering plans. In fact, in the initial stages they are constructing those retention basins.

There are two initial access points to this development project from 93rd Street. In the future there will be another additional access point that goes directly to Old Green Bay Road to the west, and then eventually there could be some access points to the north and to the east.

As I just mentioned, floodplain boundary adjustment work has been underway. And, again, when that work is completed and as built then they will be coming back for the formal public hearing to follow through and get the maps and the text amendment, and that's all outlined as well in the staff memorandum which has been previously read into the record with previous public hearings.

They did receive a variance this spring and they have mass grading under way. And one of those conditions was that they needed to proceed promptly with getting the final plats for the subdivision and the condominium plat. Subdivision plat is being considered tonight, and the condo plat is going to be considered sometime within the next 30 to 45 days.

Zoning map amendments have already taken place on the property. The one last zoning map text amendment that we do need to follow up with is the PUD for the condominium area, and that is when the condominium plat is presented to us we will make those requests for zoning changes on that particular area as well.

Now going forward with respect to the final plat. The final plat for Creekside Crossing proposes 15 new single family lots and six outlots. Outlots 2, 3, 4 and 6 are proposed to be further subdivided for condominium development. Outlot 5 is proposed to be dedicated to the Village as a park, and outlot 1 is proposed to be used for storm water management purposes.

As part of the final plat the following public roadways are being dedicated and constructed.

- < Creekside Circle adjacent to Outlots 1, 3, 4, 5 and 6. A portion of Creekside Circle is being dedicated and not constructed with this stage of development north of 66th Avenue and north of 92nd Place. We had some issues with respect to the depth of sanitary sewer and when that could be constructed, and we don't want to have them put in the public roadway until the sanitary sewer in that area

can be completed. So while it's being dedicated it will be completed and constructed at the next stage of the phase.

- < 92nd Place east of Creekside Circle
- < 62nd Court East of Creekside Circle
- < 63rd Avenue north of 93rd Street; and
- < 66th Avenue south of Creekside Circle will also be completed.

As a part of this Final Plat the private streets within Outlot 4 are being constructed as shown on the Final Plat.

As a part of this Final Plat the following public infrastructure is being dedicated and installed: And as I mentioned previously, the undergrounds will be public. So sanitary sewer, water and storm sewer within the aforementioned public roadways and within easement areas for the future private roadways, with the exception of municipal sanitary sewer within 90th Place and a portion of Creekside Circle south of 90th Place will be constructed. So, again, we've got a mixture of private roads, which are mainly the cul-de-sacs that come off from the public roads, and all the undergrounds will be public as well.

With that this is a matter for public hearing. The developer is in the audience. I know that we have seen this many times before, but this is the final subdivision plat for the first stage of the single family.

Tom Terwall:

Nancy, this is your last opportunity. Is there anything you wanted to add?

Nancy Washburn:

I'm Nancy Washburn representing the agent for the developer. We will be back to see you, as Jean said, with all the condo stuff. But with all the pre-planning that I must say staff has done with this site over the last year, all the meetings we had with the municipal public works department and so forth, the construction process on the early mass site grading has gone very smoothly. Because of the weather dust has been our biggest problem. We have been water and have tankers on site and it's being metered, so we hope we're in good shape there. Certainly the Village has worked with us on that, but we're anxious to proceed now with the public improvement portion and get this up and running and get some of that tax revenue generated for you. With that, I'll be happy to answer any questions.

Tom Terwall:

Is the grading on schedule?

Nancy Washburn:

Oh, yes. In fact they poured the--they were out inspecting soil and proctoring soil again today for the footings. The bridge is going in this week and that will sit and cure. And then they will start grading on the east side of the site so that will definitely keep the dust away from the neighbors, then we're ready to lay pipe right behind it. So it's going very well.

Tom Terwall:

This is a matter for public hearing. Is there anybody else wishing to speak? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'll close the public hearing and open it up to comments and questions from Commissioners and staff.

Mike Serpe:

Nancy, the condo styles are going to be the same as what's off of 52nd Street by the KYF, is that correct?

Nancy Washburn:

Actually they'll be very similar. Since we built those units the commercial code has changed, and so the units we'll be building now we're building them up in Racine County in two locations and in Stone Creek in the City of Kenosha off of 47th Avenue. And Cary has been working very hard on all the elevations with our decorator. We've got multiple building styles on the exteriors but, yes, it will be in the same vain as those. Full basements, separate entryways in and out from the first level as well as the basement, two car garages.

Mike Serpe:

And on the single family lots you're going to do the building on those as well?

Nancy Washburn:

Yes. Mastercraft will be building all of the sites.

Mike Serpe:

And whose plans are they going to use on those, Mastercraft's?

Nancy Washburn:

Yes.

Mike Serpe:

And how many different--

Nancy Washburn:

Or, if you want to bring in your own plan to those sites you can, but we do have to build it for you. But we can take your own plan and put it into the Autocad and we have draftsmen on site.

Mike Serpe:

And if somebody doesn't have a plan available to them, how many different plans do you have to choose from?

Nancy Washburn:

I think right now it's over 36.

John Braig:

I don't remember the exact wording or what the circumstances were, but I did inquire in one of the previous meetings regarding the grove of trees on the site. And my recollection is I was assured they would remain standing unless the DNR ordered them removed because they would be in the floodplain or in one of the retention basins. Those trees are now missing.

Nancy Washburn:

They were in the retention basin and parking lots. There were two oaks and a number of, I can't remember what you call them, scrub trees or brush trees, buckthorns. And those trees were located within the outside of pond number three, and then in one of the parking lot and retaining wall locations. So they did have to be removed.

John Braig:

Was that an order from the DNR to remove them, or was that just of your own volition?

Nancy Washburn:

No, sir, it was per the approved engineering plans, so the DNR approved them, the Village staff approved them, and when we got out on site and we had everything staked out, we made multiple inquiries with staff as to how we--or the engineering staff anyway as to how we could work around them. They were right on the floodplain boundary line, right on the wetland line. There were a number of concerns.

John Braig:

I can appreciate they may have been on the boundary of a floodplain, but those trees probably were close to 100 years old and the floodplain didn't bother them or the flooding. I feel as though I was misled in the last meeting. I left the last meeting feeling that that little bit of trees which would have been a nice adjunct to any development should have stayed.

Nancy Washburn:

I appreciate your concern over those, and I guess I certainly never intended to mislead anyone. Those trees were directly in the path of the pond embankments and the detention retaining walls. We made efforts to design around them, and because it all has to fit in certain graded areas we

couldn't do that, but we are replacing those throughout the site. We are planting probably 350 trees overall in the landscape areas and the common areas that will be of a hardwood variety and will be adding new life to the site. I appreciate the quality of the trees, though. I was out there myself with the excavator and everyone trying to figure out how we could do something different, but it was very unfortunate.

John Braig:

The general public accuses the developers of cutting down trees as the first thing on a site, and there's always an excuse because the road had to be there or something had to be there. I'm at a loss to think you can't design a development or create a development. That wasn't the biggest forest of trees. It was just a small glen. I'm just at a loss that you couldn't design something to save those trees. Let's move on.

Mike Serpe:

Move approval.

Wayne Koessl:

Second.

Tom Terwall:

MOTION BY MIKE SERPE AND A SECOND BY WAYNE KOESSL TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THIS ITEM SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed?

John Braig:

Aye.

Tom Terwall:

Motion carries.

B. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT AND SITE AND OPERATIONAL PLAN for the request of Michael Bohn of Hexion Specialty Chemicals, Inc. (f/k/a Lawter International), located at the 8601

95th Street, in the LakeView Corporate Park to install a new re-circulating cooling water tower on the south outside wall of the resin manufacturing building.

Jean Werbie:

As a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as presented and described below:

Findings of Fact

1. The petitioner is requesting a Conditional Use Permit including Site and Operational Plans to install a new re-circulating cooling water tower on the south outside wall of the resin manufacturing building located at the 8601 95th Street, in the LakeView Corporate Park. This proposed installation will provide additional cooling tower water capacity for the existing process equipment. See Exhibit 1.
2. The subject property is known as Parcel 14 of CSM #1361 and is located in a part of the Northwest One-Quarter of U.S. Public Land Survey Section 21, Township 1 North, Range 22 East of the Fourth Principal Meridian, lying and being in the Village of Pleasant Prairie, Kenosha County, Wisconsin and further identified as Tax Parcel Number 92-4-122-212-0354-0.
3. The current zoning of the property is M-2, Heavy Manufacturing District and the manufacturing of vehicles, resins and wax compounds for the printing ink industry is allowed within the District but only with a Conditional Use Permit.
4. Several Conditional Use Permits have been previously approved for this property as listed in Exhibit 2.
5. The petitioner has provided the information to illustrate compliance with the Conditional Use Standards as included in Exhibit 1.
6. Notices were sent to adjacent property owners via regular mail on June 28, 2005 and notices were published in the *Kenosha News* on July 11 and 18, 2005.
7. The petitioner was e-mailed a copy of this memo on July 22, 2005 including a copy of the Fire Chief comments on July 22, 2005.
8. According to Article XVIII of the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials and information presented at the public hearing that the project as planned, will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting the Permit. Furthermore, pursuant to Article IX of the Village Zoning Ordinance, the Plan Commission shall not approve a Site and Operational Plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements conditions of approval and all other applicable Federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer and water service, storm water management, streets and highways and fire protection.

With that, this is a matter for public hearing. I'm not sure if the petitioner would like to make any further comments or presentation regarding their request.

Tom Terwall:

This is a matter for public hearing. Anybody wishing to speak?

Michael Bohn:

My name is Michael Bohn, and I'm the plant engineer at Hexion Specialty Chemicals, formerly Lawter. There's not too much more to add other than what Jean already mentioned other than the fact the reason we're putting in this cooling water tower is to tighten up our control on the process cooling water temperatures and improve the quality of our product. As mentioned in the application, the proposed cooling water tower will look quite similar to the one that is shown in the upper right hand corner. It will be about 30 percent bigger. Once again the reason for this is just to tighten up our temperature control on our existing processes.

Tom Terwall:

I would assume that the new one has to be up and running before the old one can come down, correct?

Michael Bohn:

The old one will actually stay in service. What we're going to do is isolate that and make it basically operate for our existing cooling belt and our proposed cooling belt that we're planning on putting in yet this year.

Tom Terwall:

So you'll have two when you're done?

Michael Bohn:

We'll have two when we're done, that's correct.

Tom Terwall:

Anybody else wishing to speak on this matter? Anybody else? Anybody else? Hearing none, I'll open it up to comments and questions.

Mike Serpe:

I know it's a closed system, but in the make up water how much water would you normally add to the closed system for evaporation purposes?

Michael Bohn:

It depends on the time of the year. Obviously in the summer we're going to need a little bit more than what we would in the fall and winter months. But generally we've been metering what we have in our current tower and it's coming up to about anywhere between 35 to 50 gallons a week that we have in evaporation.

John Braig:

This is a spray type of a cooling tower? In other words, the water is exposed to the air?

Michael Bohn:

No, it's not. What it is it's quite similar to a radiator on your car. The water is pumped into trays on the top of the cooling water tower, and it goes through what we call sheets which is quite a bit like a radiator that you have on your car. Except on the bottom of the sheets there is no tank to catch the water. The water goes into a cooling water sump. There is a fan on the top of the cooling water tower which creates a negative pressure within the system which draws the air through the sheets or similar to a radiator on a car to cool the water off.

John Braig:

But it is open and there is some evaporation as it passes through this cooling tower?

Michael Bohn:

Yes, the evaporation would be in the trays on the top where the water goes in initially and then in the sump where the water sits until it's pumped out to the process.

John Braig:

Are there any chemicals added to the water to retard corrosion or anything like that, or is it pure clean domestic water?

Michael Bohn:

It's the same type of chemicals that you'd add to your pool if you had an outdoor pool. We ph adjust because of acid rain. There's biocides and algicides that are added to it to control algae growth, so it's the same kind of thing you'd use for an outdoor pool.

John Braig:

Thank you.

Don Hackbarth:

What's the height? Is it the same height as the old tower? I didn't see that on any of the documentation.

Michael Bohn:

Yes, this tower will be about four feet higher than the older tower?

Don Hackbarth:

But it will stay under the roof line?

Michael Bohn:

It will stay under the roof line, that's correct.

Tom Terwall:

Anything further? What's your pleasure?

Larry Zarletti:

Move approval.

Jim Bandura:

Second.

Tom Terwall:

MOTION BY LARRY ZARLETTI AND A SECOND BY JIM BANDURA TO APPROVE THIS ITEM SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM.

Jean Werbie:

I just wanted to comment has the Plan Commission made the determination that they've met all the standards?

Tom Terwall:

In order to vote yes on this item, you must agree that the petitioner has met the conditions as outlined in the staff memorandum. That goes without saying, is that correct?

Larry Zarletti:

Yes.

Jim Bandura:

Yes.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

C. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT: The request of Esterlyn Durbin, agent, on behalf of Diane Hagemann, property owner, to rezone an approximate 1.1 acre parcel located at 7020 88th Avenue, from R-4, Urban Single Family Residential District to R-5, Urban Single Family Residential District.

D. Consider the request of Esterlyn Durbin, agent, on behalf of Diane Hagemann, property owner, for a Certified Survey Map to subdivide the property located at 7020 88th Avenue into three (3) properties.

Jean Werbie:

Mr. Chairman, I would ask that both Items C and D be taken up at the same time as we'll be talking about both issues together.

We have two requests this evening, Esterlyn Durbin, agent on behalf of Diane Hagemann, property owner, for a certified survey map to subdivide property located at 7020 88th Avenue into three properties. In addition, the petitioner is requesting a zoning map amendment to rezone the referenced property from R-4, Urban Single Family, to R-5, Urban Single Family Residential District. They would need to have the rezoning in order for the three lot certified survey map to be approved.

With respect to the rezoning, the Comprehensive Land Use Plan Map:

Pursuant to the Village Comprehensive Land Use Plan Map, the subject property and surrounding properties are designated as Upper-Medium Residential with 6,200 to 11,999 square feet per unit. The property is currently in compliance with the Comprehensive Land Use Plan Map as requested. If the property is rezoned into the R-5 District, the property would remain in compliance with the Comprehensive Land Use Plan Map designation.

Tax Parcel Number 91-4-122-054-0210 is 47,964 square feet with 240 feet of frontage on 88th Avenue and is located on the west side of 88th Avenue, one lot south of 70th Street. The petitioners are requesting the rezoning from R-4 to R-5 in order to accommodate the three lot split.

Surrounding Zoning:

The surrounding properties are zoned as follows:

- < North – R-4, Tax Parcel Number 91-4-122-054-0200, improved with a single-family dwelling owned by James Thomey.
- < South – R-4, Tax Parcel Number 91-4-122-054-0212, improved with a single-family dwelling owned by Michael & Kelly Adam.
- < East – R-4 (UHO), across 88th Avenue, improved with single-family dwellings.
- < West – R-5, improved with single-family dwellings.

The proposed CSM depicts 80 foot wide lots, which is less than the typical lot width of properties in this neighborhood. For example, the abutting R-5 lots to the immediate west have lot widths that are 100 feet. However, these abutting R-5 lots have less lot area than the proposed 3-lot CSM for this property. The CSM depicts the 3 proposed lots with 15,988 square feet per lot which is just over a third of an acre. On the other hand, the abutting R-5 lots to the west have an average of approximately 14,700 square feet.

Moreover, the proposed CSM for this property shows the lots as exceeding the 75 foot R-5 lot width requirement and exceeding the 10,000 square foot R-5 lot area requirement.

Under the current R-4 zoning regulations, lots in the R-4 District are required to have a minimum of 90 feet of frontage on an improved public road and a minimum of 15,000 square feet of lot area. So what they are proposing to do is actually create three lots as opposed to two.

The R-5 zoning district requires a minimum lot area of 10,000 square feet and a minimum lot width on a public roadway of 75 feet. The minimum street, side and rear setbacks in both the R-4 and R-5 District are 30 feet, 10 feet and 25 feet, respectively. A minimum 5 foot driveway setback to side and rear property lines is also required. Additionally, each new parcel is required to have a minimum lot depth of 125 feet.

If the property were rezoned into the R-5 District, the minimum required frontage on an improved lot is 75 feet. Therefore, the existing 240 foot wide lot, if rezoned to R-5, could accommodate three lots and, again, I had mentioned close to 80.

The Village staff can support the rezoning request from R-4 to R-5 for the following reasons:

- < The proposed R-5 zoning designation is consistent and compatible with the Comprehensive Land Use Plan Map, the adjacent land uses and adjacent residential Zoning Districts.
- < As noted above, all of the surrounding, abutting properties are zoned residentially (either R-4 or R-5) and the properties to the immediate west are zoned R-5.
- < The proposed lots exceed the minimum 10,000 square foot lot area and exceed the lot areas of the other adjacent R-5 zoned lots to the immediate west.
- < The proposed 80 foot wide lots exceed the minimum 75 foot lot width requirement for the R-5 District.

With respect to the certified survey map, and this may have been confusing unless you read these details:

All three lots are proposed to be 15,988 square feet with 80 feet of frontage on 88th Avenue and a lot depth of 232.85 feet. All 3 lots exceed the minimum lot size, lot frontage and lot depth requirements of the R-5 District.

Lot I – Is vacant.

Lot II – Is improved with a 1,684 square foot single-family, ranch-style dwelling constructed in 1959.

Lot III – Is improved with a 1,000 square foot detached garage.

The existing single-family dwelling is situated on the proposed Lot II, which is in the center of the parent parcel. According to the CSM, the existing single-family dwelling stretches from the proposed Lot II side lot line to the other Lot II side lot line. Pursuant to Village ordinances, a division of property cannot result in the creation of any nonconforming structures. The location of the existing single-family dwelling on the proposed Lot II results in the existing dwelling being nonconforming due to side setbacks, as well as the detached garage that would also sit on a lot that would also create a nonconforming situation. So basically what would need to happen, and the property owner/petitioner is in agreement with this, is that they would need to raze the structure of the house, as well as the garage, within six months of the approval of the certified survey map and the zoning in order to accommodate the three lots on 88th Avenue.

With respect to access, since this is a County trunk highway under the jurisdiction of Kenosha County, if the rezoning and the CSM are approved, the property owner will need to obtain driveway access permits from Kenosha County. It is likely that the County will require that at least two of the properties will share one access, which means that an access driveway will come into one property and be cross-shared between two particular parcels. They don't want to create any additional access points on a County trunk highway. They'll need to get those issues worked out and get those permits and approvals prior to us issuing any building permits on the new lots creates.

Municipal Utilities: An 8 inch municipal sanitary sewer main is located along the east side of the 88th Avenue roadway. According to Village records, there is only one existing sanitary sewer lateral to this property that serves the existing dwelling. Any new sanitary laterals for the new dwellings will require boring underneath the 88th Avenue roadway to make the connection. Work in the Right-of-Way permits will be required from Kenosha County. All new dwellings will be required to connect to the municipal sanitary sewer utility upon construction.

Municipal water is not available in this portion of 88th Avenue, adjacent to this property. According to the applicant, there is an existing well on Lot II of the CSM that serves the existing dwelling. The Village staff recommends that the property owner provide shared well agreements and easements between the three proposed CSM lots.

The property owners will be required to sign a Waiver of Special Assessment Hearing Notice as municipal water is south of this but at some point will likely be extended to the north to service this area.

Taxes, Connection Fees and Impact Fees: According to the Finance Department, there are outstanding taxes in the amount of \$1,169.42 through July 31, 2005 due for this property. Prior to the Village releasing the CSM for recording, all outstanding taxes shall be paid in full. There will be a \$1,600 per residential unit sanitary sewer connection fee for each of the lots out there as they connect to the sanitary sewer. There is a total of \$2,381 per dwelling unit which is the impact fee which will need to be paid for all three new homes on the properties.

According to WE Energies, no additional utility easements are required for this CSM. The subject property is not located within the limits of the 100-year floodplain, is not located within a shoreland jurisdiction and does not contain any wetlands.

One other side note that I wanted to add with respect to the impact fees, the Village is contemplating some additional impact fees for storm water management and transportation improvements. Therefore, when and if the building permits are pulled for these respective homes, they will have to pay any impact fees that are in effect at the time that they do pull those permits.

This is a matter for public hearing as a result of the rezoning, so I'd like to continue that hearing.

Tom Terwall:

Anybody wishing to speak on this matter? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'll open it up to comments and questions from Commissioners and staff. I'm going to open it up with a question. Jean, the affidavit by the petitioner that that house will be torn down within six months, can we restrict building on any of those lots until that incurs?

Jean Werbie:

Yes, we can.

Tom Terwall:

So no building will occur until that house is gone?

Jean Werbie:

If that's the condition that's placed by the Plan Commission and the Board that's correct.

Mike Serpe:

Question for Mike. How close is water and what would be the future for extension for water to that area?

Mike Pollocoff:

Water currently is at Altera, and it's going to be coming up a little bit north of the proposed development, so it's probably 800 feet away. It's a boundary main, a 16 inch water main, that would be constructed primarily I believe at the instance of the Kenosha Water Utility. Right now

the Village doesn't have any plans on extending that main because it's not integrated into our system since we've gone to single source. So I don't know at what point that main would be extended. But it's going to be a 16 inch main and it would be on the east side of 88th Avenue. Since they just repaved that, the County is probably going to require the Village or the Kenosha Water Utility because they're the ones that would end up building it to secure easements on the properties on the east side and build it off the easements rather than within the right of way.

Mike Serpe:

In this 800 feet are there any homes that are currently serviced that are there now that are being serviced by a private well?

Mike Pollocoff:

Yes.

Mike Serpe:

So the petition could come to us at any time for municipal water?

Mike Pollocoff:

Right.

Mike Serpe:

I think you know where I'm going here.

Jean Werbie:

I just wanted to add to that that the Edgewood Development is located north of Altera, and they had several times requested conceptual plan approval before us and we're working on their preliminary plat at that time, so they would bring it from that Altera to the north point of their property line which is more than half way. They would bring it about 500 feet plus to the north, and they would ask for right of recovery for those that connect, but it doesn't quite make it to these lots. It's probably about 150 feet short.

Mike Serpe:

I guess what I'm getting to here is if we approve this as is and then a year or two from now--let's say they build the homes on these vacant lots and put in private wells at a cost of \$6,000 or \$7,000 or \$8,000 or whatever it's going to cost, and if somebody makes the petition for water, that's like taking \$6,000 or \$7,000--

Tom Terwall:

Jean's recommendation is that the well that's already there be shared by the three lots, and all three lots be required to sign a waiver of special assessment so when water is extended they know it's coming.

Mike Serpe:

Is that well large enough to handle three lots?

Jean Werbie:

They'll have to do that testing. I don't know. And they'll have to get the approval from the DNR, but that would be the least expensive way to proceed.

Mike Serpe:

I'm just looking out for the future in case there's a petition coming forward and somebody invests a lot of money in a private well and we go ahead with the water extension. It's something that you have to think about here.

Larry Zarletti:

Question to Jean. I'm having a little problem with number 9 that the properties are subject to any future impact fees that may be enacted by the Village. Is that something that has been done on a regular basis or something that we have started since we have impact fees now? I guess the problem I'm having with it or what I don't understand is it's like if you get under the wire before that impact fee comes, why are we going back to them if it changes after the fact? You know what I'm saying?

Jean Werbie:

We're not going back to them. The impact fees are due at the time of the building permit, so in the event that they don't pull any building permits for six months, I want them to be aware of the fact that they're selling these lots that someone is going to have to pay not only the \$2,381, but likely in the next six months we will also have the last two impact fees that have been in the process of being studied and put together, that those will likely be in effect as well. So I don't want them to be surprised if there's another couple thousand dollars in impact fees. I want them to be aware that they're coming.

Larry Zarletti:

So once they pull the permits there's no more impact fees?

Jean Werbie:

Correct.

Larry Zarletti:

Okay, I'm good with that.

Tom Terwall:

Anything else?

Wayne Koessler:

Mr. Chairman, if there aren't any more comments by the Commissioners, I would move that the Plan Commission send a favorable recommendation to the Village Board to approve the zoning map amendment subject to the comments and conditions of the Village staff memorandum of July 25, 2005 with the addition of your comment of having the existing building razed before any permits are given.

Larry Zarletti:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE REZONING TO INCLUDE THE ADDITIONAL REQUIREMENT THAT UNTIL THE HOUSE ON THE CENTER LOT IS REMOVED NO BUILDING PERMITS WILL BE ISSUED. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Now, a motion is in order then for the CSM.

Mike Serpe:

Move approval.

Jim Bandura:

Second.

Tom Terwall:

MOTION BY MIKE SERPE AND A SECOND BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CSM SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

E. Consider the request for the Street Vacation of a portion of 110th Street west of 116th Avenue in the Village of Pleasant Prairie.

Jean Werbie:

Mr. Chairman, the Village Board of Trustees, pursuant to Section 66.1003 of the Wisconsin Statutes, has initiated the discontinuance of a portion of 110th Street west of 116th Avenue which has been designated as a public street and is improved as a driveway, not as a public road but as a driveway, that services the Pleasant Prairie Prime Outlets regional retail center through Resolution #05-35 adopted on June 20, 2005. A plat of survey and legal description of the public street depicting the discontinuance is attached as Exhibit A.

On April 26, 2005, the Village of Pleasant Prairie received a request from Kurt Meeske, Vice President of Development & Construction for Prime Retail, to vacate the portion of 110th Street west of 116th Avenue. The portion of 110th Street that is proposed to be vacated has been dedicated but was never constructed and serves to provide access from the east to the Regional Retail Center. With the proposed development of Phase V of Prime Outlets, it becomes necessary to discontinue and vacate this portion of 110th Street in order to accommodate Prime Outlets Phase V construction of the easternmost approximate 90,190 square foot retail building, as well as the center court Lodge building and the proposed future cut-throughs which would facilitate improved on-site vehicular and pedestrian traffic flow. In addition, the Village has no plans to ever fully improve this portion of the 110th Street right-of-way that is being proposed to be vacated.

Upon vacation of 110th Street, the north half of the vacated street shall be transferred and attached to the following properties:

- < Tax Parcel Number 92-4-122-302-0108, currently owned by WisPark LLC. Prime Retail has a pending Contract to Purchase this property.
- < Tax Parcel Number 92-4-122-302-0107, currently owned by GTE North, Inc. Prime Retail is in negotiations with GTE North, Inc. and may purchase this property. If not, there will be some shared cross-access easements so that they aren't giving up any access to the adjacent public road right of way.

With the street vacation, the south half of the vacated street shall be transferred and attached to:

- < Tax Parcel Number 92-4-122-303-0210, currently owned by Prime Outlets at Pleasant Prairie, LLC. It's currently part of Phase I and II of Prime Outlets.

On July 11, 2005 all required property owners were notified via regular mail; and a Class 3 notice was published in the *Kenosha News* on July 11, 18 and 25, 2005 related to this Village Board

public hearing. Again, the Board will be holding the public hearing at their next meeting which is August 1st. The staff recommends approval of the street vacation, and recommends that this item go to the Village Board for their consideration on August 1st.

Don Hackbarth:

Move approval.

Larry Zarletti:

Second.

Tom Terwall:

MOTION BY DON HACKBARTH AND A SECOND BY LARRY ZARLETTI TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE STREET VACATION AS PETITIONED SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

F. Consider Plan Commission Resolutions #05-08 and #05-09 to initiate Zoning Map Amendments as a result of recently completed wetland stakings.

Jean Werbie:

Mr. Chairman you have two resolutions before you. I'll begin with Resolution #05-08. The Plan Commission may initiate a petition for an amendment of the ordinance including the rezoning of the property. change in zoning district boundaries or changes in the text of the ordinance. On August 25, 2004, the Village received a wetland delineation report dated August 6, 2004 from DK Environmental Services, Inc., on behalf of Larry Holst, agent, for a wetland staking to be completed on vacant property located at the northwest corner of 110th Street and Lakeshore Drive in the Village of Pleasant Prairie. It's identified as Tax Parcel Number 93-4-123-292-0490. It's identified as Lot 17, Block 22, Carol Beach Estates Subdivision Unit 2. The property is owned by Isadore and Carolyn Ryzak.

On October 6, 2004, SEWRPC staff visited the property to perform the wetland staking and verify the DK Environmental Services delineation. SEWRPC was unable to make the wetland vegetation determination due to the mowing and cutting of the parcel over the 2004 growing season. So it was recommended that they had to stop that activity and they had to wait for some of that plant activity to grow back on the referenced property. So then SEWRPC then again visited the property several months later on June 23, 2005, and they were able to recover and identify the area for the wetland delineation.

The Village received a letter dated July 11, 2005 from SEWRPC that indicated that the wetlands were delineated as previously shown. Therefore, the Village is now initiating the process to rezone the property that's delineated as wetlands into the C-1, Lowland Resource Conservancy District. Your action this evening is just to initiate the process, not to actually take any official action on the rezoning request.

The second resolution is Resolution 05-09 and this relates to property located at the southeast corner of the intersection of 100th Street and 4th Avenue in the Village of Pleasant Prairie. That property is identified as Tax Parcel Number 93-4-123-194-0436. It's lots 3, 4 and 5 of Block 39 Carol Beach Estates Subdivision Unit #4.

The Village received a letter dated July 7, 2005 from SEWRPC that indicated that the plat of survey correctly surveyed and correctly identified the wetlands on the property as field staked on April 21, 2005. Again, the Village is initiating the process to rezone the property into the C-1, Lowland Resource Conservancy District regulations. We'll be setting the public hearing to consider that request. Your action this evening is just initiating that process but not rendering any decision on the request. Staff recommends approval of both resolutions.

Mike Serpe:

Jean, on this one there are four different owners to these parcels? Are there multiple owners to this whole staking or one owner?

Jean Werbie:

Yes.

Mike Serpe:

Could they now combine all these lots together and have one buildable lot?

Jean Werbie:

They need to, yes, they are. They have one parcel now. Whenever you see it like this, a lot of times the original plat numbers and lot numbers they have to stay on the original plats, but they have combined these all as one. Even though you see separate lot numbers, they've all been combined to one.

Don Hackbarth:

After the lack of rain is there any wetland left in Pleasant Prairie? Move approval.

Mike Serpe:

Second.

Tom Terwall:

MOVED BY DON HACKBARTH AND SECONDED BY MIKE SERPE TO ADOPT PLAN COMMISSION RESOLUTIONS 05-08 AND 05-09. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

G. Consider Plan Commission Resolution #05-10 to initiate a Zoning Text Amendment related to uses allowed in the B-3, Regional Retail Business District.

Jean Werbie:

. . . amendment to the B-3, Regional Retail Business District. We have been working with Prime Outlets and a couple of other regional retail uses, and we have identified that we have been somewhat overzealous with respect to some of the various conditional uses that we did identify within the districts when we wrote them back in 2002. And what we've identified is in most cases our regional retail areas are going to have a PD or planned development or planned unit development written specifically for that particular property. So some of the uses that we have identified as conditional uses seem to be an extra layer of bureaucratic review that's not necessary.

In particular, an example would be for Prime Outlets they are looking to have some outdoor seating for their Lodge which is located in the center of their complex. That requires a conditional use permit. And that would be a very onerous process both for them, us and the Plan Commission when that clearly was examined as part of the whole process of the planned unit development. It just seems a little ridiculous to have them go through a special public hearing process in order for them to have a conditional use, a special hearing to allow for outdoor seating.

There are a couple of examples that we have found, and we feel that we can simplify the process and not add additional hearing to the process for various developers in that respect. So we are initiating some text amendments which we will be bringing to you sometime in August as it relates to these issues.

John Braig:

Move approval.

Wayne Koessl:

I'll second it. It makes sense.

Tom Terwall:

MOTION BY JOHN BRAIG AND SECOND BY WAYNE KOESSL TO APPROVE THE RESOLUTION 05-10. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

7. OTHER SUCH MATTERS AS AUTHORIZED BY LAW.

John Braig:

I wonder if I could have an update on the removal of the streetlight on what was 64th Avenue at 165?

Mike Pollocoff:

I'd have to check with public works to see where that is.

John Braig:

And the other one is are you in a position to comment on the Governor's budget today? How will it impact the Commission and future subdivision development.

Mike Pollocoff:

I haven't seen the whole detail, but in the Legislative summary I received, the Village will be under, as well as every other municipality, a levy limit so that our budget cannot exceed more than two percent of the previous year's budget. So the Governor's budget gives the municipalities a two percent float over what was in the Republican budget which said freeze everything, and the Republican budget also froze all capital spending that would be associated with debt. So that portion was vetoed. Had he not vetoed it, the TIF District would have stopped as would have the Community Development Authority. Before we did any work that would put in sewer or water for a business out there we would have had to stop and had a referendum on that item before it went forward. That was vetoed.

I think the primary things that the Plan Commission is going to need to look at, and I know the staff is beginning right now to formulate our budget under the new guidelines, we're going to have to be more and more cautious of development which is going to have any kind of driving impact on operations. In the Governor's budget there are provisions that say if a subdivision comes in and it's worth \$1 million, we'll be able to put the municipal levy against the \$1 million, so if the Village budget is \$10 million and we collect \$27,000 for that in local taxes for that \$10 million, and any new subdivision is worth \$1 million and you're able to collect \$2,700 so that you don't diminish the services that you have, but those new residents are going to pay taxes on that new value.

The difficult we're going to have in that we're going to be evaluating as proposal come before the Plan Commission is that a new subdivision comes in, we approve it, after the Plan Commission has done the final plat, the developer is selling lots, he's making improvements, getting the

undergrounds in, the roads, sewer and water, and many times that fall or winter the Village will begin plowing those roads. The police department will be out there patrolling. Pretty soon you'll have houses out there and the fire department will be out there picking up roofers that fall off roofs or whatever, just the things that happen in life that we have to take care of, but we're not going to see those dollars for three years. Now, typically, that wasn't so bad because the Village had the ability to float the mill rate based upon how things were going. If we needed more dollars, we were able to get it.

Now, if we as a community approve a plat that's going to be significant or large, we're going to have to take a look at whether or not we're going to be able to maintain operations for everybody at the same level in that intervening time, because there's going to be no room to bump up against on the levy because the levy will be frozen. So there could be some times when the staff is bringing a proposal back to the Commission where we're going to recommend that a plat be reduced in size. If there's a business either in the Corporate Park or a private business that's going to be intensive on operations, the Prime Outlet is a prime example where we could be spending a lot of money on police or some other things, and if we're under a freeze we're not going to be able to raise our levy to accommodate that. So we'll have to be a lot more cautious about how growth occurs with development to make sure that we can't get ourselves in a box where the community is faced with a decision about reducing the level of service to all the existing residents to make sure that we can provide some level of service to the new residents.

This is only a two year levy freeze. So in the scheme of things it's not that big, but I bring you back to the fact that the school levy freeze was a two year freeze that took place in 1994 and it's still in effect. So you're going to have to ask a politician in Madison to vote to lift the levy. There's very few that are going to be compelled to go beyond the bumper sticker and say I voted against the tax freeze. I think it's here to stay for quite a while. Some people are happy with that, and I guess that's fine and it's something we're going to deal with. But it is going to change the nature of how a growing community feels with growth. In all my years here we've dealt with growth and we've always had that ability depending on what the level of growth was to adjust our levy accordingly. Now that flexibility is gone and you're faced with if you do need more cops or firemen or more plowing effort or whatever it is you go to referendum and see if everybody is willing to ante up for it.

It takes three years for a new house to fully show up on the levy. If any of you guys have built a new house recently, you take a look at your tax bills for three years typically, but some of them are quicker. It takes three years before you really chew up and get that 100 percent value which means everybody else is paying the freight for that spread. I think that's really going to be the biggest. And until they take the next step and do taxpayer bill of rights, which ratchets it down a little bit tighter, I think that's where we're going to be. But I think anybody would be crazy to think that two years is it. This is going to be the way we live until we go.

I just got back fro a trip, a vacation, and I hesitate to say but it was Hawaii. My wife and I went there for our 30th anniversary, and Hawaii has gone through a siege of probably about six years of tax freeze, say no to taxes and cut taxes, and they've done that. They have a sales tax rate of four and a half percent, and in the ensuing period one island, Oahu, has lost \$1.4 billion in road aids because they can't make matches anymore with the federal government. The utilities are out of money. There one island where a third of the island was out of water because they didn't have any money to buy pumps to replace the ones that died, no parts. So they're kind of coming to grips with the joy of freezing taxes. Pretty soon they just ran it right down to the point where they don't have any money to take care of services, so now they're coming back and people have

become convinced to the point where there is no more fat and they're down to nothing. So they're going to come back up and adjust what they have to adjust.

This is going to be a cyclical thing. The Board is going to be faced with some interesting choices over the coming years as to what gets funded and what doesn't get funded.

Tom Terwall:

The east side of 39th Avenue

Mike Pollocoff:

Retention basin with bad soils. I think they've got bad soils and I think they're excavating to mitigate that. I'm assuming it was detention . . .

John Braig:

That's almost a high spot. The lands to the east are lower than that.

Mike Pollocoff:

But if they didn't design the downstream storm sewers with enough capacity to handle it, that might be probably where they're at to reduce it before it gets in there. As I drove by there today you could see there were some bad, silty, peat-type soils that they were digging around.

Jim Bandura:

A quick question to Mike. A few months ago there was a property owner on Highway 50 just east of Kilbourn ditch. He was out there pushing some dirt around over the holiday. What's the status on that? He looks like he's filling in the wetland.

Mike Pollocoff:

I definitely think there's some mischief going on there. The DNR as well as Jean and her staff and the police department have, one, he's altered the wetlands. He's filled the floodplain. He's now started, and I haven't heard if he farmed this weekend in a residential area. It's a classic example of a developer who's got a plan in mind that runs contrary to what the Village's comprehensive plan is, so he's taking the zoning, he's taking the site and basically daring us and the DNR to take him to task for doing that. That's where it's going to be. If we can get a conviction in municipal court or we'll go to circuit court and the DNR is going after him for violating him for what he's done that's where it's at. The guy has demonstrated a real willingness to thumb his nose at the Village ordinances and the State statutes with respect to floodplain regulations and wetlands.

Jim Bandura:

I can see that's going to be a problem for the people downstream with just what he did.

Mike Pollocoff:

It's got to be corrected.

Jim Bandura:

Is there a time line on how fast he can get it corrected, because he went in and tore it up just in the matter of a few days.

Mike Pollocoff:

It doesn't take long.

Jean Werbie:

He's just completing all the boundary survey work right now and the topographic survey work on the land, and both the DNR and the Village are issuing order to him, and I need to talk to the DNR to find out how many days in order to correct the floodplain issues. Then I know he's done some significant cutting of the wetlands and mowing and discing those, but just as the one we talked about this evening, as soon as you start to disturb the wetlands, due to the soils and the nature of the land in that area they will come back. We actually had a delineation that was done a number of years ago and he'll be required to restore those wetlands back to the way they were.

John Braig:

You do have a complete delineation of the wetlands for that site?

Jean Werbie:

I don't know if you'd say it's complete. There was a delineation done on his property, but a portion of the wetlands jutted into the residential lots to the south, so we don't have it on the south side.

Jim Bandura:

So you are going to see a topo for that?

Jean Werbie:

We are.

Jim Bandura:

Good, I'd like to see that.

8. ADJOURN

Mike Serpe:

So moved.

Jim Bandura:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.