

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
September 26, 2005**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on September 26, 2005. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessl; Eric Olson; Jim Bandura; and John Braig. Larry Zarletti and Judy Juliani were excused. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie, Community Development Director; Peggy Herrick, Assistant Village Planner and Zoning Administrator

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CONSIDER THE MINUTES OF THE AUGUST 8, 2005 AND AUGUST 22, 2005 PLAN COMMISSION MEETINGS.**

Wayne Koessl:

Mr. Chairman, I move they be approved as presented in written form for the dates of August 8th and August 22nd.

Jim Bandura:

Second.

Tom Terwall:

MOTION BY WAYNE KOESSL AND A SECOND BY JIM BANDURA TO APPROVE THE MINUTES OF THE AUGUST 8TH AND AUGUST 22ND 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 an item that's listed on the agenda as a matter for public hearing, we would ask that you hold your comments until that public hearing is held so your comments can be incorporated as a part of the official record of that hearing. Or, if you're here for an item that's not a public hearing, which tonight would be Item C and Item I, if you're here for either one of those two items, we would ask that you speak on those items now. If you are going to speak, we would ask that you step to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments?

Don Hackbarth:

Yes.

Tom Terwall:

Anybody wishing to speak?

Don Hackbarth:

You're avoiding me aren't you? Many times, Mr. Terwall, I say forever hold your peace. Don Hackbarth, 4311 104th Street, Pleasant Prairie, Wisconsin. I invited some of the members of the Congregation here tonight for a specific reason so that they might be a part of the testimony or the witness I'm going to give tonight and that this is accurate and true.

The first thing I'd like to say is some of the people banter around the word good old boys. I tell you I wish I was one of those. I hope and pray I am because what could be wrong with good? And old boys, in the Japanese culture you know how they look at aged people? They're respected, they're the wise, they're the ones that are strength in emotional character. They're the ones in the Japanese culture people throng to because they are the wisdom of that culture. So I'd be honored to be called a good old boy. I really would.

The other thing I want to bring up is I want to congratulate everybody here, the staff and the leadership for getting the Wisconsin Award for Municipal Excellence. Being the only community in Wisconsin I think that's quite an honor. And I think it depicts the hard work that takes place in this community to make it what it is. I think it's an excellent place to live. I think Pleasant Prairie is an excellent place to raise a family, and excellent place to go to school, an excellent place to have recreational fun, and especially a place to do business. It's a wonderful community. I've been here in my 28th year and it's the best place I've ever lived in my life. No wonder the people from other areas are coming to this area to live.

But that's really not why I came here tonight. I've served this government in various capacities for the last 26 years. In fact, I'm grateful Mr. Lauer is here because I believe you were on one of my baseball teams, so that shows you how old I am. As I recall he was a pretty good baseball player, too, a pretty good guy. But what I'm here for tonight is I cherish the community and the family values that it stands for, and I know that a lot of hard work has taken place in order for this community to be what it is tonight.

A little over a year ago our Congregation or the Congregation that I served brought presented and brought forth plans for a Christian grade school. The building is now completed and approved, and we are now teaching children from preschool to second grade, and we are thrilled to be able

to teach a new generation about the love that God has for them in Jesus Christ the Lord. What I'm really here for tonight is, and like I say I've sat on the Plan Commission for a number of years, I don't ever recall somebody coming and thanking you people for helping build a building, to develop a piece of land. And what I'm here tonight for is to say that I really thank Jean Werbie because I know I've pestered you an awful lot. I know you've set me on the right path a lot of times with some of the things I brought up, and Mike Pollocoff the things you helped me with all the infrastructure things and issues there.

Jeff Sorensen a great guy, a wonderful guy to work with because, boy, I'll tell you he made darn sure the bells and whistles were right. I never realized that it was okay in a bathroom to not have toilet paper but you need hand towels. Go figure that one out. But that was one of our discussions. Talk about integrity, when he came to do the final inspection we had some apples and some juice and pop for him to drink, and he said he refused to drink it because it would be a bribe. I thought, boy oh boy, apple juice as a bribe. But Jeff Sorensen and Bob Martin for the things that he did with the water runoff and all that stuff and Tom Shircel. Just everybody was so gracious in getting this thing accomplished.

I thank you for your patience with some of the ignorance that I brought into Jean especially. And I want to thank you for the guidance and the leadership that you showed in order for us to accomplish a dream for our Congregation. So with that in mind and with the people that have come here tonight, very briefly I'd like to thank everybody who was instrumental in getting this project completed, showing us how to do it and getting it completed and making it the school we have now. We're very happy. So thank you everybody.

Amanda Wilmek:

My name is Amanda Wilmek. I live at 12645 Timber Ridge Drive Pleasant Prairie. I'd like to thank the Village Board for allowing us to build onto Good Shepard Lutheran School, because hopefully now schools like my own school, Pleasant Prairie Elementary, will be less overcrowded and now we have more room to learn about Jesus Christ.

Ron Hassell:

Ron Hassell, 3516 93rd Street, Pleasant Prairie. A member of the church, part of the leadership, church council. One of the things that Pastor Hackbarth forgot to mention about Pleasant Prairie is it's a great place to go to church. It's one of the reasons that brought me to Pleasant Prairie. It brought me out of Kenosha, the church here.

I also would like to thank the Village Board and everybody that sits here and the Village staff for assisting us. All the complications that we ran into not with the Fire Department but with the fire sprinkler system and working that out. Allowing us to park six trailers. You don't know how many people came into our church parking lot during the week and think we're a campsite. But it was a great time. And all the things that you did to help us. Ms. Werbie, you brought extra people onto our staff to work on Saturdays because of your Italian beef. I had many people come in when they heard you were bringing the beef in on a Saturday they were there and we appreciate you taking the extra time and supporting us with that matter.

Everybody that came in that did the inspections if we had a problem they were always there to help us. They weren't there to set us back to feet. They wanted us to succeed and that's what we did. Now we have the new school, our enrollment is up, we're adding on a class each year, and

we look for our school to build. Some day we'll be back here for another 40,000 square foot addition to the sanctuary. So we hope to be back in five to ten years if not sooner with God's will. So, in conclusion, on behalf of the church I'd like to thank each and every one of you. Thank you.

Tom Terwall:

Anybody else? Is there anybody else who wants to speak either on this subject or any other? Here's your chance to get back at Pastor Don. Don't get this chance every day. If not, I'll close citizen comments. Don, I just want to make a couple comments. I guess I speak as a former Town Board member, and I just want to express my appreciation for all that you've done for this community in various capacities, particularly in your capacity as a Chaplain for the Fire Department. I think that's a key position. I know the guys rely on your and I'm very thankful for the role you play there. So keep it up. Thank you.

6. NEW BUSINESS

A. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT to correct the zoning map and rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District for the property located at the northwest corner of 110th Street and Lakeshore Drive.

Jean Werbie:

Mr. Chairman and members of the Commission, on July 25, 2005, the Plan Commission approved Resolution #05-08 to initiate a Zoning Map Amendment to correct the Village Zoning Map as a result of a wetland staking completed on Tax Parcel Number 93-4-123-292-0490.

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 that was completed for the vacant property located at the northwest corner of 110th Street and Lakeshore Drive, in the Village. This is identified as Lot 17, Block 22, Carol Beach Estates Subdivision Unit No. 2. The property is owned by Isadore & Caroline Ryzak.

On August 31, 2004, the Village sent a request to SEWRPC to have the DK Environmental Services, Inc. wetland delineation verified by the agency.

On November 10, 2004, the Village received a letter from SEWRPC dated November 8, 2004, which stated that SEWRPC visited the subject property on October 6th to perform the wetland staking verification. However, because the property had been mowed, SEWRPC was unable to effectively verify the wetland delineation. In the letter, SEWRPC requested that the mowing of the property cease in order to allow the vegetation to adequately recover so the wetland verification can be completed.

July 13, 2005, the Village received a letter from SEWRPC dated July 11, 2005, which stated that SEWRPC revisited the subject property on June 23, 2005, to once again attempt to perform the wetland staking verification. With the vegetation on the site being adequately recovered, it was determined by the SEWRPC biologist that he concurred with the original wetland boundary as determined or established by DK Environmental Services.

On September 2, 2005, the Ryzaks, owners of the property, submitted the required Zoning Map Amendment Application to the Village requesting that the Village correct the zoning map and rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District.

In accordance with the Zoning Map Amendment Application, the field-delineated wetlands along the rear property line are proposed to be rezoned into the C-1 designation, and the non-wetland areas will remain in the R-5, Urban Single Family Residential District. The LUSA District would remain on the entire property. With that, this is a matter for public hearing.

Tom Terwall:

Anybody wishing to speak on this matter? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'm going to open it up to comments from Commissioners and staff. Jean, at the time that DK Environmental did the wetland staking, had it been mowed already at that point?

Jean Werbie:

No.

Tom Terwall:

It had not.

Jean Werbie:

Right. They did the delineation, and then it was mowed, and then SEWRPC tried to reverify or verify the delineation but it had been mowed. So they needed to make sure that it grew back in order for them to verify the location of the wetlands.

Don Hackbarth:

In looking at the wetland staking, Exhibit #3, I would say that the wetland is on the north edge of the property? And on the north edge of the property begins another property line with a residence on it?

Jean Werbie:

Correct.

Don Hackbarth:

What do you do in a case like that? You tell the resident that the person that lives on that northern property to not touch it or not cut it? What do you do there?

Jean Werbie:

Unless that particular property owner is requesting to do something with their property such as adding a structure in the rear of their property or doing something with their property, we don't typically notify them that a staking has been completed, because the staking is typically

completed up to that property line. In fact, this neighbor because of his proximity did receive notification of the wetland rezoning. So they received the same information as the neighbor. So if they had any questions they would have contacted one of the staff.

Tom Terwall:

And it's possible that the neighbor could be mowing that right up to the lot line, is that correct?

Jean Werbie:

They could, but there's a creek that runs along in proximity to that property line, so I doubt that they would have been able to get back to that area to do any significant mowing. And by the aerial it looks like there's some brush and overgrowth in that area so they probably don't mow it.

Mike Pollocoff:

That's Tobin Creek.

Tom Terwall:

No further comments or questions? What's your pleasure?

Mike Serpe:

Move approval.

Don Hackbarth:

Second.

Tom Terwall:

MOTION BY MIKE SERPE AND A SECOND BY DON HACKBARTH TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AMENDMENT 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.

B. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of Lance Skala of WisPark LLC, property owner, to consider a Zoning Map Amendment to rezone a 0.22 acre wetland area (wetland

area to be filled with corresponding wetland mitigation) from the C-1 Lowland Resource Conservancy District to the M-2, Heavy Manufacturing District.

Jean Werbie:

Mr. Chairman, members of the Commission, CenterPoint WisPark Land Company, LLC, property owner, is requesting a Zoning Map Amendment to rezone a 0.22 acre wetland area, the wetland area to be filled with corresponding wetland mitigation, from the C-1 Lowland Resource Conservancy District, to the M-2, Heavy Manufacturing District. The wetland proposed to be rezoned is located on property that is located south of 11400 88th Avenue, the LakeView Spec X Building site. It's identified as Tax Parcel Number 92-4-122-294-0304.

Some background information. On January 11, 2002, STS Consultants delineated the wetlands on the properties then-owned by WisPark LLC generally located between 113th and 122nd Streets west of CTH H which is 88th Avenue.

On September 6, 2002, the Village received a letter dated September 4, 2002 from the Wisconsin DNR that indicated that the DNR concurs with the wetlands delineated by STS Consultants on the referenced properties.

On February 17, 2003, the Village Board adopted Ordinance #03-08 to rezone the field-delineated wetlands on these properties into the C-1, Lowland Resource Conservancy District. The non-wetland areas were rezoned into the M-2, Heavy Manufacturing District. The areas on these properties that are currently zoned FPO, Floodplain Overlay District, remained as FPO.

On January 17, 2005, at the request of the property owner, WisPark LLC, the Village Board had adopted Ordinance #05-05 to correct the legal description of the wetlands on the properties that were field delineated and were rezoned on February 17, 2003, and they were put into that C-1, Lowland Resource Conservancy District. Ordinance #03-08 had some errors with respect to the legal description and the zoning map amendment corrected those legal descriptions.

On March 21, 2005, the Village Board approved Certified Survey Map #2470 which re-divided the six vacant properties as noted above, located at the southwest corner of 113th Street and 88th Avenue, into two lots and two outlots. The new Tax Parcel Numbers are 92-4-122-294-0303, and that is Lot 103, 23.5 acres, LakeView Spec X Building under construction; 92-4-122-294-0304, 20 acres which is vacant; 92-4-122-294-0329 Outlot 29; and 92-4-122-294-0330 Outlot 30.

Under proposed wetland mitigation project. The 0.22 acre wetland that the petitioner is requesting to rezone from C-1 to M-2 is located on the eastern portion of Tax Parcel Number 92-4-122-294-0304, a 20 acre undeveloped property. That is also shown on the slide. A majority of the wetland mitigation portion of this project, as described below, will take place on Tax Parcel Number 92-4-122-294-0304, with a small portion occurring on the property to the immediate south. The reason the petitioner is seeking approvals to fill and rezone the small wetland is to accommodate future development on the site.

In a letter dated August 16, 2005, the Army Corps of Engineers under General Permit GP-001-WI, conditionally permits the wetland fill work subject to conditions, one of which is to obtain a WIDNR permit. The Corps permit has an issuance date of January 1, 2004 and expires on December 31, 2008. In a letter dated August 8, 2005, the DNR granted Water Quality Certification and the permit numbers identified, which conditionally permits the filling of the

0.22 isolated, pocket wetland. The DNR permit takes into account the proposed Wetland Mitigation Plan for the project.

Graef , Anhalt, Schloemer & Associates, Inc., which is referred to as GAS, on behalf of the petitioner, has designed a Compensatory Wetland Mitigation Plan which follows the Guidelines for Wetland Compensatory Mitigation in Wisconsin by the WIDNR 2002 guidelines. According to the WIDNR guidelines and the State of Wisconsin Administrative Code, the standard wetland compensation ratio is 1.5:1.0. In other words, 1.5 acres of compensation for each acre of wetland impacted. Therefore, the 0.22 acre wetland impact, which is the area to be filled, should be mitigated for its loss by creating or restoring a wetland area of 0.33 acres in size or greater.

The on-site wetland mitigation plan for this project proposes to restore and enhance an existing native wetland habitat on the west side of the property as well as restore and enhance a native upland habitat adjacent to the wetlands for compensatory wetland mitigation credit. In summary, the wetland mitigation plan for this project proposes to:

- < Restore 0.12 acres of existing wetland,
- < Enhance 0.98 acres of existing wetlands, and
- < Provide 2.82 acres of surrounding prairie buffer and restored woodland.

The wetland restoration and enhancement will be accomplished through improving the wetland hydrology by sediment removal followed by the planting and/or seeding of native wetland vegetation within the wetland areas on the west side of the site. The removal of patches of reed canary grass throughout the 0.98 acre wet meadow will also enhance the quality of the meadow. Additionally, the establishment of an upland prairie buffer area and the removal of invasive plant species in the adjacent woodland adjacent to the restored wetland area will provide an important role for the maintenance of water and habitat quality in these areas.

In conclusion, the only wetland that will be filled will be the 0.22 acre isolated, degraded, shallow, marsh wetland having a dense stand of cattails. Overall, the general value of this wetland is low. The objective of the wetland mitigation plan is to maintain and enhance wetland hydrology and to restore and enhance native plant communities including the seasonally flooded basin marsh and wet meadows, upland hardwood forest and tall grass prairie. The wetland mitigation will also benefit the area wildlife.

Under the proposed rezoning, in conjunction with the proposed wetland mitigation plan, the 0.22 acre filled wetland should be appropriately rezoned out of the C-1 designation and put into the M-2, Heavy Manufacturing District. The filled wetland will no longer be a wetland, so the C-1 District would be inappropriate. The proposed M-2 zoning will comply with the Comprehensive Land Use Plan Map and is consistent and compatible with adjacent land uses and adjacent zoning of the adjacent properties.

With that, this is a matter for public hearing.

Tom Terwall:

Is there anybody wishing to speak on this matter? Lance, anything you want to add? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'll open it up to comments and questions from Commissioners and staff.

Wayne Koessl:

If there aren't any comments or questions, Mr. Chairman, I would move that we send a favorable recommendation to the Village Board to approve the zoning map amendment subject to the comments and conditions of the Village staff report of September 26, 2005.

Mike Serpe:

Second.

Jean Werbie:

I need to have Peggy check the zoning on that property. I'm not sure if it's M-2 or M-1. Before we take a final vote, it might be M-1. It might be limited manufacturing currently. So if you can wait one minute she'll be right back and I just want to correct that if I need to. It's M-2 so we're okay.

Don Hackbarth:

I have a quick question. What is .22 of an acre? How many square feet?

John Braig:

About 9,000.

Don Hackbarth:

And my next question would be, I wouldn't know, but is that size enough so birds and stuff could go in that or is it just a depression?

Jean Werbie:

In this case it's a very low marshy small depression. I don't know that it would be a large gathering for plant life. Again, what the DNR is prefer to do is try to have larger wetland areas enhanced than have these small pocketed wetlands because their value as wetlands aren't as great in these particular cases. It's just that they don't have that opportunity to get the water and they don't have a chance.

Don Hackbarth:

I'm just amazed that they make such an issue of such a small wetland.

Jean Werbie:

They regulate all wetlands, and that one was 9,583 square feet.

Mike Serpe:

Jean, if it is an M-1 designation what difference does that make?

Jean Werbie:

It's not, it's M-2. I just wanted the staff to double check.

Mike Serpe:

But it wouldn't make any difference anyway as far as rezoning. The motion stands.

Jean Werbie:

I just wanted to be factually accurate.

Mike Serpe:

I understand.

Tom Terwall:

IF THERE'S NO FURTHER COMMENTS OR QUESTIONS, WE HAVE A MOTION BY WAYNE KOESSL AND A SECOND BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- C. Consideration of the request of Scott Simon, agent for Simon Group for the property generally located north of STH 165 (104th Street) and east of 47th Avenue for approval of a Certified Survey Map to correct a previously approved CSM related to the development of the Sagewood Condominiums at Village Green.**
- D. PUBLIC HEARING AND CONSIDERATION OF A FINAL CONDOMINIUM PLAT for the request of Scott Simon, agent for Simon Group for the property generally located north of STH 165 (104th Street) and east of 47th Avenue for approval of the Final Condominium Plat for the proposed first stage of the Sagewood Condominiums at Village Green which includes 9, 4 unit condominium buildings.**
- E. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT AND ZONING TEXT AMENDMENT for the request of Scott Simon, agent for Simon Group for the property generally located north of STH 165 (104th Street) and east of 47th Avenue to rezone the area for the first stage of the Sagewood Condominiums at Village Green from the**

R-10 (UHO), Multiple Family Residential District with an Urban Landholding Overlay District to the R-9 (PUD), Multiple Family Residential District with a Planned Unit Overlay District and a Zoning Text Amendment to create the specific PUD Ordinance requirements for the Arbor Ridge Condominiums pursuant to Chapter 420-137 of the Village Zoning Ordinance.

Tom Terwall:

You want to take Items C, D and E together, Jean?

Jean Werbie:

Yes, please, but we need separate actions.

Scot Simon is the developer for this project, and I'm going to be making a presentation, but he has put up two boards which I know that he's going to want to bring a lot closer to you so you can see them. We'll also have some slides that will identify a number of different elements of this condominium project, some of which will be on the slides as well.

There are three items that are before you tonight as part of the Simon Group presentation. The first is a certified survey map; the second is a final condominium plat; and the third, which is two parts is a zoning map amendment and a zoning text amendment.

The petitioner is requesting approval of a revised Certified Survey Map, the Final Condominium Plat for Stage 2 of the proposed Village Green Heights Development to be known as Sagewood Condominiums at Village Green and Zoning Map and Zoning Text Amendments related to the Planned Unit Development (PUD) for the Development. The proposed Sagewood Condominiums at Village Green are generally located north of STH 165, which is 104th Street, and east of 47th Avenue.

The Village staff has been working with the Developer of all the Village Green development. His name is Marty Hanley, which is the Village Green Heights LLC, for the Village Green Heights Development for approximately six years and to date the Village has approved the following plans related to the Development:

- < On November 27, 2000, an amendment to the Village Green Neighborhood Plan was approved by the Plan Commission.
- < On August 20, 2001, the Conceptual Plan was conditionally approved by the Village Board.
- < On March 17, 2003, the Preliminary Plat for the Village Green Heights Subdivision was approved by the Board through Resolution #03-14.
- < On March 17, 2003, the Preliminary Condominium Plat for the Village Green Heights Townhomes North was approved by the Village Board by Resolution #03-15.

- < On March 17, 2003, the Preliminary Condominium Plat for the Village Green Heights Townhomes South, now known as Sagewood Condominiums at Village Green, was approved by the Village Board by Resolution #03-16.
- < On February 2, 2004, the Village Board approved the Final Plat for Stage 1 of the Village Green Subdivision single family development by Resolution # 04-02.
- < On June 7, 2004, the Village Board approved Certified Survey Map 2421 and an Amendment to the February 2, 2004 Development Agreement to subdivide Outlot 2 of the Village Green Heights Subdivision Plat into two parcels.

The reason why the staff puts that kind of detail in these staff memorandums is that we're often questioned as to how long it takes for a particular project to get through the development process. This one alone, even though we're only actually on Stage 2 of the development out there, it's been over six years so far. So just for your information and those that are here it's one of those situations where these developments do take a great deal of time to work through the process because of the amount of detail that's involved.

Under background information, the Development Agreement for Stage 1 of the Village Green Heights Subdivision provided that the sanitary sewer, water and storm sewer work be completed for the Sagewood Condominiums at Village Green. Then CSM 2421 and the related Amendment to the Development Agreement approved by the Village Board on June 7, 2004 authorized and required the Developer to complete the following improvements within Outlots 1 and 2, which is the Sagewood Condominiums at Village Green:

- C Completion of the mass grading within Outlots 1 and 2;
- C Construction of a retention pond and a portion of the storm sewer from the Stage 1 of the single family portion to a retention pond in Outlot 1; and
- C Construction of a portion of the storm water storm sewer locations leading to Outlot 2.

Specifically, in further considering the development logistics of Outlots 1 and 2 of CSM 2421, the Village and the Developer agreed that the installation of the public storm sewer, as well as the sanitary sewer and water improvements in Outlots 1 and 2 were necessary in order to complete the public improvements in the original Stage of the single family development. The delay of the installation of underground storm sewer, sanitary sewer and water mains in Outlots 1 and 2 to service future condominium development would have caused additional construction costs and timely delays upon the Developer and impose additional administrative burdens on the Village. So because all the engineering was improved and in place and financial credit was available to the Village, we as a Village had authorized the underground improvements to proceed for the condominium area.

Under Sagewood condominium CSM changes, as a result of the final layout and design of Stage 1 of the Sagewood Condominiums, the location of some of the storm sewer and a sanitary sewer easement dedicated by the original CSM 2421 needed to be adjusted to avoid building conflicts. In other words, when Marty Hanley had originally laid out the buildings, they were a little bit different configuration in size and location. And when Scott came into the picture he had larger buildings and a little bit different location, so the original easement locations were not all in the

right place. We didn't want any easements under any buildings, so we needed to make some adjustments. In addition, the easement language has been clarified related to maintenance responsibilities for the private roadways as well as other improvements within Outlots 1 and 2 of the CSM.

Final condominium plat for Sagewood Condominiums at Village Green, Stage 1. He's got two stages. Stage 1 of the Sagewood Condominiums at Village Green consists of nine 4-unit condominium buildings and is located directly north of 165 and east of 47th Avenue. Stage 2 of the Sagewood Condominiums will include seven 4-unit condominium buildings and is proposed to be located east of 47th Avenue south of Main Street, and that's pursuant to the preliminary plat that's on file with the Village.

The public improvements for Stage 1 of the Sagewood Condominiums were approved, installed and financially secured pursuant to the Village Board approved Engineering Plans and Development Agreement on file. Therefore, no separate Development Agreement is required with this Condominium Plat.

Stage 1 of the Sagewood Condominium development has a density of 6.54 units per net acre, and 71.6 % of the Stage 1 Sagewood Condominium development will remain as open space. The retention facilities for the Stage 1 area are located on the east side of the property and have already been completed, installed and inspected. The development will have two access points from 47th Avenue and no direct driveway or private roadway access to Highway 165.

Upon full build-out of the nine 4-unit condominium buildings the population will increase by approximately 98 persons. Pursuant to information provided by the KUSD, approximately 15 public school age children may likely to come from this condominium development.

Two floor plans are proposed to be constructed.

Buildings 2, 3, 4, 6, 7 and 9:

- Basement (lower 2 units): 1,060 square feet
- Lower Units: 1,615 square feet
- Upper Units: 2,187 square feet
- Attached garages range in size from 529 to 558 square feet

Buildings 1, 5 and 8:

- Basement (lower 2 units): 1,174 square feet
- Lower Units: 1,650 square feet
- Upper Units: 2,201 square feet
- Attached garages range in size from 528 to 534 square feet

One of the things that the petitioner is going to request this evening is that while the original plan had identified that all of the lower units would have basements, he's requesting to modify that request and possibly not install basements in all of the units. So with that, since we bundled these all together, what I'd like to do is I will continue on with the zoning map and text amendments, but if there's comments, and I don't know if you have anything to ask now up to this point, otherwise I'll keep going with respect to the map and text amendments.

On March 17, 2003 the Village Board approved a zoning map amendment. The Zoning Map was amended as follows:

- C the field delineated wetlands were rezoned into the C-1. Lowland Resource Conservancy District,
- C the woodland preservation areas were rezoned into the C-2, Upland Resource Conservancy District,
- C the non-wetland Outlot areas for park, open space and retention facilities were rezoned into the PR-1 Park and Recreation District;
- C the non-wetland and non-woodland preservation areas for the future two-unit condominiums were put into the R-8 (UHO), Two-Family Residential District with an Urban Landholding, and
- C the non-wetland and non-woodland areas for the future two-unit condominium area north of Main Street were rezoned into the R-10 (UHO), Multiple Family Residential District with an Urban Landholding Overlay.

The petitioner is requesting to rezone Lot 1 of the proposed CSM from the R-10 (UHO) to the R-9 (PUD). It looks like there was a typo in the original notice. The noticed indicated that the property is currently zoned R-9 (UHO), it should have read R-10. The R-9 District allows for no more than 4 units per building and the PUD will allow for more than one building per parcel, so he's requesting to go to the R-9 PUD.

Attached is copy of the PUD for the first stage of the Sagewood Condominiums. This PUD is for the first stage only and as we move to the second stage the modification would need to be brought forth before the Plan Commission and the Board in order to add that as part of the PUD.

The staff has recommendations for the CSM, the zoning map and text amendment, as well as the final condominium plat as well as conditions set forth. But since we did not put these all together this is a matter for public hearing. Scott is in the audience and I'm sure he'd like to make a further presentation to describe the units for you.

Scott Simon:

My name is Scott Simon. My address is 19070 W. Edmonton and that's in Brookfield. I wanted to address a little bit further on what we had planned and what we had proposed. Originally, if you recall, under Marty Hanley's initial proposal there were ten buildings. What we've done is increased the size of the buildings a little bit and worked them into the site given the location of trees and given the location of setbacks. We've lowered to nine buildings of four units, so we're down to 36 units, and I believe we are at a masonry exterior on these almost complete. We've tried to make them very nice buildings and examples for the community.

We do have a request, however, if we can take the units that are not exposed on the lower level and eliminate the basements on those. We have sent a letter in that was brought forth by Anderson Consulting Group, Anderson Economic Group, and it does show that the gain from having a basement on a unit that does not have exposure is zero while our cost is significantly higher. I know that doesn't have a lot of effect on anybody personally here, but it does have an effect on what we'll be able to put into the units as back end amenities, things on the interior,

things such as Corrian countertops as inclusions and things like that that help increase the value. So I respectfully request that as well.

Tom Terwall:

Since we're taking C, D and E altogether and D and E are matters for public hearing, I'm going to ask is there anybody else wishing to speak on this issue? Anybody else wishing to speak? Anybody else wishing to speak? Hearing none, I'm going to open it up to comments and questions from Commissioners and staff.

Mike Serpe:

Scott, I think I'm going to take up an issue on the basements on 1,7,8 and 9. I think looking at this project it's very, very classy. Very, very upscale. It's going to fit into the community very well. You have Meadowdale Farms to the north of you. You have Village Green Heights to the west of you, and you have the Mark Bourque development to the south. It fits in very, very well. I understand where you're coming from when you try and save some costs on development with reference to the basements, but I think you're taking away a little bit of the integrity of the building when you don't offer that feature.

Whether or not it has a walk out or windows, I think there's a great deal of need and use for the units that do have full basements. For the lack of a better term you still need a place to store your junk. I know you and I have talked about this before and I think you know where I'm coming from and I don't think you're surprised by my statements. I would highly recommend, Scott, that all of these units, as good looking as they are, and I have to tell you they're very attractive, don't take away from them by not putting a basement in. It's not going to cost you the money. It's going to be passed onto whoever buys these. We all know that.

Scott Simon:

Well, there is an option that we can look at if you're interested of making it an option for the customer as they come in. I know that becomes a little bit more of a headache when it comes to building permits and for us for State approval, but it's something you can consider.

Mike Serpe:

That's true, except let's say that the option is exercised for the initial buyer and then on the resale then we run into a problem that the next person may want that basement or wish that basement was there. So are we jeopardizing the integrity of the building by not offering full build out.

Scott Simon:

You and I would be able to discuss that all day long I know. But I had spoken to Marty Hanley before I can down as well, and Marty has said he has no problem with us not doing a basement in this situation. Plus we've been discussing with Marty going in and doing the duplexes that would be to the north of us. And our intention is to do 100 percent basements on that because it is a

different product. And in my opinion that product does need it, and according to market research the duplex product does need the basement.

Mike Serpe:

The project on Green Bay Road and 165 that project turned out very nice and you are looking at an industrial park and a power plant. So we understand and we worked with you on that. And this one here I don't know how the rest of the Board is going to feel about this, but I'm going to prefer that basements go on all the units.

Tom Terwall:

Scott, there's a total of 36 units, so as it stands now with the basements in there, 18 of those units would have basements, is that correct?

Scott Simon:

That's correct.

Tom Terwall:

And if your request were approved tonight, how many would have basements?

Scott Simon:

With that, and Jean you'll have to help me, off the top of my head I believe we have five total buildings with exposure on this first phase out of nine, so there would be four buildings or a total of eight units that would be eliminated from having basements. Again, I've worked with you guys for years now. We're coming back with more properties in different locations, and if this is something you feel that strongly about, I'm happy to compromise. It is up to you. It's not going to be an overbearing issue on my end, but at the same time our research does show that the customer is not willing to spend the cost of that basement. But, again, like I said I'll work with you however you want.

Tom Terwall:

The people that have second floor units where is their storage space?

Scott Simon:

We have storage space in the garage pretty much for everybody because of the depth of the garage. If you saw, we're at 534 to 540 square feet I believe? I'm sorry, 528 to 534 square feet. Storage in a condominium by definition is more limited. Our target markets are usually empty nesters or start up couples before they have children. Jean had quoted you a number before I believe of 13 or 15 children expected. Our numbers show even a little bit less than that based on Urban Land Institute history. So we are going to see some young couples and some older, but we don't anticipate a need for a lot of storage.

Wayne Koessler:

My comments are similar to Mike's. My concern is about the amount of storage that the owners would have. I'm not really hung up on the basements or not as long as there's adequate storage there.

Don Hackbarth:

With the basement issue, when we built the school we decided are we going to build a basement or not. It was cheaper to do it without, and basement space is probably the cheapest space you can build. We even had to put in an elevator which really pushed us over the top, and we thought really is that good usage for our money to put a basement in with an elevator. Now that we have got that thing in we would not have it any other way. It is just an absolute blessing. I brought that up about the Prange Center, too, that I thought there should be a basement out there and spend the extra money. A basement is a blessing believe it or not.

I have another question. Refresh me again, what's the difference between retention and detention?

Mike Pollocoff:

Retention there's always water there. Detention it fills the basin up and then empties out completely.

Don Hackbarth:

Do both of these basins drain water off at a certain rate at least to alleviate some of the water in the basin?

Mike Pollocoff:

Yes.

Don Hackbarth:

What direction will these retention basins drain water, the one on the east side? Where will that water go that's slowly being drained off.

Scott Simon:

I think I know where you're going. Are we going to have water problems in the basement? No. Our heights are set high enough that that would not be an issue.

Don Hackbarth:

I'm saying what direction is it going? It's probably going east? I'm thinking of the people across the street. I don't want to build them an ark.

Scott Simon:

This was all designed in the original engineering in Village Green. This part of the storm water we had nothing to do with. I know that our effect and our overall increased runoff is taken care

of by the pond. I do not believe, and Jean can answer this better than I can or Mike, what the actual changes are in storm water from pre to post conditions.

Mike Pollocoff:

I don't have that. Your engineer would have to give us that. But the Village Green plan identified that in this area after retention and clarification of the water and holding back the storm water it's going to release out to an existing channel. It will find its way over behind the post office on the north side of the post office underneath 39th Avenue and that way.

Mike Serpe:

While we're talking about basins, is this aerated?

Mike Pollocoff:

It's going to have to be for clarity to meet the water quality standards.

Mike Serpe:

You knew that?

Scott Simon:

Marty and I have talked about that.

Mike Pollocoff:

Just one comment. In going through their covenants, if the Plan Commission is inclined to grant his request to not have basements, one of the things from the Village's standpoint or from the staff's standpoint where the source of conflict comes in is somebody goes in there and they start accumulating stuff, and pretty soon their stuff is filled up in their garage and then the cars are out in the driveway. And if there's any more than one car then it starts stacking up. That's when the conflict starts up with the neighbors. Some people have more stuff than others. In the covenants there would have to be some kind of way, if the Commission was going to say you don't have to have a basement, some way to be able to actualize what Mr. Simon is saying, that these are going to be empty nesters that aren't going to have stuff, so that you still have parking in the garages and they would be able to fully utilize the space as it is so that wouldn't be a permitted use of storing cars outside when they're not.

Tom Terwall:

I agree with you. My counterpoint is how about the guy that buys a second story unit.

Jean Werbie:

They have an extra 500 square feet.

Mike Pollocoff:

Yes, they have an extra 500 square feet upstairs that the people in the bottom unit don't have

Scott Simon:

. . . that they're getting. So we do try to make it very straightforward for everyone.

Mike Serpe:

I would rather not even see that argument come forward. I'm glad you're giving in, Scott.

Scott Simon:

Don't I always.

Tom Terwall:

The first issue is the CSM. We need a motion to recommend approval.

Mike Serpe:

So moved.

Wayne Koessl:

Second.

Tom Terwall:

MOTION BY MIKE SERPE AND A SECOND BY WAYNE KOESSL TO SEND A FAVORABLE RECOMMENDATION TO APPROVE THE CSM AS INDICATED 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. The second item is for final condominium plat. Is this the issue where the basements come in or is that the third issue?

Jean Werbie:

Both. This one and the next.

Mike Serpe:

Mr. Chairman I move approval of the final condominium plat with the inclusion that all units will have basements.

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 FINAL CONDOMINIUM PLAT WITH BASEMENTS FOR ALL LOWER UNITS 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. Item 3 is the zoning map amendment and zoning text amendment. Any recommendation?

Mike Serpe:

Move approval of that as well with the same conditions.

Jim Bandura:

Second.

Tom Terwall:

MOTION AGAIN BY MIKE SERPE AND A SECOND BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AMENDMENT AND THE ZONING TEXT AMENDMENT INCLUSIVE OF BASEMENTS SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM.

Wayne Koessl:

Just one comment. On the draft of Ordinance 05, there is a typo. It should be State Highway 165 and east of 27th Avenue. That should be 47th.

Jean Werbie:

Thank you.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

F. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT for the request of Scott Simon, agent for Simon Group for the property generally located north of STH 165 (104th Street) and east of 47th Avenue to use buildings 1 and 9 of the Sagewood Condominiums at Village Green as model sales buildings for the Development.

Jean Werbie:

This is a public hearing. It's also pertaining to a request of Scott Simon, agent for Simon Group for the property generally located north of Highway 165 and east of 47th Avenue. His request is to use buildings 1 and 9 of the Sagewood Condominiums at Village Green as model sales buildings for his development. This is a public hearing.

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 to use Buildings 1 and 9 of Sagewood Condominiums at Village Green as model sales buildings for the Condominium development.
2. Both buildings have four dwelling units.

Building 1: located at the southeast corner of 47th Avenue and 103rd Street.
Basement (lower 2 units): 1,174 square feet
Lower Units: 1,650 square feet
Upper Units: 2,201 square feet
Attached garages range in size from 528 to 534 square feet

Building 9: located at the northeast corner of 47th Avenue and 103rd Street
Basement (lower 2 units): 1,060 square feet
Lower Units: 1,615 square feet

Upper Units: 2,187 square feet
Attached garages range in size from 529 to 558 square feet

3. The current zoning of the property is R-10 (UHO) Multi-Family Residential District, with an Urban Landholding Overlay District and is proposed to be rezoned to R-9, (PUD) by

the Village Board, and that would be a Multi-Family Residential District with a Planned Unit Development Overlay. Model units and related temporary real estate sales offices or marketing centers are allowed in the R-9 District with a Conditional Use Permit.

4. Notices were sent to adjacent property owners via regular mail on September 7, 2005, and notices were published in the *Kenosha News* on September 12 and 19, 2005.
5. The petitioner was e-mailed a copy of this memo on September 23, 2005.
6. 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 hearing this evening that the project as planned, will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting of the permit.

With that, I'd like to continue the public hearing.

Scott Simon:

We're looking at using building 1 and 9 as they're two different designs, to use them as models. Building 1 I believe there are three buildings of that style in this phase and one in a future phase. The remainder are all the squarer buildings or the style of building 9. Our proposal would be to use building 1 only as long as we had units available in that style, and to use building 9 until we were done with the next phase. It's close to the entrance. It's far enough off to fulfill the highway setbacks, and it's also an easy location for everybody.

Tom Terwall:

This is a matter for public hearing. Is there 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.

Mike Serpe:

Scott, the sales offices will only be used for this development and not for any other development?

Scott Simon:

That is correct.

Don Hackbarth:

In notice that the upper units are larger in space. Is that because of the garage, you're building on top of the garage?

Scott Simon:

That is correct.

Tom Terwall:

What will the house be, Scott?

Scott Simon:

Standard business hours on weekends usually I'd say the earliest I'd say they would open at 10. I can't see them even opening before noon usually, and closing by sunset at the latest. During the week it would probably be between the hours of five and eight p.m. and it wouldn't be every day.

Tom Terwall:

Spotlights in the front of the building?

Scott Simon:

We'll do what's required by the lighting requirements. Jean is saying no and that's fine. We don't need them.

Wayne Koessl:

No spotlights.

Tom Terwall:

And no banners.

Wayne Koessl:

I noticed in the conditions that were listed lighting is not discussed.

Tom Terwall:

Anything further from staff, Jean?

Jean Werbie:

It's prohibited by the ordinance. I didn't list all the ordinance requirements. Some of the main requirements in the conditional use section we list, but I don't list or reiterate the entire ordinance.

Wayne Koessl:

The ordinance covers it.

Jean Werbie:

Scott will comply with the ordinance.

Wayne Koessl:

Good enough.

Tom Terwall:

Nothing further, is there a motion to approve?

Don Hackbarth:

So moved.

Jim Bandura:

Second.

Tom Terwall:

MOTION BY DON HACKBARTH AND A SECOND BY JIM BANDURA TO APPROVE THE CONDITIONAL USE PERMIT 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.

G. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to amend Section 420-84 C (2) of the Village Zoning Ordinance related to setbacks for hot tubs from principal or accessory structures.

Jean Werbie:

Mr. Chairman and members of the Commission, on August 22, 2005 the Plan Commission approved resolution #05-12 to initiate a zoning text amendment to re-examine the Village's swimming pool requirements that were last amended on June 21, 1999.

The requests in particular related to the setback for hot tubs. Currently hot tubs are defined as swimming pools. Therefore, hot tubs are regulated the same as swimming pools with respect to setbacks to principal or accessory structures. The amendment proposes to create a separate setback to principal and accessory structures for hot tubs. It is recommended that hot tubs be located a minimum of two feet from any principal or accessory structures and all other regulated swimming pools the distance would remain unchanged, which is eight feet from the principal or accessory structures.

There were numerous requests by residents of the community that if they had to comply with the eight foot setback they were typically off the deck and away from the house so far that it started to create a situation where they needed to build decks off the back of the home so much further. It's not an electrical requirement that they be eight foot back, it was just a zoning requirement and it kind of captured the hot tubs with it. So in talking with the chief building inspector he felt that this would not compromise as long as you could walk around the side of the hot tub and still plug in something or get something unplugged, he felt that would work just find and it meets the State's electric code as well.

Jim Bandura:

Is there anything in our ordinances regarding inflatable pools, too? I've seen some pop up that are four feet deep and 18 feet in diameter.

Jean Werbie:

They do require permits, especially if they have electrical or pumps associated with them and they have more than 24 or 36 inches of water. They all require permits. If you see them up and they don't have fences around them, then typically they have gone up without a permit. A lot of times they come down. Hopefully they come down in winter, but we could cite many, many of them in the Village should we choose to do that.

Don Hackbarth:

Have you seen these hot tubs that are inflatable and you just plug the thing into the wall? It's a rubber hot tub that you can deflate when you're done with it, drain the water and deflate it. So you can fill it in the morning and use it and then deflate it at night.

Jean Werbie:

That would seem to be very expensive to keep putting in that kind of water, but I've not heard of them. Maybe our chief building inspector has. In any event, they would still need to comply. If they're hot tubs they could be within two feet of the structure.

Tom Terwall:

So as far as you're concerned there's no problem with what defines a swimming pool versus what defines a hot tub?

Jean Werbie:

They are the same definition. By our ordinance they are the same definition. So it's a matter of our interpretation. If it's two and a half feet or two feet and it's framed in and adjacent to the house and it's got hot water with--I mean the interpretation will be made by the inspectors and the Village.

Tom Terwall:

I guess that's my concern is some guy putting in a pool that I call a pool and it's only three feet from the house and he says, no, this is not a pool, this is a hot tub. Whose definition?

Jean Werbie:

I don't know. We can certainly try to come up with another definition for hot tub?

Tom Terwall:

We're not going to solve it tonight, but it's going to bite us. I can guarantee you that.

Mike Pollocoff:

If you want to table it we can see if we can get an industry standard definition for a hot tub.

John Braig:

That would be a better way to go.

Tom Terwall:

Yes, we certainly can't be the first community that's faced that.

John Braig:

If the two foot separation from a principal structure became objectionable or a problem, could the Board of Appeals grant a waiver?

Jean Werbie:

They can, but it would be a self-imposed hardship. If someone wants to put a hot tub on their deck then they'll tell them build your deck further out. A number of people are not aware of an eight foot setback to a house. It's not an industry standard. It's not an electrical standard. It's unique to Pleasant Prairie.

John Braig:

I'm thinking if they fabricated something that would appear as a gazebo which, in effect, might be an attachment to the house with the hot tub within the gazebo, that might not be within that two foot restrictions.

Tom Terwall:

And there are plenty of those around. Would you feel more comfortable if we table this for two weeks?

Mike Pollocoff:

I think we can come back with some definitions that you guys can pass on.

Tom Terwall:

Motion to table?

Jim Bandura:

I make a motion to table this.

John Braig:

Second.

Tom Terwall:

MOTION BY JIM BANDURA AND A SECOND BY JOHN BRAIG TO TALE THIS ITEM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

H. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to amend Section 420-120 B (2) of the Village Zoning Ordinance related to permitted uses and Section 420-120 D (2) (a) of the Village Zoning Ordinance related to conditional uses in the B-3, Regional Retail Business District principal uses to allow restaurants with outdoor seating in the B-3 District as a permitted use.

Jean Werbie:

Mr. Chairman and members of the Commission, on July 25, 2005 the Plan Commission approved resolution #05-10 to initiate a zoning text amendment to re-examine the uses in the B-3, Regional Retail Business District.

The B-3 Regional Retail Business District is intended to provide for big box retail stores or regional retail shopping centers to serve the needs of the region as well as the entire community. The area of each B-3 District shall be at least 20 acres. Based on the Village's Land Use Plan the only area identified as Regional Retail Business is the land occupied by Prime Outlets and the proposed Phase V of Prime Outlets.

The owners of Prime Outlets have raised concerns related to the need for outdoor seating associated with a restaurant at Prime Outlets, as well as their main lodge area, requiring a conditional use permit and have requested that this be re-examined and be re-classified as a permitted use.

At the time that the Business Districts were updated in 2002, outdoor seating associated with a restaurant were allowed with approval of a conditional use in the B-1, Neighborhood Business District, and the B-2, Community Business District, due to the close proximity to residential districts and the conflict that may arise between the two uses. Since the B-3 District is intended to be regional in nature and the area of such district is a minimum of 20 acres, the concern relating to conflicting residential uses and business uses is not present.

The amendment proposes to allow outdoor seating as a permitted use. Therefore the only types of restaurants in the B-3 District that require a conditional use are those with a dedicated brewing facility.

This is a matter for public 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.

Wayne Koessl:

Mr. Chairman, I would move that we recommend that we send a favorable recommendation to the Village Board to approve the zoning text amendment as presented.

Jim Bandura:

Second.

Tom Terwall:

MOTION BY WAYNE KOESSL AND A SECOND BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING TEXT AMENDMENT AS INDICATED 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.

I. Consider the request of Mike & Carol Foran, owners, for a Lot Line Adjustment between the properties located at 11505 Lakeshore Drive and the vacant parcel to the immediate north.

Jean Werbie:

Mr. Chairman and members of the Commission, the petitioners are requesting to adjust the lot line between the two adjacent properties that they own generally located at 11505 Lakeshore Drive.

The petitioners are requesting to adjust the lot line between the property located at 11505 Lakeshore Drive, which is identified as Tax Parcel Number 93-4-123-293-0210. It is depicted as Parcel B on Exhibit 2, and it has an improved single-family dwelling. The vacant parcel to the immediate north, identified as Tax Parcel Number 93-4-123-293-0215 is shown as parcel A.

The property is zoned R-5 (LUSA), Urban Single Family Residential District with a Limited Urban Service Area Overlay District. The R-5 District requires lots to be a minimum of 10,000 square feet in area and have a minimum lot frontage on a public street of 75 feet. The Land Division and Development Control Ordinance requires that all new lots have a minimum depth of 125 feet.

Pursuant to Exhibit 2, with the Lot Line Adjustment Parcel A will have a lot area of 19,447.64 square feet. We made a small adjustment to the lot area in order to extend the lot further out towards Lake Michigan. So Lot A will have 19,447.64 square feet. It will have frontage of 115.09 feet of frontage on Lakeshore Drive and will have an average lot depth of approximately 230 feet as measured to the Ordinary High Water Mark of Lake Michigan. Parcel B will have a lot area of 28,695.97 square feet. It will have 120.25 feet of frontage on Lakeshore Drive and an average lot depth of approximately 260 feet as measured to the Ordinary High Water mark of Lake Michigan.

The property owners are requesting to adjust this lot line slightly northwards so that the existing driveway on their current property can be located entirely on this property. If the Lot Line Adjustment is approved the existing driveway will be 5.5 feet from the new lot line. Currently it comes in off the property and meanders to the north and then kind of comes back to the south. If the lot line adjustment is approved, it will meet that required five foot driveway setback requirement.

This area of the Village is not serviced by municipal water and sanitary sewer. As a part of a permit application for a new single-family dwelling on Parcel A, the applicant will be required to get a sanitary permit from Kenosha County. Additionally, the application for a new single-family dwelling on Parcel A shall include a private well.

Finally, the Village will not issue permits for the construction of a new single-family dwelling on Parcel A if the existing Lake Michigan shore protection for Parcel A is not deemed to be adequate. A letter from a State of Wisconsin Licensed Professional Engineer is required for verification that the existing shore protection is sufficient.

The Village staff recommends approval of the Lot Line Adjustment subject to recording the proper transfer documents at the Kenosha County Register of Deeds Office for the Plat of Survey for the Lot Line Adjustment and providing us a copy within 30 days. And the adjusted lot line adjustment will have the corrected areas on them. This came up late this afternoon as we were taking a look at the lots as they were created.

Tom Terwall:

What did you do to come up with the addition .64 square feet. One lot went from 15,000 to 19,000, and the other went from 18 to 28. I want to borrow that tool and use it on my lot.

Jean Werbie:

It was apparently an error in the survey calculations that the surveyor had completed, and we had questioned some things and they had contacted us to let us know that the area calculation was not accurate. So we had them provide us with the accurate area calculation.

Mike Serpe:

Just a comment. The petitioners are going to sell off these lots, is that correct?

Jean Werbie:

They live in one of them. I don't know what their long-term plan is with their house property, but I would assume that the northern one they have ideas or proposal to sell it.

Mike Serpe:

What I was going to say is people are screaming about the assessments, but wait until the sale of one of these goes. This is huge. This is a very big lakefront lot. With that I'd move approval of the lot line adjustment.

John Braig:

Second.

Tom Terwall:

MOTION BY MIKE SERPE AND A SECOND BY JOHN BRAIG TO APPROVE THE LOT LINE ADJUSTMENT 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.

7. OTHER SUCH MATTERS AS AUTHORIZED BY LAW.

John Braig:

A question, Jean, of the status or situation on the power plant site up at 85th and 3rd Avenue, or what would have been the power plant site. Who owns that? As I understand it the electric utility donated that to The Nature Conservancy.

Jean Werbie:

That's correct.

John Braig:

What is its status as public accessible property? I see the DNR is putting up signs and restrictions on it and talking of even greater restrictions. The day will come when they probably won't even let people on it because they have to protect it.

Jean Werbie:

I don't know.

Mike Pollocoff:

They haven't given the Village land management plan for what they plan to do with that, but it was restricted as WE Energies land. I'm not sure, but in the back of my mind it seems like there's some kind of easement over that land from WE Energies to keep people away from the intake. They get to use the land for research.

Wayne Koessl:

Mike, they do have their pumping station there and also the water lines that are going through there on an easement. But the rest of the land I think was donated to The Nature Conservancy. I remember at one time we wanted the City to take over the northern half for a treatment plant.

Don Hackbarth:

I thank you for your words about the Chaplain of the Fire Department, but I'm also Chaplain of the Police Department. I enjoy equally as well working with both departments. I really don't want to lose my job as the Chaplain of the Police Department.

8. ADJOURN.

Mike Serpe:

So moved.

Jim Bandura:

Second.

Tom Terwall:

All in favor say aye.

Voices:

Aye.