

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
December 14, 2005**

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

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**

Jean Werbie:

For the benefit of the Plan Commission, for those that don't receive a copy of the League of Municipalities Magazine, there was an annual conference for the League of Municipalities in October, and Pleasant Prairie earned the Wisconsin Award for Municipal Excellence. It is a coveted award that is presented to very few communities across the State. In fact, Pleasant Prairie was the only community in Wisconsin that received it in 2005.

It's a certificate of excellence for the community based on various classifications and categories. It covers everything from intergovernmental cooperation, the professional staff that we have, the types of reports, plans and documents, the reporting, accounting, financial abilities we have, the recreational amenities that we offer such as the RecPlex and IcePlex and our overall comprehensive planning opportunities and commitments that we have in this community. There are police and fire protection commitments and what we offer to the residents in Pleasant Prairie, so it's an overall evaluation of exactly how the Village performs and how it performs in relation to other communities across the State of Wisconsin.

So we were very proud to receive that award in October. What you have before you is a copy of the article that was in the magazine where you can see John Steinbrink, Steve Kumorkiewicz and Mike Pollocoff were present to receive that WAME award this fall.

Tom Terwall:

Thanks, Jean.

John Braig:

I wish we could take credit for that, but it really is a reflection on the staff.

Tom Terwall:

That's what I was just going to say. These three guys got the credit, but the credit really belongs to the department heads and the staff because that's what made it happen. Thank you very much.

**4. CONSIDER THE MINUTES OF THE NOVEMBER 7 AND 14, 2005 PLAN COMMISSION MEETINGS.**

Tom Terwall:

The minutes of the November 7<sup>th</sup> meeting have already been approved, so we're acting on the 14<sup>th</sup>.

Wayne Koessl:

Mr. Chairman, I move we approve the November 14<sup>th</sup> Plan Commission minutes as presented.

Don Hackbarth:

Second.

Tom Terwall:

**MOTION BY WAYNE KOESSL AND A SECOND BY DON HACKBARTH TO APPROVE THE MINUTES OF THE NOVEMBER 14, 2005 PLAN COMMISSION MEETING 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 tonight to speak on any of the three items that are on the agenda, all three of those items are public hearings. We would ask that you hold your comments until that public hearing is held so your comments can be incorporated as part of the official record. However, if you're here to speak on any other item now would be your opportunity to do so. We would ask you to step to the microphone and give us your name and address.

Chuck Mauer:

I'm Chuck Mauer. I live at 9812 81<sup>st</sup> Place in the Prairie Ridge Subdivision. As she's handing out some maps of the Prairie Ridge Subdivision it's near St. Catherine's Hospital on Highway 50. I'm here to ask for this Planning Commission's help and to speak to the Planning Commission regarding green space on 81<sup>st</sup> Place which is alongside my home in the Prairie Ridge Subdivision.

I along with the other homeowners with homes near this green space bought our lots four years ago after looking at subdivision plans which indicated that this space would be an outlot with a small wetland in the middle of it. Many homeowners built their homes to take advantage of this green space. I believe some of us paid a higher rate for our lot because of the green space nearby.

It has come to our attention as homeowners that our Association President has taken actions towards rezoning this land with the intention of selling it as buildable lots. She filed with the Village on October 25 a wetland and corridors delineation application with the intent of changing the wetland designation. Our Association President has done this without any input from homeowners near this space or any homeowners in the subdivision.

We have been attempting to discuss this issue with our President and handle it as an internal subdivision matter. I would like to provide this Commission with the copies that you have and the signature list and the formal grievance we have filed with our Association President. We have limited this signature list at this time to the homeowners who would be most directly affected by any change. If this issue comes before this Planning Commission, I ask you to help me and the other homeowners who do not want this green space changed and sold. I ask you to help us protect our home values and especially our quality of life and maintain this open space as it was originally designed to be in the subdivision plans when we purchased our lots and built our homes. Thank you for your time.

Mike Hautzinger:

My name is Mike Hautzinger. I live at 8052 East Ridge Drive in the Prairie Ridge Subdivision which is lot number 60 on the map you're looking at. I put together that page. The homes that are highlighted in blue, the lots, are the homes that have signed along on this grievance to our Homeowner's Association. And on the reverse side of that page is an example of the plant life that is in that wetland area. It's called purple loosestrife. That plant is considered a pest. The DNR has a lot of information on that type of plant life and we have consulted with them as to how to get rid of it because that is a plant that is considered a pest.

There's two ways to get rid of it. One is with beetles that feed on that, and the DNR does approve that and they have places that sell them. The other way is to take it out one plant at a time without dropping any seeds. Earlier this year we were planning on taking that project on, a couple of neighbors and myself. However, the Homeowner's Association mowed all that down. What that does is spreads those seeds everywhere. In that outlot we have cisterns that take on rain water, and when those cisterns fill up they spill into the lake that's on the other side of East Ridge Drive. So this mowing of these things down will cost that pest to spread to the lake. That's one problem I had with this initially is they went in there and mowed that down without knowing what they were doing.

We've been residents of this subdivision for nearly six years. All the people that are on that map have lived here since the subdivision was built. There's not a lot of people moving in and out.

Again, like Chuck said, we did buy lots based on the information provided on that map. That map is from VK Development that was in our original paperwork when we purchased our lots. We did pay a premium price as compared to other lots that are not adjacent to outlots at that time.

I was a one term President of this Homeowner's Association a few years back. I tried to see to it at that time that not only were our covenants followed, but that we looked out for the homeowner and the homeowner's property value, and I believe this action taken by our current Board is contrary to that. Almost every home in that area around that outlot has young kids, almost all in primary school or pre-school. The nearest parks we have in that area are across 104<sup>th</sup> Avenue, and the other one is at the grade school. Neither one of those are very practical for young kids because they're such a great distance from homes. So really we had that open land behind us and we appreciate it because it was close by and our kids could play back there without having to cross streets. We don't have any sidewalks, so they had places to play without going into the busy street of East Ridge Drive. We do have a lot of busy traffic on that street.

The size and style of the homes in the area is clearly for single family use, so I don't think that considering the kids is going to be a limited term thing. There's always going to be families in that neighborhood. I hope you consider this wetland problem in terms of the homeowner. Thank you for your time and Merry Christmas.

Tom Terwall:

Thank you. Anybody else?

Hallie Graziano:

Good evening. My name is Hallie Graziano. I reside at 8101 100<sup>th</sup> Avenue, lot 56 on the map you're looking at in the Prairie Ridge Subdivision. Aw both Chuck and Mike had stated, my husband and I purchased this lot primarily because the back yard completely abuts to outlot 25. We greatly enjoy the view we have of the area. I would like to add to what they both have said. The majority of the open space reserved in Prairie Ridge is wetland area. One unique feature about outlot 25 is that it is not completely wetland area, so it does give our families and residents of the subdivision somewhere to enjoy that's not wetland. If you look at the map of the entire subdivision there really only are a couple of other areas of usable space that everyone can enjoy in the community and we'd like to see that preserved. Thank you very much.

Tom Terwall:

Thank you. Anybody else?

Brian Bruns:

My name is Brian Bruns. I reside at 9811 81<sup>st</sup> Place within the same subdivision that I think all of us here in the crowd reside in. I'd just like to second the motion I suppose when I found out about it. We as well originally purchased our lot, we're the original homeowners, we built a house, we particularly chose this lot because of the fact that just to the east and south of us we live next to an outlot and right across the street is an outlot. So we figured being on a cul-de-sac

next to all these outlots it's going to be a great area for our children to play and we can feel safe knowing that they're right next to home. So you can imagine that when I found out about this information I was extremely disappointed. So we are just hoping that basically you'll certainly take this into consideration and try to put yourself in our position and empathize for us and put yourself into our shoes and how would you feel if somebody wanted to build a home right across from your house or right in your back door. Thank you.

David Drake:

Hi, I'm David Drake. I live at 9831 81<sup>st</sup> Place. I'm right on the pond and these flowers that they cut, I talked with the lady from DNR and they should have never been cut because now we've got to worry about it going into the pond area. It's really bad. I think we should consider keeping that area the way it was, because now we have two problems. We have one that they cut and now we've got to worry about everything going towards the pond. I'm trying to work with the DNR now to put in the lily pads and get the greenery taken care of, and now we have to start going in and trying to pull these flowers out, or otherwise we're going to have more problems because they cut this down with no notification. I hope you can understand where we're at.

When I built the lot I came in two years ago and I said the price is escalating quite a bit. I had to bring a lot of dirt in, and we hope we can keep it the same way now. But what they did over there, now we're hoping to get that all regrowing back and now we have to go through everything to get the greenery done. I'm talking with Heidi right now and she'll be coming down within the next few days because of what they did shouldn't have been done. What I've been trying to do with her is work with these lily pads on the other side of the pond to keep it. Now we've got to worry about all these flower coming into our end and trying to get them out of there. Thank you.

Marcus Tennant:

My name is Marcus Tennant. I live at 8042 East Ridge Drive. I wanted to share the concerns of my neighbors who are here and unified tonight about the concerns of these outlots and just to add an additional point. If an additional house was built in that area, my house is on the lowest point in that area and it would be the most prone to flooding if there was some additional development there. Thank you.

Tom Terwall:

Anybody else? Hearing none, I'm going to close citizens' comments. I'm going to open it to Commissioners' comments, but before I do I need to alert you that this item is not on our agenda tonight, so any comments we make are strictly that, just comments. I'm going to begin with a question. Reference was made to the fact that the Homeowner's Association President is acting on her own. Does she have the approval of her Board do you know, and has this item ever been on the agenda of the Homeowner's Association?

Chuck Mauer:

Chuck Mauer, 9812 81<sup>st</sup> Place. We've asked for the meeting minutes on that and asked to meet with her and discuss this and have not gotten any meeting minutes. There was in one set of minutes saying that they had filed the application, and those meeting minutes were posted on our website within a couple days ago. That's the only thing we know of. We don't know that they've discussed it or voted on it at all.

Tom Terwall:

And was that a meeting of the Board of Directors or of the Homeowner's Association?

Chuck Mauer:

That would be the Board of Directors.

Tom Terwall:

And it's never been on the agenda for your association that you're aware of?

Chuck Mauer:

Correct.

John Braig:

Just a question for clarification. You've got 13 signatures here. Was there an attempt to get other signatures? I can recognize these are right around the pond so they have a vested interest. How much of an attempt was made to gain additional signatures?

Chuck Mauer:

Right now there was no attempt to go for additional signatures. We wanted to handle this locally by the homeowners that were most affected by this, so we went and got signatures from the homeowners who lived right adjacent to the outlot, and if we need to we'll go further with this and we'll talk to the rest of the subdivision and get more signatures.

John Braig:

Thank you.

Wayne Koessl:

Through the Chair to the Village staff. Can this be treated as an obnoxious weed and pursue it that way with the DNR?

Jean Werbie:

No, I don't think so. But if I could give you a little bit of a history because this dates back to 1996 and 1998, so it dates this a little bit. There was actually an outlot 7 that was identified by VK after a wetland staking which was incorporated as part of the original plat for the Prairie Ridge Subdivision.

Don Hackbarth:

Which one is outlet 7?

Jean Werbie:

It's the small one. It's the one with the wetland on it as delineated on the map. And then in 1999, when VI processed the second phase or the first addition to Prairie Ridge, he incorporated actually an outlet around outlet 7 so that's identified as outlet 25. The intention was that that area would be an open space park area surrounding that particular wetland so that it could be an open space area for the neighborhood to enjoy.

As part of the final plat for the subdivision, the first subdivision plat and the second, that outlet 7 and 25 were dedicated to the Homeowner' Association for permanent open space as identified through a wetland delineation for outlet 7. With respect to the balance of outlet 25, it's not very clear as to what the intended purpose was, but it surrounds outlet 7.

Now fast forward up to 2005, the President of the Homeowner's Association requested a wetland staking through our office in November. There are two options for someone who requests a wetland staking. That they either can go through our office and petition to have the Regional Planning Commission do the wetland staking, or they can seek out a private wetland biologist to delineate those wetlands on the property. There was a phone call that had been made to the Village offices, and the conversation went something to the effect that we don't believe that there's wetlands on the property. We have an interest in doing something different with this property. We would like to have the wetlands redelineated.

About that same time the staff received a phone call from an abutting property owner that said that the wetlands had been cut down. And our staff responded to the property owner who filed the complaint that that's a violation of the Village zoning. You can't cut down wetlands. The State DNR does not object to cutting wetlands, but the Village requires that you have special conservation permits to cut wetlands. The Village staff did not hear back from the Homeowner's Association until just recently. We found that they contracted with Dave Meyer to do the wetland staking to determine whether or not there were still wetlands on the property.

I have not spoken directly to Dave Meyer or Heidi Hopkins regarding this and I do need to speak with them directly to get an understanding. But the way that I read and interpret the plat, the first plat and the second plat and the restrictive covenants, as well as all the language, is that there was an easement that was granted to the Village to protect the wetlands; the wetlands themselves in outlet 7 and outlet 25 were dedicated to the Homeowners Association. If in fact there would be any changes to this property, we would have to amend the plat, the face of the plat and the language of the first plat, amend the face of the plat and the language and the language in the second plat. We'd have to amend the restrictive covenants. We'd have to rezone the property, and we'd have to go through a number of steps.

In this particular case, the wetlands were put into a C-1, Lowland Resource Conservancy District designation, but the balance of the lot was left as R-4. Even if the wetlands were removed and the C-1 was removed from the property if there were no wetlands, the only way to prevent a new home from being placed on that property would be if that property would be put into a PR-1, Park and Recreation District, because that particular zoning classification does not allow for single family homes. So that's kind of where we are in the process right now.

Tom Terwall:

Do we know what the results of that field delineation was?

Jean Werbie:

My staff did receive a phone call this afternoon from Dave Meyer, and again I'm getting this secondhand, by understanding from the conversation is that the wetlands no longer exist on the property. I have not seen that and I have not confirmed that yet with Dave Meyer. So these homeowners have a number of options, the Homeowner's Association has options and the Village has options. Because even if the wetlands are removed and the designation of the wetland delineation is taken off, the Village can decide whether or not to rezone that property into the PR-1, which is Park, or to leave it as R-4. If it's left as R-4, the likelihood is that a home could be built there.

John Braig:

Is there any reason to believe that the interference with the wetland by the parties involved may have caused the wetland to deteriorate to where it no longer is a wetland?

Jean Werbie:

That's a good question and I'd really like to do some investigation on that as to whether or not the water source to the lot has changed or the soils have changed or the vegetation is gone. I would like to do some further investigation.

John Braig:

We've had that discussion in a few other situations, and I think the whole Commission's attitude is one towards conversation.

Jean Werbie:

I'd need to do some further investigation to find out from Dave Meyer as well as SEWRPC and/or Heidi Hopkins to find out what the nature of that would be.

Don Hackbarth:

Here we go again. It's people stepping out and doing things that really we have ordinances and rules that they should not be touching it. My question is what are you going to do to these people who made the arrangements to cut down this foliage up there when they shouldn't have done it? We should have penalties and I know we do.

Mike Pollocoff:

Technically they're subject to prosecution under the Village's ordinances. The Police Department would have to do an investigation to ascertain who ordered the cutting of the wetlands. I think more specifically, and where it fits in the time continuum, was it staked prior to



the wetlands being mowed? Because then at that point you do know the wetlands are there. There are some wetland species that do need to be removed every now and then to keep the good wetlands viable. If we find somebody, the problem is you've got to have a person to cite.

Don Hackbarth:

The VK property there's a lot of time put into that to make it right. And dog gone it, when somebody is futzing around with the Commission and what we approve, I don't like that. That ticks me off. The other thing I'd like to ask is why? Why would you want to build another home here?

Jean Werbie:

My understanding based on conversations with my staff and with the Homeowner's Association President was that if they could sell this particular lot then they would gain some revenues from the sale of the lot and they would put that money into redoing some berms, building up some additional berms and doing some additional landscaping in the subdivision.

Don Hackbarth:

So what would happen there? Would they have to come back to the Plan Commission if they wanted to touch those berms again?

Jean Werbie:

They'd have to amend the grading plan, and that either can be done through administrative process or, depending on the extent of it, may have to go before the Plan Commission and the Board. When the staff did receive the complaint regarding the cutting of the wetlands, we did send a notification out of the violation to the Homeowner's Association President. So the Homeowner's Association would be the ones that would be in violation.

Don Hackbarth:

I think we should pursue it. I really do.

Mike Serpe:

I can see two sides here. I definitely hear where you're coming from, the homeowners, because you bought your land, your lots, based on it's going to be nice and open and it's probably going to stay that way forever. I can also see where the Homeowner's Association is coming from having the opportunity to gain \$80,000 or \$100,000 to have in their coffers to do whatever with. I also know that we have a stake in this as well. So now all three parties involved here have a stake in what's going on. What I think has got to happen here, and I don't know that it should be happening in a public setting, is I think we should arrange a meeting with the Homeowner's Board or representatives, your little neighborhood and us someplace where we can discuss how this can be handled if it's going to be handled.

Like Don said, this has been a long process. This goes back to I think 1989 when this first came to the Village to be a golf course at one time with surrounding homes. So a lot of time and effort has gone into this subdivision. It's beautiful. And now to hear something like this coming from one of the nicest subdivisions in Pleasant Prairie is a little disturbing. I think it's got to be addressed. I think it should be addressed at a meeting when all affected parties can have their input.

Mike Hautzinger:

Can I bring up two points? Mike Hautzinger, 8052 East Ridge Drive. First, we did make an attempt to meet with our Homeowner's Association officers since that's been filed, that request, and they have not seen fit to meet with us on this matter. Second, we do pay Homeowner's Association dues, \$100 a year, which comes to about a buck and a half a week. These homes are worth a minimum of \$250,000 to \$500,000, and I think if they need to come up with revenue it's not that hard to get a little more out of a homeowner and not disturb out property values in this way.

Mike Serpe:

I understand that. But now to add to the mix I think we have a stake at this as well. So now we have to get involved.

Mike Hautzinger:

We were trying to handle this on our own is what I'm trying to point out.

John Braig:

Jean, you referred to the man that did the evaluation of the wetland. Is he good credentials, unbiased, as good as if he were a DNR representative?

Jean Werbie:

Yes. He had, in fact, worked for the DNR.

Wayne Koessl:

I think we're at the point and I have complete confidence in the staff that they should pursue this and come back with a recommendation. It would probably be a win/win for everybody and then we can take it up at a later date. To the people in the audience I think it's time to get rid of your officers of the Homeowner's Association. Easer said than done.

Brian Bruns:

Brian Bruns, 9811 81<sup>st</sup> Place. I did just want to address one comment that Mr. Pollocoff made, and that was who actually made the decision to destroy the wetlands across from my home. I do have an e-mail from the Homeowner's Association President stating she considered them to be

more of a weedfest so she had the landscapers mow it down. That was filed just a couple of weeks ago with Pleasant Prairie. I'm sure you're probably aware of that, Jean.

Jean Werbie:

I have that, yes.

Wayne Koessler:

Mr. Chairman, does Jean have a copy of that e-mail?

Jean Werbie:

I don't have a copy of the e-mail, but I have a copy of the complaint that was filed by one of the property owners.

Brian Bruns:

The e-mail was attached to the actual complaint. If you don't have it I'd be glad to drop it off tomorrow.

Jean Werbie:

We have it, thank you.

Mike Serpe:

One more comment, Jean. If this were to have to come back for some alterations to this plan, that doesn't come without a price, is that correct?

Jean Werbie:

There's a great deal of time and effort either by the homeowners and/or the Village to rewrite and amend both plats, the restrictions, the easement. The Village would have to vacate their easement. There's a lot of things that would need to happen. Plus the rezoning and the notices.

John Braig:

Legal fees.

Jean Werbie:

Legal fees and things. There would be a process and we can talk through that. It wouldn't be a quick thing.

Mike Serpe:

But everybody has to know that.

--:

What would that time line be? How many months are we talking so we as homeowners have somewhat of an idea if this were to move forward.

Mike Pollocoff:

If everybody agreed it would be about three months.

Jean Werbie:

It would be about three months if we all agreed. If it went one way or another, and depending on how many things we needed to amend and correct. Actually I need to do some legal research, too, to find out if the original developer has a stake at all anymore, because it was his property initially and he had the covenant restriction himself and he had temporary easements to make sure that no one touched those wetlands. He took great pains to protect those wetlands and at great cost, even the little pocket ones. So he might have a stake in this as well.

Mike Serpe:

This may shake out that there's no benefit to do this whatsoever. I'm telling you the rates that we're now charging to review these things are not cheap.

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That's what we're hoping.

Jean Werbie:

Tom, could I have Peggy go out there and get the names and current phone numbers or whatever they have of the current Board members? I'm only aware of one of them, but if we can get those from them before they leave and their phone numbers of who we can contact so we can set up a meeting.

Tom Terwall:

If this were to come back before the Plan Commission in the form of a request, the Plan Commission would want some verification that this is not the Board of Directors acting on their own because at some point we become liable. If this hasn't been before the entire Homeowner's Association then we'll worry about it. But there are outlots that are designed to be filled at some point. There are subdivisions where an outlot isn't a detention basin until such time as a storm sewer comes in. And once the storm sewer comes in everybody knows that that lot could be sold at some point. That wasn't the case here. These people bought their lots under the premise that this lot was going to remain here, and you'd have one hell of a time convincing me to vote to change that. I'll tell you that right now.

Jean Werbie:

And how I look at it one of three things will happen. Either it will stay status quo, or the wetlands will be rezoned and it will be rebuildable, or the wetland will be rezoned and it becomes parkland. So I think it will go one of three ways.

Mike Pollocoff:

And it could be, if it's rebuilt, if for some reason the sequence of events is the Commission and the Board were to decide that it should be rezoned as buildable, it could be very well that the recipient of that money would be VK.

John Braig:

I would like to have something other than a layman's explanation as to why the wetlands no longer are a wetland.

Jean Werbie:

We will make sure we get that information as well. But we're going to need some time to visit with the homeowners as well as the wetland biologist and others and put it all together.

Chuck Mauer:

Could we request that if this is brought before the Planning Commission again that we be notified by mail?

Jean Werbie:

Then I would like everyone's name and address to make sure that at least at a minimum--if you're touching the outlot, everyone within 300 feet will get notification automatically. But it would be best if we had that information anyway.

Chuck Mauer:

I'd like to make one last comment with the question about the wetland being changed since my lot is right adjacent to the outlot. I'm up against it and just ten feet away from it. In the spring and fall I do notice five to six inches of water in that outlot wetland at times. And I've seen it there in the winter. It freezes over and my kids have gone out ice skating on it. And my concern is what's going to happen to that water if it's built on? Is it going to end up in my basement?

Mike Serpe:

I have a question to Jean. Did the dry summer have anything to do with those wetlands disappearing when they did the staking?

Jean Werbie:

Maybe. If it does sit low and similar to Carol Beach, if you fill in a low area then that water is going to be displaced someplace else.

John Braig:

. . . downspouts into the wetland.

Jean Werbie:

Tom, I have one last question. Have they had an annual meeting of their Homeowner's Association recently?

Chuck Mauer:

The next meeting is scheduled for January 11<sup>th</sup>.

Jean Werbie:

That sounds like a timely meeting.

Tom Terwall:

Where is that?

Chuck Mauer:

That's at Pleasant Prairie School.

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They're normally scheduled around Thanksgiving, but this year's for some reason we've never had one scheduled this late. Now it's early into January.

Jean Werbie:

If we could be notified as to when that meeting is as well maybe we could time some of this to happen before that or at that meeting.

Chuck Mauer:

We have a website, PRHOA.com.

Tom Terwall:

Jean, you're going to contact VK?

Jean Werbie:

I will.

**6. NEW BUSINESS:**

**A. PUBLIC HEARING AND CONSIDERATION OF SEVERAL ZONING AMENDMENTS related to the Village Floodplain requirements.**

Jean Werbie:

Mr. Chairman, this is a matter for public hearing. On June 23, 2005 the Village received a letter from the Wisconsin DNR requesting revisions be made the Villages floodplain ordinance in order to comply with the revised Wisconsin model floodplain zoning ordinance. The revised Wisconsin model floodplain zoning ordinance was approved by the DNR and by FEMA, and it was done to incorporate changes to conform to recent administrative code changes in NR 116, Wisconsin Supreme Court cases, and minimum standards of the National Flood Insurance Program regulations found in 44CFR, Part 60.

All communities that participate in the NFIP must comply with the changes within six months and failure to do so could result in suspension from the NFIP. If the Village is suspended, it prohibits federal officers or agencies from approving any form or loan, grant, guaranty, insurance, payment, rebate, subsidy and/or disaster assistance loan of grant, for acquisition or construction purposes within floodplain areas pursuant to Section 202 of Public Law 93-234; and obtain modernized FEMA map for the Village.

The Village staff reviewed the current floodplain regulations, and on August 31, 2005 sent a copy of our ordinance to the DNR to confirm whether or not we were in compliance. On November 2, 2005, I spoke and discussed with via telephone the minor modifications needed to the floodplain ordinance. I spoke with Gary Heinrichs, Senior Floodplain Manager with the DNR and received the attached e-mail dated November 2, 2005 confirming the changes as discussed on the telephone. The DNR will issue a conditional approval letter to the Village with a requirement that the Village make the minor corrections within six months.

On November 14<sup>th</sup> the Plan Commission adopted Resolution #05-16 to initiate the text amendments to the floodplain ordinance. The changes include the following:

1. To amend Sections 420-131 N (8), 420-131 P (5), 420-131 Q 3 (c) and 420-131 Q (4) (e) by changing the references that were in there from NR 111 to NR 811 and NR 112 to NR 812 in the Wisconsin Administrative Code.
2. To amend Section 420-131 Q (2) (e) related to nonconforming buildings that are damaged by a nonflood disaster.
3. To create Section 420-131 Q (2) (f) related to alterations to historic structures.
4. To create Section 420-131 I (3) is created to public information.
5. To amend the Definition of development or development-related activities.
6. To add a definition for substantial damage to Section 420-131 BB.

The specific references and information is in your packets. This is a matter for public hearing. If there are any questions I'd be happy to answer them.

Tom Terwall:

Anybody wishing to speak? Anybody wishing to speak? Hearing none I'll open it up to comments and question from Commissioners and staff.

Don Hackbarth:

Move approval.

Mike Serpe:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CHANGES. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**B. PUBLIC HEARING AND CONSIDERATION OF SEVERAL AMENDMENTS TO THE LAND DIVISION AND DEVELOPMENT CONTROL ORDINANCE related to Development Agreements; Letter of Credit; Private Improvements; and Staking Field Inspection and Related Services.**

Jean Werbie:

Pursuant to the Land Division and Development Control Ordinance public improvements installed by a divider/developer are required to be installed at the divider's/developer's cost. The whole purpose of the amendment that we're going to be discussing this evening is the impact of a private developer's work in the Village of Pleasant Prairie and should or shouldn't they be required to follow the exact same requirements that a public subdivider has to do when it comes to securing that development, field staking and inspecting those improvements, and any other contract approvals and any other provisions as stated in the land division ordinance.

Public improvements are defined as: Any municipal infrastructure improvements required by the Village Board for the development of property, such as but not limited to sanitary sewer and related appurtenances, lift stations, water and related appurtenances, storm sewer and related appurtenances, roadway, curb and gutter, street signage, street trees and plantings, and streetlights, which are intended to be municipally owned and maintained..

Under installation of public improvements, the divider/developer must enter into a development agreement with the Village, and that development agreement needs to include at a minimum



contractor's contracts, performance and payment bonds and certificates of insurance, payment for required public improvements, an irrevocable letter of credit or other approved security to secure the obligations, reduction of the remaining balance of the letter of credit, dedication and acceptance of land and public improvements, covenants, restrictions, and easements on the use of land, streetlighting, street signage and street landscaping, title commitment insurance and lien waivers, representations and warranties, investigations and remedial action regarding environmental pollution or contamination, procedures in the event of a breach, the indemnification of the Village, its employees and consulting engineers, and any other requirements to protect the public, health, safety and welfare to accomplish the purposes of the land division ordinance which the Village Board believes to be reasonable under the circumstances.

Recently there's been a number of private developments, condominium developments on private roads, which have been approved with public sewer, water and storm sewer constructed under the private roadways. It's recommended that in order to ensure the quality control for the installation of the private improvements, and not only to protect the future residents who will be responsible for maintaining the private improvements but to protect the Village in the event that these private improvements are dedicated to the Village for the Village to maintain, that these private improvements shall follow the procedures that the public improvements installations must follow. Again, private improvements, and I can read it off the screen again, but it should be identical to what the public improvements are. Again, they are building the roadways to the Village's public improvement standards, but they're not following the same sequencing and time schedule and field staking and inspection schedule. They're still using licensed engineers to do this work, but in the event that these roads come back to the Village, or that they don't perform and don't live that useful life that they're supposed to, we want to provide some additional guarantees not only to the residents that are going to be living there but to the Village and its residents who could be taking them over, that they need to follow the same standards that a typical public developer would be required to do.

Installation of private improvements: Currently private improvements are designed by a licensed professional engineer, registered in Wisconsin in accordance with the requirements of the land division ordinance. Sound engineering practice is being used. It's being reviewed by the Village Engineer and approved by the Village. All private improvements shall be constructed and installed in a workmanlike manner at the cost of the divider. All private improvements shall be completed to the satisfaction of the Village.

The proposed amendments that you have before you are as follows: Again, the primary difference in the current ordinance related to the installation of public improvements and private improvements includes, first, the staking and field inspection are not done by the Village or the Village's consultant. They are done by licensed professional engineer firm registered in the State of Wisconsin, but there are no follow up inspection reports or documents or anything being provided to the Village. So we're recommending that that be modified.

Secondly, a separate development agreement is not required because it's not public improvements. We feel that that should be modified, that a development agreement is still required to guarantee their performance and within the time frame as set forth in the ordinance. And a letter of credit or financial security is not currently provided, again, because they're not public improvements. We feel that they might more likely follow the procedures more closely if, in fact, the financial security is being provided and they will be completed in a timely manner in accordance with the Village ordinance.

The proposed amendments treat private improvements the same way as public improvements. A development agreement would be required, security would need to be posted, and field staking and inspection would need to be required. In addition, the warranty period would need to be provided that extends the same time periods that if they were public roads or private roads. They would still have to provide a warranty period.

So that's an overview of the amendments to the land division ordinance, and this is a matter for public hearing.

Tom Terwall:

Anybody wishing to speak? Anybody wishing to speak? Jean, have we been burned on any of these yet?

Jean Werbie:

Yes.

Tom Terwall:

We have.

Mike Pollocoff:

We just had one where a condominium road right over here was paved at 27 degrees and the temperature was falling and the ground was frozen so that road is not lasting.

Tom Terwall:

Where is that, Mike?

Mike Pollocoff:

Sagewood over here by Village Green Heights by Simon. So we're going to direct them to take it out. I think the Village has been requiring them to be built to our specifications, and the specifications don't permit paving to occur at that point. But what this says is this gives it more teeth. Right now we have to kind of come back after them. This is going to tighten it up even further. I guess given the chance some of these guys are going to skate or do what they can. There's always been some level of they'll get away with as much as they can get away with.

Wayne Koessl:

Through the Chair to the staff. Is this going to affect any of the buildings that go into the business park?

Mike Pollocoff:

You mean Lakeview?

Wayne Koessl:

Money wise, Lakeview?

Mike Pollocoff:

No, those are all public roads. This is really not a--

Wayne Koessl:

It's more for the developers of condos.

Mike Pollocoff:

In the Corporate Park when you have a private road out there the only people that are going to use that is that business. That's their private road. But these are where you have common--in this case I guess if there was a division of land where you would approve three sites on one parcel we'd probably look at it then, but 99 percent of what we see is residential.

Don Hackbarth:

Was this done by a blacktop specialist, a guy that deals in blacktop or did they do it themselves?

Mike Pollocoff:

Companies will put down blacktop if you want them to. They may not warranty it. There's a very good chance they won't warranty the work. But if you want to pay to have them make it black they'll do it.

Don Hackbarth:

Why would you want to jump the gun to do that.

Mike Pollocoff:

To be able to pull the building permit. They poured the curbs probably two weeks before that. If you think about setting the curbs on that stone they didn't put anything behind it so the curbs were just laying on top of the gravel core.

Mike Serpe:

When these private roads go in, then it's up to the Homeowner's Association to maintain them?

Mike Pollocoff:

Right.

Mike Serpe:

That's why I kind of never agreed with too many private roads in the first place.

Tom Terwall:

Do they know this one is coming out? Have they been notified yet?

Mike Pollocoff:

The ordinance?

Tom Terwall:

He's saying our ordinance has been is . . . blacktopped at 27 degrees.

Mike Pollocoff:

We've already told them to rip it out. It's too cold now to rip it out.

John Braig:

Move approval.

Wayne Koessl:

I'll second.

Tom Terwall:

**MOTION BY JOHN BRAIG AND SECOND BY WAYNE KOESSL TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AMENDMENTS. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**C. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AND ZONING TEXT AMENDMENTS to rezone the properties located at 12207 and 12125 Wilmot Road based on the temporary Zoning Classification adopted when the two properties were annexed into the Village by Annexation Ordinance #11 and to amend Section 420-131 I (f) 3 of the Village Floodplain Ordinance to specifically**

**include these properties annexed into the Village by Annexation Ord. #11 on the Village's Floodplain Map for Section 13, Township 1 North, Range 21 East.**

Jean Werbie:

Mr. Chairman and members of the Commission, this is a matter for public hearing. On July 5, 2005 the Village Board adopted Annexation Ordinance #11 in accordance with Section 66.0217 of the Wisconsin Statutes to annex two properties of land, 1.07 acres, located at 12207 Wilmot Road identified as Tax Parcel Numbers: 91-4-121-134-0125 and owned by Timothy C Christensen and 12125 Wilmot Road identified as and 91-4-121-134-0121 owned by the Village of Pleasant Prairie.

Pursuant to Section 66.0217 (8) of the Wisconsin State Statutes the Village can and did annex the land with a Temporary Zoning Classification as shown on Exhibit A including:

- Both parcels will be zoned C-1, Lowland Resource Conservancy District.
- Tax Parcel 91-4-121-134-0121 is located entirely within the FPO, Floodplain Overlay District pursuant to the Des Plaines River Watershed Study of the Floodplain/Floodways Study prepared by SEWRPC.
- The majority of Tax Parcel Number 91-4-121-134-0125 is located within the within the FPO, Floodplain Overlay District pursuant to the Des Plaines River Watershed Study prepared by SEWRPC.

On November 14, 2005, the Plan Commission adopted Resolution #05-15 to initiate a zoning map and text amendment to re-zone the property in accordance with these Temporary Zoning Classifications. In addition to the zoning map amendment to correct the Village's Zoning Map, Section 420-131 I (f) 3 of the Village Floodplain Ordinance is proposed to be amended to specifically include these properties annexed into the Village by Annexation Ord. #11 on the Village's Floodplain Map for Section 13, Township 1 North, Range 21 East.

This is a matter for public hearing.

Tom Terwall:

Anybody wishing to speak on this matter? Anybody wishing to speak?

Tim Christiansen:

I'm Tim Christiansen. I own one of the parcels, 12200 Wilmot Road, owner.

Tom Terwall:

Any comments?

Tim Christiansen:

I'm agreeing to annex into the Village.

Tom Terwall:

Thank you. Anybody else? Hearing none, I'll open it up to comments and questions from Commissioners and staff.

Wayne Koessl:

Mr. Chairman, if there are no comments I move we send a favorable recommendation to the Village Board to approve the zoning map and text amendment.

Mike Serpe:

Second.

Tom Terwall:

**MOTION BY WAYNE KOESSL AND SECOND BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE AMENDMENTS. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Such other matters as authorized by law?

Wayne Koessl:

Mr. Chairman, I just have to make a comment about the adult bookstores. I don't know how many years ago Mike told me that they were going to eventually be gone. We're almost there now. I guess they have a month left of appeal or so. But I really want to commend all the work that has been put into that because I know it's been a long, long, long tedious and probably mind boggling work at times. But it's going to make the entrance into Wisconsin look a hell of a lot better. Mike, I thank you for all the effort and your staff.

Tom Terwall:

I second that, Wayne. I've commented many times when you come into Milwaukee from Madison on I-94 and see that--

Don Hackbarth:

Trashy.

Tom Terwall:

--corridor, what a business community corridor can look like compared to what happens when you come into Wisconsin from Illinois on I-94, the difference was night and day. I think in this

case, Wayne, you're right. There's good news and bad news. The bad news is it took so much longer, but the good news is the total cost. It's got to be substantially less than what we thought going in right, Mike?

Mike Pollocoff:

We did pretty good. I think not to say it was inexpensive. We're right at about \$12.7 million, but if you think back, there were some difficult decisions that were made with the proposed location of the CNS Management, which is Crossroads, and the Commission did the right thing. I think their actions dictated what would be an action that we anticipated. They got greedy and didn't get anything and the Village prevailed on that. So I think the opportunity for some very significant expenditures has been avoided.

Don Hackbarth:

I understand all that stuff becomes the Village property now?

Mike Pollocoff:

No. I worked very hard to make sure that that wasn't the case.

John Braig:

I seem to recall with a certain degree of certainty that when we approved the modifications of the railroad siting at Lawter we specifically said they could not park railroad cars outside of that enclosure. Am I correct?

Mike Pollocoff:

On the Lawter side or across the road?

Jean Werbie:

I don't recall.

John Braig:

Across the road, the west side of 88<sup>th</sup>, west of H.

Jean Werbie:

I don't recall. I'd have to look up in the conditional use permit that was granted.

John Braig:

There's been tank cars sitting there.

Mike Serpe:

I think what that was, John, is we approved the fencing for security reasons. I think Don was the one that brought it up and said if those things can be put inside the fence for esthetic purposes it would be a lot nicer.

Don Hackbarth:

But it's a danger.

Mike Serpe:

But I don't know that we put that in a form of it had to be type of thing.

John Braig:

I think it would be worth checking into. I got the impression they're there now and we will see them forever. The other item is there was an article in the newspaper and it happened to mention that the Village has plans for the extension of 80<sup>th</sup> Street through to 60<sup>th</sup> Avenue, is that correct?

Mike Pollocoff:

That's correct.

John Braig:

Granted far away but it's in the planning concept.. Good enough. Thank you.

Jean Werbie:

I would just like to wish all the Commissioners a Merry Christmas and a Happy New Year. Our next meeting of the Plan Commission will not be until January 9<sup>th</sup>. The Village offices are closed on Monday the 26<sup>th</sup>, so our next meeting will be January 9<sup>th</sup>.

Mike Serpe:

Our municipal excellence award you would never know the Village is run this good according to the bashing that's been taking place in the Voice of the People the last couple months.

Tom Terwall:

That's an exerted effort by a few people.

Don Hackbarth:

It's ten people and it's constant.

## **7. ADJOURN.**

John Braig:



Motion to adjourn.

Mike Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.