

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
April 10, 2006**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on April 10, 2006. Those in attendance were Michael Serpe; Wayne Koessler; Donald Hackbarth; Jim Bandura; John Braig; and Larry Zarletti. Judy Juliana and Tom Terwall were excused. Eric Olson was absent. 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:

Trustee Serpe and members of the Plan Commission, the staff received a letter from Kenosha County Department of Planning and Development. The purpose of the letter from George Melcher is to remind or let the Plan Commissioners know that the County, as well as the nine municipal partners, were awarded a State of Wisconsin Comprehensive Planning Grant in the amount of \$364,000. This amount represents the maximum dollar figure for which the County was eligible. We look forward to finalizing all the contract documents with the State, and we would be starting with the planning process sometime probably late spring, maybe the middle to the end of June. So this is the Comprehensive Grant Program that the first time around was not funded but this time around we were funded. What the County anticipates is that this will be a three year planning program with the municipalities involved with Kenosha County in updating our comprehensive plan.

Mike Serpe:

Very good. Thank you.

- 4. CONSIDER THE MINUTES OF THE MARCH 13 AND MARCH 20, 2006 PLAN COMMISSION MEETINGS.**

Jim Bandura:

Move for approval.

Wayne Koessler:

Second.

Mike Serpe:

MOTION MADE BY JIM BANDURA AND SECONDED BY WAYNE KOESSL FOR APPROVAL OF THE MARCH 13TH AND MARCH 20TH PLAN COMMISSION MINUTES. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

5. CITIZEN COMMENTS

Mike Serpe:

We have I believe six public hearings tonight. If there's an item on this agenda that is a matter of a public hearing you can hold your comment until that time. If there's anything else that you wish to comment on now would be your time to speak. Anybody under citizens' comments? Anybody wishing to speak? Anybody wishing to speak? We'll close citizen comments.

6. NEW BUSINESS

A. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT for the request of Ajay Kuttemperoor, agent for Prairie Villa Limited Partnership owner of the property generally located west of 94th Avenue and north of 97th Court in Prairie Ridge Development for a Conditional Use Permit for the proposed Prairie Villa Senior Apartments. The building is proposed to have 71 units, 50 underground parking spaces and restricted to individuals who are 55 years and older.

Jean Werbie:

Trustee Serpe, members of the Plan Commission and the audience, 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 in the staff comments.

Findings of Fact

1. The petitioner is requesting a Conditional Use Permit to construct a 71 unit apartment building restricted to individuals who are 55 years and older located west of 94th Avenue and north of 97th Court in Prairie Ridge for a development to be known as Prairie Villa Senior Apartments. This is reference in Exhibit 1.
2. Pursuant to the application, Prairie Ridge Senior Campus Phase II will be built and owned by Prairie Villa Limited Partnership and will be known as Prairie Villa Senior Apartments. Prairie Villa Senior Apartments will be a multifamily senior independent living facility located within the Prairie Ridge Development. The building will consist of a three-story 71-unit apartment complex with 50 underground parking stalls, and will

have exterior materials that are made up of a combination of brick, stucco, siding and dimensional shingles. Significant architectural features of the buildings will create a unique identity for this development. On site staffing will be minimal, and will consist of a leasing/marketing agent, a receptionist, a social director and a manager and maintenance/cleaning personnel. The leasing/marketing agent, social director and maintenance/cleaning personnel will be shared with the existing Prairie Ridge Senior Campus. The building will have one common/main entrance with a security locked door and intercom system so that the resident may monitor any visitors. One common elevator will service all three floors plus the underground parking. A variety of common areas and amenities for the exclusive use of its residents will include:

- a. A community dining room on the ground level to be used for special occasions and social gatherings;
- b. Coin operated laundry rooms on every floor;
- c. A library/computer room;
- d. Movie and exercise room;
- e. Craft and game room;
- f. Styling salon;
- g. Chapel;
- h. Morning check-in system;
- i. Emergency pull cord system;
- j. Timed security locked entrance doors;
- k. Storage lockers;
- l. Car wash bay in the garage; and
- m. Balconies or patios.

In addition, the activity director will offer a variety of social, recreational and cultural events that will enhance each resident's lifestyle. Such activities may include weekly trips to the grocery store, theme parties, live entertainment and movies, bingo and card clubs, resident public dinners and much more.

Individual apartment amenities will include individual gas forced air heat, individual central air conditioning, walk-in closets, balconies or patios, quality appliances, and 15 units will be designed as accessible for handicapped residents.

3. The current zoning of the property is R-11 (UHO), Multi-family Residential District with and Urban Landholding Overlay District, and the site is proposed to be rezoned to R-11, (PUD), Multi-Family Residential District with a Planned Unit Development Overlay.

4. This facility is a community living arrangement, which is defined is as a living facility such as an adult family home, a community-based residential facility, a residential care apartment complex, a group home, an assisted living facility, or a senior housing facility. This is per the State. A community living arrangement is not a nursing home or a hospital, and is allowed in the R-11 District with a Conditional Use Permit subject to the following requirements:
 - a. The net density shall not exceed 21 units per acre. The net density is 16.5 units per acre.
 - b. The facility shall be in conformance with all State statutory requirements. The Facility will be in conformance with all State statutory requirements.
 - c. The petitioner shall submit as part of the application for the conditional use permit the type of community living arrangement proposed, the purpose for the community living arrangement, the type of individuals that will reside on the property and the plan for supervising and administering the needs of the residents. That's provided to you as Exhibit 1.
 - d. If applicable, a report and license from the Department of Health and Family Services relating to the suitability of the property for use as a community living arrangement shall be submitted as part of the application for a conditional use permit. The loss of any license shall operate as an automatic revocation of the conditional use permit. Permits shall not be transferable to another location or holder without approval of another conditional use permit. This is not applicable for the Senior Housing proposed.
 - e. The property and the structure shall be serviced by municipal sanitary sewer and municipal water and it is
 - f. The lot shall be a minimum of three acres. The parcel is 4.3 acres.
5. On May 17, 2004, the Village Board conditionally approved a Conceptual Plan for the proposed Prairie Ridge Senior Campus including a total of 521 senior apartments to be constructed in phases as specified below:
 - a. Phase 1: 120 unit building on 6.818 acres and that's completed
 - b. Phase 2: 71 unit building on 4.254 acres, the proposed project
 - c. Phase 3: 70 unit building on 3.349 acres which is a future project
 - d. Phases 4 through 7: 260 total units within two buildings on 9.207 acres, and that's also a future project.
6. Pursuant to the Conceptual Plan approval, the Developer shall provide to the Village a written commitment/restrictive covenant that all of the Senior Independent Living Apartment Units/Buildings within this development will remain as housing for seniors even after the WHEDA tax credits are all paid off. The applicant has prepared a Special Use Restrictions for the development that states that the units are for occupancy either (a)

solely by persons 62 years of age or older, or (b) by at least one person 55 years of age or older in each of the dwelling units. This is provided as Exhibit 2.

7. Notices were sent to adjacent property owners via regular mail on March 23, 2006 and notices were published in the *Kenosha News* on March 27 and April 3, 2006.
8. The petitioner was e-mailed a copy of this memo on April 7, 2006.
9. According to Article XVIII of the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials and information presented at the public hearing 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 a Conditional Use Permit.

What I'd like to do is continue the public hearing, and I believe the petitioner and developer is in the audience to talk about this project.

Mike Serpe:

This is a matter for public hearing. Is there anybody wishing to speak?

Corey Meyer:

Corey Meyer. I reside at Lawrence Parkway, Mukwanago. I'm one of the architects on the project. I'll walk you through it. Here's the proposed Prairie Villa Senior Center. The existing Senior Center is directly north of it. This is the proposed. This is 96th Avenue which is a new private road, as well as 81st Street. The main entrance is right off of 81st Street with a turnaround. There's some parking for drop off and guests. The main parking lot is in the back for tenants and guests. It's fully landscaped and irrigated. The elevation the majority of it is going to be a red brick with hardy plank cement board siding in the Navajo white color with, again, I think Jean mentioned three dimensional shingles throughout. Questions?

Mike Serpe:

If we have any other questions we'll call you back up. Thank you. Anybody else wishing to speak? Anybody else wishing to speak? We'll close the public hearing and open it up to comments and questions by Commissioners.

Wayne Koessler:

Through the Chair through staff. Just for clarification on the WHEDA tax credits for 15 years could you explain that?

Jean Werbie:

I'd like to have the developer come up. I can explain it but I'm going to have Ajay explain that for you.

Ajay Kuttemperoor:

Under the WHEDA tax--this project is going to be financed through the WHEDA Affordable Housing Tax Credit Program, wherein the project was awarded certain allocation of tax credits which get paid out to us over a period of ten years. Based on those tax credits, we have a restriction that stays in place over the development that requires a project to remain strictly for senior housing and to control the rents that we're able to charge for that 15 year time period. And the promise that we have made to the Village is that once that 15 year time period has expired we will record a separate restriction above and beyond that so that the facility remains strictly for senior housing after that 15 year time period.

Wayne Koessl:

Just one more point. Does that lessen any of your real estate taxes during that period or no?

Ajay Kuttemperoor:

During the additional 15 year period?

Wayne Koessl:

Yes, the property taxes.

Ajay Kuttemperoor:

The property taxes, there is a lower property tax because of the fact that it is a restricted income and the rents that we're able to charge are restricted so that the property taxes that we pay are lower.

Wayne Koessl:

Okay, thank you.

John Braig:

Thank you. Have we had any problems with the Phase 1 of this in any way?

Jean Werbie:

Not to my knowledge.

John Braig:

Not aware of any complaints or any problems?

Jean Werbie:

No.

John Braig:

Thank you.

Jim Bandura:

How do you handle grandma's watching the grandkids? What's your policy on that?

Ajay Kuttemperoor:

As far as them watching the grandkids?

Jim Bandura:

Yeah, or having them stay overnight.

Ajay Kuttemperoor:

We actually have in our lease it's stated in there that our residents can have guests but they can't stay I believe it's no more than a two week time period, and then anything that goes beyond that they have to get special permission from our managers. But they can't have a live in niece or nephew or anything.

Jim Bandura:

Are you going to have one manager for both buildings?

Ajay Kuttemperoor:

At this point it looks like we might. We will share managers between the two facilities. The existing facility as you know is fully occupied, so most of their managerial duties will shift over to the second phase, but they will be shared between the two facilities.

Jim Bandura:

Because I know Maryann and Andy they do a bang up job over there keeping everybody in line. So that might be tough for them to keep an eye on everybody.

Ajay Kuttemperoor:

We'll gauge that as we start leasing up. If we find that we need another manager we'll do that.

Larry Zarletti:

Mr. Chairman, I'd move approval subject to the terms and condition outlined by staff.

Jim Bandura:

Second.

Mike Serpe:

MOTION MADE BY LARRY ZARLETTI AND SECONDED BY JIM BANDURA FOR APPROVAL OF THE CONDITIONAL USE PERMIT SUBJECT TO THE STAFF COMMENTS OR TERMS AND CONDITIONS. JEAN, YOU HAVE TO READ THIS BEFORE WE TAKE A VOTE?

Jean Werbie:

Yes, I need to read part of this. Village Staff Conclusions and Recommendation: The Village staff has determined that based upon the foregoing information presented in the application and at the public hearing that the project meets the following standards for granting a Conditional Use Permit in that the project:

- < does not impede the traffic patterns on the site or cause traffic congestion or traffic circulation problems and the traffic patterns on the site do not hinder, harm or distract the provisions of public services;
- < does not impair an adequate supply of light and air to the adjacent properties;
- < does not increase danger of fire;
- < does not create storm water flooding or drainage, create obnoxious odors, problems or otherwise endanger the public health, safety or welfare;
- < has no existing identified hazard, danger, harm or offensiveness or nuisance;
- < the proposed and applied for use on this particular parcel is not inherently inconsistent with either the R-11 District or the Planned Unit Development District; or the abutting Zoning Districts within the residential neighborhood; and
- < the proposed and applied for use will comply with all applicable Village ordinance requirements and all other applicable federal, state or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, storm water management, streets and highways and fire protection.

So based on the foregoing information, the staff recommends that if the Plan Commission has made the determination that it's met these findings, that the conditional use permit as specified above shall be approved subject to the following conditions. I just wanted to make one modification to number 7. We're recommending that it be modified to read as follows: The developer shall provide adequate transportation for the residents of the Senior Independent Living Apartment Buildings, for weekly trips to the grocery store, as well as paying the Village for any actual cost for regular mass transit services. That was something that had come up in the past with respect to being able to provide transit service for the seniors in this particular area. They have agreed to that. So subject to that change and all the other comments and conditions the staff recommends approval.

Mike Serpe:

There's a motion and seconded for approval. All those in favor say aye.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it. I had an opportunity tour that a few weeks ago and what an asset to Pleasant Prairie. Very, very nice.

Ajay Kuttemperoor:

Thank you.

Mike Serpe:

You should be commended for that. The people are extremely happy. The management, as Jim said, out of their way to cater to these people. It's really good.

Ajay Kuttemperoor:

And we constantly get asked about when we're going to start the second phase so I know there is a lot of demand for this facility. We're excited to get it started.

Mike Serpe:

I can see why. It's definitely an asset to this Village. Thanks.

B. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of Ajay Kuttemperoor, agent for Prairie Villa Limited Partnership owner of the property generally located west of 94th Avenue and north of 97th Court in Prairie Ridge Development to rezone the property for the proposed Prairie Villa Senior Apartments from the R-11 (UHO), Multi-Family Residential District with an Urban Landholding Overlay District to the R-11 (PUD), Multi-Family Residential District with a Planned Unit Overlay District.

C. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT for the request of Ajay Kuttemperoor, agent for Prairie Villa Limited Partnership owner of the property generally located west of 94th Avenue and north of 97th Court in Prairie Ridge Development to create the specific PUD Ordinance requirements for the proposed Prairie Villa Senior Apartments pursuant to Chapter 420-137 of the Village Zoning Ordinance.

Jean Werbie:

Trustee Serpe and members of the Plan Commission, the petitioner is requesting approval of a zoning map and zoning text amendment to rezone the property generally located west of 94th Avenue and north of 97th Court in Prairie Ridge Development. Specifically, they're requesting to rezone the property for the proposed Prairie Villa Senior Apartments from the R-11 (UHO) to R-11 (PUD). A zoning text amendment to create the specific PUD requirements for the proposed

Prairie Villa Senior Apartments pursuant to Chapter 420-137 of the Village Zoning Ordinance will be considered.

As part of some background information, on May 17, 2004, the Village Board conditionally approved a Conceptual Plan for the Prairie Ridge Senior Campus including a total of 521 senior apartments. Phase 1 is a 120 unit building, phase 2 is a 71 unit building which is on the agenda this evening, phase 3 is a 70 unit building and phases 4 through 7 would be 260 total units within two buildings.

The Conceptual Plan was a refinement of the Master Conceptual Plan that was conditionally approved by the Village on January 20, 2003.

On November 1, 2004, the Village Board approved a Mass Grading Interim Development Agreement for the developer to begin mass grading the development area including the condominium and the senior housing areas.

On May 17, 2004, the Board granted a variance from Section 395-66 of the Land Division and Development Control Ordinance to allow for the mass grading to commence prior to approval of a Certified Survey Map for Arbor Ridge Condominiums and Prairie Ridge Senior Campus and the Final Condominium Plat of Arbor Ridge Development.

On January 17, 2005, the Village Board approved a Certified Survey Map and Development Agreement and related documents and to create four parcels generally located south and west of Prairie Ridge Boulevard and 94th Avenue in this development for the condominium and senior housing development.

On January 17, 2005 the Village Board approved Ord. #05-06 that rezoned this property into the R-11 (UHO), Multifamily Residential District with an Urban Landholding Overlay District. As discussed with the conditionally approved Conceptual Plan and this zoning map amendment the senior housing would be developed as a Planned Unit Development. Developing as a PUD will allow for more flexibility with some dimensional requirements of the Village Zoning Ordinance provided there is a defined benefit to the community.

Under the zoning map and text amendment, at this time the petitioner is requesting to amend the zoning map and create the specific PUD regulations for this development so that permits can be submitted and construction can commence.

Prairie Ridge Senior Campus Phase II will be built and owned by Prairie Villa Limited Partnership to be known as Prairie Villa Senior Apartments. This project will be a multifamily senior independent living facility located within the Prairie Ridge Development.

The building will consist of a three-story 71-unit apartment complex with 50 underground parking stalls.

On site staffing will be minimal, and will consist of a leasing/marketing agent, a receptionist, a social director and a manager and maintenance/cleaning personnel. As mentioned previously, the leasing/marketing agent, social director and maintenance/cleaning personnel will be shared with the existing Prairie Ridge Senior Campus. The building will have one common/main entrance with a security locked door and intercom system so that the resident may monitor any visitors. A variety of common areas and amenities for the exclusive use of its residents will include:

- a. A community dining rooms;
- b. Coin operated laundry rooms on every floor;
- c. A library/computer room;
- d. Movie and exercise room;
- e. Craft and game room;
- f. Styling salon;
- g. Chapel;
- h. Morning check-in system;
- i. Emergency pull cord system;
- j. Timed security locked entrance doors;
- k. Storage lockers;
- l. Car wash bay in the garage; and
- m. Balconies or patios.

In addition, the activity director will offer a variety of social, recreational and cultural events that will enhance each resident's lifestyle. Such activities may include weekly trips to the grocery store, theme parties, live entertainment and movies, bingo and card clubs, resident public dinners and much more.

Individual apartment amenities will include individual gas forced air heat, individual central air conditioning, walk-in closets, balconies or patios, quality appliances, and 15 units will be designed as accessible for handicapped residents.

This is a matter for public hearing. Again, we've got a hearing for both the zoning map and the zoning text amendment on the project this evening.

Mike Serpe:

Before I open up for public comment, let the record reflect that Commission Hackbarth has joined us. This is a matter for public hearing. Anybody wishing to speak? Anybody wishing to speak? Anybody wishing to speak? We'll close the public hearing and open it up to comments.

Don Hackbarth:

Move approval.

Jim Bandura:

Second.

Mike Serpe:

We're going to take one at a time. This is for Item B?

Don Hackbarth:

Yes.

Mike Serpe:

FOR ITEM B MOTION MADE BY DON HACKBARTH AND SECONDED BY JIM BANDURA FOR APPROVAL OF THE ZONING MAP AMENDMENT. ON THE QUESTION.

Jean Werbie:

I just wanted to add that for the zoning map text amendment conditions the same condition that I had mentioned previously with respect to the transit service that I had outlined in the conditional use would need to apply to these conditions.

Mike Serpe:

Same condition applies and the petitioner understands that. All those in favor say aye.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it. Item C?

Wayne Koessl:

Mr. Chairman, I move we approve the zoning text amendment as presented subject to providing the Village with the following documents as outlined in their staff report. And this applies to the same conditions as the other one, Jean?

Jean Werbie:

Yes.

Larry Zarletti:

Second.

Mike Serpe:

MOTION MADE BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI FOR APPROVAL OF ITEM C, THE ZONING TEXT AMENDMENT. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

D. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of Larry and Patricia Day to rezone the property located at 4110 93rd Street from R-2, Urban Single Family Residential District to R-4, Urban Single Family Residential District.

Jean Werbie:

Mr. Serpe, I would ask that Item D and Item E be taken up at the same time since the zoning map and the certified survey map are linked together.

Wayne Koessl:

So moved.

Larry Zarletti:

Second.

Mike Serpe:

MOTION MADE BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO INCLUDE ITEM E AS WELL. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

E. Consider the request of Larry and Patricia Day for a Certified Survey Map to subdivide the property located at 4110 93rd Street into two parcels.

Jean Werbie:

Trustee Serpe and members of the Plan Commission, the petitioners are requesting to rezone the property located at 4110 93rd Street from the R-2, Urban Single Family Residential District, to R-4, Urban Single Family Residential District, so that the property can be subdivided into two parcels.

Under the zoning map amendment, the property is currently zoned R-2, Urban single family Residential District which requires lots be a minimum of 40,000 square feet with a minimum of 150 feet of frontage on a public road. The R-4, District requires lots to be a minimum of 15,000 square feet with a minimum of 90 feet of frontage on a public road.

The properties to the north are zoned R-10 (PUD), Multi-family Residential District with a Planned Unit Development that is for the Prairie Village Condominiums; the properties to the west are zoned R-4, Urban Single Family Residential District; the properties to the south are zoned R-3, Urban Single Family Residential District for the Meadowdale Estates and R-2, Urban Single Family Residential District, which is just east of Meadowdale Estates; and the land to the east is zoned R-2, Urban Single Family Residential District.

The proposed zoning map amendment complies with the Village Comprehensive Plan and is not inconsistent with the adjacent residential zoned properties.

For the certified survey map, the purpose for the zoning map amendment, again, the property is located at 4110 93rd Street. They're requesting to subdivide it into two parcels.

- Lot I is proposed to be 42,401 square feet with 126.65 feet of frontage on 93rd Street. Lot I has an existing home that is proposed to be 15.2 feet from the eastern lot line.
- Lot II is proposed to be 35,153 square feet with 105 feet of frontage on 93rd Street. Lot II is would be vacant.

Additional right-of-way is proposed to be dedicated on 93rd Street for the future widening and no additional easements are required by We Energies.

This is a matter for public hearing. The only other thing I wanted to comment on is for any new parcels that are created when the building permit is pulled is that impact fees would be due and payable at the time of the building permit. With that, the staff recommends that we continue the public hearing.

Mike Serpe:

This is a matter for public hearing. Anybody wishing to speak? Anybody wishing to speak? Anybody wishing to speak? We'll close the public hearing and open it up to comment.

Don Hackbarth:

What about 42nd Avenue? Is that still supposed to go through there?

Jean Werbie:

42nd Avenue exists currently. This is east of 42nd Avenue.

John Braig:

We've had a number of requests to subdivide properties, and I'm curious is there a threshold at which point subdivision of lands require a hydrolic study as the storm water, water retention, water runoff and so on?

Mike Pollocoff:

If it's more than an acre. This area was designed in the Barnes Creek basin plan where we constructed the storm water diversion structure at St. Joe's Home, so this was part of our original master planned area, but anything more than an acre you'll have to come up with-

John Braig:

You're saying anything more than an acre would require an engineering study.

Mike Pollocoff:

Right.

John Braig:

Thank you. With that I would move approval.

Jim Bandura:

Second.

Mike Serpe:

MOTION BY JOHN BRAIG AND SECOND BY JIM BANDURA FOR APPROVAL OF THE ZONING MAP AMENDMENT. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it. Item E, certified survey map?

Wayne Koessl:

So move approval.

John Braig:

Second.

Mike Serpe:

MOTION BY WAYNE KOESSL AND SECOND BY JOHN BRAIG FOR APPROVAL OF THE CERTIFIED SURVEY MAP. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

F. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT for the request of Scott Simon, agent for Village Green Condos LLC for the property generally located north of STH 165 (104th Street) and east of 47th Avenue known as the Sagewood Condominiums at Village Green for an amendment to Conditional Use Grant Document #05-08 to allow a temporary sales and selection trailer to be placed on the property where Building 2 is proposed to be constructed.

Jean Werbie:

Trustee Serpe and members of the Commission, 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 to amend Conditional Use Permit #05-08 as approved by the Plan Commission on September 26, 2005 to allow for a temporary sales and selection trailer to be placed on the property where Building 2 of the Sagewood Condominiums is proposed to be constructed until Building 9 is completed. The Building is proposed to be used for the model sales building and the garages of Units 1 and 3 in Building 9 and would be used as the sales and selection center. This is provided as Exhibits 1 and 2.
2. The current zoning of the property is R-9 (PUD), Multi-Family Residential District with a Planned Unit Development Overlay.
3. 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. Pursuant to the application the temporary sales center will be in place until such time that occupancy is granted for Building 9 or approximately 12 months. The temporary sales center will include space for real estate sales agents, customers, and interior design consultants to discuss contract specifics and aid customers in making color and material selections. The trailer is propose to be placed on a gravel pad as shown in the application

and the gravel area will allow for up to four vehicles in front of the temporary trailer and two behind the temporary trailer. In addition, when Building 9 is complete the sales and selection center will be relocated into the garages of units 1 and 3.

5. Pursuant to the application, the hours of operation are proposed to be Monday thru Saturday between 7:00 a.m. and 6:00 p.m. and Sundays between 10:00 a.m. and 4:00 p.m. The sales center will not be open past 9:00 pm.
6. Pursuant to the application it is anticipated that the sales center will remain open for occasional use by the Construction Superintendent and for project team meetings.
7. Notices were sent to adjacent property owners via regular mail on March 22, 2006 and notices were published in the *Kenosha News* on March 27 and April 3, 2006.
8. The petitioner was e-mailed a copy of this memo on April 7, 2006.
9. According to Article XVIII of the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials and information presented at the public hearing that the project as planned, will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting of a Conditional Use Permit.

With that, I'd like to continue the public hearing and the petitioner is in the audience if the Plan Commission has any further questions.

Mike Serpe:

This is a matter for public hearing. Anybody wishing to speak? Anybody wishing to speak? Anybody wishing to speak? We'll close the public hearing and open it up to comments by Commissioners.

John Braig:

What utilities are going to be provided to this temporary trailer?

Jean Werbie:

Sanitary sewer and public water and electricity.

John Braig:

I'm a little bit concerned. I don't see a definite termination or ending date for this thing. It says when the marketing center is occupied. If that marketing center is never completed or occupied as a marketing center this trailer can stay there indefinitely by the way I read these words.

Mike Serpe:

Do you want to answer that?

Craig Donze:

Sure, Craig Donze with the Simon Group. The trailer is intended--there are two trailers. One is a sales center as shown and the other is a construction trailer. The sales center required the conditional use permit. Building 9 will be used as a model center for us. That building has been issued a building permit currently and construction is underway with the actual excavation activities occurring next Monday. We anticipate completion of that building not greater than 12 months from today.

Jean Werbie:

And then to add to that one of the conditions that we stated is that within 30 days of their occupancy of building 9 the temporary sales trailer shall be removed.

John Braig:

Could you define occupancy of building 9 more specifically? I mean the first tenant in building 9?

Jean Werbie:

No, no.

John Braig:

Or the marketing center?

Craig Donze:

The issuance of occupancy permit is what I understand.

Jean Werbie:

Verbal to occupy subject to some minor conditions as long as they're not health or safety related, and before the public can enter the building for the sales and marketing.

John Braig:

This is a verbal permit for any kind of occupancy whether it's the marketing center or one of the residential units?

Craig Donze:

Right. The Village of Pleasant Prairie issues those verbal occupancies at the completion of the building. In other communities some of them are formal occupancy permits. In this community it's a verbal to occupy.

John Braig:

What I'm driving at is removal of the trailers is contingent on occupancy of the marketing center. There is no assurance that the marketing center is going to be established. Yes, we have it

verbally, but in the event he looks at it and says the trailer is working well enough and why spend the additional money with a marketing center and we'll just stay with what we've got. That's what I'm trying to avoid. So I think what we've got would be acceptable but I would like to put a one year limit on it, period, not to exceed one year in use or occupancy.

Craig Donze:

Would 15 months be acceptable just to ensure that we--we're expecting a year's construction time. It is the first building. There may be bugs that come up and we were expecting a month to remove it. If we could extend that to 15 months I'd appreciate it.

John Braig:

I'd have no problem with that. I just would like something finite.

Jean Werbie:

We should either set an exact date or 15 months from today's date.

Mike Serpe:

Today is fine.

Jean Werbie:

Okay.

Mike Serpe:

Anybody else?

Don Hackbarth:

Move approval.

Mike Serpe:

Is there a second?

John Braig:

I'll second it.

Mike Serpe:

MOTION MADE BY DON HACKBARTH AND SECONDED BY JOHN BRAIG FOR THE CONDITIONAL USE PERMIT.

Jean Werbie:

Trustee Serpe, I have to read this. The Village staff has determined that based upon the foregoing information presented in the application and at the public hearing that the project meets the following standards for granting a Conditional Use Permit in that the project:

- < does not impede the traffic patterns on the site or cause traffic congestion or traffic circulation problems;
- < does not impair an adequate supply of light and air to the adjacent properties;
- < does not increase danger of fire;
- < does not create storm water flooding or drainage problems;
- < has no existing identified hazard, danger, harm, noxiousness or offensiveness, that would endanger the public's health, safety or welfare;
- < the proposed and applied for use on this particular parcel is not inherently inconsistent with either the R-9, Multiple Family Residential District; PUD, Planned Unit Development Overlay District; or the adjoining Zoning Districts or the residential neighborhood; and
- < the proposed and applied for use will comply with all applicable federal, State and local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, storm water management, streets and highways and fire protection.

Based on the foregoing information, the staff recommends that if the Plan Commission determines that the petitioner has met the specific standards for the Conditional Use Permit as specified above, then the approval shall be made subject to the following conditions with a modification to 5.d.i which states that the temporary sales trailer shall be removed from the property no later than 15 months from today's date, whether or not the marketing and sales center is occupied within building 9.

Mike Serpe:

WE HAVE A MOTION BY DON HACKBARTH AND A SECOND BY JOHN BRAIG TO APPROVE THE CONDITIONAL USE PERMIT AND RELATED FINDINGS AND CONCLUSIONS AS SET FORTH IN THE STAFF MEMORANDUM. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

G. Consider the request of Craig Donze of Simon Group Ltd., to consider whether the two (2) remaining detached garage buildings are required to be built within the Meadowland Villa Condominiums generally located at the northeast corner of Old Green Bay Road and 102nd Street.

Jean Werbie:

Trustee Serpe and members of the Plan Commission, the Village received a letter on January 3, 2006 from Craig Donze, PE, the Engineer and Project Manager with the Simon Group, Ltd., requesting to not construct the remaining two garage structures and to sell the remaining 17 unsold stalls in garages 1, 2 and 3 to existing unit owners prior to the transfer of the condominium owners association to the unit owners. This is within the Meadowland Villa Condominium area or plat. The Simon Group has currently constructed four of the six stand alone garage structures. It is the desire that the condominium owners association retain the ability to construct either one or two of the remaining garage structures at some future date.

On October 8, 2001, the Village approved the Site and Operational Plans for the Meadowland Apartments, and on November 17, 2003, the Village Board approved the Final Condominium Plat, Resolution #03-51, to convert the apartments to condominiums. It's now known as the Meadowland Villa Condominiums and approved Planned Unit Development Ordinance, Ordinance 03-46 on November 17, 2003.

Pursuant to the Village Zoning Ordinance this development is required to meet the following minimum parking requirements:

- Multifamily dwellings, 1 bedroom, they're required to have 1.5 spaces for each dwelling unit; 50% of the spaces shall be within an enclosed garage structure; plus 1 space for every 8 units for guest parking.
- Multifamily dwellings for 2 bedrooms, 2 spaces for each dwelling unit; 75% of the spaces shall be within an enclosed garage structure; plus 1 space for every 8 units for guest parking.
- Community center/recreation center, 1 space per 250 square feet of gross floor area or 1 space per 4 patrons to the maximum capacity, plus 1 space per employee on the largest shift.

Pursuant to the Site and Operational Plan approval, there shall be no parking of vehicles any of the private roadway areas. If additional parking is needed, additional spaces would need to be created internal to the roadway areas upon approval of revised Site and Operational Plans, and that's a recommendation that comes directly from the Fire Chief.

Pursuant to the petitioner, 21 of the 40 completed detached garage spaces have been sold with an average price of \$8,000 with each 10 stall detached garage costing approximately \$60,000 to construct.

The Ordinance requires 270 parking spaces for the Development with 165 to be enclosed and 6 to be handicapped accessible spaces. The number of parking spaces constructed to date and the number of parking spaces proposed will include 358 parking spaces for the Development with

168 enclosed spaces and 8 handicapped spaces. These are all shown on the attached chart on the screen as well as in your packets.

What the staff is looking for is some direction from the Plan Commission. The petitioner is here along with his agent to make this request to the Plan Commission to, again, modify the provisions so as to not construct those additional garage spaces as they felt that they're not needed and it's very difficult for them to sell them to the existing owners within the Meadowland Villa Condominiums. The one condition that we placed on the condominium development is they cannot sell these garage units outside to someone who is not living within the facility. So they can't just rent them out like a mini storage or mini garage facility as a commercial venture. They have to be owned or occupied or leased by someone who is within that facility.

With that the petitioner is in the audience. I'm not sure if he'd like to address the Plan Commission. We would need to if the Plan Commission is going to listen to Mr. Donze and Mr. Simon, if you're looking at having the move forward with the request they will have to come forth with a formal amendment to the planned unit development as a text amendment to go before the Plan Commission and the Board.

Mike Serpe:

Craig, why don't you just come forward. I think we'll be asking you some questions and you can be ready. If could, Jean, right now they have more than ample parking for the development that's already in place?

Jean Werbie:

Correct.

Mike Serpe:

And the plan called for these two additional garages when we approved this thing a couple or three years ago?

Jean Werbie:

Correct.

Mike Serpe:

So we can either amend the plan to eliminate the garages, or could we possibly put this on hold for a couple years and see where the market may go? Or, could we not have them build a garage and create open space parking in that area instead of just—

Jean Werbie:

I think you will have ultimately flexibility to do a number of things. I think that their concern, though, is that they would like to turn over the project to the condominium association. And once they do that then the responsibility and/or financial liability will not any longer be Mr. Simons

but it will be transferred to the association if, in fact, they would like to get those additional garages. But maybe if Craig can explain a little bit further.

Craig Donze:

That's exactly the concern. If the project was approved with those six 10-unit buildings, we have built 40 of them and we have sold 20. So we have 20 unsold of the 40 constructed and we have another 20 to build. There's less than 20 units remaining within the development. So the concern is we have been using them as marketing centers primarily and giving them away as an incentive or a price discount or perceived discount to units in order to get a slow moving unit to sell. So what we're simply asking is that we not construct them, but at the same time if the condo association at some future date has the desire to come back and build additional garages, that they still have that flexibility that was in that original plat that they're currently entitled to.

We believe what we've found different from the practical use of the facility versus what may have been perceived at plan was we've found a lot of residents parking a second vehicle immediately in front of their garage door. From the private streets to the garage door in all cases is greater than 20 feet. That's more than half a length for a car. So I think where it was perceived that a lot of these residents would put a second vehicle in a garage stall physically in close proximity to their unit that's not turning out to be a reality. They're parking that car in an open air stall immediately in front of their unit, not in a surface parking facility that's adjacent to their building but actually in front of their garage door.

Don Hackbarth:

Who's financial responsibility now is it to build it?

Craig Donze:

Currently it's PJC Investments which is the owner of the property.

Don Hackbarth:

And when one is sold you sell it and get the return on it or what?

Craig Donze:

That's is correct.

Don Hackbarth:

So now the financial responsibility would be the homeowners association, and if somebody chose to purchase a garage the money would go to the association?

Craig Donze:

That is correct.

John Braig:

I hate to impose a burden on the developer or builder to build the additional garages, but a concern I have is once this project is fully built out and all the garages are sold if a number of people wanted a garage, and of course this would necessitate building one, the other residents in this development that have their garage or have their parking needs satisfied might object to the construction of another building which would detract from the beauty of the area or the natural scenery.

To get around this I would suggest that within the condo association rules if somehow you could develop a requirement that if ten people requested that a garage be construction the association would be obligated to go ahead with it. As it stands now, you could have ten people wanting garages and 11 people saying no and the association in all likelihood would be powerless to act. It's something to think about.

Mike Pollocoff:

I think that one of the policy considerations that the Plan Commission needs to think about is the deliberate nature in which the Village evaluates a proposed plat. Whether it's a single family residential plat or a condominium plat, that plat is approved and everybody going forward operates on some reliance of the fact that that plat is going to be intact and take place. My concern on this is that the Plan Commission and the Village established a precedence where the plat becomes negotiable later on down the road.

There's a provision for dealing with this, and that's only final platting exactly what you're sure you want to build or develop out. And when you go beyond that, then there is a statutory method to unwind a plat, but I think to negotiate out items that were approved in a plat where people have operated on reliance of the fact that that plat would be in place, because that's the document that creates the parcels for the Village, that's the final document, that's a major step in my mind and it's a major policy change on behalf of the Village to say that a plat part way through the development can be modified and the financial requirements placed on an unknown as of yet other part to perform and given the opportunity to perform, and then in dealing with that entities ability to perform.

Right now when we do a plat with somebody we have a contract with them. We make sure their contractors are qualified. There's a bond. There's a fairly extensive drill that takes place to make sure that someone who is going to construct a plat in the Village is able to perform and meet the requirements of the Village. The Plan Commission would be deferring that to an unknown entity at a future time. If that was just a vacant piece of land that hadn't been platted that's not a problem because they're going to go through that process. But if the plat has already been created that's a significantly different policy than what you've done to date.

Mike Serpe:

Mike, I have a question. When the plat was approved it called for all these things but how did we end up with a surplus of parking places and garages now? How did that happen?

Jean Werbie:

The Village ordinance does not account for parking spaces behind each individual garage. While people may park there, we ran into a real problem in some of our other apartment projects and condo projects because when there were multiple people living in a condo and they didn't like

one car being parked behind the other they all started parking on the streets because parking behind the garage unit blocked somebody in. So as a result, there was a modification made a number of years ago to the zoning ordinance that said we're not counting those spaces. So they decided that they would accommodate and create, again, based on our requirements and because of the way the buildings are spaced out there, they would accommodate each area with covered parking as well as surface parking in conformance with our ordinance. But what they're finding is--I'm not sure how many one bedrooms or two bedrooms they have, but what they're finding is people don't want to pay the extra amount. If they're just making a price point, they don't want to pay that extra amount for another garage or second garage.

My only concern is that this whole north end has no covered parking. If no garages are built there will be none up there. I'm not sure how far they are with their purchasing or leasing of units in that particular area, but what it sounds like is they're not finding that there's a great demand today for additional covered parking.

Mike Serpe:

And that's a good statement, it's about today. But I wish we had a crystal ball that we could see in the future what the demand is going to be three or four years from now. Maybe those garages would be sold. I don't know.

John Braig:

When a garage unit is sold, obviously it's a real estate transaction. Is there any increase in the monthly association fees to those unit holders that also own a garage.

Craig Donze:

No. And what we're finding is actually the sale of them is irrelevant of price. We're finding that it's really a convenience issue. That they're choosing to park a second vehicle outside in front of their unit before they walk across the street to occupy a garage. On the current site plan there are no units left in building 7 which is the far northwest building. There are four units left in building 8, and I believe there are 12 units left in building 9.

John Braig:

I assume all garages are equipped with door openers?

Craig Donze:

That is correct. Both the attached units that are part of the unit as well as the stalled garages.

Don Hackbarth:

So in other words what we're saying here, this is my question, too, you perceive the reason they're not purchasing is because of cost? They'd rather just let their car sit outside?

Craig Donze:

I actually think it's proximity. And actually what we're asking for guidance on is that we have to turn this association over within the next 12 months. We have to. We won't own any more units and, therefore, we can't be involved in the association. It will get turned over. We're not asking to amend the plat to remove them from the plat. We're just asking for clarification on how the Village wants to proceed with those particular garages. We wish for the association to have the ability in 20 years if they want to come back and hire a contractor to build out those garages. We feel that that's something they're entitled to if at that time there's demand for them. But in the meantime we've got a situation that we need to deal with and that's the fact that we have to pass over the association.

We have constructed unsold units that are going to be given to the association. It will be up to the association to divvy those out. They can't be used for storage purposes. They have to be given to unit owners within the development. They can't be sold for a profit purpose. And then we also have the issue of we have these two unbuilt garages that once we hand over the association we had an obligation via the approval process to construct the improvements that were platted with no longer having a financial interest in the project.

Don Hackbarth:

So when it's turned over to the association you wouldn't be able to recoup the money out of selling the garages, it would go to the association? Is that what you're saying?

Craig Donze:

That's correct. They would be gifted essentially to the association. They would be transferred at a zero value to the association, and the association would have to designate unit owners to receive them. There are 20 of those currently that would fall under that stipulation.

Don Hackbarth:

I understand what Mike is saying. I personally would like to see you build them, but if that's a thing when it gets turned over I think there may be an obligation that even though if it's turned over they're not freebies, that you should still recoup your money out of it.

Craig Donze:

Right. That's really what's caused this situation. We've tried to postpone it off. We've been giving them away, but the number of units remaining is greater than the number of garage stalls that are supposed to be built.

Don Hackbarth:

Is there any way we can modify the covenant or stipulate in the covenant that if a garage is sold they can still recoup their money because that's not fair either.

Jean Werbie:

I guess I don't know that the Village should get involved in some type of financial transaction like that.

Don Hackbarth:

We're caught between two rocks here. They have the right to recoup their money out of it. We can't demand that they--

Craig Donze:

And that's why we felt that really not constructing them but preserving their entitled basis for future was probably the most palatable solution to all.

Don Hackbarth:

The other thing, too, is if we leave it up to the association to at sometime in the future build their own garages, it may not be the same quality or the same direction that we want to go.

Craig Donze:

They still go through the building permit process. It's still an inspected facility and they still have materials requirements that were as part of the planned unit development approval so they would be generally the same in appearance, and I feel strongly that they would be built to an acceptable standard because the inspection department here is so strong. That's not really a concern that we had.

John Braig:

A couple more perspectives on this. The developer's approached this project with the idea of making a profit. With any venture you hope to make a profit and sometimes you have to accept a loss. In one way of thinking it's as though he's trying to avoid I wouldn't say a loss but a reduction in profit and he's asking us to approve it. In that light I almost find that objectionable. Certainly if he made significant profit on this he wouldn't be willing to share it with us. I see this as almost asking us to share in his loss or shortcoming.

But I'm not arguing for that so much as it still bothers me I don't like the idea of building something that's not required, and yet this project is still relatively new. We don't know how long it will take for it to be completely sold out. And after people have been there for a while and own their facility would the need for the garage develop at a later time? I hate to admit it I lived in my house for 35 years and right now I would love to have a ten car garage.

Larry Zarletti:

Have you talked to the association about this?

Craig Donze:

At this time we are the association.

Larry Zarletti:

So when you talk about turning it over to--

Craig Donze:

Board members will be elected to fill those positions. To date we've had considerably difficulty in getting unit owners to set up as an association officer. So at this time we still maintain the officer positions.

Larry Zarletti:

I know you said you had about a year, but if there was some time put between our decision making do you think that would give you an opportunity to maybe come to some little more reasonable or palatable decision with who may be the association?

Craig Donze:

I think that's always a possibility. Really we're talking about 29 stalls to be sold yet out of 60. And we've got under 20 units to sell.

Wayne Koessl:

Mr. Chairman, can you refresh my memory on how many vacant ones you have left now that you want to transfer or give to the people?

Craig Donze:

How many unsold garages?

Wayne Koessl:

Yes.

Craig Donze:

There are 9 currently constructed unsold stalls. And there are 20 stalls yet to be constructed.

Wayne Koessl:

I just can't see constructing additional garages. Vacant buildings are always problems. You always end up with troubles and problems with them. I just think we could work on an agreement where the association could build them at a later date. Now, the only problem is how do we define when their need is ready to build them.

Mike Serpe:

One other fear that I would have if we were to force the construction of those garages at some point and they're not going to be used would they end up as storage units being controlled by the homeowners association.

Wayne Koessl:

That's why I don't like vacant garages.

Mike Serpe:

I think we'd be forcing them into that.

Craig Donze:

The other side of that is, as with any structure, it requires maintenance and upkeep and these buildings do have a life to them. To be constructed early would start into that deterioration phase and require additional maintenance by the association for things such as roofing, soffit.

Jean Werbie:

Trustee Serpe and members of the Plan Commission, this discussion I think has been very helpful for the developer as well as the staff. Since this is not a public hearing item this evening, what I'm going to recommend is that the staff sit down with the developer and come back for a public hearing to consider amendment of the plat or not, depending on what the Plan Commission and the Board decide to do, but we do have to deal with both the ordinance as well as an amendment of the plat if that's the direction. So before the Plan Commission or anyone renders any type of decision this evening, again, it was just to get some feedback from the Plan Commission this evening and to bring it back at a later date with a recommendation. So I guess what I'm saying is this isn't completed this evening, but your feedback I think has been very valuable to the staff and to the developer. And if they choose to pursue the modification of the plat and the ordinance, they will bring it back for an official public hearing before the Plan Commission and the Board.

Wayne Koessl:

Just so I'm heard once more, I don't think they should build them if something can be worked out. I can't see a bunch of vacant buildings out there.

Mike Serpe:

And you're looking for a motion to table then, Jean?

Jean Werbie:

No, not to table. I don't need a motion. I just wanted to entertain some discussion for the developer's benefit and the developer can pursue whatever action they choose to do. If they decide to pursue a public hearing then we'll be back with the public hearing within about 30 days.

Don Hackbarth:

Mike has got a good point, though, too. We're caught between two rocks here. His comment to modify a plat and to have somebody come back and say, gee, it didn't work for us so let's change it that's not good either because then we're setting a precedent and who knows if VK is going to come in and say something. It's really a touch one. On the other hand, I don't think you should take the bite financially either. That's not fair either, so something has to be worked out.

Jim Bandura:

I do agree with Mr. Hackbarth. Doing something like this is always a risk and I kind of agree with Mike that for us to be put in this kind of position and to have it modified, it just doesn't set well with me. I do agree with Jean to have it hashed over again and see what we can come up with. I don't like the idea of those things probably turning into a storage unit. Like Commissioner Hackbarth says we're caught between two rocks here.

Mike Serpe:

I think you have plenty to work on.

Craig Donze:

Thank you.

H. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to Section 420-42 A (5) of the Village Zoning Ordinance related to Home Occupations for child or adult care.

Jean Werbie:

Trustee Serpe and members of the Plan Commission, this is a public hearing to consider a zoning text amendment to Section 420-42 A (5) of the Village Zoning Ordinance related to permitted Home Occupations for child or adult care. It's for a past practice for in-home daycares and the State standard to be eight or fewer children or dates rather than fewer than eight. There have been a few situations where there have been requests in the Village for home occupations for child and adult daycare, and the State licensing requirements indicate that for an in-home daycare it's eight or fewer, and the way the zoning ordinance is written it says fewer than eight. So it may be just a semantics issue, but this is a public hearing to make a correction to the zoning text as it relates to the number of children or adults in a home daycare for a home occupation. This is a matter for public hearing.

Mike Serpe:

This is a matter for public hearing. Anybody wishing to speak? Anybody wishing to speak? Anybody? We'll close the public hearing and open it up to comments and questions.

John Braig:

The section at the bottom of the page, line 5, child or adult care with fewer than eight children or adults, is that what we want, fewer than eight and not eight or less?

Jean Werbie:

It should read eight or less basically as opposed to fewer than eight. It's eight or fewer. So it should include eight and go down. It should not eliminate eight in a home daycare.

Jim Bandura:

Just a quick one. Jean, do you think there's a necessity for a time limit on home businesses here?

Jean Werbie:

No.

Don Hackbarth:

I'll bring it up again. Enforcement, enforcement how do you do that?

Jean Werbie:

The State of Wisconsin enforces licensing provisions with respect to in-home daycares.

Don Hackbarth:

I understand that. But I know darn well there are home centers that have more than eight kids.

Jean Werbie:

Not if they're licensed.

Mike Serpe:

Anything else?

Larry Zarletti:

Move approval.

Wayne Koessl:

I'll second it.

Mike Serpe:

MOTION MADE BY LARRY ZARLETTI AND SECONDED BY WAYNE KOESSL FOR APPROVAL OF THE ZONING TEXT AMENDMENT. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

I. Consider the request of Doris Smaniotto, owner, for a Certified Survey Map to subdivide the property located at 10835 39th Avenue into four parcels.

Jean Werbie:

Trustee Serpe and members of the Commission, the petitioner is requesting to subdivide the property located at 10835 39th Avenue into four parcels. This is a re-division of Lot 2 of CSM 1679. The property is currently zoned R-4, Urban Single Family Residential District, which requires lots to be a minimum of 15,000 square feet in area with a minimum of 90 feet of frontage on a public street.

Lot 1: Proposed to be 5.6 acres with 484.42 feet of frontage on 39th Avenue. The existing home and detached accessory structures on Lot 1 will remain.

Lots 2, 3 and 4: Each lot is proposed to be 20,714 square feet or 0.48 acres with 122 feet of frontage on 39th Avenue. Lot 4 is a corner lot and it will also have 169.98 feet of frontage on 107th Street.

Lots 2 and 3 will be required to share a driveway to CTH EZ. A 30 foot by 65 foot Driveway, Access and Maintenance Easement is located on Lot 3.

The driveway access for Lot 4 will be required to be obtained from 107th Street. The driveway shall be located a minimum of 150 feet from the centerline of 39th Avenue to the centerline of the driveway.

The owner's engineer has prepared a detailed Grading and Drainage Plan for the development of the site. Since the grading plan will not work unless the entire site is graded, the mass grading of the entire site including grading within the right-of-ways shall be completed and an as-built survey shall be submitted to the Village Engineering Department for review and approval prior to the issuance of any building permits on the lots.

Permits will be required from Kenosha County for any of the following work within the right-of-way of CTH EZ:

- Grading within the right-of-way of 39th Avenue;
- Driveways to 39th Avenue; and
- For any sewer/water connections to any new single family homes that will require disturbance of the 39th Avenue right-of-way.

The staff recommends approval of the certified survey map and related grading plans subject to the comments and conditions as outlined in the staff memorandum.

Mike Serpe:

A question for you, Jean. . On shared driveways is that–

Jean Werbie:

A requirement by Kenosha County to minimize the number of access points onto a County highway facility.

Mike Serpe:

But there's not a problem with the ability to get a driveway in between each lot but just make it as one for access point on 39th Avenue?

Jean Werbie:

The County does not want to see access easements split along the property lines. They'd rather have it come in solely on one property line and then split over to a second property off of the right of way.

Don Hackbarth:

I would like the Commission to realize and recognize that I live about a block off of 39th Avenue. I think that's the closest I'll ever live to EZ Street.

Mike Serpe:

Why don't you make a motion now?

Don Hackbarth:

I'll make the motion.

Jim Bandura:

I'll second.

Mike Serpe:

MOTION MADE BY DON HACKBARTH AND SECONDED BY JIM BANDURA FOR APPROVAL OF THE CERTIFIED SURVEY MAP. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

J. Consider Plan Commission Resolution #06-11 to initiate a zoning text amendment related to temporary uses in single family residential districts.

Jean Werbie:

Trustee Serpe and members of the Commission, Resolution 06-11, the Plan Commission may initiate a petition for an amendment of the zoning ordinance which may include the text in the ordinance. Pursuant to Section 18-35-A(4) related to the jurisdiction and powers of the Zoning Board of Appeals, the Board of Appeals shall hear and grant applications for temporary uses in any zoning district provided that such uses are of a temporary nature and are compatible with neighboring uses. The permit shall be temporary, revocable and subject to conditions required by the Zoning Board of Appeals and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of the zoning ordinance shall be required.

Section 420-22-A 5 is entitled Temporary Use Permit. “No person shall construct, place, move, enlarge, reconstruct, structurally alter or repair, or convert to a new use any building or structure, or any part of a building or structure, or occupy any land that requires a temporary use permit pursuant to this chapter unless a valid temporary use permit has been issued and such permit has neither expired nor been suspended or revoked.”

The Board of Appeals has granted the following temporary use permits to allow a property owner to construct a new single family home on a property but continue to reside in the existing home on the property during the first home’s construction, then upon completion of the new house the existing house was razed. As you can see in the resolution, there are a number of situations where temporary use permits have been granted by the Zoning Board of Appeals.

The situation and has been in the past, whenever there has been a variance or a temporary use permit that has been granted with of such a reoccurring nature that there is some direction that should be given from the Board of Appeals to the Plan Commission to consider an amendment to the zoning ordinance to allow such practice to either be permitted as a matter of rights subject to certain conditions, or to permit such temporary use permits that fall within certain categories as has been granted on a regular basis by the Village Zoning Board of Appeals. And so the Board of Appeals is asking the Village staff to prepare such an amendment to the zoning ordinance, and so they are requesting that the Plan Commission also direct the staff to do that so that there can be some provisions set forth in the zoning ordinance so that each time the situation comes up that it does not create an undue burden on the property owner that would like to basically raze an existing home on the property and rebuild a new home on that property. That’s the purpose of the resolution.

The Village Plan Commission’s adoption of this resolution tonight is not in any way a final approval of such an ordinance amendment, but it is basically setting for the provisions for the staff to investigate and to prepare a zoning text amendment for it to be brought back to the Plan Commission for a public hearing and consideration by the Plan Commission and the Village Board. The staff recommends approval of Resolution 06-11 as presented.

John Braig:

I’ve got a problem with one of the starred items. In no case shall the new house be located--oh, I beg your pardon. I accept it. I didn’t read it carefully. Located closer, and I thought the restriction was there couldn’t be any greater separation than ten feet. I’ve got no problem with it.

Jim Bandura:

Jean, I trust that if this should come to fruition you would remind us if the situation comes on before us? You’ll say that they’ve got a 60 day window to tear it down, am I correct?

Jean Werbie:

We would structure the amendment so that conditions would be set forth right within the ordinance so that there would be certain parameters that would need to be met by a particular property owner so they know that going into the project.

Jim Bandura:

With that I recommend approval.

Larry Zarletti:

Second.

Mike Serpe:

MOTION BY JIM BANDRUA, SECOND BY LARRY ZARLETTI FOR APPROVAL OF RESOLUTION 06-11. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.

7. OTHER SUCH MATTERS AS AUTHORIZED BY LAW.

John Braig:

I'm reading from a clipping from the newspaper: "Ride, walk or stroll the trail and you'll wonder whether Village Administrator Michael Pollocoff, Village President John Steinbrink and Board members supporting the proposal ever get off their duffs to visit one of our country's prime recreational resources." I take high exception to this type of thing in the paper. I know for a fact that other than maybe the newest members of the Board, and I have no doubt that they were there, everybody involved with that project has been on that site numerous times, and I resent the inference that decisions and judgments are made rather haphazardly. If anything, I would accuse the news of accepting some tidbits of information and making a judgment accordingly. I think the bias displayed in this article is just absolutely reprehensible, which leads me to the next point.

Again, from the classified sections: Notice to publishers, and I won't read the whole thing, but the City of Kenosha is requesting bids for publishing the legal notices. I notice the City of Kenosha does not publish their legal notices in the *Kenosha News*. And I'm wondering should the Village also solicit bids for publication and seek the lowest cost? That's all I have.

Mike Serpe:

That's something that we can't discuss tonight because it's not an agenda item, but maybe sometime in the future that can be brought up.

Jim Bandura:

John, are you suggesting that we get rid of our subscription to the *Kenosha News*?

John Braig:

I sure wouldn't argue against it.

Don Hackbarth:

Yes, I would like to make an observation here. John, you look spiffy tonight. I think you should run for Village President next time.

8. ADJOURN.

Don Hackbarth:

Move adjournment.

Larry Zarletti:

Second.

Mike Serpe:

MOTION MADE BY DON HACKBARTH AND SECONDED BY LARRY ZARLETTI TO ADJOURN. ALL THOSE IN FAVOR SAY AYE.

Voices:

Aye.

Mike Serpe:

Opposed? The ayes have it.