

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
August 14, 2006**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on August 14, 2006. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessler; Andrea Rode; Jim Bandura; John Braig; Larry Zarletti; and Judy Juliana. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie, Community Development Director and Peggy Herrick-Asst. Planner/Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER THE MINUTES OF THE JULY 10 AND JULY 24, 2006 PLAN COMMISSION MEETINGS.**

Wayne Koessler:

Move they be approved in written form.

Larry Zarletti:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO APPROVE THE MINUTES OF THE JULY 10TH AND JULY 24, 2006 MEETINGS AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- 4. CORRESPONDENCE.**
- 5. CITIZEN COMMENTS.**

Tom Terwall:

If you're here for an item listed on the agenda as a matter for public hearing, we would ask that you hold your comments until the public hearing is held so your comments can be incorporated as an official part of the record of that hearing. However, if you're here for Item--well, we'll let the people speak on that one as well. So the only item that we'd ask you speak on now, or if you wish to speak on an item not on the agenda, we would ask that you do so now and begin by giving us your name and address. Anybody wishing to speak under citizens' comments?

6. OLD BUSINESS

- A. TABLED PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATION PLANS for the request of John Hickey of Richard Connor Riley & Associates, agent representing Cingular Wireless and the State of Wisconsin Department of Transportation (WIDOT), owner, to replace six (6) existing antennas with four (4) new antennas on the existing 210 foot lattice-type Commercial Communications Structure (cellular tower). The cellular facility is located at the WIDOT Weigh Station facility located at the southeast corner of CTH "ML" and I-94.**

Wayne Koessl:

Mr. Chairman, I move we take it off the table.

Mike Serpe:

Second.

Tom Terwall:

IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY MIKE SERPE TO REMOVE THE ITEM FROM THE TABLE. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, this is the request of John Hickey of Richard Connor Riley & Associates, agent representing Cingular Wireless and the State of Wisconsin Department of Transportation, owner, to replace six existing antennas with four new antennas on the existing 210 foot lattice-type Commercial Communications Structure. The cellular facility is located at the WIS DOT Weigh Station facility located at the southeast corner of Highway ML and I-94.

At the July 24, 2006 Plan Commission meeting, the Commission tabled the Cingular Wireless application and review for this Conditional Use Permit including Site and Operational Plans. The reason for tabling this item was due to the fact that the originally submitted plans for the project were inaccurate. On July 25, 2006 the Village received accurate Site Plans for the project and the Village staff recommends the item be removed for the table and the hearing take place this evening

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. Background Information

- a. On June 25, 2001, the Plan Commission conditionally-approved a Conditional Use Permit to construct and operate a cellular telephone facility consisting of a 210 foot high lattice tower with six Cingular Wireless antennas at the approximate 100 foot level and an associated 11' x 20' temporary equipment shelter located at the WIS DOT I-94 Weigh Station.
- b. In October 2002, the WIS DOT was granted zoning and building permits for the demolition and reconstruction of the Weigh Station/Inspection facility, which is the principal use on this property. The new, existing WIS DOT facility consists of a 5,850 square foot inspection building, 5,460 square foot scale building and a 1,270 square foot cellular building.
- c. With the year 2002/2003 reconstruction of the Weigh Station/Inspection facility, the temporary equipment shelter at the tower base was removed and the equipment within the temporary shelter was relocated into a part of the WIS DOT Weigh Station/Inspection facility building.
- d. Pursuant to the original 2001 application, there will be no employees on-site except for routine maintenance visits.
- e. The tower lighting consists of a steady red light as opposed to a white strobe on the top of the tower as required by the Federal Aviation Administration.
- f. Pursuant to the original 2001 Conditional Use Permit Including Site and Operation Plan application, the purpose of the facility is to avoid the proliferation of communication towers in the area. The tower is designed and constructed to accommodate additional telecommunication services.

2. With this application, Mr. Hickey of Riley & Associates, the agent representing Cingular Wireless and WIS DOT, owner, is requesting a Conditional Use Permit, including Site and Operational Plans, to replace six existing antennas with four new antennas on the existing 230 foot lattice-type Commercial Communications Structure tower along with the installation of two additional coaxial cables at the WIS DOT I-94 Weigh Station location.

3. According to the application, besides the installation of 4 new antennas of the same size as the antennas being replaced along with the installation of two additional coaxial cables, there will be no other exterior modifications to either the tower or the WIS DOT Weigh Station/Inspection facility which houses the antenna equipment.
4. A July 17, 2006 letter from Robert C. Fasick, P.E. with the Wisconsin Department of Transportation generally states that the WIS DOT has no objections to this project.
5. The current zoning of the property is I-1, Institutional District, and the commercial communication structure and associated equipment requires a Conditional Use Permit.
6. For additional information pertaining to this proposed facility refer to the attached Conditional Use Permit Application and the associated attachments are provided in your packets as Exhibit 2.
7. The Communication Act of 1934 is the Federal regulation, which governs the telecommunications industry; Section 322 of said Act, as amended by subsection (6) of the Telecommunications Act of 1996, provides guidelines to state and local governments regarding the siting of antenna facilities. One such guideline governs what information may be considered during the zoning approval process. That is, as long as the antenna facility complies with emissions standards established by the FCC in Section 704(b), it is considered that there are no health or safety risks posed by the equipment. Plan Commissions may not directly or indirectly consider health and safety issues during the zoning process when considering a telecommunications facility, which falls under this Section.
8. According to Attorney, specifically Section 704 of the 1996 Telecommunications Act prohibits the state/local units of government from denying a wireless communication company's request for local zoning approval if the wireless communication company complies with the regulations on RF emissions set by the FCC.
9. The petitioner and all of the abutting and adjacent property owners within 300 feet were notified via U.S. Mail on July 10, 2006. Notices were published in the *Kenosha News* on July 10, 2006 and July 17 2006.
10. The Village emailed and faxed the petitioner a copy of this staff report on August 11 2006.
11. According to Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials and information presented at the hearing this evening that the project as planned, will not violate the intent and purpose of the Ordinance and meets the minimum standards for granting of a Conditional Use Permit. Furthermore, the Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable Federal, State or local requirements.

With that, I'd like to continue the public hearing for this particular matter.

Tom Terwall:

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

John Hickey:

Good evening, Mr. Chairman and Commissioners. My name is John Hickey and I'm with Richard Connor Riley & Associates, and I'm here on behalf of Cingular Wireless who is seeking a conditional use permit to upgrade their facility. As you may or may not be aware, Cingular Wireless acquired all the assets and operations of AT&T Wireless, and what they're doing now to better serve both customers is they're upgrading their technology. This is basically what we're doing is by taking down the existing six antennas and replacing with four at a higher technology. Basically I don't think there will be any change to the physical appearance of the facility whatsoever.

Tom Terwall:

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

Don Hackbarth:

I'd like to ask Mr. Hickey what improvements will these new antennas give the system?

John Hickey:

They will bring you to the next 2 and 3G. They also will improve the 9-1-1 system. So there will be an improvement. It doesn't bring you the 4G, but it does improve the customers and your constituents.

Don Hackbarth:

The last question I have is I noticed in the old comments or the old points you were saying we don't use a white strobe on that thing, we use a red light. Do you know why?

John Hickey:

I think that was requested initially.

(Inaudible)

Jean Werbie:

No, it's just an annoyance issue for the neighbors that live near the cell tower that a flashing strobe beacon flashing in the night is much more of an annoyance to adjacent property owners. So whenever possible we request a constant burn light.

John Hickey:

That passes the requirement of the FAA.

Larry Zarletti:

My question is to staff. Under number 9 it said petitioner and all the abutting and adjacent property owners within 300 feet were notified. Did you get any responses for any of the ads that were placed?

Jean Werbie:

No.

Larry Zarletti:

Thank you.

Tom Terwall:

Anybody else?

Mike Serpe:

Move approval.

Wayne Koessl:

Second.

Jean Werbie:

I would just to say regarding the Village staff findings, conclusions and recommendations that the Village staff has determined that based upon the foregoing information presented in the application, the project meets the following standards for granting a Conditional Use Permit as outlined in the staff memorandum. And based on the foregoing information, the staff recommends that if the Plan Commission determines that the petitioner has met the specific standards for granting of the Conditional Use Permit and Site and Operational Plan approvals as specified in the staff comments, then approvals of the Conditional Use Permits and Site and Operational Plans shall be granted and that will be subject to the comments and conditions as outlined in the staff memorandum.

Mike Serpe:

I move approval of the conditional use permit.

Wayne Koessl:

Second.

Tom Terwall:

IT'S BEEN MOVED BY MIKE SERPE AND SECOND BY WAYNE KOESSL TO APPROVE THE CONDITIONAL USE SITE AND OPERATIONAL PLAN SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

7. NEW BUSINESS

A. Discussion of Carol Beach Unit W Park Plan with the Village Park Commission.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, we have with us this evening members of the Village's Park Commission. They have been very busy over the last year or so working on updating the Village's Comprehensive Park and Open Space Plan. As you will recall, this past spring the Park and Open Space Plan as presented by the Park Commission was then presented to the Plan Commission as part of a public hearing and citizen comments were sought at that time as part of our update of the Comprehensive Master Plan which includes the Park Plan.

There were some concerns raised by some of the residents that attended our Plan Commission meeting with respect to one of the updates or one of the park plans in that overall plan that they had prepared. That particular plan was the Carol Beach Unit W Neighborhood Park. So what happened was the Plan Commission and the Village Board ended up approving the Park and Open Space Plan, again, as an amendment to the Comprehensive Plan with one exception. That was to return the Carol Beach Unit W Neighborhood Plan back to the Park Commission to make sure all of the input was obtained from the area residents and if there were any additional information that needed to be provided that we have that information before we move forward and amend the comprehensive plan to include this particular neighborhood plan.

With that a letter was put in your packet that was prepared by the Village Superintendent of Streets and Parks who is the staff to the Park Commission, and that's John, Jr., and I'd like to have him come up along with any Park Commissioners to talk about the process that they had gone through, because it was quite extensive, in order to evaluate the community's needs as it relates to parks for neighborhoods and community parks and the process that they went through, and to pretty much share with the Plan Commission all the input that they had received and . . . the few residents that attended our particular meeting were not the voice of the majority that they had been listening to over the last year. So with that I'd like to introduce John Steinbrink, Jr.

John Steinbrink, Jr.:

Good evening, John Steinbrink, Jr., 8600 Green Bay Road, Street and Park Superintendent for Pleasant Prairie. Over the last year the Park Commission has been working very hard on updating our Park and Open Space Master Plan for the Village of Pleasant Prairie. It was approved on March 13th by your Commission except for the Carol Beach Unit W Park. At that time in March there were several residents from the Carol Beach area that had expressed their concern for the amount of active recreation in that park, and it has been one of the goals in the Unit W Park along with all the other parks in that Park and Open Space Plan to make sure that each of the individual neighborhood parks actively represent what the residents in that neighborhood wish to have and how that park is shaped for the community.

So this process started back in September where we had an open house over at the LakeView RecPlex and it was advertised via the *Kenosha News* and it was on the website and the *News Sun*. We had probably 30 or 40 people in attendance in that meeting. One of the parts that we did at the meeting of the RecPlex was everyone broke into groups and had a map of the Village, and they said everybody write down on this big master map what kind of recreation you would like to see in each different parts of the Village. At that time many of the comments we had for the Carol Beach Unit W area were to have a very active sort of park and recreation in that Carol Beach Unit W area. So it was the Park Commission's focus to design those parks with those active amenities in them.

We had monthly meetings over the course through February I believe it was, and active recreation was always the common theme for that Carol Beach Unit W area. Then when it came time and we brought the plan to the Plan Commission in March, there was a little bit of a different tone from some of the residents in there. So on recommendation of the Plan Commission we went back and actually mailed out 187 letters just to all the residents of the Carol Beach Unit W area. And I believe it pretty much encompassed everyone that lived north of Barnes Creek and east of the tracks. So we invited all 187 of those residents to our main meeting that we had. There were 30 residents that we had that came to the meeting, and most of the residents had stated they really would like to see that Carol Beach Unit W Park be designed and built into a more natural, passive and non active type of park.

We took all the comments from the main meeting, and then we revised our Park Plan, had another meeting in June and invited everyone again to show them the changes that we had made with that park making it less active. We took off any active recreation. So we took out the soccer fields, the softball diamonds. What the Park Commission came up with is shown up on the screen here which is a very passive park. It has a small trail for access primarily for the residents of that Unit W coming down from the north so that any residents that would want to walk to the park would not have to walk down 3rd Avenue to 90th kind of avoiding a lot of the traffic on those busy roads.

There is a very small passive play area that might include a bench, a small covered gazebo and maybe a sandbox or a tot lot just for some of the area kids in there. And then taking the part that is currently part of the Towne Club property and restoring that back to a natural area. I guess something I'd like to add is that the Village currently owns the parcel that highlighted in red that is toward the south, the small areas, and we do not own the area that is toward the north. At this time the Village is not in any negotiations and I don't believe we plan in the near future to purchase that property to the north, but just as part of the plan and to make us more susceptible for grants and funding on that property we are including it as part of the Park Plan for Unit W. So we do not own that property right now, and as monies or grants are available would plan to purchase that in the future. We do not have a time frame for acquisition of that land. It could be 5 years, it could be 10 years, it could be 20 years. Really, only time will tell.

So I believe that this plan accurately depicts what the residents in the Carol Beach Unit W area want to have for a neighborhood. I believe with that I'll open it up for discussion with the Park Commission if there's any questions.

Tom Terwall:

I have a question, John. In your discussions with the Park Commission and with the neighbors, since you are not going to have active recreation at this park, what was the thinking, where will these kids go? So is it fitting that the park on 111th Street is close enough in proximity for the people in Unit W to go play basketball or baseball or soccer or whatever else they might do?

John Steinbrink, Jr.:

That was one of the comments that was brought up by a lot of the neighborhoods. The response from the residents is that most all of the residents that have small children have some sort of a small play fort or grass area in their backyards. They said that it really wasn't outrageous to walk down to Anderson Field to play at Anderson Field or walk down to the Unit 1 Carol Beach Park at 115th. But they were very adamant that they did want to have a natural and passive park, wildlife and prairie grass and coyotes and raccoons and whatever else might be in that area.

Don Hackbarth:

Are we going to see these plans before they're developed like Momper's Woods? Is the Plan Commission going to see these plans for approval before any work is done on them?

Mike Pollocoff:

To the extent that they rise to site and operational if the plans get to that point.

Don Hackbarth:

The other thing is if we don't own that land and there's a need for recreation there, is there any way to take the piece we own and put some kind of recreational stuff in there? I see there's a little creek in there.

Jean Werbie:

The majority of that property is wetlands.

Mike Pollocoff:

One of the problems that John has identified is the Park Commission heard from a substantial number of people in the first instance they want an active park because their kids--they disagreed with the concept that John says that they have places to go because there isn't any place to go and they want an active park. A group of people who are close to the park came to the Plan Commission and told you guys no, that's not what we want. You sent it back and it goes back to the Park Commission. They had two meetings. Then at that point we had some that said both. Then in the last meeting it ended up being the people who live closest to the park are the ones that

said don't make it an active park. It's just one of those things that whoever comes to the meeting is driving the study.

That's why I don't think the question has been answered what are the kids going to do over there other than go find another park. Where we're at now is as minimalist as we can see. You can only try to get people to the table so many times to tell you what they want.

Don Hackbarth:

Well, if it's what the neighborhood wants. In the future if they say why didn't you pull a ball diamond, well, here we are.

John Braig:

Does that trail that extends to the north go as far as 85th Street, or the proposed trail?

John Steinbrink, Jr.:

There is some Village property that's just to the--there will be an access point that will take it from 3rd Avenue to the north end of the trail.

John Braig:

But it won't go as far north as 85th?

John Steinbrink, Jr.:

No, it will not.

Tom Terwall:

John, I'm looking for it and I can't find it now in your letter, but if my memory serves me right there was a reference made in there to a possible special assessment to the people in Unit W for the acquisition of that land? Did that have any impact on no, we don't need that?

John Steinbrink, Jr.:

I guess I'm not aware of any special assessment for a land purchase in that area.

Tom Terwall:

Although this is not a matter for public hearing, I'm going to open it up to the public if there is anybody who wishes to ask a question or raise a comment. Now would be your opportunity to do so. Anybody wishing to speak on this matter?

Rita Christiansen:

Rita Christiansen, member and Co-Chair of the Park Commission. I'm here to represent the Park Commission this evening. John, thank you, and I want to thank staff for their hard work. This was a tough issue for us, and after listening to a lot of feedback our understanding is that if in the

future we want to apply for a grant for this property, the property that we do not currently own, we need to show an intended use. So with that the office came up with soft use which was requested. There were a lot of people that said they did not want basically any changes at all because of the wildlife. And then there were some people that just wanted the soft use. So to try to find a compromise and try and get the land before it's acquired by somebody else, we thought the best interest would be served as a soft use on the intended properties so we can get a grant. Does anybody have any questions?

Don Hackbarth:

If we're going to make this such a minimal use, why buy it? That's a lot of money that we invest in that piece of land and if it's minimal use, I think the Village could use its money better somewhere else.

Rita Christiansen:

We actually heard from someone at one of our meetings that had talked about acquiring the property and turning it into the possibility of a youth home. When you look at those options, we thought it would better serve this area because it is so highly pristine and with the surrounding area that it might be better if we could just serve the Village better by trying to acquire through a grant.

Mike Serpe:

Mike or Rita, do we know the approximate cost per acre in that area?

Rita Christiansen:

I think, Mike, you had gotten an estimate on what the owner is asking for?

Mike Pollocoff:

Right now the owner of the property is in the half million to \$800,000 range just for the one parcel.

Mike Serpe:

A half million dollars just for the one parcel?

Rita Christiansen:

Right.

Mike Pollocoff:

So the acquisition more than likely, if the plan was adopted and we showed that this was a public use for this property converted to a park, then the Village would need to acquire that land through eminent domain. We'd probably try negotiating first where we get an appraisal and if he has an

appraisal there'd be a substantial difference and we'd have to move to condemnation to get market reality on the price.

Tom Terwall:

I think one of the problem we're facing here, and it's not the fault of the Village, but that property deteriorated so bad under several owners, it went from probably a first class tennis club to a real eyesore, and I think it really left a bad taste in the mouth of the adjacent property owners and they don't want to see anything like that ever happen down there again and you really can't blame them.

Jean Werbie:

The other point I was going to bring up is that in order for that land to change in use it would need to be rezoned and sanitary sewer would need to be extended and water would need to be brought in as well. At this point my understanding is the cost of extending sanitary sewer is what has been causing the problems for this property to develop for any type of urban purpose at this point. So with sanitary sewer close it's just not close enough without extending it and possibly even putting in a lift station. So it's very, very costly to develop at this point so they're just holding onto it.

But, as Rita mentioned, I've had people come to me to propose everything from a group home to condos to single family. I've had all sorts of things, but when they kind of put the numbers together as to what it would take to develop it, the enthusiasm dies down for the project.

Tom Terwall:

That parcel is not included in the cooperative agreement, is that correct? It's outside the cooperative agreement.

Mike Pollocoff:

The cooperative agreement shows it to be developed.

Mike Serpe:

Is there money available for this type of acquisition?

Mike Pollocoff:

I think there is. Not for crazy prices, but there's money for acquisition. That's why the Park Commission felt we had the one site that we had that had some fill on it but also had some wetlands that the overall land purposes there would be served by doing a swap where the Village would give that parcel that we own on the corner to The Nature Conservancy, get a grant for the acquisition, plus some restoration funds to restore that fill area on our property and probably do some restoration on the Towne Club property as well to get that back to a condition that would grow wetlands to what would be compatible in that area.

Wayne Koessl:

I think it's a good plan and I commend the Park Commission and John Steinbrink, Jr. for bringing this forth. That has become a blighted area since the Towne Club have left it and the previous owners. I think there's been three or four owners of that property. I think we should move ahead with the plan. We thank you for all your hard work that you put into this project.

Mike Serpe:

Rita and John and everybody else on the Park Commission, I don't think that the Plan Commission the night that we asked that this be just taken out and sent back, I didn't know about the meeting that had taken place with the active part in the park. It wasn't that we weren't going into fighting you guys. That wasn't the intent at all. I just want you to understand that. I didn't know about the meeting that you guys had about the people supporting an active park and then the residents coming to us saying, no, we don't want an active park, we want a passive park.

Rita Christiansen:

Thank you for clarifying that, Mike. We were very concerned because we had heard something in the beginning that was completely different. Like John explained, we had this open meeting, residents came and gave us their input. The consultants worked very diligently and came back with a couple different suggestions for plans. We noodled them out and thought what was best for the area based on the feedback received from the citizens and that was what we wanted to present. We were quite surprised to hear otherwise, and we appreciate the fact that it came back to us and we did have some more interaction. I do understand it's a beautiful area if anybody has been down there and we'd like to keep it what is best for the community. So this is our proposal as a soft use.

Tom Terwall:

Thank you.

Mike Serpe:

Either way I think this is probably quite a few years away. But now that I think the neighborhood has come to consensus and the Park Commission and now that we're informed, I agree with Wayne, I think it's a good way to go. Are we looking for a motion to accept this?

Jean Werbie:

Actually directed back to the staff so that a public hearing can be scheduled in September for us to consider this as an amendment to the Comprehensive Plan. And we'll likely do that on September 11th.

B. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT to amend the Village Zoning Map to rezone Outlots 2, 5, 6, 7, of Prairie Ridge Subdivision and Outlots 25, 26 and 28 of Prairie Ridge Addition #1, into the PR-1, Park and Recreational District.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, this is a public hearing to amend the Village zoning map to rezone Outlots 2, 5, 6, 7 of Prairie Ridge Subdivision and Outlots 25, 26 and 28 of Prairie Ridge Addition #1 Subdivision. All of these areas are proposed to be rezoned into the PR-1, Park and Recreational District.

On May 22, 2006 the Village Plan Commission adopted Resolution #06-12 to initiate a zoning map amendment to rezone the non-wetland portions of the Outlots within Prairie Ridge Development that were intended to be used as open space within the single family residential portion of the development into the PR-1, Park and Recreational District.

On November 21, December 5 and 7, 1995, the Regional Planning Commission conducted wetland stakings within what is now known as the Prairie Ridge Development generally located between Highway 50 and Highway C and between 88th and 104th Avenues in the Village of Pleasant Prairie.

On November 17, 1997 the Village Board rezoned the single family portion of the Prairie Ridge Subdivision into the R-4, Urban Single Family Residential District, and the field delineated wetlands into the C-1, Lowland Resource Conservancy District. Within the single family portion of the development, the non-wetland areas of the Outlots were also zoned R-4. Specifically, within the residential area Outlots 1 and 4 were rezoned into the C-1; Outlots 2, 5, 6, 25, 26 and 28 were rezoned into the R-4, Urban Single Family Residential District; and Outlot 7 was rezoned into the C-1, Lowland Resource Conservancy District. Outlots 5 and 6 have retention facilities within them and Outlot 25 was created as open space.

On March 2, 1998, the Village approved the Final Plat and related Development Agreement for Stage 1 of Prairie Ridge Subdivision which included 49 single family lots and 25 outlots on 400 plus acres. On June 19, 1999, the Village approved the Final Plat and related Development Agreement for Stage 2 of Prairie Ridge Subdivision known as Prairie Ridge Addition #1 which included 166 single family lots.

On December 14, 2005, at the request of the Prairie Ridge Homeowner's Association Board Member, Dave Meyer of Wetland Waterway Consulting LLC conducted a field investigation to determine if there were any changes in the location of the wetlands within Outlot 7 as originally staked in 1995. He found at that time that there were now no wetlands within Outlot 7 in the Prairie Ridge Subdivision and further identified as Tax Parcel Number 91-4-122-083-0128.

On January 3, 2006, the Village received a letter dated December 28, 2005 from the Wisconsin DNR that approved the finding of no wetlands within Outlot 7 of the Prairie Ridge Subdivision.

The current Village policy has been to rezone all non-wetland areas within Outlots to PR-1, Park and Recreational District, for park and open space preservation purposes. In addition, by rezoning the outlots into PR-1, it will further preserve and protect the original intentions or maintaining the outlots as common open space areas.

Just to clarify so that everyone is on the same page with this particular request, there was a situation and some confrontation within that subdivision that if the wetlands no longer existed maybe the subdivision through their association could subdivide these open space areas and create new lots and create funds for the association. The situation is, though, as I spoke with the developer and his agent and the residents who purchased lots adjacent, that the intent was these

outlots were to maintain themselves as open space common areas, park areas. They were never intended to be further subdivided.

So with this clarification and rezoning all these outlots are now being put into a designation that would not allow for the subdividing of the land and the creation of new single family lots. This rezoning request comes with the support of the current homeowner's association for Prairie Ridge. With that this is a matter for public hearing.

Tom Terwall:

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

Mike Serpe:

Do we have members of the homeowner's association here tonight? Nobody?

Tom Terwall:

I understand there's been quite a change in the officers.

Jim Bandura:

Just a quick comment to staff. We're rezoning these to PR-1. Who is responsible, refresh my memory, for maintenance of these?

Jean Werbie:

The homeowner's association.

Don Hackbarth:

Move approval.

Mike Serpe:

Second.

Tom Terwall:

MOVED BY DON HACKBARTH AND SECONDED BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

C. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATION PLANS for the request of Sister Melanie Makrigianni of St. John Chrysostomos Monastery, property owner, for a Conditional Use Permit to allow for the construction and use of a 7,200 square foot (120' x 60') storage building to be located approximately 220 feet north of the new church worship building located at 4600 93rd Street.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, this is a request for a conditional use permit including site and operation plans for the request of Sister Melanie of St. John Chrysostomos Monastery, property owner, for a Conditional Use Permit to allow for the construction and use of a 7,200 square foot storage building to be located approximately 290 feet north of the new church worship building located at 4600 93rd Street.

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. Sister Melanie of St. John Chrysostomos Monastery, owner, is requesting a Conditional Use Permit including Site and Operational Plans, to allow for the construction and use of a 7,200 square foot, 120' x 60', storage building to be located approximately 290 feet north of the new church worship building located at 4600 93rd Street, Tax Parcel Number 92-4-122-144-0201.
2. The main purpose for this proposed storage building is to replace an existing barn-building which is currently used for storage. This existing barn building is not in very good shape, both structurally and visually. The Sisters will also be taking objects currently dispersed around the property, and relocating these items into the new storage building; thus clearing the site of old construction materials, lawn equipment, etc. The Fire & Rescue Department has been in contact with Sister Melanie about performing a controlled burn on the old barn building as a practice site.
3. Pursuant to the Site and Operational Plan Application, items to be stored in the accessory building include stone from the original construction project, tools, lawn equipment, items currently stored outside on the property, arts and crafts, flower pots, cabinets, etc. The building will also be used by volunteer lawn contractors, as well as other contractors, to store their equipment and to use the restroom facility located within the new storage building.
4. The Sisters of the monastery and lay-person volunteers perform the landscape work at the monastery. The volunteers bring in their small passenger vehicles and park in the general

parking area. Since the landscape work is performed during the week when no services are being performed at the church, there is ample parking for the few volunteer vehicles which may be on site. The equipment used for the landscape work belongs to and stays at the monastery. The monastery does not hire out landscape contractors who bring in their own equipment and trucks.

5. The exterior building colors and building materials of the addition shall compliment the exterior building colors and building materials of the existing new structures. In a July 20, 2006 email from Mr. George Prosiliakos, the project architect, he states that: the exterior building wall materials proposed is a textured split face block with a color which will be complimentary to the existing cream color stone veneer on the Church structure as well as other new buildings. Additionally, the site plans note that the proposed storage building roof surface is comprised of asphalt shingles and the proposed exteriors of the dormers are finished in stucco.
6. As noted and depicted on the plans, the storage building will be connected to municipal water and sanitary sewer.
7. According to the project architect, the storm water run-off is not being taken into account for this storage building. In relation to the entire site, and its proximity to adjacent properties, the run-off should not be a major consideration at this point in time. However, when the remaining portion of the overall master plan begins to be erected, then the remaining master plan civil engineering as designed shall be implemented which will take the entire proposed development into consideration.
8. Background Information
 - a. On July 6, 1998, the Village Board of Trustees approved a Conceptual Master Plan for the upgrading the St. John's facilities by building a new main church worship building, new housing for the sisters and support buildings and a 600 grave cemetery.
 - b. On July 6, 1998, the Board approved a Conditional Use Permit and Site and Operational Plans for the proposed St John 600 grave cemetery in the southwestern corner of the property.
 - c. On December 7, 1998, the Board approved a Conditional Use Permit for the first phase of the St John Monastery for development to include a 9,000 square foot church and a 18,150 square foot support building with a 5,000 square foot basement and a new church, new housing, support buildings and a cemetery. So basically everything that's out there today.
9. The property is zoned I-1, Institutional District and pursuant to the Zoning Ordinance, all uses, and any amendments thereto, requires a Conditional Use Permit.
10. The Conditional Use Permit Application and the associated attachments are provided as Exhibit 2.

11. The petitioner and all of the abutting and adjacent property owners within 300 feet were notified via the U.S. Mail on July 31, 2006. Notices were published in the *Kenosha News* on July 31, 2006 and August 7, 2006.
12. The petitioner and all the abutting and adjacent property owners within 300 feet were notified. Notices were published in the *Kenosha News* on July 31, 2006 and August 7. The petitioner was emailed/faxed a copy of this memo on August 11, 2006.
13. According to 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. Furthermore, the Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable Federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, noise, storm water management, streets and highways and fire protection.

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

Tom Terwall:

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

Stephan Aliferakis:

Good evening, my name is Stephan Aliferakis, and I'm here to answer some questions if any on behalf of the St. John Chrysostomos Monastery.

Tom Terwall:

Thank you. Anybody else? Anybody else? Anybody else wishing to speak? Hearing none I'm going to open it up to comments and questions from Commissioners and staff and since I have the microphone I'm going to go first. Put that map back up that you had. Can you point out for me where this building is, the new building is going to be in relation to the 89th Street access to their property? Secondly, how close to 89th Street will this building be? Whoever wants to answer. My question was the new building that's being proposed, what is the proximity to the 89th Street access point to the church's property? It's going to be 290 feet north of the existing building, correct?

Stephan Aliferakis:

Actually I think it's 220 feet is more accurate than 290 feet. I'm just looking off the architectural plans that indicate about 220 feet. That's north of the new church complex that was built. This is abutting right up near this new gravel road that was installed, and there's also a fire hydrant there as well if it's maybe within 30 or 40 feet of the proposed new structure. The existing frame structures are located a little bit closer to the existing complex and obviously further away from the hydrant and the road. So if there was any--for fire access the road leads right up next to the

new building where it would be constructed. Is there another slide that maybe is a blow up? Is there one other one? Yes, this is better. This shows you where the new building would be constructed, and this is the road and this is the fire hydrant that was installed as part of the redevelopment. So it's right up against the gravel road there.

Tom Terwall:

Will most of the access to this building be off of 89th Street or off of 93rd Street?

Stephan Aliferakis:

It's going to be off of 93rd Street. Really, the access is pretty well limited from 89th Street in general. The monastery likes to control traffic for obvious reasons so that the 93rd Street entrance is gated so they do tend to control when it's opened and closed.

Tom Terwall:

And a final question for you or for Jean. I don't care who. There was reference made in your comments, Jean, about the fact that the restroom facilities in this new building were going to be used by contractors.

Jean Werbie:

Their contractors.

Tom Terwall:

While they're working on the site? Is that the intent?

Stephan Aliferakis:

I think the intend is when they're finished doing--the majority of the work is by volunteers. They're going to come out there so as not to have to go into the church complex. Landscaping work is dirty work so they want them to clean up out in this new storage facility.

John Braig:

How large is this total site?

Stephan Aliferakis:

The building or the site?

John Braig:

The total site.

Stephan Aliferakis:

The total site is approximately 94 acres if I recall.

Tom Terwall:

Any other comments or questions? What's the height of the new building going to be?

Stephan Aliferakis:

Let me grab the full sized plans.

Wayne Koessl:

It's 30 feet, 6 inches, isn't it?

Stephan Aliferakis:

Yes, it is 30 feet, 6 inches.

Tom Terwall:

Anything else?

Stephan Aliferakis:

It is replacing--also I know it was mentioned in the comments, but I just wanted to reiterated it will be replacing an existing frame facility that is in disrepair that's probably 70 plus years old.

Wayne Koessl:

I'd move approval of the conditions use permit and site and operational plan subject to the attached comments and conditions of the Village staff report of August 14, 2006.

John Braig:

I'll second it. From what I've seen of that facility and everything they've done there we can't find fault with it in any way and I'm sure they'll continue to produce an excellent facility.

Tom Terwall:

JUST AS AN ASIDE. YOU OUGHT TO GO BACK THERE SOMETIME WHEN THE SISTERS ARE WORKING. THEY DO ALL THEIR OWN LANDSCAPING. I WAS BACK THERE ONE DAY AND THE TEMPERATURE HAD TO BE IN THE 90S AND THEY'RE DRESSED FROM HEAD TO TOE IN THE BLACK GARB WEED WHACKING. I SAID TO MY GUYS YOU THINK YOU'VE GOT IT ROUGH. WE WERE DOING THE SAME WORK IN SHORTS. MOTION BY WAYNE KOESSL AND A SECOND BY JOHN BRAIG TO APPROVE THE SITE AND OPERATION PLAN AND THE CONDITIONAL USE PERMIT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

D. PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO CONDITIONAL USE GRANT DOCUMENT #02-05: for the request of Christa Hegland with the Kenosha Area Lutheran Education Association to amend Conditional Use Permit #02-05 which was valid for five years of when the school enrollment exceeds 30 students, whichever came first. The petitioner is requesting that the Conditional Use Permit be granted for the enrollment to not exceed 50 students within the next five years.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, this is the request of Christa Hegland with the Kenosha Area Lutheran Education Association to amend Conditional Use Permit #02-05 which was valid for five years of when the school enrollment exceeds 30 students, whichever came first. The petitioner is requesting that the Conditional Use Permit be granted for the enrollment to not exceed 50 students within the next five years.

Under public hearing comments, 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 comments:

Findings of Fact

1. The petitioner, Christa Hegland with the Kenosha Area Lutheran Education Association, agent for the Lamb of God Lutheran Church, owner of the property located at 8411 Old Green Bay Road is requesting approval of an amendment to Conditional Use Permit #02-05. Specifically, Conditional Use Permit #02-05 as approved on June 10, 2002 was valid for five years or when the school enrollment exceeded 30 students, whichever came first. The petitioner is requesting that the Conditional Use Permit be amended for the enrollment to not exceed 50 students within the next five years.
2. According to the application:
 - a. The Academy serves students from Kindergarten through 8th grade and offers afternoon Pre-Kindergarten Academic Readiness Program two days a week for students who will be attending Kindergarten at the Academy in the following year.
 - b. Classes that are held in the building's existing classrooms and school house conform to the typical school day schedule of the neighboring district.
 - c. In the four years of the Academy's existence, projected enrollments have accurately reflected the growth of the school. The governing board of the Academy, the KALEA projected an enrollment of 27 in their 5th year-academic year 2006-07 and are projecting enrollment to be between 28 and 30 in

Kindergarten through 8th grade next year and to just under 50 students in the next five years.

- d. Currently the school employs a full time teacher, two part time teachers and three hourly employees who teach certain material and/or are substitute teachers. In the next five years, they anticipate expanding the staff to two full time teachers, 3-4 part time teachers and 3-5 hourly employees.
 - e. Vehicular traffic to the site is minimal during the week. Parents drop off and pick up children before and after school. Hourly employees arrive and leave at regularly scheduled times. Many students enrolled in the Academy have siblings who also attend, thus vehicular traffic has not significantly increased over time and they anticipate this trend will continue in the next five years. The current parking lot is more than adequate for this use, and traffic flows easily into and out of the parking lot.
3. Other approvals related to the current uses of this property.
- a. On March 27, 2000 the Village granted a Conditional Use Permit for the Lamb of God Lutheran Church to occupy the building and the site to hold worship services and other church related activities such as but not limited to; church trustee meetings, afternoon meetings, evening vespers services, vacation bible study, Sunday school, pot-luck meals, workshops and other social gatherings.
 - b. On July 9, 2001, the Village Plan Commission granted Conditional Use Permit No. 01-09 and conditionally approved Site and Operational Plans for the Lamb of God Lutheran Church to construct a 1,915 square foot addition to the existing church facility at this location. The major addition was at the rear of the existing building, the main worship area for the church and a smaller addition at the entrance of the building. In addition, 39 additional parking spaces were added for a total of 53 parking spaces, which includes 3 handicapped accessible spaces. As a part of the Site and Operational Plan approval, the Plan Commission granted a waiver from Section 12.13 k. of the Zoning Ordinance, that's the old section number, to allow the new church parking areas to be constructed without curb and gutter.
4. The property is zoned I-1, Institutional District, which allows for the existing church use and building, as well as the school use, with approved Conditional Use Permits.
5. 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 Ordinances and meets the minimum standards for granting of a Conditional Use Permit. In addition, according to Article IX of the Village Zoning Ordinance, the Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and will comply with all other requirements of applicable federal, state or local statutes.

With that, this is a matter for public hearing.

Tom Terwall:

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

Christa Hegland:

Good evening, gentlemen. My name is Christa Hegland. I am the person on your papers here. I am the agent and the Board President for the Kenosha Area Lutheran Education Association which we usually say as KALEA because it's faster. We operate the Christ Lutheran Academy School that operates at Lamb of God Lutheran Church at 8411 Old Green Bay Road, so that's why all those organizations were part of your packet. I'm here to answer any questions that you might have.

Tom Terwall:

Thank you. Is there anybody else wishing to speak on this matter?

Rick DeCato:

My name is Rick DeCato. I live on 85th Street and my property borders the church. I was just wondering what their 10 or 15 year outlook was. Do they plan on expanding the building, expanding the parking lot? What do you plan on doing 5 or 10 or 15 years down the line with this property?

Paul Plat:

Good evening. My name is Paul Plat and I'm the Chairman of the Congregation at Lamb of God. At the present time we have developed a long-range planning committee and we have not really arrived at any specific long-term plan. But I can assure you that anything that we would proceed with would come before the Plan Commission and be permitted and whatever hearings were necessary would be held. We do anticipate growth. We're very happy to have KALEA in our building, and we believe the school will grow also. We do anticipate there may be some expansion of the building and obviously parking if necessary. But it would be within the guidelines of any Plan Commission or building permit.

Wayne Koessl:

Mr. Chairman, through the Chair to Jean Werbie. Jean, maybe you could read your condition number 3, the conditional use permit. I think that would sum up their comments on what would happen in five year. It's on the last page.

Jean Werbie:

These are some of the conditions that we're going to be recommending for approval. Condition 3 of Conditions Use Permit 02-05 shall be amended to read: Conditional Use Permit #02-05 shall be valid for five years from the date of this approval. So that would be five years from August 14, 2006, or when the school enrollment exceeds 50 students, whichever comes first. If/when the school exceeds one or both of these parameters, then the Conditional Use Permit shall be re-

evaluated by the Village regarding parking and other possible concerns associated with a growing school enrollment.

Rick DeCato:

I don't know if the church was aware of it, but that was a daycare prior to you guys buying, and my understanding is that they moved to a new facility because I don't know if they weren't allowed or what the stipulation was, but they couldn't expand the daycare and that's why they moved out to the industrial park. Am I correct on that?

Jean Werbie:

They moved because they wanted to more than double their size and they wanted to be located in proximity to and closer to the industrial park and that traffic. So those are the reasons why they moved.

Rick DeCato:

So it wasn't because of petitions from the neighbors not wanting expansion back there?

Jean Werbie:

No.

Rick DeCato:

Alright, I was told a little different.

Tom Terwall:

If, however, they should come forward with a plan to expand that would become a matter for public hearing and as an adjacent property owner you'll be notified and have an opportunity to either express your agreement or disagreement with it.

Rick DeCato:

I don't mind that they put the addition on there, but to clear cut all those oaks back there would be a little bit wrong.

Tom Terwall:

You have some guys on this Plan Commission that aren't about to let that happen. The tree huggers are sitting up here.

Mike Serpe:

There was earlier or in past hearings some of the neighbors on 85th Street questioning about the parking lot with the lights shining into the back of the houses. That was brought up. But Mr. Trecroci moved because he wanted to more than double.

Jean Werbie:

The original plan that Mr. Trecroci had presented in the early '90s did show a possible expansion to that school but it never would have met the needs and he chose not to expand there because he wanted a much larger school at a different location in proximity to the industrial park. So there were a number of reasons. He had contemplated at one point doing it there, but he just wanted a much larger location.

John Braig:

When you look at the facility he did build it would not have fit on this site of this facility.

Mike Serpe:

Tom, I'm going to ask him a question if I may. Are there any problems going on with that school right now with the neighbors?

Rick DeCato:

For me no, but I work late hours.

John Braig:

We've had concerns expressed in the past but nobody is here now.

Mike Serpe:

So there's no problems that you're aware of right now?

Rick DeCato:

For me personally no. But there are other neighbors and I can't speak for them.

John Braig:

I think the neighbors did express concerns in the past about some of the potential development there, but I've got a feeling the lack of them being here tonight suggests that they're quite pleased with what is there now.

Jean Werbie:

From my recollection there were complaints filed, but that's when the daycare was there. There was a huge berm and the kids would be standing on the top of the berm screaming and yelling and wanting to jump by the fences. So it didn't have anything to do with their facility. It was the daycare prior to them.

Christa Hegland:

I would simply like to say that we have not heard from any neighbors any complaints. And I would like to assure our neighbor that although we do anticipate growth it is slow and steady growth so that we can easily change anything that needs to happen for the neighbors.

Tom Terwall:

Could you explain for me what's the relationship between KALEA and the church?

Christa Hegland:

KALEA is an association that is comprised of two congregations. The two congregations cooperate in running the school. The school then rents space from this congregation which is one of the two in the association.

Tom Terwall:

Thank you. Anything else?

Don Hackbarth:

I've got a comment. Jean, why are we putting a five year limit on this? Other conditional permits we don't put limits on it, do we? We're saying they have to come back in five years. Why don't we just say come back when you're going to expand or something?

Jean Werbie:

And it could be. But we wanted to be sensitive to the neighbors. We wanted to put in some parameters to make sure that no new issues arose. So whether it's five years, 50 students, or 10 years, if the Plan Commission wants to set some other reasonable parameters I don't know that they would object to that.

Don Hackbarth:

Looking at the track record of the school and no neighbors coming forward to complain I don't know why we're putting a restriction that they have to come back five years from now to re-approve. I would recommend that be taken out.

John Braig:

Did the notice to the neighbors include anything about five years or any of those conditions? Are we misleading them?

Don Hackbarth:

It said about the five years.

John Braig:

If it did then I think we have to stay with it.

Don Hackbarth:

I don't think that's fair, as long as they're abiding by the rules that we're putting restrictions on the church. We don't have it on ours.

Wayne Koessl:

Mr. Chairman, I don't think the five years is really a set date because it says or when school enrollment exceeds 50 students. So it could be 7 or 8 years.

Jean Werbie:

No, it says whichever comes first.

Wayne Koessl:

They said they have a slow and orderly growth over there so I can't see them doubling in one year.

Jean Werbie:

The Plan Commission has the right to modify if they so choose to. I don't know if you need to hear any more information from the petitioner.

Don Hackbarth:

I would like to see it modified. I'd like to see the five years dropped. They have to come back to us anyway if they expand.

Jean Werbie:

So it's the number of students that would trigger a change rather than the five year number.

Wayne Koessl:

I have no problem taking the five years out as long as it's 50 students.

Mike Serpe:

I think that's consistent.

John Braig:

The only problem I have is . . . but if our letter to the neighbors suggested that it was going to be in there, for us to take it out now is a little misleading to them. If it were not in the letter I'd say let's go ahead with it. But I think it's something we should give a little thought to. Five years from now we could make sure we don't put it in the letter and then we could do what we want.

Jim Bandura:

I tend to agree with John. Since it's been published and it's out there with the neighbors I think we should stay with it.

Wayne Koessl:

Are you ready for a motion?

Tom Terwall:

Please.

Wayne Koessl:

I move an amendment to the conditional use permit #02-05 subject to the attached comments and conditions of the Village staff as of today.

Jim Bandura:

Second.

Jean Werbie:

I wanted to read to you what the notice said, "The petitioner is requesting that the conditional use permit be granted for enrollment to not exceed 50 students within the next five years." I don't know that it said they had to come back within five years. So I think you could take the five year provision out if you wanted as long as the 50 students is still in there and that's what would impact parking or any of those other things.

Don Hackbarth:

I would agree with that because in your statement number one here it says June 10, 2002 is valid for five years or when the school enrollment increased. We're saying the same thing again in this and I just don't like that.

Jean Werbie:

It can be modified by the Plan Commission. I'm not sure how far along you got with the motion.

Tom Terwall:

We have to amend the motion at this point.

Don Hackbarth:

I would so move we amend it.

Tom Terwall:

So the amendment is to take out the reference to five years and leave it based on the enrollment.

Wayne Koessl:

Mr. Chairman, I really don't see the need for the amendment because it says five years or when the enrollment exceeds 50 students.

Jean Werbie:

But it says whichever is less or whichever comes first. So if they get to 50 students in seven years they still have to come back in five because of the five year provision. You can take out the five year provision.

Tom Terwall:

There's a motion to amend. Is there a second to the amendment?

Mike Serpe:

I'll second that.

Tom Terwall:

Alright, on the amendment first. The amendment is to delete reference to the five year term of this conditional use permit and make it conditioned based on the student enrollment only. All in favor signify by saying aye.

Larry Zarletti:

Can we have a question on that first before we vote or comments on it? Will this alter what was sent to the people who understand it to be five years or 50 students?

(Inaudible)

Jim Bandura:

It says within. It doesn't stipulate that time.

Mike Serpe:

Just in answer to the concern about changing something that's sent out for notice, this isn't the first time that's happened. We have changed numerous conditions over the years at the Plan Commission level so to me that's not a major concern. I think what Don is saying is we should be as far to these people as we are with everybody else that comes forward with a conditional use and I think he's right.

Tom Terwall:

I'll call the question. On the amendment, all in favor signify--

Wayne Koessl:

Mr. Pollocoff would like to speak.

Mike Pollocoff:

To reiterate what Commissioner Serpe said, the purpose of the notice is a call to action to the meeting and what the substance is in the meeting. The Village Board has statutory authority to fully modify and amend a petition or amend an action based on what they hear at the public hearing. That's the purpose of the public hearing so that the Plan Commission has an opportunity to hear what people say and then act and modify as needed. So the fact that it says something in the agenda doesn't preclude you from changing that at all. That's the purpose of the public hearing so you can get information to change it if necessary.

Tom Terwall:

ANY FURTHER QUESTIONS? IF NOT THEN A MOTION BY WAYNE KOESSL AND A SECOND BY MIKE SERPE ON THE AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS AS OUTLINED IN THE VILLAGE STAFF MEMORANDUM AND AS MODIFIED THIS EVENING. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. So the motion as amended is to grant the conditional use permit and it's valid until the enrollment exceeds 50 students. All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

E. Consider Plan Commission Resolution #06-16 to initiate a zoning text amendment related to swimming pools.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, Resolution 06-16, the Plan Commission may initiate a petition for the amendment of the zoning ordinance which may include the

rezoning of properties, change in zoning district boundaries or the changes in the text. On July 14, 2006, the Village Administrator received the attached letter, Exhibit A, from William and Lorene Bakkila who live at 4808 105th Place in the Village requesting the Village to consider changing the fence height requirements from a six foot high fence to a four foot high fence and this is around swimming pools.

On August 7, 2006, the Village Board received the referenced letter under correspondence and requested that the Village staff look into the request and prepare an ordinance amendment for consideration. The Plan Commission hereby initiates and petitions to amend the zoning ordinance as it relates to swimming pools and their fences as a result of the changes of these sections. Other sections of the ordinance may need to be re-evaluated and updated such as but not limited to the definitions.

The proposed changes in the zoning text that are referred to the Village staff for further study and recommendation, in this particular case we have a little bit of research to be done on this request, but the Village Plan Commission is not by this resolution making any determinations tonight regarding the merits of the proposed changes in the text, but rather is only initiating the process by which the proposed changes in the zoning text can be promptly evaluated.

Let me just share some things with you. Over the last 15 years this has been an item that has come up and residents have requested that the pool or fence regulation to be modified, the fence should be higher, the fence should be lower, the pool should be set closer, they should be further back. There's been a number of discussions over the years. Based on what the petitioners are requesting, the staff will make an attempt to put together some regulations for you to take a look at along with some research that we plan to do with respect to pool fence height.

If you remember back in the early '90s, the same week that the Village of Pleasant Prairie went from a four foot high fence to a six foot high fence for pools, the City of Kenosha went from a six foot high fence to a four foot high fence. It was quite ironic that that happened at the same time. We both had our reasons for making our modifications. This is one topic that I hope the Plan Commission does not take lightly and has an opportunity to take or a look or even do any research on their own with respect to fence heights surrounding pools.

We have lots of different variety and versions of fences that can be around pools and decks and fences that go on top of pools and set back and all the way on the lot line. So there's a number of different circumstances on how these fences get erected around pools. So it will warrant some considerably discussion I think in the public hearing.

Wayne Koessl:

We might want to check with the City of Kenosha before we change this one, too.

Tom Terwall:

Does the existing ordinance say that a four foot above ground pool doesn't need a fence?

Jean Werbie:

No, it does not. It says it needs a six foot high fence. All pools.

Tom Terwall:

They're going up all the time. There's a brand new pool that just went up on 104th Street east of 39th Avenue that has no fence other than the four foot high wall. So if we're not going to enforce the ordinance I just don't see—

Jean Werbie:

We need to be made aware of it. The pool and fence issue ranks up towards the top in the number of complaints we receive when issuing permits.

Tom Terwall:

They need a permit to put it up, don't they?

Jean Werbie:

They need a permit to put the pool up as well as the fence.

Tom Terwall:

And do we go and inspect it after it's up?

Jean Werbie:

Yes, we do.

Tom Terwall:

You don't even need to get out of the truck to see this one because—

Mike Pollocoff:

A lot of the pools going up now, those inflatable pools, they've gotten a pool that's a lot less expensive and they can pop them up really quick and they probably aren't getting permits.

Tom Terwall:

This is a metal sided pool.

Larry Zarletti:

Does that fence need to be all the way around the pool like locked so you can't get in?

Jean Werbie:

Yes.

Larry Zarletti:

But the pool is four foot high. If the stairs retract or the ladder goes up--discussion for another day.

Wayne Koessl:

I see some value in checking with the other municipalities for the benefits of contractors and everyone if we could come up with some uniformity. It would be easier to apply and enforce.

Tom Terwall:

This has been a matter of discussion at the League of Municipalities year in and year out during the general session. I'll tell you what, for every community that's there there's a different feel on it.

Jean Werbie:

It's a policy decision that the Village will need to make and/or re-evaluate.

Tom Terwall:

I think the Plan Commission and the Village Board are going to need some guidance as to liability on this issue as well. If we went to a four foot fence does that mean that the pool itself becomes the fence, and I want to know what the attorney thinks about that. If you think you're going to keep a kid out of a four foot high pool, if he can walk he can still get in that pool I guarantee you. He doesn't need a ladder. He'll shinny up that thing no problem.

Mike Serpe:

I said this at the Board meeting last week. Fences are made to keep little toddlers from crawling towards the pool and falling in. Washington Park Pool, Anderson Park Pool, I think those are 10 or 12 foot fences. Three o'clock in the morning you find a body in the body of the pool. They climbed the fence and got over it. I don't care if that fence is four feet high, six feet high or eight feet high. To a kid over five or six years old it's a challenge and he's going to want to try and scale that fence to get over it. Or, if a kid who is just bound and determined who doesn't even live there to scale that fence he's going to do it. I think the intent of the fence is for kids that can't make that conscious decision that they're in the danger zone away from that pool. Other than that, I agree with you, Tom, if a kid sees that challenge he's going over the top and he's getting in.

Wayne Koessl:

Move approval.

Tom Terwall:

I agree. The other side of that is you've got people putting up pools where both parents work and nobody is home all day and these neighborhood kids that's an invitation. The guy shouldn't have put that pool up if he didn't want them to swim in it.

Larry Zarletti:

Second.

Tom Terwall:

That's their attitude.

Don Hackbarth:

I brought this up before those things I took from FEMA, the homeland security. They were talking about protecting the schools, and they said that a kid can climb a six foot chain link fence in two and a half seconds. Chain link fences are not the fence that should guard a pool. It should be the vertical bar kind because they're much more difficult to climb. So that might be something to consider, too.

Tom Terwall:

But it also should be a fence you could see through. If people are putting up a board on board fence—

(Inaudible)

Tom Terwall:

THERE'S A MOTION BY WAYNE KOESSL TO APPROVE AND A SECOND BY LARRY ZARLETTI. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

8. ADJOURN.

John Braig:

Move adjournment.

Wayne Koessl:

Second.

Tom Terwall:

We have a motion to adjourn. All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

THE PLAN COMMISSION MEETING ADJOURNED AT 6:30 P.M.