

PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
September 25, 2006

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on September 25, 2006. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessl; Andrea Rode; John Braig; and Judy Juliana. Jim Bandura and Larry Zarletti were excused. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie, Community Development Director and Tom Shircel-Asst. Planner/Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CONSIDER THE MINUTES OF AUGUST 28, 2006 PLAN COMMISSION MEETING.**

Judy Juliana:

Move to approve.

Wayne Koessl:

I'll second.

Thomas Terwall:

**MOTION BY JUDY JULIANA AND A SECOND BY WAYNE KOESSL TO APPROVE
THE MINUTES OF THE AUGUST 28, 2006 PLAN COMMISSION MEETING AS
PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

- 5. CITIZEN COMMENTS.**

Thomas Terwall:

If you have a copy of the agenda there's only one item on the agenda tonight, Item D, that is not a matter for public hearing. If you're here for any of the items that are a matter for public hearing, we would ask you to hold your comments until that public hearing is held so we can incorporate your comments as a part of the official record of that public hearing. However, if you're here for Item D which is also an integral part of C, D and E, or if you're here to discuss an item not on the agenda, now would be your opportunity to do so. We'd ask you to step to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments? Anybody wishing to speak?

6. OLD BUSINESS:

- A. TABLED PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #06-17 to amend the Village Comprehensive Plan. Specifically, the request is to amend the Park and Open Space Plan 2006-2011 to include a conceptual park plan for Carol Beach Estates Unit W Neighborhood Park.**

Thomas Terwall:

We need a motion to remove from the table.

Wayne Koessl:

So moved.

Judy Juliana:

Second.

Thomas Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY JUDY JULIANA TO REMOVE THE ITEM FROM THE TABLE FOR DISCUSSION. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed?

Jean Werbie:

Mr. Chairman and members of the Plan Commission, Resolution #06-17 is a resolution to amend the Village's comprehensive plan. Specifically, the request is to amend the Park and Open Space Plan for 2006-2011. This is as it relates to the conceptual plan for the Carol Beach Estates Unit W Neighborhood Park.

As you will recall, the public hearing was an item that was on the agenda at the last Village Plan Commission meeting, and there were a number of residents as well as Plan Commissioners that spoke for and against the plan at that time. And based on the number of comments that were received and the fact that we did not have members of the Park Commission present at that meeting, that it was recommended and seconded that this item be tabled until tonight so that we can continue the public hearing to hear some additional comments with respect to this conceptual plan.

As you know, the plan that we're talking about is the Carol Beach Unit W Park. It's located just north of 90th Street and just at the extension of 5th Avenue. It's at the site of the former Towne Club property. In your packets is a letter from Ralph Gesualdo, and we brought this up at the last meeting, and he is actually the property owner of this particular piece of land. He had indicated that he was not objecting to the park at this time, but he was not convinced basically that that might be the ultimate use of that park unless he's paid a fair market price for the land for park development.

There is also a letter in your packets that came from the Pleasant Prairie Park Commission and that was dated August 14, 2006. This was actually read into the record by John Steinbrink, Jr., who is the Superintendent of Parks, Streets and Sanitation. With that, I would like to continue the public hearing and offer this time for additional comments from Plan Commission, Park Commission and other interested parties in the audience.

Thomas Terwall:

Is there anybody wishing to speak on this matter?

Carol Moresi:

My name is Carol Moresi, M-O-R-E-S-I. I live at 104 87th Place in Pleasant Prairie. I just wanted to say I haven't been keeping up with the latest version of the park plan, but I just wanted to let you know that I've been walking that area more than I had in the past just to investigate. And the highlight of that whole property is that little pond. On the one side is wild and on the other side somebody has been mowing it and it's just lovely. It's the highlight of the neighborhood. I hope we're not going to put a playing field right next to that pond. That's all I'd like to say. I'd like to preserve at least like 50 feet around it for the ducks. It's just a very relaxing place to go walking and I like walking trails also.

Thomas Terwall:

Thank you very much. Is there anybody else wishing to speak? Anybody else? Any member of the Park Commission?

Kathleen Burns:

I'm Kathleen Burns. I live at 8739 3rd Avenue. We are looking forward to the tot park there, but I strongly am for building a tot park on the land we already own which is option A that was designed back on October 28, 2005. Personally I am extremely opposed to buying the old Town Club for reasons of I don't think our taxpayer money should go to this. Just to restore it back to its natural prairie I'm sure would cost a pretty penny to get rid of the . . . and everything there unless we were to make it back into the original Towne Club which is the swimming pool. For that use I think that would be a great idea. I don't think we should buy it just for whatever reason . . . the mulch trail doesn't seem logical. I live right across the street from the last lot there and there's coyotes there. I don't want my kids going back there. I don't want to go back there. I don't think it's a good idea. I think if the current owner wants to build houses on it so be it, let him do whatever he wants or whatever the Commission will approve. I think we should just do the tot lot on what we own. If you want to do a dog park or whatever that's fine. But if we own the property let's develop the property that we already own.

Thomas Terwall:

Thank you very much.

Alex Tiahnybok:

Good afternoon. Alex Tiahnybok, 8757 Lakeshore Drive. I live about two blocks away from the subject property. I'm also a member of the Park Commission. This stack is an abbreviated version of all the work that's gone into satisfying everyone's needs. As a neighbor in that community, because of the differing opinions on the matter in terms of whether a park should be built at all or whether it should be a full services park, whether it should be returned to conservancy or allowed to be developed into the seven or eight homes as were discussed at the last Plan Commission meeting, approximately two months ago I sent that survey to everyone within three blocks of the area in question. I presented the results which you have. It's a PowerPoint. I'd be more than glad to put it up if you want to see it. But it overwhelmingly showed some results.

The neighbors, approximately 50 responded of those properties within three blocks of the park. Neighbors overwhelmingly supported the idea of a minor improvement park. Also, a key element is there was an overwhelming opinion against allowing that parcel that used to be the Towne Club to be developed into housing. There's a strong desire by the respondents that the area be not developed but returned to something of a conservancy nature.

Again, this was a process. A lot of hours were put into it. The Parks Commission put a lot of time into it. I believe it came before the Plan Commission at least a couple of times already. I think the process is over. These are the results. I'd like to share with you the people that responded. One of the pages in that PowerPoint actually has the final results and I just gave you the nutshell. So in my opinion the people have spoken. The Park Commission worked on it multiple times. They have forwarded their opinions, came back to you for review. People had another chance to respond.

The bottom line is people can't keep an eye on government just like all of us that are here all the time do. And I think there's a sense that the last squeaky wheel gets the most grease and that's just not appropriate. A lot of people came to the Park Commission meeting, voiced their opinions, and that was all taken into account in the Park Commission's recommendations that

came to you folks. So whether or not people have the opportunity or the privilege of attending five o'clock meetings is a difficult thing to accomplish for a lot of people. And I think past input has to be taken into consideration and not just what happened two weeks ago.

Judy Juliana made I think a great summary that was covered in the *Prairie Sun*, and that's that the Park Commission was trying to account for everyone's suggestions, and I think that was done. The Village staff recommends that you approve this plan as presented and I highly hope you do so.

Thomas Terwall:

Thank you. Anybody else?

Frank Cartel:

Hello, everyone. Frank Cartel, resident, 8911 5th Avenue. I want to commend both Alex and John for putting a lot of time into this and for really trying to go about this in the best democratic way to try to get all the interest of all people involved and to try to basically take every resident into consideration. I've voiced my opinion on several occasions. I'm not opposed to a park. In all cases I prefer the prairie to be very pleasant and to remain a prairie in many ways, but the last and most recent proposal that's placed up here I think serves as a major compromise to a lot of the views that I have heard at various meetings and so on.

Naturally, being a vested interest of being a resident of 5th Avenue, I've said before I do not particularly care to have something 20 yards off my front door which would put it on the old property, the property that's owned. And I don't think anyone would appreciate something like that. The proposal here places this in a proximity that really does not impact any resident with any close proximity. The only concern that I will voice is, again, and it was voiced at many of the meetings, is the extended use, the vehicular use of this area and what traffic it might bear and so on. I think probably when this comes down several months after it may not be a major issue. Maybe just a few people and it may not be a major issue, but certainly I'm attuned to all the possibilities of what could happen both day and night in such a location, particularly being remote.

But all in all, again, I want to say that my vested interest is I want to keep 5th Avenue the way it is. I want to keep the old property as the way it is, and I'd love to see as much nature brought to Carol Beach because that's what Carol Beach is. That's why we moved there and I'm sure that's why a lot of people moved there because of the serenity and all that. I'm not opposed to passive park at all, walking trails and all of that. I think that's only could to enhance the area and expose more people to the ability of enjoying the nature and the pristine and the lake the lady mentioned and all that back there. So I thank you.

Thomas Terwall:

Thank you. Anybody else?

Sarah Drenthe:

I'm Frank's neighbor, Sara Drenthe I live at 8921 5th Avenue and you've seen me also here before. I just want to echo, and probably you're tired of the echo, but my concern of the parking on 5th Avenue regardless of the tot park that street would have to have and should have restricted parking to make certain that that does not become a congested area where we can't even get in and out of our homes. So the tot park I agree is a nice compromise and, again, I applaud Alex and all of you for looking at that. But the restricted parking on 5th Avenue is certainly something that should be looked into and I appreciate your time. Thank you.

Dawn Ade:

Dawn Ade 8735 3rd Avenue. I have a dumb question. Has the DNR or anybody been contacted about possibly making this protected land? I know they've done it before in Carol Beach.

Thomas Terwall:

As wetland you mean or conservancy?

Dawn Ade:

Yes.

Jean Werbie:

The DNR actually owns the land to the north. The Plan Commission staff has not contacted them to find out if they would acquire it. There was a wetland staking some years ago, and they typically will acquire wetland delineated lands but we have not contacted them for the bulk of the land primarily because it's outside of their acquisition area.

Dawn Ade:

I think it might be a good idea to give it a shot. If they buy it then nobody can build on it.

Jean Werbie:

This is true, but they are probably not going to pay the fair market value.

Dawn Ade:

They'd have to probably like rezone it. They've done it to properties before in Carol Beach.

Mike Pollocoff:

The real issue is part of the Carol Beach/Chiwaukee Prairie Plan. Areas were identified at that time by all the people involved in that plan what would be acquired and what wouldn't be acquired. At the time that plan was put together between '83 and '85, that was a viable, active, private recreation Towne Club. It's upland. There's parts that might be a little bit low, but it

didn't meet the requirements then to be acquired, and that plan pretty much is how the Plan Commission and the Board have judged what gets zoned and what gets acquired and what doesn't. And that site was not sited for acquisition by the DNR.

Dawn Ade:

Okay, thank you.

Thomas Terwall:

Anybody else? Ma'am, that was not a dumb question.

Rita Christiansen:

Good evening. I'm Rita Christiansen. I'm the Co-Chair of the Park Commission and I'm here tonight also to ask that the Plan Commission approve the proposal before you tonight. I want to say how much we appreciate the fact that you've once again offered the opportunity afforded to the residents regarding the Unit W park proposal so they can speak for or against it. As Alex stated, we've spent a lot of time and effort, and staff has also dedicated a lot of time to carefully think out this proposal. This is a conceptual plan and, again, I'd like to ask that you approve it this evening. Thank you.

Thomas Terwall:

Anybody else? Anybody else? If not, I'm going to open it up to comments and questions from Commissioners and staff.

John Braig:

I feel a little different about it today than I did two weeks ago. I recognize an awful lot of work and effort has gone into this. It's very clear to me and I hope the rest of us they definitely want a park there and they definitely don't want a full active park, so I think what we're talking about or what is before us pretty much puts what their desires or wants are at this time. And it also permits us to go ahead and the Park Commission to go ahead with their overall plans. And the future will be what it is as it pertains to this park. We'll start out with a little one. If that works out well and nobody asks for anything different so be it. I think this is good to go. The only additional comments is I would like to see the trails extended more through it and I think that's what the residents in the area want. But that will come, too, when funds are available.

Wayne Koessl:

Thank you, Mr. Chairman. As you know, I voted to endorse this resolution two weeks ago. Unless there's other comments I'm going to do this also. We have to remember this is just a first step in this plan. It's going to take a lot of work to get it done. This will allow the Village to apply for some grants hopefully down the way, and I'm in favor of it. I don't think we should pinpoint what has to go in there until we start looking to develop it and get the grants and then we can have some more meetings with people.

Donald Hackbarth:

Is it Kathleen Burns? You said you would like a park already. Is that for your son?

Kathleen Burns:

Yes.

Mike Serpe:

I'm going to support this after all. I commend the Park Commission and we certainly mean to make it look like you guys were not doing your job. That was not the intent to bring this back tonight. The people that spoke last time were the 5th Avenue people that were really directly affected by the development of this park. I can understand their concern living next to the Towne Club and all the things they've had to endure since the Towne Club has folded and the parties took place. So I understand where they're coming from, but I think this park will not cause that to happen again. With reference to any parking that anybody may be experiencing or anticipate happening on 5th Avenue, let's say that we can monitor that and if it does look like it's going to be a problem we can take measures at that time as far as restricting the parking if necessary.

Thomas Terwall:

I have a question to Mike and Jean. My only concern on this is the letter we received from the property owner expressing his willingness to sell, but he throws in there at the highest and best use. Well, you and I both know that he's looking at the possibility of eight residential lots at \$75,000 or \$80,000 apiece and he'd be more than happy to part with it for half a million to \$640,000. I just want to make sure that by taking this action tonight and by adopting the plan we don't preclude his opportunity to sell that. Do I think he will ever be able to? No, I think the cost of bringing sewer in there is going to be more than a half million dollars, but it's not my position to convince him that that land isn't worth that much. That's his responsibility.

But I just want to make sure that by adopting this plan we don't put a nail in that coffin where he can come back and say you've deprived me of my highest and best use by designating it as park property. . . . then God bless . . . but until we do I think it still ought to be possible for him to build houses on there if he thinks he can bring in sewer and water at a reasonable cost because I don't think he can.

Mike Pollocoff:

One of the things in adopting this tonight you're amending the comprehensive plan that shows to include those findings of the Park and Open Space Plan. That property in the comprehensive plan already, as well as it's zoned for park and recreational. You can't build houses in park and recreation. Mr. Gesualdo purchased that property from another owner and it was that way then. It's zoned that way. So there's a speculation on his part that he would be able to build houses in there. And the Village . . . you can't build single family residential and develop it with a plat in that zoning district. So even though he may have anticipated being able to build houses, it would have taken action by the Plan Commission and the Village Board to modify the comprehensive plan and then to upzone that property from a park and recreation use to a residential use. So that ends up being kind of the friction.

The action you take tonight, if you ask what it does, it puts that in the plan and it kind of designates that we do have a somewhat conceptual plan that we want to implement in that area. If the Village was not to be able to acquire the property on a willing buyer/willing seller basis, we'd have another option which would be to apply for some acquisition funds to acquire the property under eminent domain. And at that point then it would be the—that would kind of lift the discussion up from the point of the Village says it's park and recreation, Mr. Gesualdo says it's single family residential. The appraisals would be presented and at some point that gets decided by a court or a condemnation commission.

This action doesn't preclude it, it kind of reinforces what's already in place and the fact that's park and recreation. It's not slated for housing. So if he wants to put housing in he'd have to start that whole public hearing process for the change in the plan and the change in the zoning and the change in the sanitary sewer service area to get that approved.

Thomas Terwall:

But if I understand it was already zoned this way when he bought it?

Mike Pollocoff:

Right.

Thomas Terwall:

So he has not suffered any loss as a result?

Mike Pollocoff:

This has been zoned for park and recreational since it was the Towne Club. Afterwards the Towne Club financially fell apart and physically fell into disrepair and it was transferred to Mr. Oatsvalle who in turn transferred it to Mr. Gesualdo. So there's been two transactions since the original owner that secured that zoning that site existed. So he may be, in fact, right that he could make more money if he could divide this into single family home sites and develop it that way, but that's the reason we have a comprehensive plan. Sometimes that's the time for the community to say our long-range vision for this is that it stays park and recreation. That's where it's at. So when you're speculating on land you roll the dice that down the road you can convince a future Board or Plan Commission to change that.

Thomas Terwall:

I think everybody wants a park down there. But I think I've heard as many people say they're not as concerned about the Towne Club property as they are developing what we own. I don't think anybody wants ball diamonds and lights and that kind of stuff down there, or if they do they're in a very quiet minority. So I can't see spending a whole lot of money, either ours or State money, to acquire that property if we're just going to let it sit in a natural state. Let it stay like it is.

Mike Pollocoff:

When you look at the work the Park Commission did as this evolved, our initial work was to take a look and, again, that was based on some input from Carol Beach residents at the time, what kind of park would be in that area. I think at the first blush everybody thought we should have a park like every other . . . has a park. So what the consultant did is he had the soccer fields, the ball field. What they basically did is conceptually put in here's what you can fit in this area. Here's everything you could do here. That doesn't mean you do it but this is what it could be. When faced with that a lot of the residents were upset and they echoed what you indicated, they don't want all that craziness behind their house, but they do want some kind of parkland.

The initial concept that the Park Commission had with the consultant was that in order to get the playground away from 90th Street which is a busier street and pull it away and get it in a little more secluded area, you could do a swap where the Village would take the land that we own which is basically fill, do a swap with DNR to put that back into wetlands in accordance with the plan, and then have the DNR help us pick up the Gesualdo site. Make that parkland because it's already upland and it's natural upland. It's not filled land. That's how that logic came across to tie this thing altogether. That's why it has been a long process.

When you go through any public hearing process you have people dipping in along the way who might not have been there for the whole ride to know how we got to that point, but that's how we ended up with looking at that site. To be honest with you from the staff's standpoint if everybody just wants to put the swing set or the tot lot on the existing fill site that the Village owns that's fine and then we just deal with the Gesualdo site as we deal with it, or the way it is here that's the Park Commission's last finding.

One thing, and probably Rita and Alex and Glenn could speak to this, there was a Heinz 57 as we went through the process. One group would come in and say we don't want it, the next group would come in and say we want it, and another group would come and say we don't. We did finally have an auditorium full here one night, two nights, and it was all over the Board. I think Alex's comments from his shorthand survey reflect that it is kind of all over the place.

Andrea Rode:

I just want to say I do thank the Park Commission and all the work they put into it. Sometimes these kinds of things you feel like it's a no-win situation, but I think the direction they've gone is the right direction and I think it behooves us to move this along. Again, nothing is cut in stone as far as any kind of a permanent plan, so I would definitely support it tonight.

Thomas Terwall:

Mr. Koessl, since you made the motion last time.

Wayne Koessl:

I'll make it again. I move approval of Plan Commission Resolution 06-17 as presented.

Thomas Terwall:

Can we get a second this time?

Mike Serpe:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY MIKE SERPE TO ADOPT RESOLUTION 06-17. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered. Thanks again to the Park Commission. I certainly hope you don't take our actions of two weeks ago—I think five minutes after the meeting was over we wished we hadn't done that. I'm glad now that we did. I think this was the right thing to do. And thanks for your attendance tonight.

7. NEW BUSINESS

A. TABLED PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #06-17 to amend the Village Comprehensive Plan. Specifically, the request is to amend the Park and Open Space Plan 2006-2011 to include a conceptual park plan for Carol Beach Estates Unit W Neighborhood Park.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, the next item on the agenda is a public hearing in consideration of a zoning map amendment. This is to rezone approximately 13 acres of property located at 9335 Old Green Bay Road owned by Virginia Dabbs Qualified Residential Personal Trust, and this land would be going from B-2, Community Commercial District to B-2 (AGO). So it would still have a Community Business District, but it would also have a General Agricultural Overlay District which will allow the property to continue and/or expand the farm related operations on the property.

On August 21, 2006, the Village Board adopted Resolution #06-38 to initiate a zoning map amendment to rezone the property located at 9335 Old Green Bay Road by placing an AGO Overlay on the property in addition to having the B-2 District.

Pursuant to the Village's Comprehensive Land Use Plan, the future land use for this property is Community Commercial; and the property is currently zoned, B-2. However, this property, known as the Dabbs Farm, has been used for agricultural purposes for over 100 years and is they are proposing to continue to use it as agricultural uses into the near future. By adding the AGO overlay zoning district classification on the property it would make the existing farming

operations a conforming use and allow the uses on the property to continue and would allow for the existing farm buildings to be repaired and/or for the owner to add some smaller additional farm buildings or operations on the property.

This is a matter for public hearing. For the record, again, the property is located just south of 93rd Street, to the west of Dabbs Farm Drive and to the east of Old Green Road. The property the Dabbs own to the east of Dabbs Farm Drive Road is currently zoned AGO with a residential district. So the balance of the property does have that agricultural overlay on it. To the north we've got Creekside and some residential along 93rd, and then there's agricultural to the south and southeast and WisPark is located to the west of Highway 31. With that I'd like to continue the public hearing.

Thomas Terwall:

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

Steve Palera:

Hi. I'm Steve Palera and I live in Kenosha, 7527 19th Avenue. My great grandmother owns this land, the Dabbs Farm, and I speak on behalf of her as well. We would like to put some pasture space out in the front here just east of 31 and raise some livestock out there and possibly put some shelters out there for some livestock. Maybe use the barn for some storage space.

Thomas Terwall:

Thank you very much. Anybody else wishing to speak? Anybody else? Hearing none I'll close the public hearing and open it up to comments and questions from Commissioners and staff. Hearing none, what's your pleasure?

Mike Serpe:

Move approval, Mr. Chairman.

John Braig:

Second.

Thomas Terwall:

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

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered. Items B, C and D are three separate issues and need separate votes but can all be discussed with one presentation and one public hearing. I would entertain a motion to that effect.

John Braig:

So moved.

Wayne Koessl:

Second.

Thomas Terwall:

Motion by John Braig and a second by Wayne Koessl to discuss Items B, C & D together with separate votes. All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed?

B. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT at the request of Jeff Bond of Gordon Food Service, Inc., agent for RAP of Pewaukee, LLC, property owner, for a Zoning Text Amendment to amend Section 420-137 of the Village Zoning Ordinance to create the specific Ordinance requirements for a Planned Unit Development (PUD) Overlay District for the proposed Gordon Food Service Marketplace development to be located south of Chili's restaurant.

C. PUBLIC HEARING AND CONSIDERATION OF ZONING MAP AMENDMENTS at the request of Jeff Bond of Gordon Food Service, Inc., agent for RAP of Pewaukee, LLC, property owner, for the following requests pertaining to the proposed Gordon Food Service Marketplace development to be located south of Chili's restaurant: 1) To rezone the non-wetland portion of the property from R-4, Urban Single Family Residential District to B-2 (PUD), Community Business District with a Planned Unit Development Overlay District (note that the PUD Overlay zoning will encompass the entire property, including the wetland area), and 2) To correct the Zoning Map and rezone the re-delineated wetland area on the property into the C-1, Lowland Resource Conservancy District.

D. Consider for the request of Jeff Bond of Gordon Food Service, Inc., agent for RAP of Pewaukee, LLC, property owner, for Site and Operational Plan approval for the

proposed approximate 11,160 square foot Gordon Food Service Marketplace store to be located south of Chili's restaurant.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, there are three items that we will be discussing under one public hearing this evening. The first is the zoning test amendment, the second is the zoning map amendment, and the final is the site and operational plan. The first is a request from Jeff Bond, Gordon Food Service, agent for RAP of Pewaukee, LLC. He's the property owner, for a zoning text amendment to amend Section 420-137 of the Village zoning ordinance to create the specific ordinance requirements for a planned unit development overlay district for the proposed Gordon Food Service Marketplace development to be located south of Chili's Restaurant.

The second item and part of the public hearing is also a request of Jeff Bond of Gordon Food Service, and this is for two rezoning requests. The first is to rezone the non-wetland portion of the property from R-4, Urban Single Family Residential District, to B-2 (PUD), Community Business District with a Planned Unit Development Overlay. And, number 2, to correct the zoning map and rezone the redelineated wetland area of the property into the C-1, Lowland Resource Conservancy District.

Finally, the third item on the agenda, the request of Jeff Bond of Gordon Food Service, Inc., for site and operational plan approval for the proposed 11,160 square foot Gordon Food Service Marketplace Store to be located south of Chili's.

I'd first like to begin with respect to an overview for Gordon Food Service, Inc.

GFS is a 108 year old company, privately held, family-owned and based in Grand Rapids, Michigan. GFS is the largest private food service supply company in the United States providing restaurants, schools, churches, hospitals and other institutions with restaurant quality food and food service products. Through its wholesale sales divisions and distribution business, GFS supplies national brand and private-label products to wholesale customers in the Midwest and Mid-South states, South Florida and across Canada.

GFS does not process or manufacture products. Independent processors and manufacturers supply food and non-food products to GFS for distribution to its wholesale customers. Product warehousing is handled by state-of-the-industry high tech distribution centers owned and operated by GFS located in Michigan, Ohio, Kentucky, South Florida and throughout Canada. Several non-automated facilities help support the supply chain. Products are shipped directly to our wholesale customers from these facilities via the GFS truck fleet.

Now, with respect to the facility that's being proposed here in Pleasant Prairie, GFS Marketplace. The GFS Marketplace chain of stores was developed to service retail customers and help support small business customers that are not easily serviced by GFS wholesale sales representatives and distribution system. GFS Marketplace is a wholly owned division of GFS, has been in operation for over 26 years and operates 115 stores in Michigan, Ohio, Indiana, Illinois, Kentucky, Pennsylvania and. The stores nearest to Pleasant Prairie are located in the Chicago suburbs. At the present time there are no GFS stores operating in Wisconsin; however, GFS is actively seeking sites in selected markets in the southern Wisconsin.

GFS Marketplace stores offer a broad selection of restaurant quality, national brand and private label food and foodservice products to restaurants, schools and social organizations, churches, caterers, event planners and to the general public with no membership or club fees or business qualifications. GFS stores stock over 2,500 items and can special order an additional 8,000 items from the GFS warehouses for delivery to the store within 48 hours. As a service for GFS customers, GFS also offers computerized menu planning and portion planning for home banquets and catered events. GFS Marketplace is a source for restaurant quality, bulk-packaged food and meal items to food preparation and serving equipment, utensils and paper products for home or commercial use, banquets and events.

In general, GFS Marketplace stores range between approximately 9,000 square feet to 20,500 square feet in size, depending on the parcel size here or anywhere else they decide to build. Typical parcel size is 1.6 to 2 acres. GFS purchases the land, self-develops the facility, operates the store and maintains long-term ownership of the property. The real estate, facilities and business are all owned and operated by GFS, not franchised, leased or contracted out. Therefore, the ownership, development of facilities, operation and maintenance of the property are integrated, which results in a quality operation and long-term viability of the property.

GFS Marketplace occupies a unique niche in the food service industry and does not duplicate other businesses in the area.

Again, the two requests, the first is the rezoning from the R-4 District to the B-2 PUD, and the second is to correct the zoning map so that the field delineated wetlands are put into the C-1, Lowland Resource Conservancy District.

The subject property is 3.15 acres. It's currently undeveloped. It's a corner property with 219 feet of frontage on 75th Place and approximately 160 feet of frontage on 69th Avenue. GFS has entered into a land purchase agreement with RAP of Pewaukee, LLC, the current property owner.

The property has wetlands on the rear (south) portion of site that were originally field delineated in 2000 and redelineated subsequent.

Comprehensive Land Use Plan Map: Pursuant to the Village Land Use Plan Map and the Comprehensive Plan for the Kenosha Urban Planning District, this property as well as the surrounding Village and City properties to the north, east and west are all designated as a commercial retail and service center land use. The residentially properties to the south are located in the City of Kenosha and those are designated for upper, medium density residential land uses.

To the north of this property is Chili's Bar and Grill. They're currently zoned B-2 (PUD); Johnson Bank to the northeast which is zoned B-2; and then to the north/northwest is the Panera Bread, the Back to Bed, Coldstone Creamery. They're all in the City of Kenosha and have B-2 related or similar zoning.

To the south is single family in the City of Kenosha as well as the Music Center. To the east is undeveloped property that's owned by the Wisconsin DOT and is located in the City of Kenosha. And to the west is approximately eight acres of undeveloped property. All of that is located in

the City of Kenosha owned by RAP of Pewaukee, LLC. The rezoning of the property as requested would be from R-4 to B-2 (PUD).

The PUD request this evening is because the developer is looking for some flexibility with respect to some of the provisions in the zoning ordinance, and the Village is looking for some increased design criteria and some other amenities with respect to the site. And the staff has negotiated those out with the developer up to this point.

The zoning text amendment, the PUD, our goal of facilitating development in a fashion that will not be contrary to the general health, safety, economic prosperity, and welfare of the Village, was to create and encourage the proper maintenance of the structures by increasing the amount of maintenance free materials on the building, good site visibility, good access around the building. The signage was going to be of a very attractive nature that fit into the criteria of the surrounding properties in the Village of Pleasant Prairie. So we have worked with them for the last several months in order to put together a project that we thought this Plan Commission and the Board would be approving of.

The community benefits on the next page, allowing some parking spaces to encroach into the west parking setback will result in the alignment of the GFS and Chili's 75th Place driveways, causing improved traffic flow and increased vehicular and pedestrian safety.

Since the first proposal, GFS has reduced the size of the proposed building to better fit the site and has worked with the Village staff to create a more visually appealing building.

The exterior masonry unit of the GFS building will closely match in color the Chili's brick, creating a more unified appearing commercial development area.

GFS is providing extra paved, illuminated, on-site parking spaces, along with a Reciprocal Cross Access, Parking & Maintenance Easement, to share parking between their site and the current Chili's Bar & Grill to the north.

A Reciprocal Cross Access, Parking & Maintenance Easement is being provided between the GFS site and the undeveloped property to the immediate west. This will decrease the amount of traffic on 75th Place. Increased shopping options. Increased employment opportunities, both during construction and post construction. Increased Village real estate tax revenues. Increased State and Kenosha County sales tax revenues.

The PUD allows for some flexibility then with respect to the ordinance requirements to ensure a unified and prosperous commercial development. Those PUD modifications are outlined below, Items 1 through 7. They have to do with Chapter 420-48 L., and that has to do with parking setback requirements and parking spaces, spaces reserved for the Fire Department only. Chapter 420-57 H. (2) © and that relates to construction design standards and roof lines with respect to some modifications we had with respect to dimension, articulation and building facade and roof material and roof height.

Number 3, Chapter 420-57 H. (2) (g) related to construction design standards for the facing of the building materials. The fourth is Chapter 420-57 H. (2) (g) and this also has to do with construction design standards for decorative accents. Number five, Chapter 420-76 T. (6) (b) related to the primary monument sign and our flexibility negotiated out with respect to the site.

We did . . . a ten but to be consistent with adjacent sites in the Village they had agreed to eight foot.

Number 6, Chapter 420-78 K. (1) related to aggregate permitted background commercial advertising sign area. Then number 7, Chapter 420-119 I. (4) © [2] and this has to do with the building setback.

The final item on the agenda is the detailed site and operational plans. I will not go through the details again with respect to this, however all of the comments I made previously with respect to the building size, its locations, the setbacks, the materials, all the provisions as set forth with respect to off street parking, lighting, storm water, off site improvements that will be required, landscaping, open space, irrigation, development site access and signage have all been evaluated for this particular property.

The key here is that while the entire site is in the Village of Pleasant Prairie, it abuts up to a site that's in the City of Kenosha. What Kenosha has decided is that instead of having GFS complete any additional parking or driveways or aisleways or parking on the adjacent site in the City of Kenosha, really it looks like there's a temporary looped road that is being placed on the west side of this particular site to allow for good access as well as to allow for that movement for the Fire Department to get around the building or the Police Department or anybody else or trucks making deliveries. At some point there will be cross-access to the west. There will be shared common parking, aisleways and cross-access and this looped access road that's in the City of Kenosha will be removed. So that was very important that that be negotiated and worked out with the City of Kenosha.

A tremendous added benefit for Chili's on this particular property is that they will have paved surfaced, marked, landscaped parking that they will be able to cross-access and share between the Chili's Restaurant to the north and this site that is well lit. That's a benefit to the Village as well as to Chili's. The amount of parking that they had designated on their site greatly exceeds their needs so there should not be any further problems with respect to people being able to park back and forth and then travel around the site.

I don't think that the staff has any other comments to add at this point with respect to the three items. This is a matter for public hearing, and I'd like to introduce Jeff Bond from GFS from Michigan. He can add or comment on some of the additional items that I talked about.

Jeff Bond:

Thank you, and thank you, Jean, for that introduction. I don't know how much I have to add. She was pretty thorough. My notes come from the same source as hers did and that's our operational plan that we submitted when we first introduced our project to the Village. For the record, my name is Jeff Bond. I'm real estate manager for Gordon Food Service. My address in Grand Rapids is 420 50th Street, 49501. My local number there is 616-717-7063. Obviously we're here seeking your approval of the site plan, operational plan and a favorable recommendation on the zoning issues to the Village Board. I'm appearing on behalf of GFS and also RAP Pewaukee by virtue of our purchase agreement.

I do have several updates that I'd like to explain to the Commission. I don't really have anything more on our operation to discuss except to clarify a couple of things. Our company you heard has

a wholesale operation and a retail operation. The two support each other and there's some synergies between the two, but I wanted to make clear that the retail operation, GFS Marketplace Stores, do not function together with the warehouse operation, distribution operation. In other words, we do not have deliveries that come to the store that end up being . . . shipment or as warehouse for local supply routes. Everything that comes into our store is intended for that store. It goes onto the shelves in the store and it goes out the front door so we don't have a lot of truck traffic coming in and out of that facility and none for the purpose of warehousing or distribution in the local market. That's all handled by our distribution in our wholesale side and you'll see these trucks running around. Those are the little short boxes backed up to the restaurants and places like that.

In terms of truck deliveries, we get about five or six of those a week so we don't have a lot of traffic coming through that site. We also get vendor deliveries daily, and typically in the mornings is when they like to deliver and those would be the sources for dairy products, snack items, bread and things like that.

A couple of things that I wanted to update you on. One of them concerns the off site paving in Kenosha. Sort of that arc or roadway appearing. On the left side of the drawing you'll see kind of an arcing paved area. This is for truck circulation and for fire and emergency vehicles. As Jean mentioned, this is something that is temporary but indefinite in nature. This will be incorporated into the development next door when RAP or a successor develops that property. That could be incorporated into a parking area. That could be a drive aisle. They might even put their building closer to the property line and the circulation could come around further to the west. But it's intended as a temporary circulation drive. The City of Kenosha right now is reviewing that drawing. In fact, we've had submittal and resubmittal on that. This is something that RAP is handling as that property is theirs and in the City of Kenosha. And it's my understanding from them today that about half of the departments that are affected have reviewed this and they're expecting to finish up that review this week. So far no comments. I think that's because this was a revised submittal that incorporated some earlier comments that they had.

The second is that there is an airport overlay review. It has to do with the building heights and sign heights and those sorts of things that's also coming through the City of Kenosha and that's supposed to track through the same time as this pavement review.

Thomas Terwall:

But your building won't be any taller than the Johnson Bank next door, will it? Johnson Bank is located next door which is a three story building. You're building isn't going to be any taller than that?

Jeff Bond:

Oh, gosh, no. Our building I think is about 26 feet at the tower, 26 or 28 feet at the top of the tower so it's nowhere near the height of Johnson Bank. So I think the review is just cursory and should pass without any problems.

Easements for parking, Chili's now has a general easement over RAP property to park, and there's no specifics as to where or how they get in and out. Our agreement with RAP will mirror the provisions in the Chili's lease with RAP so they'll be protected under that. Then as we heard

earlier there's sufficient parking in there in excess of our needs that would support the overflow parking that now occurs from Chili's in that gravel lot. The entrance will roughly be at the same place, about the same location as that entrance to the gravel lot right now. With that, I'd be happy to answer any questions that you have.

Thomas Terwall:

Let me complete the public hearing first and then we'll do that. Is there anybody else wishing to speak on this matter? Anybody else wishing to speak? Anybody else? Hearing none, I'll open it up to comments and questions from Commissioners and staff. Jean, I'm going to go first. Wasn't it a requirement or a commitment when Chili's went in that that property was going to be paved across the street where the cars are now parking two to . . . deep?

Jean Werbie:

Yes, there was a commitment based on a verbal agreement that Chili's had had with Bob Patch from RAP. Subsequent to that after Chili's had opened, Chili's tried to make improvements to the parking lot, as well as adjacent to that area with respect to paving, striping, fencing, lighting and RAP was opposed to them making any definitive improvements. I'm not sure if they had been negotiating with GFS that whole time, but they did not want to see any permanent improvements put in knowing that a future tenant might be ripping it all up to modify it.

Thomas Terwall:

Even though they committed to this Village that they were going to do that?

Jean Werbie:

That's correct. So Chili's hands were tied.

John Braig:

. . . RAP didn't permit something. I'm a little concerned about that . . . If this is approved tonight it would have to be with the condition that is always available. . . because if I . . . RAP changes their mind . . . the Village can't do a thing about it because it's in the City of Kenosha so we have no guarantee that emergency vehicles have access. So . . . see we could approve this is with the condition that that is always available.

Jean Werbie:

And I would agree. We did state that in the conditions with respect to the easements and such. We have brought that point up several times with Mr. Bond to make sure that he has all the legal written easements very clearly spelled out with respect to responsibilities, easement rights, maintenance responsibilities, and I trust that their attorneys are making sure that that happens.

Jeff Bond:

Let me clarify that as well. That would be part of our reciprocal easement agreement with Bob Patch. And the provision you'll see kind of a dashed line around that jug handle. That is the easement area for that driveway. That will be a reported document. That easement will exist forever. There is a provision that will allow him to incorporate that into his development, but there will always be that access way and he can't take that away.

John Braig:

I still think we need it as a condition of approval tonight.

(Inaudible)

Jean Werbie:

John, we do. Actually it was put into the PUD document itself with respect to a condition of approval of the zoning as well as the site and operational plan.

John Braig:

Thank you.

Donald Hackbarth:

First question. Where are the nearest hydrants to this?

Jean Werbie:

I'll have to pull out the . . . scale.

Donald Hackbarth:

I've got some other questions, too, while you're doing that. Menard's, what is the avenue that comes out of Menard's, that exit that goes south?

Jean Werbie:

70th Avenue is where the signalized intersection is. That's 70th Avenue.

Donald Hackbarth:

For the first time since Menard's was there I decided to take the straight access south. That road is that City owned? Absolutely horrible. If there ever would be a problem with fire or anything in that area I don't know how any kind of fire truck would ever negotiate that narrow road because there's parking on that. I see that as being a major problem with whatever that is, 70th Avenue.

Thomas Terwall:

But that's not a concern for this project.

Donald Hackbarth:

I know it's not, but I'm just saying if they had a major fire . . .

Thomas Terwall:

Anybody else?

Mike Serpe:

Just one question. The road that is directly behind Chili's and in front of where this is going is that private?

Jean Werbie:

Yes and no. In the Village of Pleasant Prairie 75th Place is a public road, and we discussed this many, many times with the City of Kenosha, and we recommended that it be a public road but it's actually private behind Panera and Burger King. So it's public when you're in the Village and then it's private from there to 70th Avenue, but it connects to public roads. So that's why we recommended that it be public, but the former planner for the City disagreed.

John Braig:

And he's gone now.

Jean Werbie:

And one of the things I mentioned to Mr. Bond was we just need to make sure that they also have full and easy access over 75th Place which Chili's does as well, and that there is agreement so that that road is always maintained and plowed because that could be a problem with gaining access to those businesses as well if it's not.

Mike Serpe:

Mr. Bond, this isn't like a grocery store?

Jeff Bond:

No, it isn't. What we do is we sell bulk packaged food products and some minor food service items. The nearest thing that I could equate this to is if you went to a warehouse club and went to the food service section, but that out of the building and put it in 15,000, or in this case, we normally build about 15,000, but in this case about 11,000 square foot. That's what you would have. What we don't have is we don't have service meat. We don't have service deli. We do

carry some perishable items, produce and so forth, but you don't come in for a head of lettuce. You come in for a case. You don't come in for a small can of green beans. It's a number 10 can. And if you want some hamburgers we're happy to sell them to you but you're going to buy a ten pound box.

Donald HackbARTH:

Do you carry spinach?

Jeff Bond:

No, and as a matter of fact we had to pull all of that out the warehouses and out of the stores until this issue is done.

Thomas Terwall:

Jean, do you need to read anything in the record or can we proceed?

Jean Werbie:

I found one hydrant at the intersection of 76th Street and 69th Avenue.

John Braig:

That's behind Johnson Bank.

Jean Werbie:

There is one hydrant and we're trying to find the second.

Jeff Bond:

. . . right next to the building where we have the designated fire parking space.

Jean Werbie:

That's over to the south.

Thomas Terwall:

Can we proceed, Jean?

Jean Werbie:

Yes, proceed.

Mike Serpe:

Mr. Chairman, I would move approval of the zoning text amendment.

Donald HackbARTH:

Second.

Thomas Terwall:

MOTION BY MIKE SERPE AND A SECOND BY DON HACKBARTH TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD FOR THE ZONING TEXT AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

Wayne Koessl:

Mr. Chairman, I'd move approval of the zoning map amendment as presented in the staff report for September 25th.

Judy JulianA:

Second.

Thomas Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY JUDY JULIANA 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.

Thomas Terwall:

Opposed? So ordered. And Item D, site and operation plan motion to approve?

Mike Serpe:

So moved.

Andrea Rode:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY MIKE SERPE AND SECONDED BY ANDREA RODE TO APPROVE THE SITE AND OPERATIONAL PLAN AS PRESENTED SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered. Welcome. Jeff, now that nobody can accuse me of looking for a bribe, do you have any tickets to the GS 400 NASCAR

Jeff Bond:

I have to disappoint you on that. This was our last year of a three year sponsorship on that. The race was about three weeks ago or so.

Thomas Terwall:

You're not going to continue the sponsorship?

Jeff Bond:

No, we have to commit to that about a year in advance. We took a three year sponsorship of that and this was the last of three years. It's possible we'll get back into that in the future because we do a lot of business with a lot of organizations that are involved with that on the wholesale side of the company. So we may see that again in the future. Thanks very much.

E. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATION PLANS on behalf of Ronald Zechel, agent for US Cellular, to construct a 125 foot high Commercial Communications Structure (monopole cellular tower) including 12 attached paneled antennae and an associated 12' x 20' equipment shelter within a leased area on the Christian Tobias Jensen IV property at 7703 Springbrook Road (CTH "ML").

Jean Werbie:

Mr. Chairman and members of the Plan Commission, this is the consideration of a conditional use permit including site and operational plans. The petitioner is Ronald Zechel, agent for U.S. Cellular, to construct a 125 foot high Commercial Communications Structure, monopole cellular

tower, including 12 attached paneled antennae and an associated 12' x 20' equipment shelter within a leased area on the Christian Tobias Jensen IV property at 7703 Springbrook Road.

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 in your staff comments. Under Findings of Fact:

1. US Cellular is requesting to construct a 125 foot high Commercial Communications Structure, a monopole cellular tower, including 12 attached paneled antennae and an associated 12' x 20' equipment shelter within a leased area on the Christian Tobias Jensen IV property at 7703 Springbrook Road. The property is further identified as Tax Parcel Number 92-4-122-284-0052.
2. The proposed US Cellular site is to be within a 75' x 75' leased area, located 15 feet north of the WE Energies LakeView Electrical Substation property and approximately 1,000 feet south of Springbrook Road on the 95 acre Jensen IV property.
3. The 75' x 75' leased area is large enough to accommodate additional future tower co-locators equipment shelters.
4. The US Cellular 12 attached paneled antennas are to be located at the top of the 125 foot high tower.
5. The Jensen property is zoned A-1, Agricultural Preservation District. The portion of the property where the tower is to be located is tilled farmland.
6. The proposed 125 foot monopole tower with antennas and equipment shelter complies with the requirements of Section 420-89 B. of the Village Zoning Ordinance entitled Commercial Communication Structures.
7. The applicant states that the proposed location will facilitate the filling in of some areas within the Village that are voids or have low service in its system.
8. The Village staff believes that the proposed US Cellular site location has several advantages in that the location:
 - a. Is in a remote area, far from other well populated residential areas.
 - b. Is in proximity to the large WE Energies LakeView Electrical Substation which has a substantial amount of above-ground electrical equipment.
 - c. Is adjacent to the WE Energies LakeView Electrical Substation gravel access drive and will utilize this existing access drive which extends southward from Springbrook Road to the site. Thus, there is no need to construct an additional access drive.
 - d. Abuts the CP Railroad line.

- e. Is adjacent to American Transmission Company (ATC) high tension electric power lines and associated towers.
- 9. The tower is being engineered and designed to accommodate at least two additional carriers, which will decrease the possibilities of the proliferation of communication towers within the Village.
- 10. The 12' x 20' equipment shelter is proposed have exterior brick walls with a pitched, shingled roof, similar to other telecommunications equipment shelters in the Village.
- 11. Due to the remote location of the facility, for security purposes a 60' x 60' portion of the 75' x 75' leased area will be enclosed with a six foot high chain-link fence with three strands or runs of barbed-wire atop the fence. The remaining non-fenced area of the leased area will be used to accommodate landscaping on the outside area of the fence.
- 12. Landscaping, to be located within the leased area, in the form of 16 dark green arborvitae, planted a six feet in height, are proposed to be planted along the north, south and west sides of the fencing. The existing access drive is located to the immediate east of the lease area, thus preventing landscaping on this side. The WE Energies LakeView Electrical Substation property to the south which is improved with a landscaped berm.
- 13. According to the applicant-submitted pre-tower & antennas and post-tower & antennas coverage maps, which is shown on the slide, US Cellular coverage in the south-central portion of the Village is poor, yellow or light color, at best without the tower and antennas and increases to green or darker color with the tower and antennas.
- 14. US Cellular will need to enter into easements with the appropriate parties to allow access to the site. Recorded copies of the easements shall be provided to the Village.
- 15. As previously noted, the current zoning of the property is A-1 and commercial communication structure and associated equipment requires a Conditional Use Permit.
- 16. For additional information pertaining to this proposed facility refer to the Conditional Use Permit application, as well as the Site and Operational Plans Application and the associated attachments.
- 17. The Communication Act of 1934 is the Federal regulation, which governs the telecommunications industry and it provides guidelines to State and local governments regarding the citing of antenna facilities. One such guideline governs what information may be considered during our zoning approval process. Basically, what it states 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. Local Zoning Authorities may not directly or indirectly consider health or safety issues during the zoning process when considering a telecommunications facility.
- 18. According to the Village Attorney, the Telecommunications Act prohibits the local units of government from denying a wireless communication company's request based on health or safety concerns.

19. The petitioner and all of the abutting and adjacent property owners within 300 feet were notified via U.S. Mail on September 11, 2006. Notices were published in the *Kenosha News* on September 11 and September 18, 2006.
20. The Village emailed/faxed the petitioner a copy of this staff report on September 22, 2006.
21. According to the Village General Zoning and Shoreland/Floodplain 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 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.

This is a matter for public hearing and I'd like to continue the hearing at this time.

Thomas Terwall:

Is there anybody wishing to speak on this matter?

Ronald Zechel:

Good evening. Ronald Zechel, 3545 North 124th Street in Brookfield represent U.S. Cellular. Jean went through the proposal pretty much in detail. The reason we're here is obviously we have some bad coverage areas down by the business park. We're getting a lot of complaints down there along Highway ML and 31. We looked at the area in detail. We work with WE Energies and ATC all the time and this was a good location abutting the current WE Energies substation. If any future development was ever going to take place we wanted to stay tight to that development so you wouldn't have interference in whatever future plans that the Village may do. So this is generally a good location.

The 125 foot monopole is very similar to what the Village has right out here. It's about the same thing. This would be able to carry two additional carriers at minimum, probably another one possible. It has a building foundation that can make it expandable if the Village would ever come back and want something expandable up to say 150. We could put another section on there but you'd have to go through another public hearing. So this is just for the 125 foot section.

The fenced area is typical, and the building is typical of others. Some use . . . some use buildings and this is all being . . . fenced area very typical down there, and we think it's out of the way enough that it will service the area.

Thomas Terwall:

Thank you. Anybody else wishing to speak on this matter? Anybody else? Anybody else? Hearing none I'm going to close the public hearing and open it up to Commissioners and staff.

John Braig:

Request . . . comments from the staff regarding the possibility of setting this on . . . east of that (inaudible).

Mike Pollocoff:

We had looked at citing a tower on that land before and the Township had acquired that property for landfill purposes a long time ago. There was a string that was placed on the use of that land that related only to waste management, solid sanitary sewer. They had indicated to us that they were prepared to litigate to have that land go back to the owners if we didn't use it in the manner in which we said we were. We took a look at it with our counsel and he agreed that that was probably the case. Although we try to do that where possible on this case for that landfill site we're not able to do that.

All things being equal we're looking at locating a lift station there for the eventual abandonment of 731 and diversion of waste water to Kenosha. We're going to probably use up what is left of that site that is usable for that.

Thomas Terwall:

Mike, when we built the tower next to the water tower on Sheridan Road and 104th Street, didn't we require those people to pave that road back to that?

Mike Pollocoff:

Yes, we did.

Thomas Terwall:

So what would be different in this case? Why is paving required in one and a gravel road is acceptable in the other?

Mike Pollocoff:

They have a gravel road now. WE Energies didn't want to pave the one that was going back there. I think basically for the runoff that we're going to experience next to the Carol Beach wetlands. That was a lot more significant than the runoff that would come off of this one. That was really one of the big reasons they wanted to have that paved was to stop that sediment going into the wetlands.

John Braig:

(Inaudible) . . . maintenance of it because that road was on . . . which the Village would be responsible for cutting the grass adjacent to it and everything else . . . don't care what the maintenance problems are.

Thomas Terwall:

Here's where my main concern is coming from and it pertains to this item and the next item on the agenda as well. If you go to Item 17 under the conditions, subject to the following conditions, Number 17 says Fire and Rescue comments are forthcoming. Contact Fire and Rescue Department Chief Paul Guilbert for further information. Here we are in the middle of the public

hearing and we don't have the comments. So we're being asked to approve something and we don't know what those conditions are. And if we approve this tonight we're asking U.S. Cellular do you accept the terms and conditions that are set forth.

So does that mean that we're going to completely eliminate the Fire Chief's comments as not being important because I have a real problem of approving this subject to those kinds of conditions. This isn't the first time this has happened and the last time it happened I wrote a letter to the Fire Chief and said you can't expect the Police and Fire Commission to get your comments at five minutes to five and expect us to act on them at five o'clock. That's not fair. Every member of this Commission gets this package on Friday or Saturday at the latest and spends the weekend reviewing this stuff, and I don't think it's fair to the Plan Commission and it certainly isn't fair to the petitioner unless he's willing to say, yeah, I'll sign off even though I don't know what they are. How do you know that the Fire Chief is not going to say that road has got to be paved if you expect me to get a pumper back there? We don't know what he's going to say unless he's not going to say anything.

Mike Pollocoff:

I guess based on that the data probably came up faster that . . . we shouldn't have brought it up for consideration until we had all our comments. I recommend that we table it until we have those comments.

John Braig:

. . . motion to table . . .

Judy Julianana:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY JUDY JULIANA TO TABLE THIS ITEM UNTIL WE HAVE ALL THE COMMENTS. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered. The same situation applied to Item F. I think we'd have to table that one as well.

John Braig:

So moved.

Andrea Rode:

Second.

Thomas Terwall:

**MOVED BY JOHN BRAIG AND SECONDED BY ANDREA RODE TO TABLE ITEM F.
ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

G. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of Richard Suwinski, owner to correct the Zoning Map and rezone the wetlands as field delineated on the property located south of 11335 3rd Avenue into the C-1, Lowland Resource Conservancy District.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, this is the request of Richard Suwinski, owner to correct the Zoning Map and rezone the wetlands as field delineated on the property located south of 11335 3rd Avenue into the C-1, Lowland Resource Conservancy District.

On July 31, 2006, the Wisconsin Department of Natural Resources approved a wetland delineation done in June by Hey and Associates on the vacant property located south of 11335 3rd Avenue known as Lot 20, Block 16 of Carol Beach Estates Subdivision Unit #2 and further identified as Tax Parcel Number 93-4-123-304-0085 as shown on the attached Plat of Survey an on the overhead slide.

Pursuant to the Village wetland regulations, upon completion of a wetland delineation the Village Zoning Map shall be corrected to rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District. Therefore, this Zoning Map Amendment proposes to correct the Zoning Map and rezone those wetlands that were field delineated wetlands into the C-1 District. The portions of the property that are not wetlands will remain in the R-5, Urban Single Family Residential District. The entire property will remain in the LUSA, Limited Urban Service Area Overlay District and the portions of the property that are located within the 100-year floodplain will remain in the 100-year floodplain. This is a matter for public hearing.

Thomas Terwall:

Anyone wishing to speak on this matter? Is there anybody wishing to speak?

Richard Suwinski:

4969 Duff Lane . . . Illinois. I have this parcel that this young lady is talking about. I have this property for about 35 years now. I'd like to build a home or something in case . . .

Thomas Terwall:

Are you in agreement with the request?

Richard Suwinski:

. . . I'd like to know ahead of time what I can do.

Thomas Terwall:

I understand. Thank you. Jean, as I look at the map there should be no problem building a home on this property, correct?

Jean Werbie:

There's a buildable area that's been identified in the outlying area that's in that 30 foot setback, 25 foot setback, 10 foot. You can see that there is a buildable area where someone could place a house.

Thomas Terwall:

And there's current a shed on the property, is that correct?

Jean Werbie:

Yes.

John Braig:

Is the a home on the adjoining lot or this is a free standing shed and how did that come to be?

Jean Werbie:

It sounds like the petitioner can answer that question.

Thomas Terwall:

There's a shed on this property now, correct?

Richard Suwinski:

There's no shed there.

Thomas Terwall:

There's not?

Richard Suwinski:

No.

Thomas Terwall:

Was there at one time?

Richard Suwinski:

Maybe . . . house on the other side.

John Braig:

How is it that there's a shed indicated?

Jean Werbie:

The plat of survey clearly shows that there's a shed on the property and this was a survey that was done in June of this year. So unless the shed was inappropriately placed on this property by an adjacent landowner or the surveyor didn't accurately depict what was on the property, there is a shed on the property.

Thomas Terwall:

I think the issue is one of communication, but I don't think that in any way precludes us from the action we have to take tonight, correct?

Jean Werbie:

Correct. But we will proceed in contacting the surveyor tomorrow to find out if that's accurately shown on the map.

Thomas Terwall:

Please do. What's your pleasure?

Mike Serpe:

Move approval of the zoning map.

Wayne Koessl:

Second.

Thomas Terwall:

MOVED BY MIKE SERPE AND SECONDED BY WAYNE KOESSL TO APPROVE THE ZONING MAP AMENDMENT AS PRESENTED. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

H. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to amend Section 420-84 F of the Village Zoning Ordinance related to required swimming pool enclosures.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, you have before you a request for a zoning text amendment to amend Section 420-84 F of the Village Zoning Ordinance related to required swimming pool enclosures.

On June 21, 1999 the Village Board adopted the current swimming pool regulations that requires a six foot high pool enclosure, either a fence, decking with railing, attachable railing or any combination of the three. Prior to 1999, the Village required four foot high fences around swimming pools; however, if the pool was greater than 52 inches, fencing was only required around the ladder.

On July 14, 2006 the Village Administrator received a letter from William & 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.

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 discussion and consideration.

On August 14, 2006, the Plan Commission approved Resolution #06-16 to initiate an amendment to the zoning ordinance as it relates to swimming pool enclosures and recommended that staff prepare an ordinance amendment for consideration by the Plan Commission and the Village Board.

The Village staff is proposing that the following swimming pool enclosures shall be required if the swimming pool is located outside of an approved principal or accessory structure. As

information, these changes reflect similar swimming pool enclosures as required in the City of Kenosha.

- (1) A four-foot-high residential fence constructed pursuant to Section 420-81A shall be installed that is located in the rear, side and/or rear street yard that completely surrounds the swimming pool. These would be one of three options.
 - (2) A deck with a railing or a railing/fence attached to the outer edge of the swimming pool shall be installed that completely surrounds the swimming pool provided that the following requirements are met:
 - I. the height of the railing/fence shall be a minimum of four feet, as measured from the finished yard grade to the top of the railing/fence; and
 - ii. the yard grade around the perimeter of the swimming pool shall remain level or slopes downward away from the swimming pool a minimum of five feet from the base of the swimming pool; and
 - iii. the ladder or steps used as a means of ingress/egress to the swimming pool shall be enclosed with one of the following:
 - (a) a railing/fence with a self-closing and self locking mechanism that is a minimum of four feet in height as measured from the finished yard grade to the top of the railing/fence and the yard grade shall remain level or slopes downward away from the swimming pool a minimum of five feet from the base of the swimming pool; or
 - (b) a railing/fence that is a minimum of four feet in height as measured from the top step of the ladder to the top of the railing/fence shall have a self-closing and self locking mechanism; or
 - (c) the ladder or steps shall be hinged at the top and capable of being raised out of the reach of children with a self-locking mechanism; or
 - (d) the ladder or steps that are covered with a self-enclosing and self locking barrier.
- (3) If the outer wall of the swimming pool is a minimum of four feet in height, as measured from the finished yard grade to the top of the swimming pool and the yard grade around the perimeter of the swimming pool remains level or slopes downward away from the swimming pool a minimum of five feet from the base of the swimming pool; then a railing/fence as specified above in subsections (1) and (2) is not required; provided, however, that the ladder or steps used as a means of ingress/egress to the swimming pool shall be enclosed with one of the following:

- i. a railing/fence with a self-closing and self locking mechanism that is a minimum of four feet in height as measured from the finished yard grade to the top of the railing/fence and the yard grade shall remain level or slopes downward away from the swimming pool a minimum of five feet from the base of the swimming pool; or
- ii. a railing/fence that is a minimum of four feet in height as measured from the top step of the ladder to the top of the railing/fence shall have a self-closing and self locking mechanism; or
- iii. the ladder or steps shall be hinged at the top and capable of being raised out of the reach of children with a self-locking mechanism; or
- iv. the ladder or steps shall be covered with a self-enclosing and self-latching barrier.

(4) For hot tubs only: A fitted cover that is capable of supporting a minimum of 100 pounds shall be securely fastened to the outer edge of the hot tub.

Let me also indicate that the staff had considerable debate with respect to the language used in this ordinance. We discussed it in detail amongst ourselves, with the Village Administration, we had other Village staff read it to make sure it was clear. We also contacted one of the largest pool suppliers and distributors in this area at Hanson Pool & Spa and we went through it in detail with him and he actually provided us some details with respect to the new state of the art, self-latching/locking mechanisms that are now going to be available for pools, typical pool heights, how pools are installed and just a number of things that we were not aware of that are out there in the pool industry. So a lot of the language and the discussion that we put in this particular ordinance does reflect those discussion.

And then, finally, there was a great deal of discussion about what the setback of the fence should be from the pool's edge to where the fence should be located. And we finally agreed as a staff that if someone tries to climb that fence you couldn't necessarily leap from the top of that fence to the pool a distance of five feet. So we thought if it was closer you could still leap and get into the pool, but a distance of five feet would make it very difficult for someone to actually jump from that fence to that pool with any great ease. With that, I'd like to continue the hearing.

Thomas Terwall:

But if somebody were to scale the four foot fence, they could get down on the ground and then scale a four foot pool wall I would think. Not that I object, but if you can climb the fence you can climb the pool wall, correct?

Jean Werbie:

However, we have a number of provisions in the ordinance then that actually shows a bracketed cover over the steps so you can't climb up the steps and locks it; one that goes over the top of the railing and over the ladder so you can't get over it that way. Another example we were shown is like a gated area so you can't walk the steps and get around on either side without unlocking a mechanism. And typically pools have smooth walls so you could do it but you'd have to make

quite an effort to take a jump and get up on the rail and then slip in. Again, barring having a very—

Thomas Terwall:

This ordinance is comparable to the City of Kenosha's is it not?

Jean Werbie:

It's a little bit more specific because we wanted there to be no question in our minds or room for interpretation, but basically it says the same thing. Our just says it in more words so that there's no room for additional interpretation.

Thomas Terwall:

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

John Braig:

I see an item here . . . out of reach of children . . . any direction you want. The concern I have is the unlatching mechanism. I don't want to specify . . . at this point . . . is a height that the unlatching mechanism must be installed. Obviously, I'm looking at some eight or nine year old kids who are going to get into that pool if they want to. What we're looking at is toddlers that you don't want to get into the pool . . . height of the unlatching mechanism should be identified in terms other than out of reach of children . . . something like that and maybe we could be specific about that. We don't want to specify something that's an inch higher than the devices are now.

Mike Serpe:

If this ordinance as proposed protects, just what John says, toddlers from crawling into a pool or inadvertently crawling next to a pool and falling in then I think it's going to serve its purpose. There is no way that we are going to be able to come up with an ordinance that's going to protect everybody in Pleasant Prairie from a disaster. I was a cop for 28 years and I witnessed guys break into safes that you'd need dynamic to normally open. So I agree with you, John, 100 percent. If you're protecting the little kid, the toddler, and after 4 or 5 or 6 years old if there's a chance that they can scale that wall to get into that pool they're going to do it.

Thomas Terwall:

As the former owner of a 26 foot by 4 foot pool and the father of two typical boys, I wish my boys would have used the ladder. . . . every time they just jumped over the wall to get into the pool

Mike Serpe:

Think about this. We're going to protect as many as we can from falling into the pool or getting into the pool from drowning. And if you think about the amount . . . four foot depth pool, there's a lot more around . . . of drownings.

Thomas Terwall:

I have a comment that Pastor Hackbarth asked if I would read this into the record. Why do we expect to fence in a pool and not a retention basin, and I don't have an answer for him. I think on retention basins at least we now have a slope, do we no, Mike, so it can't be straight down so that if somebody does get in they can get out?

Mike Pollocoff:

Yes, there's an area of forgiveness that's about four feet that should be under high water conditions no more than a foot of water. Milwaukee has had some terrible incidences where they've had retention areas that they fenced, someone got in there, the classic example a kid gets in there, scales it and goes swimming in and then the rescue—nobody sees him. The rescue personnel can't get in very easily. We as a community are not liable for maintaining those ponds in a way that we do the initial design and that's it.

John Braig:

I recall in the early '70s there was a fatality on the north side of Kenosha, two kids, because . . . more like standing water on private property and people were in a cry and uproar saying we've got to fence every wet spot in town. Of course, since then, the DNR says they're going to put retention and detention basins all over.

Thomas Terwall:

Recommendation is to approve, not to send a favorable recommendation to the Village Board. Does the Village Board not also have to approve this?

Jean Werbie:

They do.

Thomas Terwall:

So we'll approve it but it will still go to them?

Jean Werbie:

That's correct.

Mike Serpe:

And, Jean, you're satisfied that your staff has kicked this around where you think you've got this thing covered adequately?

Jean Werbie:

We have. I will contact the pool industry folks again to find out if they can give us a specific height. My guess is it's somewhere between three and five feet. I don't know what it is but we can put a number in.

Mike Serpe:

That would be okay. With that I'll move approval.

John Braig:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY MIKE SERPE AND SECONDED BY JOHN BRAIG TO APPROVE THE ZONING TEXT AMENDMENT. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

I. Consider Plan Commission Resolution #06-18 to initiate a Zoning Map Amendment as a result of wetland staking being completed.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, you have before you Resolution #06-18, and it's a resolution to initiate a zoning map amendment. The Plan Commission may initiate a petition for an amendment to the zoning ordinance which may include the rezoning of property, change in zoning district boundaries, as well as changes in the text of the ordinance.

On August 15, 2005, the Village received an application from Robert Foster on behalf of a property owner, Lois Foster, for a wetland staking to be completed on an undeveloped property to be located at the approximately 900 block of Lakeshore Drive. The property is further identified as Tax Parcel Number 93-4-123-203-0170 and further identified as Lot 9, Block 34 of the Carol Beach Estates Subdivision Unit #4.

The Village received a letter dated September 7, 2006 from SEWRPC that indicates that the plat of survey correctly surveyed and correctly identified the wetlands on the property as field staked on January 6, 2006. So in accordance with the Village zoning ordinance, C-1, Lowland Resource

Conservancy District requirements in effect, the Plan Commission shall initiate the appropriate action to change the zoning map to conform to the wetland delineated plat of survey.

So by this resolution the Plan Commission is initiating a petition to amend the official zoning map as it relates to the property but is not making any decisions or determination on the request this evening, but is only initiating the process by which the proposed change in the zoning map can be promptly evaluated and a public hearing can be scheduled. The staff recommends approval as presented.

John Braig:

So moved.

Judy Juliana:

Seconded.

Thomas Terwall:

MOVED BY JOHN BRAIG AND SECONDED BY JUDY JULIANA TO APPROVE THE RESOLUTION. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

Jean Werbie:

There were two items that were tabled on the Plan Commission this evening, and by your actions I had taken that these items would be taken up at the next Plan Commission meeting assuming that the appropriate staff comments were available to you prior to that meeting. If they are not taken up at that meeting, then I need to renotice all of the neighbors for both petitions again. So by your actions this evening I assume that you were, in fact, tabling them to the October 9th meeting. Is that correct?

Thomas Terwall:

Correct. They were tabled until we got the necessary comments is what we said. If we can have those comments and the petitioner can have those comments before the next Plan Commission meeting I have no problem with that at all.

Wayne Koessl:

Jean, would you like a motion through the Chair to take them at the next meeting?

Jean Werbie:

Yes, for both items please.

Wayne Koessl:

I would so move that the two tabled items should be on the agenda for the next Plan Commission meeting.

Andrea Rode:

Second.

Thomas Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY ANDREA RODE THAT THE TWO TABLED ITEMS WILL BE TAKEN UP AT THE NEXT MEETING. THAT'S WITH THE UNDERSTANDING THAT WE'LL GET THE COMMENTS, CORRECT?

Mike Serpe:

I'm sure the Administrative will make sure we get those.

Thomas Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

8. ADJOURN.

John Braig:

Move adjournment.

Mike Serpe:

Second.

Thomas Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

Meeting Adjourned at 6:40 p.m.