

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
March 10, 2008**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on March 10, 2008. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessler; Andrea Rode; Jim Bandura; John Braig. Larry Zarletti and Judy Juliana were excused. Also in attendance were Mike Pollocoff, Village Administrator; and Jean Werbie, Community Development Director; Peggy Herrick-Asst. Planner/Zoning Administrator and Tom Shircel-Asst. Planner/Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CITIZEN COMMENTS.**

Thomas Terwall:

Since both items on tonight's agenda are public hearings, if you're here for either of those items we'd ask that you hold your comments until that public hearing is held so your comments can be incorporated as part of the official record. However, if you're here for an issue not on the agenda or wish to raise a question 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?

- 5. OLD BUSINESS**
 - A. TABLED PUBLIC HEARING AND CONSIDERATION OF ZONING TEXT AMENDMENTS to consider an amendment to Section 420-119 K.(4) of the Village Zoning Ordinance related to Operational Standards and to Section 420-119 D(1)(c) of the Village Zoning Ordinance related to Conditional Uses in the B-2, Community Business District.**

Thomas Terwall:

We need a motion to take that off the table.

John Braig:

So moved.

Wayne Koessl:

Second.

Thomas Terwall:

MOTION BY JOHN BRAIG AND A SECOND BY WAYNE KOESSL TO TAKE OLD BUSINESS A OFF TABLE. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, this is a tabled public hearing and consideration of zoning text amendments to consider an amendment to Section 420-119 K.(4) of the Village Zoning Ordinance related to Operational Standards and to Section 420-119 D(1)(c) of the Village Zoning Ordinance related to Conditional Uses in the B-2, Community Business District.

Some background just to remind you folks of what we were discussing a while back, on April 23, 2007 the Plan Commission approved Resolution #07-15, and this was to initiate some zoning text amendments to re-examine outdoor storage within the B-2, Community Business District, for the Village.

On May 14th and on May 29, 2007, the Plan Commission held public hearings pertaining to the proposed zoning text amendments. During both meetings the Commission had a considerable amount of discussion which primarily focused on safety issues related to outdoor storage and placement of LP gas cylinder cages and ice storage containers. The issues that you discussed at that time included:

1. The potential for vehicles to crash into the LP cages.
2. Potential requirement of protective bollard installation for LP cages.
3. The potential hazard of an LP cage fire or explosion.
4. The placement of the LP cages and ice containers, and some of the items you discussed specifically related to that is that they:
 - a. Should not cover any building windows.
 - b. Should not obstruct walkways.
 - c. Should be placed against a solid wall, particularly the LP cages.
5. The safety of employees who have to go outside to unlock the containers in order to get the product out for the customers.

What the staff did was, and you know this from our meetings last year, is that we went around to look at all of the gasoline stations located in Pleasant Prairie, and what we did was specifically identified whether or not they had parking in front of them and what type, if it was angle parking in front of the building or perpendicular parking in order to evaluate whether or not there was going to be a concern for cars that without curbs or sidewalk bumping and knocking into these LP tanks while they were being stored in front of the store.

What the staff did was they went around and I'm going to go through some of these kind of quickly because I assume most of you are familiar with these gas station facilities in the Village. This is the State Line Citgo. It's a 2006 aerial photograph at 12720 Sheridan Road, and it looks like there's perpendicular parking around the building. This is a front view of that State Line Citgo. As you can see there's a garbage can, newspaper box in the front and on the side, and on the very north side there is an ice container. This particular gas station does not have any LP storage.

The next we looked at in the Village is the BP Connect. It's located at 10477 120th Avenue out by the Interstate. Again, this is an aerial shot of that particular facility. This is the west side view of the store. As you can see there's really no outside storage to speak of other than disposal. This is the north elevation. This is the south elevation, and as you can see they currently have an ice machine there. They are inappropriately storing their pallets when this picture was taken outside. They have since removed those pallets. Again, keep in mind that for our gas stations in the Village there should be no outside storage. So over the years and over the months that these stores have been opened they have started to bring some storage outside because of the demands and the needs of their customers. This is the rear or east elevation of BP Connect.

The next is the U.S. Kenosha Truck Stop. We're going to go through these kind of quickly. As you know, this is a business that is being acquired by the Wisconsin Department of Transportation as part of the realignment and reconstruction of the County Trunk Highway C interchange. So as a result this particular store will not continue to be there so it won't have any outdoor storage of materials. They frequently have had outdoor storage of things that they're not supposed to have. We have talked to them several times to have those things removed. They do have ice and newspaper boxes and crates of sand or salt on the outside. They've had materials, garbage, other things on the outside that had crates in the bag.

Again, one of the concerns that the staff wants you to keep in the back of your mind is if we do allow the LP and the ice storage that's really got to be it unless you want to encourage all sorts of other stuff to be accumulating on the exterior of these facilities. Again, not only does the additional stuff start to accumulate, but garbage, debris and other things starts getting entangled and it just becomes more of an issue of maintenance and following up with it. This is the north side of that same U.S. Truck Stop.

The next is the Pantry 41 Citgo. This is out by the Interstate at Highway 50 at 7511 118th Avenue. Again, this is an aerial shot. 118th Avenue is to the west and Highway 50 is to the north. This is a front view of this particular gas station. This is a pretty clean site. We have very little on the outside. They only have a garbage disposal and they had one other thing right by the front door. But at this point they have no LP or ice storage. Again, this was as of 2007 when these photographs were taken by Tom.

The next site we're looking at is the PDQ at 8800 75th Street, north side of Highway 50 and just to the west of 88th Avenue. This is the aerial shot. PDQ also has a very clean site. They've been very respectful of the Village's ordinances with respect to no outside accumulation of storage or junk or ice machines or anything like that. It's a very clean site. PDQ is one of several that have requested, however, LP as well as ice. As you can see, many of these buildings and we can look back if you can't recall, but many of them have some blank walls where these LP or ice storage chests could be located without blocking windows, without being too close to doorways so they could be accommodated. This is their west side elevation.

The next is the Truesdell Mini Mart. This is located at 8531 75th Street just south of Highway 50 and just east of 88th Avenue. This is the front of their store. Currently they have both an ice machine as well as an LP storage right in the front. As you can see, the LP storage is in front of the window but the ice is not. This is their east side of their building. They don't have anything on that side except for the air pump. This is their west side. There's nothing basically on that side either. It's a pretty clean site except for the two in the front of the store. This is the rear of their property. Overall I believe that our gas stations up to this point and our service convenience places have been very clean and very neat.

Donald Hackbarth:

(Inaudible)

Jean Werbie:

They have lower LP storage and they have higher LP cages. This happens to be a lower side by side unit.

The next is the store that's located at 4417 75th Street, and as you know that's a former shell and now it's going to be Ayra's, and the soon to be owner was just into the Village Plan Commission for a special exception for a sign. So I'm not sure if the ice storage chest is still there or not. I don't think so. Again, the station has been closed. This is the rear of the facility, east side elevation, west side elevation, relatively clean site.

The next is the Mobil which is currently closed and that is at 4503 75th Street. I can't recall if the site is more cleaned up now or not but, again, this photo was taken about a year ago when there was a lot more vehicle storage and drum storage and Pepsi machines and there were other things that were on the site at that time. This is the north elevation facing Highway 50. This is the rear or south elevation that faces the Town and Country Shopping Center. This is the east side elevation and this is the west side. Again, what happens is we start to get an accumulation of stuff outside once you permit additional storage outside.

Then Tom put a table together to identify for you some of the existing ice chests that are out there, how tall they are, where they are located, and then specifically he went back and took some more pictures of some of these ice chests to give you again—they're all different in their configuration in how to get the ice out. But for most of them my understanding is they have storage of ice inside in one of the freezer compartments inside the convenience stores but this is extra or additional ice. I would think maybe on very hot days in the summer they go through it

much more quickly and they have to come out here. But typically you purchase your ice inside the store. You don't have the store clerk come out and unlock it for you in order to get your ice.

This happens to be in the City of Kenosha on the north side at Highway 50 and 118th Avenue. Truesdell, Shell Village. Again, this one is currently closed. This is Speedway that happens to be in the City of Kenosha. So as you can see what Tom did is he drove around the periphery of Pleasant Prairie and the City of Kenosha and most if not all of the gas stations have some type of outside storage for ice. This is the PDQ on 80th. They have a double wide, large, tall LP storage there. This is the Phillips 66 in the Village. That was the Kenosha Truck Stop location.

Then finally what he did is he put a chart together for the LP gas storage. The size, again, they can vary in size with the number of cages and the height depending on how it's configured on the outside of the buildings. Then these are just some pictures, again, of some gas stations in proximity. It seems to be very popular for gas stations as well as nearby Walgreens to have these types of facilities.

The one thing that we did notice for all of them is that as you can see for all these photographs none of them had additional bollards or any type of crash breakaway deflection devices or structures in front of them. What they did have for the most part is curb. Parallel parking coming up and then there was a barrier curb as part of the sidewalk.

The amendments then this evening propose for no more than one ice storage container and no more than one liquid propane or LP gas cage per gasoline station or convenience store property as a permitted use in the B-2 District. Again, we're identifying these as permitted uses, not conditional uses. As the ordinance currently states, no other outdoor storage or displays of materials, merchandise, vehicles, etc., would be allowed in the B-2 District except as may be allowed with a conditional use permit.

So with that I'd like to continue the public hearing. The staff feels that we've done enough research on this particular matter. Those initial points that were point up the staff still does recommend that those concerns that you had a year ago still be concerns today in that the ice and the LP cage should not block or barricade any windows or doors or prevent sight, should not obstruct any walkways and should be placed against a solid wall, especially the LP cages. So those are the three points that we feel that should be incorporated into the ordinance.

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? Hearing none, I'm going to open it up to comments and questions from Commissioners and staff.

Jim Bandura:

Just a quick question to the staff. This is just going to limit these two containers. It's going to be ice storage and the propane, correct?

Jean Werbie:

That's what we're recommending.

Jim Bandura:

What I'm getting at is there's a new little way of vending DVDs, and it's a DVD vending machine, and I've seen it pop up in a few places. Don't ask me where because I can't remember where it was, but it's something that could happen to a service station or Walgreens or something like that.

Jean Werbie:

We're not recommending any other additional outside storage and if they want to sell DVD's it should be inside the store. If they want to sell firewood, soda, water, salt it should be all inside the store because where do you stop? I mean these are two huge structures in and of themselves, so we found that it's appropriate and, in fact, I think there's even an issue of bringing the LP into the store, so we feel that these two types of uses are acceptable outside. But all of a sudden it's going to get so cluttered and cramped and then it's going to be a very difficult monitoring exercise.

Mike Serpe:

The LP storage did we mention anything about protection of that cage? Are they to be protected by bollards? We didn't say that, did we?

Jean Werbie:

That's up to you if you would like to include that provision. We certainly could include that provision.

Donald Hackbarth:

Isn't that in Section 420-119 K at the bottom?

Tom Shircel:

It says (d)[2] it says it shall be protected by a bollard, guard rail, fence or raised sidewalk or some other acceptable means.

Mike Serpe:

I should have paid more attention to the slides. Are there any of our gas stations that are currently displaying any outside like windshield washer fluid? Are there any of them presently doing that right now?

Jean Werbie:

Possibly out at the Interstate at Highway C.

Tom Shircel:

Possibly at the U.S. Truck Stop.

Mike Serpe:

And the only reason I say this is as I understand it, and I certainly could be wrong, the amount of profit that a gas station makes per gallon is something like three cents. I don't think it's going to change if it goes to \$10. I think their profit margin is at three cents per gallon. The stores like the PDQs and everything else that are convenience stores they're going to garner a lot more sales of items inside the store with milk and soda and canned goods and whatever they sell. But this gas station on 120th Avenue only sells gas. So if he can help himself out a little bit by offering some outside display that's going to bring in a few extra dollars to his business a day, why would you want to deny that? Only because you don't like the looks? I don't know. That type of display if it's kept neat doesn't bother me in the least.

Tom Shircel:

I think the only gas station that's not also a convenience store in the Village is the closed Mobil station on Highway 50.

Jean Werbie:

Right. Otherwise everybody else has these products and has this type of merchandise in store. In fact, PDQ and Truesdell and a number of them, even the new one, the new Shell Station, they have all these products inside.

Mike Serpe:

Okay.

John Braig:

Mike, I think you're in error on the three cents. They state minimum markup law far exceeds three cents a gallon.

Donald Hackbarth:

You know the filling station on 75th and that would be 43rd or whatever it is by—

John Braig:

45th.

Donald Hackbarth:

45th is that what it is where you said there was a lot of junk outside. I believe that's the only one that does full service. They do car brakes and stuff. I think that might be part of the problem of their service station when they—maybe in an engine whenever they change a radiator or whatever they can't keep this stuff inside. I don't know if there's an exception you make for that, that if they're going to have a storage area to place something before they get it out of there if they should fence it off. Because if they're going to rebuilt an engine or tear out a radiator because they do fairly major things on cars, what are they going to do with the stuff?

Jean Werbie:

That Mobil is closed. I don't know if you knew that. They are closed. We have talked to different people who are interested I maybe opening it back up, but they're not interested in doing service any longer. They're looking at reconfiguring the building and maybe adding onto the building and doing convenience rather than service. I don't know that we'll see too many small service stations ever open up or continue. Things are changing.

Thomas Terwall:

Do none of the stations in the Village have products for sale out on the gas islands because that's fairly typical that they sell rock salt and—

Jean Werbie:

Not in Pleasant Prairie, not legally. I guess the only one that I can think of is the Kenosha Truck Stop out by the Interstate.

Wayne Koessl:

Mr. Chairman, I think staff did a good job of researching all these facilities in the Village and I can see nothing wrong with this. I think it's been needed. And unless there's other comments I'd move approval.

John Braig:

I'll second that motion.

Mike Serpe:

A comment. John, you're right about the six percent but I think it's three percent profit is what they're making—three cents a gallon profit is what they're making on it, the station itself. After all said and done three cents a gallon that's all they're going to receive. That's what they realize.

John Braig:

You're talking net profit.

Mike Serpe:

Yes, that's all they realize. Not a whole lot of money.

Thomas Terwall:

IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY JOHN BRAIG THEN TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ORDINANCE AMENDMENT AS INDICATED 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.

6. NEW BUSINESS

A. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT to rezone the property located at 9249 Old Green Bay Road from the B-2, Community Business District to the I-1 Institutional District in order to be in compliance with the Village's adopted Comprehensive Land Use Plan.

Jean Werbie:

Mr. Chairman, this item is a public hearing and consideration of a zoning map amendment to rezone the property located at 9249 Old Green Bay Road from the B-2, Community Business District, to the I-1, Institutional District, in order to be in compliance with the Village's adopted Comprehensive Land Use Plan.

On January 22, 2007, the Village Plan Commission adopted Plan Commission Resolution #07-03, and this was to initiate the review of the I-1, Institutional District, which may include amendments to other sections of the ordinance and the map as well.

In addition to reviewing the Institutional District requirements and Village zoning maps, the Village staff also reviewed the Village's Comprehensive Plan to ensure that the zoning map and the adopted Land Use Plan map are consistent as required by the State of Wisconsin Smart Growth law.

In general Smart Growth requires that on or before January 1, 2010 all municipalities who participate in planning, development and zoning activities shall prepare, adopt and maintain a Comprehensive Plan which is what we are doing. The Comprehensive Plan shall be the cornerstone of all land use decisions; therefore, all land use related ordinances shall be consistent with the Comprehensive Plan prior to January 1, 2010.

The plan is currently being updated as part of a three year process. As you know we're working with Kenosha County on the Kenosha County Jurisdictional Plan. As a result of re-evaluating our districts as part of our process and our institutional requirements, the Land Use Plan map has been updated to reflect some changes that have taken place.

On February 25, 2007, the Plan Commission adopted Resolution #08-08 to amend the Village Comprehensive Land Use Plan. On March 3, 2008 the Village Board adopted the I-1 District zoning text and map amendments as recommended by the Plan Commission at their meeting on February 25, 2008.

As noted during the public hearing that night, the Holy Family Catholic Book Store property located at 9249 Old Green Bay Road, which is at the northeast corner of 93rd Street and Old Green Bay Road, was inadvertently left out of the properties that we were looking at for the modification into the I-1 District. And so the purpose of this public hearing tonight is to bring that property into the I-1 District as shown on the Comprehensive Plan map and the zoning map so it reflects the adjacent I-1 District and zoning map.

So we are requesting this evening to rezone the property located at 9249 Old Green Bay Road. It's identified as Tax Parcel Number 92-4-122-153-0135, and the abutting roadway right of way from the B-2, Community Business District, and replacing it into the I-1, Institutional District. This is a matter for public hearing this evening.

Thomas Terwall:

Matter for public hearing. Is there anybody wishing to speak on this matter?

Wes Ricchio:

Good evening. My name is Wes Ricchio. I'm a Village resident at 9218 Cooper Road. I also am the sole member of Fig Tree Realty, LLC which is the owner of the property in question this evening at 9249 Old Green Bay Road. I purchased the building. The Holy Family Catholic Book Store when I purchased that particular business was in the City of Kenosha on South Sheridan Road by Chester Electronics in the Simmons Park Plaza. I started looking for a larger home for it soon after buying it, and in the late 1990s, I think it was '99, I found the property at 9249 Old Green Bay Road, which at that time I believe was zoned I-1 Institution. So I had a conversation with Village staff and what I would have to do in order to be in compliance and move my business there.

Basically I think at that time the neighborhood use plan or the land use, however you refer to it, included most of the properties along Green Bay Road were designated to be zoned B-1 or B-2 at that time. So it was part of the plan, and I knew that I would have to comply with a lot of improvements to the property which I did, paving, curb and gutter, handicapped ramp, handicapped accessibility bathroom, and I knew I would have to do that and that would be some expense. But based on this I thought that it would be a good long-term investment, a good location for the store and, once again, as a real estate investment it's in the area of growth. Good visibility from Green Bay Road. So I went ahead and purchased the building, and between the purchase of the building and the improvements that I needed to do in order to get it rezoned, to get my occupancy permits, I think to date it's approximately \$200,000 is what I've put into that.

I'm a banker by trade during the week and I work at my store on weekends. But being very familiar with market values of property and the appraisal process I know that a property is only worth as much as what somebody is willing to pay for it, and I firmly believe that by rezoning this property back to the I-1 that if I should ever decide to sell this property down the road the investment that I thought I was making will no longer be there because you've reduced the pool of potential buyers from a fairly significant number down to just a handful based on the actual uses allowed under I-1.

I looked at the I-1 and saw that religious bookstores were specifically mentioned in that. And my question would be, I can totally understand how with some of the individual parishes or congregations that set up their own bookstore, I don't know if the Assembly of God is within the Village or the City, but they have a bookstore that's part of their property. I can see the thinking behind throwing a religious bookstore into I-1 for that so that they're all in compliance. My particular store is not affiliated with any specific parish or congregation. It is a stand alone not only bookstore, gift shop, it's more of a retail use. It's a true retail business.

And I would just ask that you allow me to keep the investment that I had made and that I made in good faith with the number of improvements I did make to it. It would have probably been a lot easier and cheaper for me if religious bookstores would have been thrown into the institutional zoning back in 1999. I still probably would have made all those improvements to it. I may not have bought the building. But I think that we've improved the building. I hope everyone is happy with its appearance. I think it is a good thing for the Village, and I just ask your consideration.

Thomas Terwall:

Is there anybody else wishing to speak? Anybody else? Anybody else? If not, I'm going to open it up to comments.

Donald Hackbarth:

Is I anything institutional or I designation associated with tax exempt status on a property?

Jean Werbie:

No, not necessarily. It can be. It doesn't have to be. Again, just in response to some of Wes's comments, what we did at our last Plan Commission and Board meeting was we re-wrote completely the I-1 District, and we expanded the amount of uses four fold with respect to office-related uses, financial institutional, clinics. We put in all sorts of things that had to do with administrative offices, classroom-type facilities, museums, art galleries, hospice facilities, all related health type of facilities, doctors' offices and things like that. So what we did is we expanded it greatly, but we wanted to make sure that we were developing a certain type of character for this particular area of the community with respect to the I-1 uses. So I know that that was one of the concerns by one of the other landowners, but when we identified all the different uses that we've now expanded without them being questionable or objectionable type uses, knowing that they are in proximity to residential development, we felt that that was a very reasonable transition, and we feel that the properties in this area are still very marketable.

Donald Hackbarth:

The other questions I have or comment is in the future let's say the gentleman would like to sell his property and somebody would use it for a purely business venture. Can they rezone that back to business or is this going to kind of fixed in I?

Jean Werbie:

It would not be the staff's recommendation to do a spot rezoning, that we would want to keep it in the Institutional District and the uses in the Institutional District as opposed to spot identifying it for a business use. If the use that they're proposing is substantially similar to a use that is listed as either a permitted use or a conditional use in the district currently, the Zoning Administrator, myself, would have the opportunity to evaluate it to see if it's substantially the same or will operate in the same type of manner, and we can evaluate that either at staff level or at a Board of Appeals level.

Thomas Terwall:

Wayne?

Wayne Koessl:

Thank you, Mr. Chairman. Mr. Chairman, through you to Mr. Vita I have a question. With this type of zoning would that lower the value of that property or hinder the sale of it in your estimation?

Rocco Vita:

Current zoning is B-2. I think your typical uses in a B-2 zoning would facilitate a higher land value than in the institutional zoning. One thing on this particular property, though, that needs to be thought about is its size. It's .61 acres. A lot of your B-2 zonings that would attain that higher value needs more land to really fulfill the use.

Wayne Koessl:

Thank you.

Mike Serpe:

Was Wes made aware of the expanded uses on this parcel prior to today?

Jean Werbie:

He did receive a copy.

Thomas Terwall:

What are the properties adjacent zoned to the north in particular?

Jean Werbie:

Immediately to the north and to the east are R-2, Suburban Residential. And then further to the east at that point they're zoned R-9. That's the Creekside Crossing development.

Thomas Terwall:

What precipitated this change, Jean?

Jean Werbie:

Again, his property should have been incorporated with that area wide, comprehensive wide rezoning that we did when we brought all of and we made all the corrections throughout the Village as part of the Comprehensive Plan to bring all of the I-1 uses into the I-1 zoning district and into the I-1 shown on the Comprehensive Plan map.

Mike Serpe:

I'm a little troubled by this because when he purchased the property and he came to the Village to see what needed to be done—

Jean Werbie:

It was zoned I-1 was it not? It was zoned I-1.

Mike Serpe:

And who asked for the zoning change?

Jean Werbie:

In 2003 at the direction of Jim Baxter and Quarrels and Brady we were trying to identify large areas of B-2 District, and at that point we had not evaluated all the I uses. We were just starting our process in updating our zoning ordinance and our Comprehensive Plan. So at that time the whole area was identified as B-2. Then after the marketing studies and further discussions with Village Attorney, the discussion was that we cannot have so many large areas of commercial business in the Village because no one area will be successful. We don't have enough density and population to support a little bit of commercial here, a little bit here, a little bit there, a little at the Village Center, a little bit at Scott Simon's development. And the discussion at the Plan Commission level at the time we amended the neighborhood plan and the Comprehensive Plan was to create more of a synergy or more of a compact business designation in more high traffic areas of the Village in order for those areas to be more successful.

Mike Serpe:

And from the time that Wes purchased the property to the time that it was changed to B-2 what was the time element in there?

Jean Werbie:

1999 and then we did it in 2002. He had to change it to the B-2 in order to build it according to Peggy. I can't remember what we did, but we went from I-1 to B-2 and now we've made a complete overhaul of the I-1 District and have allowed this use now in the I-1 District.

Mike Serpe:

And what was the reason he had to change it to B-2?

Peggy Herrick:

At that time in the I-1 District when he purchased the property and he developed this as a bookstore that use wasn't allowed in the I-1 District. All the uses that were allowed in the I-1 District were schools, hospitals, churches. Most tax exempt things were allowed and they were all allowed by conditional use. But at that time he rezoned it to go into a business district to conform with the use he wanted to do there because it wasn't allowed in the I-1 District.

Mike Serpe:

So now the I-1 allows that use?

Jean Werbie:

We have almost 40 different uses in this district which offers great flexibility in our mind.

Mike Serpe:

This is just a little over half an acre size in total. If Wes decided to, and I don't know if this would happen, wanted to get out of it totally could he then attach a zoning change that would conform to either side of the property residential R-2?

Jean Werbie:

I would say he probably could. We'd have to change the Comprehensive Plan if they wanted to convert it to a residential property. That probably would not be objectionable. But the staff would either recommend I-1 or the residential district that it's adjacent to.

John Braig:

But at the time that Wes approached the Village with his initial plans he basically was looking at a retail establishment. We called it an institution. The initial approval that the Village gave him

was to operate a business there, and I've got the feeling we're kind of taking that away from him now.

Wayne Koessler:

Mr. Chairman, I don't think we're taking it away from him because he still can operate that business out there the same as he has been under the other zoning. We just expanded the uses in the institutional zoning to accommodate more flexibility with people. Mr. Chairman, I'm going to move that we send a favorable recommendation to the Village Board to amend the zoning map as presented.

Donald Hackbarth:

Okay, let's say we're talking bookstore here. Let's say Barnes & Noble came in and wanted to open a bookstore. What kind of property would they have to locate in? Would they get institutional?

Jean Werbie:

Their use at this point could be a B-2 use or a B-1 use and possibly we would allow it as a use that I could make an interpretation to bring it into the I-1 use.

Donald Hackbarth:

Are we making this institutional because it is a religious bookstore? That's foggy with me. I don't get it. Because if it's a bookstore not associated, like he said, with a parish, it's a bookstore.

Jean Werbie:

Right. But we don't want to spot rezone areas of the Village as a B-2 use because there are a number of B-2 uses that would not be appropriate at this location, and we need to make sure that we have the most appropriate designation of uses that will be compatible with the adjacent land uses on either side.

—:

But it is a B-2 right now?

Jean Werbie:

Currently.

Mike Pollocoff:

It's really maintaining that logic of where we were putting that neighborhood B-2 zoning and what could happen in a B-2 zoning district versus when we created that zoning logic for business. With the existing use in place of a bookstore you're walking down the path.

Wayne Koessl:

Mr. Chairman, through the Chair to Mike or Jean. What uses can we put in B-2 that would be allowed under the B-2 zoning?

Jean Werbie:

Just about any and all retail uses are allowed in the B-2 District including adult bookstores and any and all adult-related uses.

Thomas Terwall:

Would an adult bookstore be allowed under the I-1?

Jean Werbie:

No. It's expressly prohibited by ordinance.

Jim Bandura:

Jean, the Village owned water tank there what's that zoned?

Jean Werbie:

I-1. Again, the other thing is that I do want to remind you that if there's a use that is substantially similar in the character and nature of how it operates, the Zoning Administrator does have the opportunity to make an interpretation. I've done it in the past with other types of uses in other areas of the Village.

Donald Hackbarth:

Rocco, again, if this went from—give us that evaluation again. You're saying there's a difference or a disparity in property value from B-1 or business to institutional? Business would be of more value. Could you evaluate if the gentleman decided to make it a residential? Would the property be more valuable as residential rather than institutional?

Rocco Vita:

As a residential this would be a single family home site or town house?

Jean Werbie:

Yes, single family.

Rocco Vita:

Single family home. The higher and better use there is the institutional.

Wayne Koessl:

Mr. Chairman, I think with the additional discussion I'd like to bring my motion forward again with the hopes of getting a second.

Thomas Terwall:

There's a motion then to send a favorable recommendation to the Village Board to approve the rezoning. Is there a second?

Mike Serpe:

Just to continue the conversation I'll second Wayne's motion, just to continue.

Thomas Terwall:

Alright. I guess I have a difficult time doing to Wes what we're proposing here. In good faith he's invested a lot of money in that property, and if the action we take tonight reduces his potential value as long as he's going to run a Christian bookstore then we have no problem with that. But I don't know if I'm ready to tie his hands and say that he can't have another retail business. Certainly I don't think any of us want to see an adult bookstore go in that location. I don't worry about that in .61 acres. I don't think there's adequate parking to ever put that kind of establishment there but maybe I'm wrong. But I guess I just have a problem at this point telling Mr. Ricchio that we're going to do this. I just can't support it.

Mike Serpe:

I somewhat agree with you, Tom. I wholeheartedly agree with you. The only thing is that I'm torn between is that when he bought this it was institutional and four years later got the zoning change to make the improvement on the building. He had to change it to a business use. And now we're putting it back.

Thomas Terwall:

But if I heard him correctly he would not have bought this building if he didn't know up front that he was going to get the rezoning. Is that correct?

Mike Serpe:

No, I think that's four years later.

We Ricchio:

No, it wasn't. That property was actually rezoned before I took occupancy.

Jean Werbie:

We had to rezone it.

Mike Serpe:

To B-2?

Jean Werbie:

Because at that time we had the original I-1 District as written by the County in 1983. We had not rewritten the I-1 District to allow for that particular use. So it was put into the B-2 District.

We Ricchio:

So before purchasing the building I found out what it had to be rezoned to and what I would need to do to do that, and I complied with everything and it was rezoned B-2. It took about a year to do the major work that we did, but before I moved in we had it rezoned B-2. I received my occupancy permit and that was it.

Mike Serpe:

Call the question.

Thomas Terwall:

Call the question. There's been a motion by Wayne Koessl and a second by Mike Serpe then to send a favorable recommendation to the Village Board to approve—

Jean Werbie:

I'm sorry, I do have a couple other things that I'd like to add. If it would be in B-2 it would be legal nonconforming. With respect to its size it still is the size of the lot, the size of the structure and so on and so forth. But a year ago we did do a Comprehensive Plan change and a neighborhood plan change and so what we're doing tonight is just following up with that initial action that we started with respect to having the zoning ordinance match the Comprehensive Plan which is what we have to do by 2010. So your action tonight might send a different direction back to the staff for us to then rezone all of this area back out of the I-1 and put it all back into the B-2 because it has to meet certain standards with respect to the size of the area and where it's located. So we might be doing everything that we already just did, and the you're opening yourselves up to, well, it's okay then to spot the business, we don't need to keep it all in one area.

Again, the staff was very aware of the use he had and that's why we wanted to make sure we accommodated it in the I-1 District so no harm no foul with respect to what use he had vested and the money that he spent invested into that property. And that's when his property and others we've added so many other medical, business, clinical-related uses, libraries, financial institutions, we've added all sorts of things into this district to allow some greater flexibility. Is it all encompassing like the B-2 District? No, it is not. It is not.

Mike Serpe:

Why would this parcel have an effect on any other parcels in that area?

Jean Werbie:

Because when you lay out a comprehensive Plan we ideally want to have similar type uses and compatible uses adjacent to one another. I could read off the B-2 District for you and some of the uses and, again, it is the most comprehensive district that we have in the Village with respect to uses. So there are service uses, retail uses.

Mike Pollocoff:

I think the real policy question that the Commission needs to deal with or make a recommendation on is right now to have the one single parcel there would be a spot use, spot zoning of it. In the Comp. Plan when we come under Smart Growth the use is going to be the zoning. If we're going to be motivated solely by what the highest and best use is in terms of turning tax dollars then you would make it all business. When you make it all business then you've wrapped around into the problem we identified with marginal business success in areas that are over populated plus some of the more deleterious uses that could crop up in that B-2 District in that B zoning area. So that's why the zoning logic when we changed the zoning to accommodate these B-2 areas and closely defined them so that we wouldn't have those problems became critical.

John Braig:

I'm in complete agreement with the staff. When we look at what we've done over the years in developing these zoning ordinances and the Comprehensive Plan, and yet in the back of my mind I'm thinking one of the responsibilities of this Board or this Commission is to recognize that there are sometimes unique circumstances. I'm not saying that it's an exception, but maybe there should be some adjustment that permits us to address these issues. It puts us at risk because sometime in the future we may regret what we did, but those of you who have been or are elected officials know you're always at risk.

Wayne Koessl:

I think Mr. Serpe called for the question, though, did you not?

Jim Bandura:

Just one quick question. How far does the Comprehensive Land Use show the institution, the I-1, in that whole area?

Jean Werbie:

Every area that's shown in blue. And, again, the B-2 District, the ordinance requires that there be a minimum of five acres of land identified for the B-2 District area. So we'd have to unwind

everything we just did with respect to the work in the last month. We certainly can, but I'm just saying we need to—it was mentioned at the last meeting that that property should have been included with this rezoning and it was an oversight to do that. We just need to be consistent. And it is very important and we should not have special exceptions here or there. We need to be consistent with our plans. If we are taking a different direction that's fine, but we should be consistent on how we're doing our interpretation and what we want to plan out.

Thomas Terwall:

THE QUESTION HAS BEEN CALLED I GUESS. THE MOTION BY WAYNE KOESSL AND A SECOND BY MIKE SERPE THEN IS TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE REZONING SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. I'M GOING TO CALL FOR A HANDS RAISED VOTE PLEASE. ALL IN FAVOR SIGNIFY BY SAYING AYE. OPPOSED? FOUR TO TWO. FIVE TO TWO. MOTION CARRIES. THANK YOU.

John Braig:

Another item on the intersection of Cooper Road and 85th Street there's a duplex on the northwest corner. Sometime in the last while a telephone utility apparently or one of the utilities planted some big hunk of garbage. It looks like it's taller than I am. It's got to be at least six feet tall in the middle of the—I shouldn't say in the middle of the yard. It's definitely out of the vision triangle at that intersection, but I find it objectionable. It comes to mind that the newspaper articles point out that the City of Kenosha has put a moratorium on the telephone utility planting these new cable boxes because the telephone company wants to offer cable services. I'm a little bit apprehensive because if the telephone utility is going to start planting boxes in the front lawns of residential properties in the Village I think we need to address it. So I'm asking that the staff put this on a future agenda and give us some research information on it. Because I'm close to recommending we put a moratorium on it.

Jim Bandura:

That's happening out in the Chateau and River Oaks area, too. There's a number of these tall boxes that are going up right out in the—

Mike Serpe:

That's for cable service, is that correct?

John Braig:

It's cable service by the phone company.

Wayne Koessl:

As a point of information I've been working with the Assistant City Attorney Antaramian on that, the ordinance that they're going to put in effect on that. And they're looking at between the

sidewalk and the curb is where AT&T has been putting those in without getting any permits or permission from the City. So I think we should look into it.

Jean Werbie:

Yes and we have been looking into it. We've been working with AT&T. We have had a series of meetings. We had an open house here with the residents, and we have been working on this for about months now straight. But I certainly can present a report at one of the next Plan Commission meetings to bring everybody up to speed on what we're doing.

Donald Hackbarth:

I have a quickie question. Smart Growth, where are we? This Village is pretty heads up. Where are we in comparison to other areas on Smart Growth in the State?

Jean Werbie:

I can't tell you exactly where we are. I can tell you that some counties in Southeast Wisconsin, two or three of them are already completed with their plan. And we're working along to complete our plan by 2009. There has been quite a bit of discussion in the Legislature to get some extensions on the time. Nothing has been formalized. I don't think anything has come before the Governor other than to talk about.

Donald Hackbarth:

That's 2010 right?

Jean Werbie:

Well, the intent is to have everything completed prior to January 1, 2010. So we intend to bring everything to you by mid 2009 by next year.

Thomas Terwall:

Lest we get in trouble with the open meeting law I'm going to call for a motion to adjourn. Is there a motion to adjourn?

7. ADJOURN

Donald Hackbarth:

So moved.

Jim Bandura:

Second.

Thomas Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed?

Meeting Adjourned: 5:58 p.m.