

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
October 13, 2008**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on October 13, 2008. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessl; Jim Bandura; John Braig; Andrea Rode; Larry Zarletti; and Judy Juliana. Also in attendance were Mike Pollocoff, Village Administrator; Peggy Herrick, Assistant Village Planner and Zoning Administrator and Tom Shircel, Assistant Village Planner and Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER THE MINUTES OF THE SEPTEMBER 22 AND SEPTEMBER 29, 2008 PLAN COMMISSION MEETINGS.**

Larry Zarletti:

Mr. Chairman, I move approval.

Mike Serpe:

Second.

Tom Terwall:

IT'S BEEN MOVED BY LARRY ZARLETTI AND SECONDED BY MIKE SERPE TO APPROVE THE MINUTES OF THE SEPTEMBER 22 AND SEPTEMBER 29, 2008 PLAN COMMISSION MEETINGS AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- 4. CORRESPONDENCE.**

Peggy Herrick:

We have two pieces of correspondence tonight. The first is the 2009 Village Plan Commission and Village Board meeting schedule for your use for next year's meetings. And the second item is

the October 2008 *Compass Points* from the Kenosha County Comprehensive Planning Newsletter that is put out with the Multi-Jurisdictional Plan that is being put together. This *Compass Points* talks about the agricultural and natural resources, a summary of the transportation element and a summary of the utilities and community facilities. So that is also for your reference.

Tom Terwall:

Motion to receive and file?

Wayne Koessl:

So moved.

Larry Zarletti:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO RECEIVE AND FILE THE CORRESPONDENCE. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

5. CITIZEN COMMENTS.

Tom Terwall:

If you're here tonight for Items A through G on the agenda, those are all items for public hearing. We would ask that you hold your comments until the public hearing is held so we can incorporate your comments into the record of the hearing. However, if you're here for Item H or if you're here for an item that's not on the agenda, now would be your opportunity to speak. We'd ask that you step to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments?

6. NEW BUSINESS

A. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of Mark Eberle, P.E. with Nielsen, Madsen & Barber, S.C., agent to rezone Lot 1 of a proposed Certified Survey Map to R-4 (AGO), Urban Single Family Residential District with a General Agricultural Overland District and to rezone Outlot 1 of a proposed Certified Survey Map to PR-

1, Park and Recreational District. These properties are generally located west of Whittier Heights Subdivision south of 85th Street.

- B. PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT OF RESTRICTIONS to release the restrictions on Lot 58 of the Whittier Heights First Addition and Lots 76 and 77 in Whittier Heights Third Addition related to the use of these properties for storm water purposes.**
- C. Consider the request of Mark Eberle, P.E. with Nielsen, Madsen & Barber, S.C., agent for approval of the Certified Survey Map, Easement Documents, Development Agreement and related documents to subdivide a property generally located west of the Whittier Heights Subdivision and to relocate the detention facilities from Lots 58 of the Whittier Heights First Addition Subdivision and Lots 76 and 77 of the Whittier Heights Third Addition Subdivision.**

Peggy Herrick:

I'm asking that we take Items A, B and C together since they are related and I will be talking about them at the same time, however separate motions would be required.

John Braig:

So moved.

Wayne Koessl:

Second.

Tom Terwall:

MOVED BY JOHN BRAIG AND SECONDED BY WAYNE KOESSL TO TALK ABOUT ITEMS A,B AND C TOGETHER AND HAVE SEPARATE MOTIONS. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Peggy Herrick:

Item A is a public hearing and consideration of a zoning map amendment for the request of Mark Eberle with Nielsen, Madsen & Barber, S.C., agent to rezone Lot 1 of a proposed Certified Survey Map to R-4 (AGO), Urban Single Family Residential District with a General Agricultural Overland District , and to rezone Outlot 1 of a proposed Certified Survey Map to PR-1, Park and Recreational District. These properties are generally located west of Whittier Heights Subdivision south of 85th Street.

Item B is a public hearing and consideration of amendments to the restrictions to release the restrictions on Lot 58 of the Whittier Heights First Addition and Lots 76 and 77 in Whittier Heights Third Addition related to the use of these properties for storm water purposes.

Item C is consider the request of Mark Eberle with Nielsen, Madsen & Barber, S.C., agent for approval of the Certified Survey Map, Easement Documents, Development Agreement and

related documents to subdivide a property generally located west of the Whittier Heights Subdivision and to relocate the detention facilities from Lots 58 of the Whittier Heights First Addition Subdivision and Lots 76 and 77 of the Whittier Heights Third Addition Subdivision.

Again, these items are related so I will be talking about all of them, but separate action items will be requirement.

The petitioner is proposing to relocate the detention basins from Lots 58 of the Whittier Heights First Addition Subdivision and Lots 76 and 77 of the Whittier Heights Third Addition Subdivision to land adjacent to the Whittier Heights Development, which would be west of the high tension wires, so that the lots can be sold and single family homes can be constructed. The detention basins are proposed to be relocated to a new basin proposed to be constructed on vacant land to the west of the Whittier Heights development.

Approximately 6,650 cubic yards of excess material is proposed to be kept on site and spread on approximately 8 acres of land at 6 to 9 inches thick, and this would be on Lot 1 of the proposed certified survey map, rather than being hauled off site. This will eliminate a great deal of truck traffic entering and leaving the site on Village roadways and through the existing residential development.

It is estimated that there may be 10 to 20 loads of storm sewer pipe, stone bedding culvert removal being trucked in and out of the site. The construction access to and from the site for this project will be from Cooper Road on 87th Place, to 54th Avenue and west on 86th Place or 88th Street to the site. Once the project is started it is proposed to be completed in about three weeks.

There are a number of approvals required for this project. They need a floodplain boundary adjustment; a stipulated shoreland permit; a certified survey map approval; they need to amend the restrictions of the Whittier Heights First Addition and Third Addition plats and restrictions; there are easement documents that are needed for Lots 58 of Whittier Heights First Addition and Lots 76 and 77 of the Whittier Heights Third Addition Subdivision; they need a zoning map amendment; and a development agreement will need to be entered into for the public storm sewer proposed to be constructed on the site.

The first issue is the floodplain boundary adjustment. In order for the basins to be relocated and for single family homes to be constructed on the lots, the location of the 100-year floodplain needs to be adjusted. In addition, this floodplain boundary adjustment will also accommodate the filling of the floodplain on the Lot 78 of Whittier Heights Subdivision owned by Walter and Evangeline Bennage that was done without first obtaining proper permits. The floodplain boundary adjustment proposes to remove 3,606 cubic feet of floodplain and to create 4,057 cubic feet of floodplain to compensate for all this floodplain being filled. As you may recall, the floodplain boundary adjustment, a hearing was held before the Planning Commission, they made a recommendation to the Village Board, and on July 21, 2008, the Village Board approved the resolution. Final approval from the DNR and FEMA is required and those applications are in to those agencies for their final review and approval. These are needed prior to work commencing.

The next item is a stipulated shoreland permit. These properties are located within the shoreland jurisdictional area of the Jerome Creek which will require the Village to issue a Stipulated Shoreland Permit prior to work commencing. The work within the shoreland area will include:

- removing approximately 3,606 cubic feet of floodplain and to create 4,057 cubic feet of floodplain to compensate for the floodplain proposed to be filled as conditionally approved by the Village on July 21, 2008;
- relocating approximately 470 linear feet of a tributary to Jerome Creek;
- creating a new detention basin north and east of Jerome Creek that will provide storm water storage for the relocated detention basin and the adjusted floodplain;
- tree clearing within the 80 foot wide ATC easement;
- abandoning the existing detention basins on Lots 58, 76 and 77 in the Whittier Heights Subdivisions which will include the excavation of organic materials and filling with structural clay;
- constructing storm sewers and overland flow paths to convey storm water from the existing basins to the proposed basin;
- installing a reinforced concrete outlet control weir north of Jerome Creek and west of the proposed basin; and
- spreading the excess materials, again approximately 6 to 9 inches thick, on approximately 8 acres of land located west of the Whittier Heights Subdivision. And, again, by placing this excess material here, that will eliminate the large amount of truck traffic that would be going through the subdivision.

The required notice was sent to adjacent property owners and other interested persons on September 18, 2008. This permit cannot be issued until permits all approvals are obtained from the Village, DNR and FEMA.

The next item is the certified survey map. A certified survey map is proposed to subdivide the vacant property generally located west of the Whittier Heights Subdivisions. Lot 1 is proposed to be 9.02 acres and is proposed to remain undeveloped and continued to be farmed at this time. Again, they will be placing additional topsoil and excess material here, but it will continue to be farmed once that material is placed there. They have also provided drainage plans to make sure that it's not causing a problem for adjacent properties when they do bring this excess fill in. Outlot 1 is proposed to be 3.87 acres and will be used for the new detention basin.

The next item is amendments of restrictions. The Developer is requesting to release the restrictions on Lot 58 of the Whittier Heights First Addition and Lots 76 and 77 in Whittier Heights Third Addition related to the use of these properties for storm water purposes. When these subdivisions were platted in the early 1990s, these three lots were intended to be developed with single family homes once these temporary detention basins were relocated. The restriction on the plat and the Declaration of Restrictions for Whittier Heights First and Third Addition are required to be released. The Village's attorney will be drafting these documents that are required to be executed and recorded by the Developer.

The next item is there are some easement documents that will need to be recorded on the existing lots to accommodate the relocation of the detention basins and to allow for single family homes to be constructed on the three existing single family lots. Additional storm water drainage and maintenance easements are required. As you can see from the slide, the area in yellow is the additional easements that will need to be required. Village staff has prepared the easement documents that will need to be executed by the developer and recorded at the Register of Deeds Office.

The zoning map amendment is the next item. Outlot 1 of the proposed CSM is being rezoned into the PR-1, Park and Recreational District. This is the lot where the detention basin will be located. Lot 1 since it will be less than 10 acres is proposed to be rezoned to R-4 (AGO), Urban Single Family Residential District with a General Agricultural Overlay District. Pursuant to the Village's Comprehensive Plan and Neighborhood Plan for the Whittier Creek Neighborhood, this area will eventually be developed with single family lots. The AGO General Agricultural District is intended to be used where land is expected to experience further development in accordance with the underlying zoning district; however, the overlay district will allow existing agricultural uses to continue on the Lot 1 until the owner desires to develop the land in accordance with the underlying district.

The floodplain zoning and shoreland zoning will remain unchanged on the property at this time. However, once the floodplain boundary adjustment is done, as built surveys are prepared and approved by FEMA and they receive their final letter of map revision, and the shoreland areas, as I mentioned they're relocating a portion of that creek, once that is done and verified, both the shoreland and the floodplain zoning districts will need to be amended based on those final drawings and the approvals from those agencies.

The next item is the development agreement and related documents. The Village and the developer shall enter into an agreement related to these improvements and to provide the required financial security to ensure that the public and private improvements are installed pursuant to the approved plans. Attached to your packet is a draft of the development agreement, and in addition a memorandum of development agreement will need to be executed which gets recorded at the Register of Deeds office which puts people on notice that there is a development agreement and exhibits associated with this property.

The developer had requested a time extension for the Village Board to consider the Certified Survey Map and the related documents for this project. They are requesting a six month approval since they have not received all their FEMA approvals at this time. Pursuant to the Village's Land Division and Development Control Ordinance, the Village shall approve or deny a certified survey map within 60 days of filing unless a time frame is extended by the Village. For your information, the certified survey map was filed with the Village on September 10, 2008 and would require consideration by the Village Board on or before November 10th. This extension would allow the Village Board to consider the certified survey map and related documents on or before May 10, 2009. This allows them to get their FEMA approvals which in some instances could take up to six months.

With that this is a public hearing for two of the items, and the petitioner and the engineer are in the audience if you have any further questions.

Tom Terwall:

Mark, before I open it up to the public is there anything you wanted to add?

Mark Eberle:

Not at this point.

Tom 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.

Jim Bandura:

On Page 8, item 16 has the operating hours of construction equipment, and if you look at the development agreement there's some different hours on page 19, item 34. Am I correct in looking-

Peggy Herrick:

I'm sorry, what page of the development agreement?

Jim Bandura:

Page 19, item 34.

Peggy Herrick:

Village staff would recommend what's in the development agreement on page 19 just because of the existing residential development that is there. Our current ordinance does allow 7 to 10 construction hours but we would recommend what it says in item number 34.

Jim Bandura:

So you would follow the Sunday edition?

Peggy Herrick:

Correct. We would recommend that item 16 on the staff memo be changed to correspond with number 34 in the development agreement.

Jim Bandura:

And one other item that I didn't see in any of the other paperwork here, the responsibility for the basin.

Peggy Herrick:

That is outlined in the declarations I believe, and it would be the three lot owners, lots 58, 76 and 77 will be responsible for the maintenance of those ponds and that's spelled out in the declarations for these three lots.

Jim Bandura:

Especially the large one?

Peggy Herrick:

Correct, they will be responsible for that large detention basin, yes.

Don Hackbarth:

Peggy, could you explain the flood plan again for Lot 78? That was filled in and now they're taking it back out again?

Peggy Herrick:

Correct. The property owner hired a landscaper to fill in part of his back yard prior to getting any permits. A neighbor had called. This was probably a year and a half ago. A neighbor had called knowing that their property was in the floodplain stating that these people were filling in the floodplain. They happened to call after the work was done. And when it was brought to the property owner's attention we also informed him that Mr. Stanich was doing this project next door and possibly if they wanted to work together he could work with them to go into their floodplain boundary adjustment. And if they had enough capacity in their volumes that they were creating it may be enough to handle what he had filled in.

So they had worked out an agreement. Mr. Bennage and Doug Stanich had worked out an agreement to file jointly to FEMA so that when they are done with their floodplain boundary adjustment it will include Mr. Bennage's property and his property will be able to remain as he filled it, and all the compensation and everything is accounted for in what Doug Stanich is doing. So it was fortunate that Mr. Stanich was working on this project at the same time and he had extra capacity in the pond he was creating so it kind of worked out.

Don Hackbarth:

The next question I've got is the last time we went through this there were some neighbors here. I think one of them was Bernhart. There were some neighbors here and they voiced some concern. I don't see them in the audience tonight. Has anybody come in to discuss--there was concern about the floodplain that it would flood their property.

Peggy Herrick:

Correct. And I believe that they spoke with them outside after that meeting and I believe all their concerns were resolved. We did receive another letter from another property owner. We met with them. They were very concerned about the project. They live about three blocks away. They just didn't understand. Myself and the Village Engineer met with them and they are not concerned. That's all I have.

Mark Eberle:

Mark Eberle, Nielsen, Madsen & Barber, 1339 Washington Avenue, Racine. Yes, after the last meeting I did meet with a couple residents and the residents were concerned. I think a couple of them were mainly concerned about sump pump lines and stuff adjacent to those basins. So we do have notes on the plans that we do need to explore for those sump pump lines and get those

connected into the storm sewer system. Other than that there weren't any other concerns that I know of.

Don Hackbarth:

Stay right there, Mark. The other thing is the tree thing. Tell me about the tree removal. What's going down?

Mark Eberle:

The tree removal, okay. There is on the property that the retention basin is being constructed there is an 80 foot wide ATC easement. It's over head tension lines. They were installed in roughly 1929. All brush and trees underneath that 80 foot wide path-ATC currently has an issue with a couple sections of that transmission line where they are sagging closer to the ground than current standards. So they actually contacted us a number of years ago when they heard we had this project going to find out how we could work together to accommodate that. They would actually have to physically go in there and modify those lines to get them up higher off the ground if we were not excavating underneath them. So our pond excavation is taking care of their sag issue in that particular area. They may have issues on other portions of the line but we are working with them and it does accommodate their need above that basin.

Don Hackbarth:

How low is it? What's the standard or how low are those lines?

Mark Eberle:

Tell you the truth I really don't know. I never got into it with them. Again, they're 1929 lines so they definitely don't meet current standards.

Mike Pollocoff:

ATC is going to be going through this next year and clearing that entire zone of anything underneath the power lines that's within their easement. So whatever trees within that easement are coming out. I guess irrespective of whether you lower it or raise it, there's a few other sites that the power line comes from the south end of LakeView Corporate Park and finds its way through the Village up into the City. I've met with them on a couple of occasions and they're getting ready to start that project. So there's going to be some significant tree removal that occurs underneath those lines or within that easement, so they can, one, do the work they need to do to upgrade those poles and the lines. And, secondly, they don't want any trees interfering with the lines.

John Braig:

The retention ponds bother me. Are these retention or detention? Are they going to be wet or normally dry?

Mark Eberle:

This is a normally dry basin.

John Braig:

Because the thing that comes to mind is that problem we had out on 60th Avenue. We've got three property owners who are going to be responsible for maintaining this, and the concern is that some slick realtor doesn't fully inform a potential purchaser of those properties sometime in the future, and I'm not talking about next year or the next five years. I'm talking even 20, 30, 40, 50 years down the road.

Mark Eberle:

I think since this basin is going to be maintained by only three property owners they're going to be well aware of it because it's going to be a pretty good size pond to be maintained by three owners. And the reason we could not put a wet pond in this location is because it's physically in the floodplain. We could not create a wet basin in the floodplain. You get into fish entrapment issues, all kinds of DNR regulations where we actually had to have a dry basin in this location.

Peggy Herrick:

Mark, can you explain what type of maintenance will be required generally on a pond like this?

Mark Eberle:

Actually the maintenance will be fairly minor. Obviously the Village has the ordinance that the grass is 10 or 12 inches maximum height, so that grass is going to have to get cut by the homeowner three or four times a year possibly. Again, it is a dry basin so it will have sometimes some weeds or trees or that type of stuff starting to grow up. They're going to have to maintain and keep that stuff down.

John Braig:

This outlot is several acres, three acres isn't it?

Mark Eberle:

Yes, yes. I've designed the outlet control structure on this basin to be kind of self-cleaning. It's not a pipe, it's an overflow weir, so at any point when we get a big storm it will clean itself. It won't get stuff backed up against it. So that is the one thing we did provide in this design. So the maintenance really should be fairly minor. It's really grass and just keeping the pond itself clear of trees and that type of stuff that may grow in it.

Tom Terwall:

And the three detention basins that you're eliminating are all wet basins are they not?

Mark Eberle:

No, they're all dry basins at this point.

Tom Terwall:

They are?

Mark Eberle:

Yes, they're all pretty much filled with cattails and wetland planting right now.

Mike Pollocoff:

They don't function well as dry basins. They don't function very good as dry basins.

Tom Terwall:

The Village maintains those, don't we, Mike?

Mike Serpe:

Just for clarification. If the property owners that are supposed to take care of this basin fail to do so the Village has to go in and it's charged to the three property owners?

Peggy Herrick:

That is correct.

Mark Eberle:

Thank you.

Wayne Koessler:

Mr. Chairman, if there are no further questions I'd move that the zoning map amendment be approved subject to the conditions outlined by staff.

Jim Bandura:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

Wayne Koessl:

Mr. Chairman, I'd move that the certified survey map and easement documents and the development agreement and related documents be approved subject to the above comments and the following conditions by staff.

Mike Serpe:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CSM, EASEMENT DOCUMENTS, DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Now we need a motion on the consideration of an amendment of the restrictions.

Mike Serpe:

Move approval of the certified survey map and associated or related documents.

Peggy Herrick:

This would be the amendment of restrictions.

Tom Terwall:

This would be Item B, Mike.

Peggy Herrick:

Item C was just approved. We need Item B.

Mike Serpe:

I'm sorry, B.

Tom Terwall:

Is that your motion?

Mike Serpe:

Yes.

Tom Terwall:

Is there a second?

Wayne Koessl:

Second, and is that going to include the comments made or was that the other one?

Peggy Herrick:

That was on the other one but that will include that as well.

Tom Terwall:

THERE'S A MOTION BY MIKE SERPE AND A SECOND BY WAYNE KOESSL THEN TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE AMENDMENT OF RESTRICTIONS SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. How soon

Mark Eberle:

Our submittal to FEMA was lost in the mail the first time. They never did receive it. So sent a second submittal certified mail and it was received about ten days ago. They have 60 days to review that so it will not happen this fall. We probably do need to get through the wet portion of

the spring and probably into May or June actually to get this thing going since it is in the floodplain.

Tom Terwall:

FEMA doesn't share any office space with the Bureau of Indian Affairs I hope. It could be years. Thank you.

D. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of W. Craig Deaton, agent for Victory Baptist Church, owner of the property located at 3401 Springbrook Road, to rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District, the non-wetlands on Lot 1 of the proposed Certified Survey Map to I-1, Institutional District and Lot 2 of the proposed Certified Survey Map to C-2, Upland Resource Conservancy District.

Peggy Herrick:

Again, I would ask that we take Items D and E together since they are related and I will discuss them at the same time.

Tom Terwall:

Is there a motion?

Mike Serpe:

So moved.

John Braig:

Second.

Tom Terwall:

MOTION BY MIKE SERPE AND SECONDED BY JOHN BRAIG TO TAKE ITEMS D AND E TOGETHER. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

E. Consider the request of W. Craig Deaton, agent for Victory Baptist Church, owner for approval of the Certified Survey Map to subdivide a property located at 3401 Springbrook Road into two parcels.

Peggy Herrick:

Item D is a public hearing and consideration of a zoning map amendment for the request of W. Craig Deaton, agent for Victory Baptist Church, who the property located at 3401 Springbrook Road. They are requesting to rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District, to rezone the non-wetlands on Lot 1 of the proposed certified survey map into the I-1, Institutional District, and rezone Lot 2 of the proposed certified survey map to C-2, Upland Resource Conservancy district.

Item E is consideration of the request of W. Craig Deaton, agent for Victory Baptist Church, who owns the property located at 3401 Springbrook Road for approval of a certified survey map to divide this property into two parcels. Again, these items are related and are proposed to be discussed at the same time. However, separate actions will be required.

The petitioner is proposing to subdivide the property located at 3401 Springbrook Road which houses the Victory Baptist Church, into two parcels. Lot 1 is proposed to be approximately 18 acres and has an existing structure associated with the Victory Baptist Church. These buildings will remain on this parcel. Lot 2 is proposed to be approximate 3.4 acres and has over 100 feet of frontage. 300 is a typo in your staff memo. It's over 100 feet of frontage, actually 116 feet of frontage on 94th Place. Lot 1 is proposed to be retained by the Church and Lot 2 is proposed to be sold for the development of a single family home.

The majority of the property is currently zoned I-1, Institutional District, a portion is zoned C-2, Upland Resource Conservancy District and a portion is zoned R-4, Urban Single Family Residential District.

On August 20, 2008, Dave Meyer, with Wetland and Waterway Consulting, staked the wetlands on the property as shown on the CSM. The wetland staking was approved by the by the Wisconsin Department of Natural Resources on September 23, 2008. The field delineated wetlands are proposed to be rezoned into the C-1, Lowland Resource Conservancy District and will remain entirely within Lot 1 of the proposed CSM. The non-wetland areas of Lot 1 of the proposed CSM will be rezoned to I-1, Institutional District. Lot 2 is proposed to be rezoned C-2, Upland Resource Conservancy District.

As you may recall, a year ago or so the Village Plan Commission held a hearing and the Village Board adopted amendments to the C-2 District. The C-2 District allows for lots to be created that are less than five acres provided that a tree survey is prepared which identifies and surveys all trees eight inches or larger in diameter and the area of the these trees is less than five acres provided that the lot is a minimum of 20,000 square feet with a minimum lot frontage of 50 feet on a curve or cul-de-sac.

A tree survey was completed on the northeast corner of the property that is currently zoned C-2. This tree survey was done by Arbor Images of Burlington in the spring of 2008. The survey indicates that the trees within the Lot 2 area are oak trees with a small pocket of chokecherry trees in the southeastern portion of the proposed Lot 2. As you can see from the overhead the chokecherry trees are in the area circled in red. A few trees greater than eight inches in diameter are not located within Lot 2; however staff is recommending that these trees along with the trees within Lot 2 be located within a Woodland Preservation and Protection Easement.

This easement provides for greater protection and penalties for removing trees without prior permission. The Village staff recommends that the removal of trees that are greater than eight inches in diameter that are dying or decayed shall be allowed to be removed. Furthermore, a limited number of trees shall be allowed to be removed for the development of a single family home on Lot 2. The Village also recommends that if any tree is removed without written permission from the Village, a replacement tree three inches in diameter minimum shall be planted on the property. This is a similar restriction that the Village Plan Commission and the Board has approved in other subdivisions in tree preservation easements.

Since Lot 2 will be less than five acres as allowed by the C-2 District ,upon approval of the Village Board, only the following permitted principal uses are allowed:

- Preservation of scenic, historic and scientific areas
- Park and recreation areas
- One single-family dwelling. Again, the intent is for one single family dwelling to be built on Lot 2.

And the only accessory uses allowed on Lot 2 include:

- Gardening, tool and storage sheds incidental to the residential use.
- Home occupations.
- Private garages and carports.

No additional easements are required from We Energies on the Certified Survey Map. According to the Finance Department there are no outstanding taxes or special assessments due on the property. However, at such time that a building permit is issued for a new single family home on Lot 2 the property owner will be responsible for the paying the required sewer connection fee and any impact fees that are due on that property. With that, the zoning map amendment is a public hearing and the other item is a certified survey map. The applicant and petitioners are here if there are any questions.

Tom Terwall:

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.

Don Hackbarth:

In looking at the zoning map you've got here, it shows that there's an I-1 on Lot 3. Is there any proposal for that piece of property?

Peggy Herrick:

Not at this time that I'm aware of from the Church. For some reason—we did some checking on this property today. That lot, Lot 3, Certified Survey Map 483 I believe it says, that lot was created in 1981 and there was a note placed on that certified survey map that it needed to be combined with this Victory Baptist Church. So I'm not sure who owned it at that time or what the deal was. But at the time this property was created it was to be combined with the Victory Baptist Church and it is part of their property. For whatever reason it was zoned R-4, Urban

Single Family Residential, and at this time we're just cleaning up the map and putting everything into the Institutional District that's owned by the Church.

Don Hackbarth:

So let's say some day they wanted to put something on that, a structure. Can they put a structure on it? Is it big enough to do that?

Peggy Herrick:

Oh, sure, but I don't know--

Don Hackbarth:

Then how would they get access to it?

Peggy Herrick:

That's the issue.

Don Hackbarth:

So they'd have to build a bridge or something?

Peggy Herrick:

They'd have to work with the DNR to figure out what they needed to get across that if they wanted to do a bridge. Realistically what they could do would be to sell additional land to the property owners in the subdivision that may want to have a larger back yard unless they work with the DNR.

Don Hackbarth:

You mean the property owners to the south?

Peggy Herrick:

Correct.

Don Hackbarth:

That's kind of a dead piece of property.

John Braig:

It's not going to make any difference in this instance, but this group has seen a number of tree surveys which were excellent and detailed. This tree survey in my mind strikes me as the most inferior one we've ever been exposed to.

Peggy Herrick:

I don't think they're intending to take any trees down and they're all oak with the exception of those chokecherry trees.

John Braig:

Are they all the same genus of oak or the same variety?

Peggy Herrick:

We would have to talk to the arborist. I'm not sure of that. But, again, they show all the dimensions of the trees. And any tree that they want to take down for the house will have to be submitted to the Village and we will send someone out there and take a look and see what they're looking to take down.

John Braig:

Good.

Tom Terwall:

Peggy, I have a question about that. You say you can take down a tree necessary to build a single family home. How close to the house? If it was me I wouldn't want tree limbs hanging over my roof. How far from the house do you allow trees to be removed?

Peggy Herrick:

That would be reviewed at the time they wanted to submit. There's no set distance where ten feet is good or 25 feet is good. But this is a C-2 District, and if you don't want to build in the woods and cut down the trees maybe this isn't the lot for you. We have been reasonable to allow trees to be cut down so that you can get some sunlight into your house. But if someone wants to come in and, say, take down a 100 foot diameter around the house I don't think that would be approved.

Mike Pollocoff:

I might add that reasonable for anybody who look at it later, assuming they were to site that somewhat in the center where it looks like there's less trees than around the fringes—

Tom Terwall:

And you can get rid of the chokecherry, can't you?

Mike Pollocoff:

Yes. But you're still going to have to bring in a driveway that's going to have to find a way to get to the house, and you're still going to have to bring in sanitary sewer and water. Those are destructive activities that are going to come through there. You can't bore them because it will kill the trees eventually. I think as we look at these things within reason what's physically

possible at least for the sewer main to get positive gravity flow to the main we need to work with them on that. The water laterals will typically go in the same trench so you won't be digging two trenches. And the driveway has got to be able to get from point A to point B reasonably. I think what we tried to do is make sure that there is a—the house will be in the woods but there's got to be a clear zone around the house to get it built and make sure that there's not branches hanging over the house once it's done.

Tom Terwall:

Does that sewer lateral have to be a straight line? The reason I'm saying that is I've had occasion to talk to the potential buyer of this property and he's proposing to put his driveway curvilinear so that he only has to remove one tree to get the driveway in there but it's not a straight line. If you put it on a straight line you're going to take out a lot more trees. Can the sewer lateral run that same path?

Mike Pollocoff:

Yes. The only problem is it might make the lateral bigger. Every bend you're going to be taking you're going to be impeding the flow. So the way to compensate for that is to put in a bigger line. I think that there's a reason that there's not enough grade, it's just to get it to work the way they want to do it.

Wayne Koessl:

Mr. Chairman, I'm confident that the Village staff will address the tree issue and do the proper looking at what trees should be removed and which should stay.

John Braig:

I'm speaking as an expert now. My father was a sewer and water contractor. If that's a long sewer lateral and it's got some bends in it you might suggest to your friend or whoever it is to put some clean out access on the lateral out in the lawn somewhere.

Tom Terwall:

Anything further? If not, what's your pleasure?

Don Hackbarth:

Move approval of the public hearing for zoning map amendment subject to.

Larry Zarletti:

Second.

Tom Terwall:

MOVED BY DON HACKBARTH AND SECONDED BY LARRY ZARLETTI TO APPROVE THE ZONING MAP AMENDMENT—SEND A FAVORABLE

RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? Now we need a motion to send a favorable recommendation for the CSM.

Wayne Koessl:

Mr. Chairman I'd move we approve the certified survey map and send it to the Village Board subject to the conditions outlined by staff.

Larry Zarletti:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CSM SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

F. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT for the request of Todd Troha of Liberty Builders LLC, owner, to use the house that is currently under construction at 9409 Ashbury Lane on Lot 79 in the Ashbury Creek Subdivision as a Model Home.

Peggy Herrick:

This is the request of Todd Troha of Liberty Builders LLC, who own the property at 9409 Ashbury Lane. This is on Lot 79 of the Ashbury Creek Subdivision, and they are requesting to use his house that is currently under construction for a model home.

As a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request and are going to be presented right now.

1. The petitioner is requesting a Conditional Use Permit to use the house that is currently under construction at 9409 Ashbury Lane on Lot 79 in the Ashbury Creek Subdivision as a model home. The property is located in a part of the Southeast One-Quarter of U.S. Public Land Survey Section 8, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-084-0329. Shown in Exhibit 1 of your packet is their application and related materials.
2. The single-family lots within the Ashbury Creek Subdivision are zoned R-4.5, Urban Single Family Residential District. Pursuant to Section 420-109 C (1) (b) of the Village Zoning Ordinance, model single-family homes and related temporary real estate sales offices or marketing centers are allowed in this District with the approval of a Conditional Use Permit issued by the Plan Commission.
3. On March 17, 2008, the Village issued zoning, building and erosion control permits for the construction of the new 2,708 square foot, two-story, single-family dwelling on this property, and this dwelling is currently under construction.
4. Mark Bourque on behalf of the Ashbury Creek Homeowners Association and the developer, has granted approval of the model home on Lot 79 pursuant to an email received by the Village on September 23, 2008.
5. Pursuant to Section 420-148 (67) of the Village Zoning Ordinance, the Model Home and Sales Center may be located in a new development for a period not to exceed two years from the date of occupancy, and the Plan Commission may set specific time frames for which the model home and marketing center can be open.
6. The petitioner is proposing to have the following hours: Monday - Friday from 10:00 am to 4:00 p.m. and Saturdays & Sundays from 12:00 noon to 4:00 p.m.
7. Parking shall be provided on the driveway and may be allowed on Ashbury Lane adjacent to the lot.
8. Pursuant to Section 420-76 P. of the Village Zoning Ordinance, model homes, with an approved sign permit application, are allowed a sign subject to the following regulations:
 - i. Permitted in any residential district.
 - ii. Maximum number: one (1) per property.
 - iii. Maximum area: four (4) square feet per face.
 - iv. Maximum height: five (5) feet.
 - v. Minimum setback: five (5) feet from any public street or highway right-of-way line.
9. Notices were sent to adjacent property owners via regular mail on September 25, 2008 and notices were published in the *Kenosha News* on September 29 and October 6, 2008.
10. The petitioner was emailed a copy of this memorandum on October 10, 2008.

11. The conditions for approval of model homes, including the Village Zoning Ordinance Conditional Use Permit standard conditions pursuant to Section 420-148 (67), are set forth in the staff recommended conditions of approval as identified in this memorandum.
12. According to Article XVIII of the Village's Zoning Ordinance, the Plan Commission shall not approve a Conditional Use unless they find after viewing the findings of fact, the application and related materials and information presented at this public hearing that the project as planned, will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting of a Conditional Use Permit.

This is a public hearing. But before I move on I just want to mention there are a few other typos as you move further down in the memo. In the Village staff conclusions and recommendations, the zoning district refers to R-4. This is an R-4.5. That's the sixth comment under that. And the recommendation refers to this being on Lot 66 in the Village Green Heights. That is a typo. This should be Lot 79 of Ashbury Creek Subdivision. With that, there are people here in the audience, the petitioners and the owners if you have any further questions for them. If not, this is a public hearing.

Tom 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'll open it up to comments and questions.

Mike Serpe:

How many occupancy permits have we issued for the Ashbury area?

Peggy Herrick:

I don't believe anybody is living out there yet. There may be three homes under construction. So three total.

Mike Serpe:

So this would hardly impact anybody that's living there is what I was getting at.

Peggy Herrick:

Correct.

John Braig:

I was going to say if we're going to approve a model home in a subdivision, if we don't approve this one we can't approve any of them.

Jim Bandura:

Just a couple questions to staff. I'm a little bit leery of Item 4 and Item 8. It mentions verbal occupancy. Is there any reason why we just don't request written?

Peggy Herrick:

They would be required to get a written occupancy. Although verbal occupancy is granted when all health and safety issues are satisfied. And a written occupancy all of the grass needs to be growing, that's basically the biggest thing that doesn't happen at the time of verbal. But everything needs to be done prior to issuance of a written occupancy.

Jim Bandura:

And Item 9 I think is just a typo. You've got Friday from 10 noon.

Peggy Herrick:

Oh, that's correct, 10 a.m. And if you see also in Item Number 9 we've added that if we have someone that wants to see it a five o'clock on a Saturday or Sunday, if they do it by appointment that is fine with staff as well and we're recommending that.

Tom Terwall:

Do these conditions or our normal conditions for a model home include a stipulation that you can't have banners? I don't want this looking like a used car lot.

Peggy Herrick:

That is not allowed per ordinance. If you look at Item 12, Condition Number 12 on page 4, we have bolded that. It reads the model home site shall not display any streamers, banners, triangle flags, pennant strings, pennant pinwheels, etc., at any time on the property, and no off site signage is allowed. So they would be in violation of not only the conditional use permit but there's another Village ordinance that specifically doesn't allow this as well.

Tom Terwall:

What's your pleasure?

Don Hackbarth:

I'll move approval.

Wayne Koessl:

I'll second, Mr. Chairman, subject to the conditions outlined by staff.

Tom Terwall:

MOVED BY DON HACKBARTH AND SECONDED BY WAYNE KOESSL TO APPROVE THE CONDITIONAL USE PERMIT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

G. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT to rezone the field delineated wetlands on the vacant property located at the northwest corner of Lakeshore Drive and 125th Street (platted but not constructed street) into the C-1, Lowland Resource Conservancy District. The non-wetland portions of the property would remain in the R-5, Urban Single Family Residential District and the LUSA, Limited Use Service Area Overlay District will remain on the entire property.

Peggy Herrick:

This is a public hearing for a zoning map amendment to rezone the field delineated wetlands on the vacant property located at the northwest corner of Lakeshore Drive and 125th Street. It's important to note that 125th Street is platted, however it's not constructed. The wetlands are proposed to be zoned into the C-1, Lowland Resource Conservancy District. The non-wetland portions of the property would remain in the R-5, Urban Single Family Residential District, and the LUSA, Limited Use Service Area Overlay District, will remain on the entire property.

Pursuant to NR 117 of the Wisconsin Administrative Code, the Village Zoning Ordinance and the wetland staking application filed by the property owner, on September 8, 2008, the Plan Commission approved Resolution #08-18 to initiate a Zoning Map Amendment to correct the Village Zoning Map as a result of the wetland staking being completed on property. Again, this property is generally located at the northwest corner of Lakeshore Drive and 125th Street. Again, 125th Street is platted but not constructed. It's further identified as Tax Parcel Number 93-4-123-323-1740 and known as Lot 1, Block 22 of the Chiwaukee Company's 2nd Subdivision.

On March 3, 2008, the Village received an application from the property owner for a wetland staking to be completed on this property. The Village received a letter dated August 12, 2008 from the Southeastern Wisconsin Regional Planning Commission that indicated that the Plat of Survey correctly surveyed and correctly identified the wetlands on the property that they field staked on May 6 and June 19, 2008 provided that the legal description be corrected; and, the Village received a corrected plat of survey on August 25, 2008 as attached to the proposed Ordinance amendment.

Therefore, the field-delineated wetlands on the property are proposed to be rezoned into the C-1, Lowland Resource Conservancy District. Again, the non-wetland portions of the property would 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 any shoreland jurisdictional area of Lake Michigan would also remain. This is a public hearing.

Tom Terwall:

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

John Braig:

I'm a little confused on the building setback line as illustrated in the exhibit. It looks like one corner of the building setback line is almost touching the wetlands area, and yet there's a designated 30 foot setback from the side property line. I'm questioning why there has to be a 30 foot setback from a side property line and why a corner of the building setback line can be within what appears to be a couple feet of the wetland. I thought we were required a 30 foot-

Peggy Herrick:

It's a 25 foot setback for any wetlands for a new single family home. The 30 foot setback from 125th street is from any public street right of way.

John Braig:

Oh, that's the street there?

Peggy Herrick:

Yes, 125th Street. This does not show the setback requirement for a wetland, but there are different restrictions for a deck, for a driveway, for a home. The home is 25 feet. The driveway doesn't need a setback to the wetlands. Decks can encroach other distances.

John Braig:

I'm concerned because to an ordinary individual if he looked at this plat here he'd say I can put my house anywhere on that building setback line and in reality he can't.

Peggy Herrick:

Correct, this does not represent all the setbacks that would be required for every building type.

Tom Terwall:

Peggy, given where the wetlands are, I have to assume that those wetlands continue into the 125th Street right of way. So is 125th Street ever going to go in?

Peggy Herrick:

No. According to the Chiwaukee Prairie Land Use Plan that would be a road that would be vacated once it was all owned in public ownership. In fact, this parcel right here is the land to be acquired by The Nature Conservancy as well with a willing buyer/willing seller. So 125th Street will not be constructed.

Tom Terwall:

Thank you.

Wayne Koessl:

Through the Chair to Peggy, when someone comes in for a permit to put a building on that site, that's when the staff will review all of the setbacks with them and make sure that they're in compliance?

Peggy Herrick:

Correct. In addition, in order for someone to build on this they'd need a number of variances and they would need to have a permit from the DNR to fill to get a driveway in. Right now there's not enough room to put a driveway in between the property line and the wetlands. Our ordinance requires on a corner lot that you have both streets put in so they would need a variance from the Village Board. Our ordinance also has minimum single family home restrictions that say the minimum house size has to be this certain amount of width and they don't meet any of those requirements, so they would need a number of things before this lot could be built on.

(Inaudible)

John Braig:

If The Nature Conservancy—

Peggy Herrick:

Well, it's in their acquisition area. There has to be a willing seller and a willing buyer. The Nature Conservancy is the willing seller. Whether or not the property owner is a willing buyer. I think they're looking to explore their options with the DNR to see if they can fill some of these wetlands to put in a driveway.

Mike Serpe:

Move approval.

Jim Bandura:

Second.

Tom Terwall:

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

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

H. Consider Plan Commission Resolution #08-19 to initiate a zoning text amendment related to official public signs.

Peggy Herrick:

This is Resolution 08-19. The Village Plan Commission may initiate a petition to amend the zoning ordinance which may include a rezoning of property, change in zoning district boundaries or change in the text of the ordinance. The Village zoning ordinance provisions related to official public signs are proposed to be re-evaluated. Currently public official signs are allowed only in the right of way of streets. We're looking to—we're contemplating allowing official public signs to be on public property as well, so we're looking to evaluate our regulations for official public signs. This resolution, if adopted, is not making any decisions or determinations based on this but is only setting forth the requirements for us to set up the required hearing and hold a hearing on this item.

Mike Serpe:

Question. What constitutes a public sign?

Peggy Herrick:

There is a definition of an official public sign. I don't have my zoning ordinance with me, but it—

Mike Serpe:

Political?

Peggy Herrick:

No, no. An official public sign installed by the municipality. Like stop signs and things like that are official public signs, but a sign that might say welcome to Pleasant Prairie and we wouldn't want that sign in the right of way. We would want that on probably property that we own or

possibly in the right of way in different circumstances. But our current ordinance only allows those in right of ways, any official public sign.

Mike Pollocoff:

Right now just to give it some proportion of where we're going, is the Community Development Authority owns a significant piece of land out there, a couple of them. We want to be able to do two things. One is to help market that property, put up a sign that says this is the Village of Pleasant Prairie Community Development Authority property, plus also be able to welcome properties that are locating here as a tool to help market the site. So it's a little bit unusual but we could have another company's name on our sign that still says Village of Pleasant Prairie.

John Braig:

Move approval of Resolution 08-19.

Wayne Koessl:

Second.

Tom Terwall:

MOTION BY JOHN BRAIG AND A SECOND BY WAYNE KOESSL TO ADOPT RESOLUTION 08-19. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

7. ADJOURN.

John Braig:

So moved.

Mike Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? We stand adjourned.

Meeting Adjourned: 5:57 p.m.