

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
October 26, 2009**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on October 26, 2009. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessler; Andrea Rode (Alternate #2); John Braig; Jim Bandura; Larry Zarletti; and Judy Juliana (Alternate #1, voting member). Also in attendance were Mike Pollocoff, Village Administrator; Peggy Herrick, Assistant Village Planner and Zoning Administrator; and Tom Shircel, Assistant Village Planner.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**

Tom Shircel:

I do have one item. Last Monday the Village Board did approve an ordinance to change the Plan Commission dates and times to Tuesdays at six o'clock beginning next year. As you recall, the Plan Commission recommended Tuesdays at five o'clock. The Board decided Tuesdays at 6 p.m. just for information.

Wayne Koessler:

Do they know they run for re-election?

Tom Shircel:

I think they're aware of that, yes.

- 4. CONSIDER THE MINUTES OF THE OCTOBER 12, 2009 PLAN COMMISSION MEETING.**

Larry Zarletti:

Mr. Chairman, 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 OCTOBER 12, 2009 MEETING AS PRESENTED IN WRITTEN FORM. 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 Item C which is a public hearing, we would ask that you hold your comments until the public hearing is held. However, if you're here for Items A or B, or if you're here for an item not on the agenda, now would be your opportunity to speak. 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?

6. NEW BUSINESS.

Don Hackbarth:

Mr. Chairman, is there any objection to taking A and B together since they're both Olive Garden?

Tom Terwall:

No.

Mike Serpe:

They're scheduled.

Tom Terwall:

Go ahead, Tom.

- A. Consider the request of Ajay Kuttemperoor of VK Development for a Certified Survey Map to create a 2.2 acre parcel for the proposed Olive Garden restaurant.**
- B. Consider the request of Jack DeGagne of Darden Restaurants, Inc., owner, for Site and Operational Plan review for a 7,441 square foot Olive Garden restaurant located on 77th Street in the Prairie Ridge development.**

Tom Shircel:

Thank you, Mr. President. These are two requests in front of the Plan Commission tonight. The first request is to consider the request of Jack DeGagne of Darden Restaurants, Inc., owner—I'm sorry. The first request is for Ajay Kuttemperoor of VK Development for a certified survey map to create a 2.2 acre parcel for the proposed Olive Garden Restaurant. And the second agenda item is to consider the request of Jack DeGagne of Darden Restaurants, Inc. for site and operational plan review for a 7,441 square foot Olive Garden restaurant located on 77th Street in the Prairie Ridge development.

First I'll speak of the certified survey map. The petitioner/property owner is requesting to subdivide the 11.37 acre property, bounded by 75th Street on the north, 77th Street on the south, Famous Dave's on the east and 104th Avenue on the west into two parcels. The property, Tax Parcel Number 91-4-122-082-0201, is primarily zoned B-2 (PUD), Community Business District with a Planned Unit Development Overlay. There are two small wetland areas located along 104th Avenue that are zoned C-1, Lowland Resource Conservancy District, on the proposed Lot 1 which is the western lot. Pursuant to the CSM, these wetlands are environmentally connected via a dedicated wetland conservancy area easement and restricted wetland conservancy area, which is subject to a restrictive covenant running with the land. The B-2 District requires that lots to be a minimum of two acres and have a minimum lot frontage on a public street of 150 feet.

The proposed Lot 1 is vacant and is to be 9.156 acres with 590 feet of frontage on 75th Street, 765 feet of frontage on 77th Street and 660 feet of frontage on 104th Avenue. Lot 1 exceeds the minimum lot size and frontage requirements of the B-2 District. And, as I just stated, the western portion of that lot does contain two small wetland areas.

The proposed CSM depicts a 0.56 acre notched-out area along 104th Avenue sort of in the southwest corner of that parcel. It's part of Lot 1 and is current zoned R-4, Single Family. That land is improved with a 1,120 square foot single family ranch dwelling that Pepper construction is using as an office during the ongoing construction of The Shoppes at Prairie Ridge. The development plan for the Lots 1 and 2 is for commercial development. Therefore, the Village staff, as a part of the 2035 Comprehensive Plan Update, will change that land use to the commercial designation of that .56 acre notched-out area. Therefore, at some point the property owner will need to petition the Village for a zoning map amendment to rezone that small area along 104th Avenue from the R-4 District into the B-2 (PUD) District.

As for Lot 2, is it vacant and is proposed to be 2.218 acres with 291 feet of frontage along 75th Street and 146 feet of frontage along 77th Street. Lot 2 exceeds the minimum lot size and frontage requirements for the B-2 District. Lot 2 is proposed to accommodate an Olive Garden Restaurant. The Olive Garden Site and Operational plans will be considered during this meeting tonight as well.

As noted on Sheet 2 of the CSM, there are several easements, setback restrictions and vehicular access restrictions associated with the CSM. The subject properties are not located within the 100-year floodplain or within a shoreland jurisdictional area. Both municipal water and sanitary sewer are available in 77th Street. Neither municipal water nor sanitary sewer is available in 75th Street, however.

As far as 76th, 77th Streets and 99th Avenue improvements are concerned, I'll give a little background. On October 9, 2009 the Village sent a notice of insufficient funds letter to VK Development Corporation. VK Development has insufficient funds to complete its obligations under the development agreement entered into between VK and the Village of Pleasant Prairie executed by both parties on October 8, 2001 for the 76th, 77th Streets and 99th Avenue improvements within the Prairie Ridge Development. This would include paving, striping and restoration. In accordance with the development agreement, insufficient letter of credit funds to complete the development of the second and third phase of the required public improvements for the subdivision results in VK's breach of the development agreement. The letter allows VK Development 30 days from the date of the notice to cure the breach, which would be by November 8 pursuant to the letter, provided, however, that the curative activity shall be completed as soon as practical and further provided that if the curative activity is timely commenced and thereafter continuously and diligently pursued. The curing party shall have a reasonable period of time under the circumstances to complete this curative activity.

According to the development agreement, the purpose of the required letter of credit and any supplementary letter of credit is to secure the developer's agreement to design, construct, install, provide and complete and to repair or replace under certain circumstances all of the requirement public improvements in accordance with the provisions of the agreement, as well as the developer's obligation to indemnify and hold the Village harmless against all costs, damages and liability resulting from defects in such improvements.

In order to avoid legal or other actions allowed by the Village by applicable law or the development agreement, by November 8, 2009 VK Development must enrich the cash payment on deposit with the Village Treasurer or provide a one year irrevocable letter of credit equal to the deficiency of funds cost estimate of \$227,776 provided by the Village's finance and engineering departments. The Village will not release this CSM for recording until VK Development provides to the Village the funds as noted above in order to ensure the completion of the second and third phases of the requirement public improvements for 76th and 77th Streets and 99th Avenue improvements.

Now we can move on to the Olive Garden site and operational plans. This is the request of Jack DeGagne of Darden Restaurants, Inc. for site and operational plan review for an Olive Garden restaurant located on 77th Street in the Prairie Ridge development which is Lot 2 of the CSM.

The exterior walls of the Olive Garden restaurant will be constructed of a stone veneer with brick accents, utilizing the same brick as The Shoppes at Prairie Ridge development. Other exterior materials include a concrete tile roof, wood trellises, and both glazing, which is regular windows, and faux windows. And you can see on the slide what the proposed elevations would look like for the building.

Due to the double frontage and high visibility of the Olive Garden, the building will incorporate aesthetically interesting architectural elements not only on the front elevation, which would be facing 75th Street, but also on the side and rear building elevations. The incorporation of an enclosed screened, recessed trash/recycling container area and the use of decorative faux windows and trellises are some of the elements that would make the development more visually and architecturally pleasing from all sides.

As far as off street parking is concerned, all paved areas throughout the site will incorporate concrete vertical curbing. Pursuant to the building size and number of employees, the zoning ordinance required number of parking spaces is 91. The site will meet and exceed the parking space requirement by providing 142 spaces which includes five handicapped accessible spaces.

The Olive Garden will obtain site access via one public road driveway from 77th Street, which is a shared driveway with Famous Dave's to the immediate east. There is a recorded easement agreement between Olive Garden and Famous Dave's parcels to allow both vehicular and pedestrian access and cross-access between these two abutting lots.

Exterior lighting, for Olive Garden will be decorative pole-mounted fixtures and will be the same style and type of lighting that is used for The Shoppes at Prairie Ridge and Prairie Ridge Commons, again, to get that cohesive development appearance.

Landscaping and open space, landscaping will be provided as required by the zoning ordinance in setback areas and within parking lot islands and peninsulas. All lawn areas are proposed to be manicured lawn. All on-site lawn and landscaped areas shall be irrigated. Pursuant to the B-2 District regulations, each development site shall provide for a minimum 30 percent open space, and the Olive Garden site will have 31.6 percent space. Also, there is a board there showing a landscape plan as well if you can't see on the slide that well. With that, I'll turn it back to the Plan Commission. I know the property owner and the Garden Restaurant representative is in the audience.

Mike Serpe:

Tom, the Famous Dave's when that went in I don't know if the parking on site was insufficient, but there's a lot of parking by employees on the street.

Tom Shircel:

You are correct.

Mike Serpe:

And now this is going to be a very popular restaurant. I don't know what the seating capacity is in the restaurant, but are we going to supply enough parking for the employees and the customers at 141 spaces?

Tom Shircel:

I would hope so. With 142 spaces, whereby 91 is required by the ordinance, these restaurants always have that honeymoon period of three, four, five or six months where they're very popular, and I'm hoping it will be popular, like you said Commissioner Serpe, for a long time. But I believe that they should have enough parking with 142 spaces. You're right, there was a situation with Famous Dave's during their quote, unquote honeymoon period where they were parking on the street. I believe those streets are now posted no parking.

Mike Serpe:

The Olive Gardens that see in business are still in their honeymoon because they're still very popular. Jack, maybe I can ask you what is the seating capacity in this restaurant?

Tom Terwall:

Give us your name and address, sir.

Jack DeGagne:

Good evening. My name is Jack DeGagne. I represent Olive Garden and Darden Restaurants out of Orlando, Florida. Address?

Tom Terwall:

No, that's good. 247 seats in the restaurant. I will tell you that the 141 I believe parking spaces that's pretty much right at our standards as far as on all our projects. If we have 140 spaces we're in pretty good shape.

Mike Serpe:

Okay. On the site in the event that this restaurant remains very popular, and I'm sure it will, is there room for expansion of a parking lot?

Tom Shircel:

There's room if they were to purchase additional property to the west from VK, or else perhaps they could approach The Shoppes at Prairie Ridge, Gershman Brown, the property to the south, perhaps cross parking easement there is also a possibility. So I think they have a couple possibilities to remedy any kind of parking situation that might pop up there.

Mike Serpe:

Okay. And what I'm getting to is if the place is going to be full and you're going to have people waiting 45 minutes to an hour for a table and that means you're going to be at more than capacity for parking. I hope I'm wrong on this. I hope I'm maybe over thinking this, but I just don't want to see the problem that we had with Famous Dave's with cars all over the place and just not enough parking for the facility.

Jack DeGagne:

I thoroughly understand. Again, we'll go through the honeymoon period. The 140 isn't a very workable number for us even including employees parking. There's always a chance where if it became that big of an issue I know that Darden, our management, we'd be getting a phone call from the general manager probably saying, hey, we've got an issue up here, so we'd be very cognizant of it if it indeed happened.

Tom Terwall:

I think, Mike, also with the honeymoon period at the Olive Garden you're going to see somewhat of a marital separation at Famous Dave's I think. Some of those people are going to come from there.

Larry Zarletti:

Do we know how many parking spaces there are at the Olive Garden in Racine? And the reason I ask that is it's often overfull or packed or whatever.

Jack DeGagne:

Unfortunately I don't know that answer as far as off the top of my head. I'd have to look it up. I can provide that for the City but I don't have that date tonight.

Jim Bandura:

You may want to look at the one in Calumet City, too. I think that one lacks parking. But they're close to I think a theater or something like that so that there's overflow parking.

Jack DeGagne:

And every situation is different. Racine I don't know if we have—sometimes we have reciprocity for additional parking so every case is a little different.

John Braig:

Following up on Trustee Serpe's comments on parking, if additional parking is required the applicant is dependent on two other property owners to sell them the additional land. They could hold them up to a point where it's not acceptable. I think the availability of additional land for additional parking should be resolved now, not sometime in the future.

Wayne Koessl:

Mr. Chairman, I understand they have 140 parking places and the capacity is 240 people. I don't think everyone is going to come in a single car there. They usually come in couples or families so that's going to alleviate some of the parking. I rarely see people that come single to the Olive Garden.

Tom Shircel:

Just to remind the Commission that the site does meet the ordinance requirements for parking at 91 spaces. So they're a good 50 spaces over that minimum requirement.

Tom Terwall:

I agree.

Mike Serpe:

Did Famous Dave's meet the requirements?

Tom Shircel:

Yes.

Mike Serpe:

Like I said, I may be over thinking this. Wayne, in answer to your statement, you have a large number of employees working at this facility as well, along with the customers, along with the people waiting for a table. I just want to not see a problem with this facility. I want to see it run smooth, I want to see it run nice and I'm sure it will be. But I'm just bringing out a possible problem and that's all I'm doing.

Tom Terwall:

Tom, did Famous Dave's exceed their parking requirements by 50 spaces?

Tom Shircel:

I would venture to say no. They just barely met them.

Mike Pollocoff:

They just met their minimum or the ordinance requirement.

Wayne Koessl:

Mr. Chairman, I agree with Commissioner Serpe. We all want to see a very smooth operation there and we're very happy to see Olive Garden come into Pleasant Prairie, because we've been waiting many years for it. But I think the parking will resolve itself over time.

Don Hackbarth:

Are we in a public hearing?

Tom Terwall:

No, no public hearing.

Don Hackbarth:

I don't know how many parking spaces Famous Dave's has, but you add this 140 and then plus Famous Dave's you're putting your access into one driveway, is that correct for both restaurants?

Tom Shircel:

That's correct.

Don Hackbarth:

That just looks a little tight. I can imagine a real traffic jam trying to get in and out of there on a Friday night. And I don't know if one driveway is going to be adequate for that. I really don't. You're too successful.

Tom Shircel:

Famous Dave's has two access points both on 77th Street.

Don Hackbarth:

There's another one to the east?

Tom Shircel:

Yes.

Tom Terwall:

Anything further?

Tom Shircel:

One more thing just to go off Commissioner Hackbarth's comments. If you look also on the Olive Garden site plan there is future cross-access points both at the northwest and southwest corners of the property to connect for a future commercial development.

Mike Serpe:

Tom, I would move approval of the certified survey map.

Don Hackbarth:

Second.

Tom Shircel:

I think Mr. Kuttemperoor wants to say a few words.

Tom Terwall:

Just for the record give us your name and address.

Ajay Kuttemperoor:

Ajay Kuttemperoor, VK Development, 19275 West Capital Drive. I just had one comment with respect to condition number 9. It says that the recorded CSM will be within 30 days of final CSM approval. Our intention is, obviously, to record this along with the closing of the parcel 2 Olive Garden. I'm not sure when that's going to occur. It may be six months from now. I don't know exactly what their timing is. So I would just ask that that recommendation be modified so that we could record it I would say within six months.

Mike Serpe:

Is there a problem with that?

Tom Shircel:

I don't see a problem with that.

Wayne Koessl:

Through the Chair, doesn't that start once they come up with the adequate funding?

Tom Shircel:

No. I think six months is doable.

Tom Terwall:

Okay, thank you.

Wayne Koessl:

Mike, are you going to amend?

Mike Serpe:

With the understanding that they have six months for the filing of the paperwork.

Tom Terwall:

It's been moved and seconded to send a favorable recommendation to the Village Board to approve the CSM for this property with one modification, that they be given up to 180 days if necessary from the date of final CSM approval to get it recorded. All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Then a motion on the site and operational plan?

Wayne Koessler:

Mr. Chairman, I'd move that we approve the site and operational plan subject to the comments and conditions of the Village staff report of October 26, 2009.

Tom Terwall:

Is there a second?

Mike Serpe:

Second.

Tom Terwall:

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

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Jack, we'd like to see you open tomorrow to the quicker the better.

C. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to amend Sections 420-76 T (5) and (6) of the Village Zoning Ordinance related to the maximum area and maximum height of Primary Monument Signs.

Tom Shircel:

Thank you. This is in consideration of a text amendment to amend Sections 420-76T (5) and (6) of the Village zoning ordinance related to the maximum area and maximum height of primary monument signs.

On October 5, 2009 the Village Board adopted Resolution #09-31 to initiate a staff review and evaluation of the size and height requirements for primary monument signs. In 2008, Ordinance No. 08-18 changed the primary monument sign maximum area and height parameters from an area of 160 square feet and a height of 16 feet to the current primary monument standards which are 130 square feet per face and 10 feet in height. So back last year there was an ordinance

amendment that reduced the area from 160 square feet to 130 and the height from 16 feet down to 10 feet.

Like many zoning text amendments one of the results of Ordinance 08-18 was that several signs in the Village became nonconforming, in that the signs when installed were legal pursuant to the zoning ordinance requirements at that time. However, the signs no longer meet certain requirements such as area and height due to the amendments made by the zoning ordinance by means of Ordinance 08-18. Furthermore, Section 420-78 T. of the zoning ordinance applies a set of regulations to nonconforming signs. For instance, that section states that at such time as the cumulative cost of modifications to a nonconforming sign exceeds 50 percent of the cost of replacing that sign, such sign shall become illegal and shall be removed or otherwise cured. Any such cure shall eliminate all nonconformities with or violations of this article.

With the ever changing technology of the sign industry, the Village staff is seeing an increase in the request for LED signs that have a vivid, electronic, color, computer controlled display that changes frequently. In short, these types of signs are expensive. If a business wishes to modify an existing nonconforming primary monument sign by inserting a new LED sign panel, due to its cost the LED sign will on most occasions far exceed the replacement cost of the entire existing nonconforming sign and, therefore, the LED sign would not be allowed to be installed due to that 50 percent rule that I just explained.

The nonconforming sign 50 percent replacement cost regulation, coupled with proposed modifications to an existing nonconforming sign, creates significant problems for commercial property owners who wish to modify their existing primary monument signs whereby the cost of these modifications may far exceed the 50 percent cost of replacement sign especially if that is an LED display. When the nonconforming sign 50 percent replacement cost provision is exceeded, the ordinance then requires that the sign be cured or brought into conformance.

Since a majority of the commercial developments in the Village are located along arterial state trunk highways, such as 50, 31 and 165, with higher speed limits and higher traffic volume, the Village staff is recommending that the maximum area and height parameters for primary monument signs return to the 160 square feet per face and 16 foot height respectively along those state trunk highways. By allowing a display area of 160 square feet per sign face and an overall height of 16 feet, it will eliminate that nonconforming status of some primary monument signs, and I did provide a table in your packet, along state trunk highways and will enable businesses to update and modernize their signs without that 50 percent cost provision applying to them.

Like I said, there's a table and there are some slides on the wall showing Culver's, Boucher Ford, Jelly Belly, Prairie Ridge Commons, St. Catherine's Hospital, PDQ, BP, am/pm, the Citgo along I-94, First Banking Center and Johnson Bank. So all these nine or ten signs right now according to the Village zoning ordinance are nonconforming in either height or area or both of them. So what's happening here is we're getting some requests from these businesses to put in these new LED signs which far exceed the cost of the replacement of these signs and, therefore, we'd have to deny their permits when they came to the Village and asked for that sign modification.

So, in closing, this text amendment to Section 420-76 T (5) and (6) related to the maximum height and area for primary monument signs is proposed to be amended as follow: So (5)(c) would say if the property has frontage on a state trunk highway the maximum area is 160 square feet per face, and (6)(c) would say if the property has frontage on a state trunk highway the

maximum height is 16 feet. Again, that would get these signs out of the nonconforming status and would then allow modifications to those signs without having to worry about that 50 percent rule. With that, I'll turn it back to the Commission.

Tom Terwall:

Tom, the Johnson Bank sign even with these changes will still exceed the height limit, correct?

Tom Shircel:

Let me look at the chart here. Yes, that one according to our records is just over 18 feet in height.

Tom Terwall:

So that would be okay as long as they don't try to upgrade. If they were they would have to lower it.

Tom Shircel:

Right, exactly, they'd have to lower it because that would still be nonconforming if these amendments were to pass.

Tom Terwall:

And my second question, the other thing is First Banking Center has got the same problem except by four feet.

Tom Shircel:

They do, yes.

Tom Terwall:

And I'm just thinking whether or not we'll have any businesses along the Interstate that would be affected by the same situation, and if we do should we also include not just state trunk highway or expressway?

Tom Shircel:

The businesses along I-94 will be on the east and west frontage roads.

Tom Terwall:

So they wouldn't be allowed to do it anyhow because that's not a state trunk highway, right?

Tom Shircel:

Right, it's a state road and it would be under their jurisdiction.

Tom Terwall:

Don, you have a comment?

Tom Shircel:

In addition, of course there are no businesses right on those frontage roads right now. Prime Outlets, yeah. Those are freeway signs, though, not primary monument.

Don Hackbarth:

I wish you would have taken a picture of the church sign because it's probably six feet high and I don't know how wide it would be, 15 feet wide, maybe more. But it has that curvilinear. It's got two signs on it. It's got the lit sign for a changeable and the it's got the permanent with the name of the church. But then behind it there are brick dedications where people—I don't know if you consider that a sign.

Tom Shircel:

The dedications portion? I'm trying to picture your sign with the cross.

Don Hackbarth:

Then the cross is thrown in there, too.

Tom Shircel:

Just the display area is considered—

Don Hackbarth:

Don't tell me we're going to take that cross down.

Tom Shircel:

Just the display area is considered part of the sign. For instance, maybe go back to a different example, Peggy. If you look at that—

Don Hackbarth:

That's good because you've got the name on the brickwork below, you see that?

Tom Shircel:

Right. So you see the base on the St. Catherine's sign that's not part of the area of the sign, only the display where the wording is. What differentiates from the base as considered part of the sign area. So this is a public hearing if anyone wants to speak.

Tom Terwall:

Anyone wishing to speak in this matter? Anybody wishing to speak? My only recommendation would be that BP Petroleum be required to lower the price on theirs. What's your pleasure, ladies and gentlemen?

Jim Bandura:

Move for approval.

Judy Juliana:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JIM BANDURA AND SECONDED BY JUDY JULIANA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING TEXT AMENDMENT AS INDICATED. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Motion to adjourn is in order.

John Braig:

Tom?

Tom Terwall:

Go ahead.

John Braig:

I've got two items in mind. I was coming in on Highway 50 the other night, and I know I've done it before, but I noticed the floodlight in the Truesdell shopping area glares quite a bit down Highway 50. Would that have been a recent change or didn't I observe it before?

Tom Shircel:

I'm not aware of any recent changes in their site lighting, none that they told us about anyway.

John Braig:

I mean it could have even been a guy up there changing a bulb and knocked the thing away. If you come in sometime take a peek at it. In contrast to it is the Speedway on 60th and 75th Street. All the lighting is really directed down and there's no glare to it.

The other item that's on my mind is street lighting. I was thinking as I was reading the minutes I can think of a number of people that have asked me for street lighting in our area, and I was told what the requirements are and I didn't think it was warranted according to our ordinance. What's happened is they accept what I told them and no one asked for it.

But after thinking about it if in time we get more and more requests for street lighting I'm trying to think if there would be another way that we could make street lighting available for a group of citizens that wanted it in an area, and what came to mind would be if they present a petition which says they want a light, and if the Commission sees fit to give it under the guidelines we have, fine. If the Commission decides it's not warranted, then would there be a way to authorize the installation with the electric company and make an adjustment to the assessed valuation of the properties of the individuals that signed the petition, recognizing that if three people want it and six people benefit, the three people that want it would recognize they're going to pay the total or split the cost three ways. And this would be on a monthly basis. And then in addition to that there would have to be some sort of clause that if at some time a property owner wanted to opt out or have the thing removed somehow there would be a charge against those people that signed the initial petition for the removal clause that the utility would be billing against the Village. Any comments?

Mike Pollocoff:

Through the Chair, right now the statutes provide for the Village, we can't place a value on the street lights as part of your assessed value. I'm not sure how you would determine a home that has a street light in front of it versus one that doesn't. It might be a little bit difficult. But the statutes do provide us with a vehicle to do these things through a special assessment charge. And we do this in new subdivisions typically where the developer wants more street lights to be put in the subdivision than what our standard is, so we provide—those street lights are put in. They're put in by We Energies. We Energies gives us an estimate of what they—they pay for that cost of installation as part of that project. The Village doesn't pay for it. And then the lights go in and they pay an annual fee to the Village equal to what the Village's costs are by We Energies. And they pay that prospectively ahead a year and then we settle up if there's any changes. That's something the statutes do let us do.

And with a new subdivision everybody theoretically buys into it as part of their lot, whether they wanted it or not, but that's how it goes. We've had a few areas like in LakeView Corporate Park where we've set these districts up after the fact and it has been contentious. Some people didn't want the assessment, some did. And like any other special assessment decision that the Board has to deal with, they make a recommendation of what's good for the public health and welfare and they levy the charge. That charge goes on going forward. If the lights were to be removed that, again, would be a cost of the district.

There are some districts we have where the Village has actually installed lights. There was a time period there where we did it by ourselves and not with We Energies. In those areas when they pay the electric charge, again, whatever We Energies charges and the depreciation of lights and then any maintenance fees that go forward. We have a few of those areas that have occurred. But generally everybody is in favor of having a street light if they don't have to pay for it like anything else. As you can see from the decisions you guys have rendered it's pretty rare that someone has come back after we've said no and said, okay, I still want to have it and I'm willing to pay for it. We encourage people to talk to We Energies about area lights that are on their parcels if they're really concerned about that.

John Braig:

We Energies is willing to put an area light anyplace. Does the Village have an objection?

Mike Pollocoff:

They'll put lights up all over the place. We have objections if—our lighting ordinance requires that someone can put a light up on their property and our ordinance mandates that that light cannot shine off the property, the wattage has to be such.

John Braig:

That was my question. If a group said we want lighting there and an area light looks like a solution with the area light on public right of way or roadway—

Mike Pollocoff:

It can't be in the right of way.

John Braig:

Would you permit that?

Mike Pollocoff:

No, we wouldn't permit it in the right of way. It has to be on private property.

John Braig:

Maybe we should look at that. If it was an area light that in every way looked very much like a street light, in other words it overhung the road, gave the lighting that the people were looking for, and obviously it would be a different fixture because there is a difference between the fixtures used for area lighting and for street lighting, only as a cost factor more than anything, but would we, for example, consider a light at the end of a cul-de-sac that people decide they want?

Mike Pollocoff:

No, for two reasons. One is is once that light is in the public right of way it becomes our liability, not the homeowner's liability. So if something happens to it We Energies is looking to somebody to pay for it. If it's in the right of way whoever hit it is going to come back to us rather than the individual who talked the Village into putting it in the right of way, or we're going to have to work around that light and the power that goes to it whenever we're doing public improvements. So that's why when we put up lights we have specific corridors that we want the power and the lights to go so that they're not in anybody's way going forward in the future. If somebody wants to put a light on their property then they deal with however that places on their property. But we don't let private individuals decide they'd like a light and I'll stick it in the Village right of way.

Tom Terwall:

Mike, in the case of both Prairie Village West and Meadowdale Farms, those are put in by the developer at the time they went in and does the association get hit each year for the cost of electricity?

Mike Pollocoff:

Right.

Tom Terwall:

Okay, and whatever depreciation or maintenance is involved?

Mike Pollocoff:

Well, for the We Energy lights that's included in their cost. And the We Energies light the Village gets preferential pricing right off not the grid or power but it comes in right off the main. Versus when the Village has a light up we have a meter and we have some other things that go with it. So not very much, typically most people don't even notice them in their association bill.

Mike Serpe:

Just a couple things. When we approve subdivisions now I think one of the requirements is a post lamp. Is that still a requirement on subdivisions?

Peggy Herrick:

It's not required but most developers require that out there.

Mike Serpe:

And if you're looking for security in a dark area, and Larry lives in an area that we require the post lamps and it works out fine. They have to be lit every night. LED's are inexpensive to run. That's one way of taking care of dark neighborhoods is with post lamps and they're very inexpensive once they're up.

Secondly, the last Plan Commission meeting we had we approved that street light on the corner of 90th and 5th. At the Board meeting we also approved it with a little twist, that the petitioners were asking for the street lights to be placed on 5th Avenue north of 90th Street. Knowing that they're not going to get that now, we're sending out a notice to them asking if they still want the street light at 90th and 5th, knowing that it's not what they really want. So they may opt out of it. We don't know. And then I think part of that recommendation is that they can put in post lamps as well.

Don Hackbarth:

On the west drive of the church we've had an area light for years, for years. It's on our property. I don't know what we pay a month. It's not that expensive, but that's primarily for our entrance so that people don't overshoot the entrance. It lights I don't know how many people across the street. So what. They're not that expensive.

7. ADJOURN.

Wayne Koessl:

So moved.

Jim Bandura:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

We stand adjourned.

Meeting Adjourned: 5:45 p.m.