

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
6:00 P.M.
May 10, 2010**

A regular meeting for the Pleasant Prairie Plan Commission convened at 6:00 p.m. on May 10, 2010. Those in attendance were Donald Hackbarth; Wayne Koessl; Andrea Rode (Alternate #2, voting member); John Braig; Jim Bandura; and Judy Juliana (Alternate #1, voting member). Michael Serpe, Thomas Terwall and Larry Zarletti were excused. Also in attendance were Mike Pollocoff, Village Administrator; Jean Werbie-Harris, Community Development Director; and Peggy Herrick, Assistant Village Planner and Zoning Administrator.

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

Jean Werbie-Harris:

I have no separate correspondence this evening other than what I will read under the public hearings this evening.

- 4. CONSIDER THE MINUTES OF THE APRIL 12, 2010 PLAN COMMISSION MEETING.**

Andrea Rode:

Move approval.

Judy Juliana:

Second.

Don Hackbarth:

**MOTION BY ANDREA RODE AND A SECOND BY JUDY JULIANA. SO MOVED.
ALL IN FAVOR SAY AYE.**

Voices:

Aye.

Don Hackbarth:

Approved.

- 5. CITIZEN COMMENTS.**

Don Hackbarth:

If there's an item on the agenda tonight wait until that item comes up. But if you have something other than what's on the agenda then you can feel free to come up and have a statement. Anybody for citizens' comments? Citizens' comments? Anybody? No citizen comments.

6. NEW BUSINESS

Don Hackbarth:

Jean, would you like to take both of these items together, or do you want to work on those separately?

Jean Werbie-Harris:

We'll take A and B together.

- A. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AND ZONING TEXT AMENDMENT for the request of SR Mills, agent, on behalf of Berwick Properties, Inc. owner of the property located at 8500 and 8600 75th Street to rezone the property from B-2, Community Business District to B-2 (PUD), Community Business District with a Planned Unit Development Overlay District and a Zoning Text Amendment to create the specific Planned Development regulations for conversion of The Crossing Office Park to Condominiums.**

- B. PUBLIC HEARING AND CONSIDERATION OF A FINAL CONDOMINIUM PLAT AND RELATED DOCUMENTS for the request of SR Mills, agent, on behalf of Berwick Properties, Inc. owner of the property located at 8500 and 8600 75th Street for the conversion of The Crossing Office Park to Condominiums.**

Jean Werbie-Harris:

Mr. Hackbarth and the rest of the Plan Commission members, the Crossing Office Park consists of two office buildings that were constructed in 1997 at 8500 and 8600 75th Street. The eastern office building is 10,080 square feet and the western office building is 7,670 square feet. It is the intent of the petitioner to convert these two buildings to a condominium form of ownership. Existing access to the site is from a shared access driveway through First Banking Center properties at Highway 50 and a second share access driveway access through First Banking Center and Alterra Wynwood Assisted Living Facility properties at County Trunk Highway H as shown on the overhead.

There are no public improvements associated with this conversion; however the developer is proposing to add 13 additional parking space in front or on the south side of the western building, building 1, and Peggy is identifying that area on the slide, with an associated sidewalk spanning the length of these new parking stalls. The plans submitted also indicate adding four future parking spaces to the north and to the east building, building 2. The Village Engineering Department has reviewed and approved the required erosion control permit for the installation of these parking spaces and an erosion control permit was issued on May 6, 2010 for this work to

commence. Prior to the four future parking spaces being constructed north of building 2, detailed plans and the erosion control permit shall be submitted for review and approval prior to work commencing.

The site currently has 72 parking spaces and with the proposed addition of 13 spaces on the south side of building 1 there will be a total of 85 on-site parking spaces including 2 handicapped accessible spaces. Pursuant to 420-50 of the Village zoning ordinance, the minimum number of off-street parking spaces required for professional offices is 1 space per 250 square feet of office space, plus the required handicapped accessible spaces pursuant to the State requirements. Based on the current building sizes totaling 17,750 square feet, 71 regular spaces are required. With the additional parking spaces being added to the site, it will meet and exceed the minimum requirements of professional office requirements. If a medical or dental office use is proposed to be located within any portion of the buildings, then the minimum number of parking spaces would be 5 spaces for every doctor plus 1 space for every employee. The developer shall be responsible to ensure that there is adequate on-site parking for the existing and future uses of these buildings.

The property is currently zoned B-2, Community Business District. A zoning map amendment is proposed to add a Planned Unit Development District Overlay (PUD) designation to the property since more than one building is located on the property. A zoning text amendment is also proposed to create the specific PUD requirements for this development. The attached PUD requirements generally include requirements for the number of buildings because it exceeds one, parking lot and driveway setbacks because now we have lot lines between the buildings and the parking, maintenance requirements for common open space, storm water retention and parking areas maintenance, cross access easement agreements and utility payment and other maintenance agreements.

Pursuant to the Village Land Division Ordinance, a preliminary condominium plat and final condominium plat are required to be filed; however the petitioner requested and the Village Board granted a miscellaneous discretionary exemption pursuant to Section 395-12C on April 19, 2010. This allowed the developer to forego submitting a preliminary condominium plat and to only submit the required final condominium plat and associated documents for the condominium conversion. Again, the conversion is the change in ownership and the dividing of the land, pursuant the regulations of the Village's Land Division and Development Control Ordinance.

With that this is a matter for public hearing for both Items A and B, first being the zoning map and text amendment and second the final condominium plat and related documents. And there is a representative here for the developer.

Don Hackbarth:

Would anybody like to speak? This is a public hearing.

Jean Werbie-Harris:

Jonah, do you want to come up and indicate that you represent the developer?

(Inaudible)

Don Hackbarth:

Any other comments for the public hearing? If there are none I'll close it and we'll offer it to the Commissioners.

Jean Werbie-Harris:

I also just wanted to mention that the developer did also submit the Crossings Office Park Condominium declaration of condominium, and we did have a few changes to that. We've provided that to the developer, and also the articles of incorporation for the condominium association as well as the bylaws, and then we also submitted some final dedication of provision of declarations for the plat pertaining to the storm water management provisions, because the Village is looking to have a public easement over their private storm water basin. Basically what that gives to the Village is the right but not the obligation to go in and take care of that basin in the event that something happens that it's not being taken care of. And this information has also been provided to Mr. Hetland as well.

Wayne Koessler:

Mr. Chairman, if there aren't any comments by the Commissioners, I'd move approval of the zoning map and zoning text amendments to forward that to the Village Board.

Judy Juliana:

Second.

Don Hackbarth:

MOTION BY WAYNE KOESSL AND A SECOND BY JUDY JULIANA. ALL IN FAVOR SAY AYE.

Voices:

Aye.

Don Hackbarth:

All opposed? Passes.

Jean Werbie-Harris:

And this is subject to the comments and conditions?

Don Hackbarth:

Yes, subject to the comments. Item B, the plat? Any comments? What's your pleasure?

Wayne Koessl:

Mr. Chairman, I'd move approval of the final condominium plat and related documents subject to the staff comments.

Jim Bandura:

Second.

Don Hackbarth:

MOTION BY WAYNE KOESSL AND A SECOND BY JIM BANDURA TO APPROVE ITEM B, THE PLAT. ALL IN FAVOR SAY AYE.

Voices:

Aye.

Don Hackbarth:

All opposed say no. It passes. C and D we're going to take together again, Jean?

Jean Werbie-Harris:

Yes, please.

C. PUBLIC HEARING AND CONSIDERATION OF A MASTER CONCEPTUAL PLAN for the request of John Steinbrink Jr., the Village Public Works Director for approval of a Master Conceptual Plan for the development of Ingram Park located at 5726 93rd Street.

D. Consider the request of John Steinbrink Jr., the Village Public Works Director for approval of Site and Operational Plans for the initial work to be done in Phase 1 development of Ingram Park located at 5726 93rd Street.

Jean Werbie-Harris:

In late December of 2008, the Village of Pleasant Prairie received a land donation for the creation of a new park. John and Dorothy Ingram, Pleasant Prairie residents, donated 30.73 acres of land located at 5726 93rd Street to the Village for the creation of a park that the residents will be able to enjoy. The donation was announced at the January 5, 2009 Village Board meeting. The Ingram's donation of their property for all Village residents to enjoy and appreciate as a park is no small gesture. It's truly an act of community and a wonderful gift. The Village Board expressed their sincere appreciations for the Ingram's touching gift.

The Ingram's built their home on the same land in 1971. Since that time, they have lived and worked from the property which they hope to see transformed into a community park with a pond for fishing, trees and shrubbery to attract birds and other wildlife, and trails for walking.

John Ingram began considering the donation roughly in the fall of 2008, as noted in the January 2009 Village Newsletter. This is a quote: "I (John) told my wife I had an idea and ran it past her," he said. "I told her I thought it was a good idea." The Ingram's will continue to live in their home on the property for the remainder of their lives. They hope to watch the park develop while still living there.

Ingram Park was named for the couple, and a memorial to them will be placed at the entrance to the park. Work on the new park began in the spring of 2009 with a survey of the land and some initial planning and groundwork for the project.

Schreiber Anderson Associates was selected to prepare a park master plan for the development of this Community Park located within the Whittier Creek Neighborhood. They facilitated the process to help guide John and Dorothy Ingram's dream of a public park. On July 29, 2009, Schreiber Anderson Associates held a public input session to assist in the planning of the new Ingram Park. On October 6, 2009, the Village Parks Commission reviewed two preliminary concepts for the new Ingram Park as prepared by Schreiber Anderson. Both concepts included: a dog run, fishing pond, open green space, parking, a playground area, walking and bicycle trails, landscaping and a park shelter area. Commissioners identified the preliminary concept shown above as their preferred option due to the addition of an amphitheater area adjacent to the fishing pond.

The Master Conceptual Plan for Ingram Park includes the following. Again, we have it on the slide, and I'm sure that John, Jr. will also go through this for the Plan Commission. The Master Conceptual Plan include:

- Extension of existing utilities from 93rd Street.
- Formation of a fishing pond to provide fishing opportunities to the public.
- Development of approximately 2000 linear feet of entry drive and path connections.
- Development of parking lots.
- Development of path/trail system.
- Creation of a dog run.
- Construction of a playground area.
- Formation of open space for community use.
- Development of terraced amphitheater, plaza shelter and restrooms.
- Development of future connectivity with adjacent neighborhoods.
- Landscaping for buffering neighbors and enhancement of park uses.

The Master Conceptual Plan shows an area for potential for a future expansion to the northwest of the existing land owned by the Village as shown on Master Conceptual Plan. This area is a proposed Phase II. It's approximately 8.23 acres. Also, pursuant to the Village's Comprehensive Plan, the adjacent approximately five acres located to the southeast is proposed to become part of this Community Park in the future and is identified as Phase III. Again, keep in mind that Phase II and III there have been no commitments and no agreements by any of these landowners at this point, but it was decided that if at some point that it could be incorporated as part of the park development, that it could kind of square things off and could nicely be incorporated into the park if that is the desire of the landowners.

There are no wetlands within the current boundaries of Ingram Park on land owned by the Village; however there are wetlands located within a portion of the Phase II area that will need to

be incorporated into the park plan or kept in open space when Phase II is proposed to be developed.

There is 100-year floodplain, and Peggy is identifying that. That's actually at the very northeast corner of the park within Phase I and the eastern portion of Phase II. The 100-year floodplain will not be disturbed at this time. When 89th Street is proposed to be extended, a floodplain boundary adjustment will need to be completed in order to make that extension of 89th. In addition, after the existing home on Phase I is no longer used for residential purposes by the Ingrams, this portion of the property is proposed to be rezoned into the PR-2, Community Park and Recreational District and the Village's Land Use Plan shall be amended at that time to remove the urban reserve designation.

The proposed extension of 89th Street on the north side of the park is planned when future residential development to the north and west of Ingram Park is proposed and the future street on the west side of the Ingram Park is planned when that development is extended.

The Village's 2035 Land Use Plan identifies Phase I and future Phase II and III areas as the Community Park. The Village is recommending that Phase II be included as part of this Community Park as shown on the Master Conceptual Plan. On May 3, 2010, the Village Board adopted Resolution #10-12 to initiate the following appropriate amendments to the Village's 2035 Comprehensive Plan to reflect the park plans and to ensure that the Comprehensive Plan and its components are consistent including, and again, these are all the plans that need to be amended:

- the 2035 Land Use Plan to include Phase II;
- the Whittier Creek Neighborhood Plan, a component of the Village 2035 Comprehensive Plan; and
- the Village Park and Open Space Plan dated 2006-2011, a component of the Village 2035 Comprehensive Plan.

During the summer of 2010 construction is proposed to begin within the Phase 1 area of Ingram Park pursuant to the site and operational plan applications that were filed with the Village. This activity will include the private roadway construction in Ingram Park which is proposed to begin this summer. In addition, millings from other paving projects in the Village will be used to form the road base and be used for future trail development. Grading will also begin on the southern half of Phase I including the excavation of the fishing pond. The rest of the construction will continue as funding allows.

According to the Village's Zoning Ordinance, the Plan Commission shall only consider the site and operational plan after they find in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village, County, State, federal, local ordinance requirements. With that I'd like to introduce John Steinbrink, Jr. He is our Park Director for the Village. He can explain any more details with respect to the Ingram Park master plan as it relates to Phase I and what work they're intending to do this summer.

John Steinbrink, Jr.:

Thank you, Jean. Mr. Chair and members of the Parks Commission, like Jean had said, I think she summed it up very well. The Village is very excited to have an opportunity to create such a beautiful park here. And one of the differences that this park is going to provide where other

parks really aren't in the Village is this is going to be more of a passive park. There's not going to be any sort of structured athletic games, athletic games, anything like that. There is going to be open areas where if you want to go and toss the frisbee around or do something like that it's available, but we're not going to have softball games, soccer games, stuff like that. We are looking to introduce a dog park right in between the pond where Phase III is. Just the way that the Ingrams wanted it, we're looking to have a fishing pond along with a lot of trails and open space. The parking lots are kept to be sized just enough to handle the traffic or the dog park and just for enjoyment of the paths or fishing around there. We are looking at installing a handicapped fishing pier and a little pavilion just outside the pond area.

This spring as part of our paving program we are looking to haul out the black dirt and use it on other Village projects all the way from 93rd down to just before where it curves 90 degrees going up to the west. So we'll be excavating that dirt and using it in our Village projects, and also the parking lot just adjacent to the dog park. And then as part of our milling, and the millings are the pulverized asphalt that are chewed up to a small gravel-like consistency, and we're going to use that as a road base along this space. So that is recycling existing roadway and it's saving the taxpayers of the Village money because they don't have to go through and spend money buying stone for this road base.

Then potentially as a part of the I-94 construction project, we are working with the contractor to create the excavation of the three acre fishing pond. That has not been finalized yet, but it's something that based on the schedule and the amount of fill material that's needed along I-94 that we're hoping to make happen this year. The Village has also put in for a DNR stewardship grant to assist in some of the paths and trails and other grading and seeding and trees and like that in the area. I can answer any questions you may have at this time.

Don Hackbarth:

This is open for a public hearing so if something would like to come up and speak you sure can. Give us your name and address please.

Mike Richie:

My name is Mike Richie. I live at 5515 89th Street here in Pleasant Prairie. I'm here with a couple neighbors of mine and we're wondering about the wetlands and the floodplains because right now we're not in any floodplains. When I bought my house there were no issues about any floodplains or anything like that. But then I got all the paperwork and now it's showing all of a sudden there's a 100-year floodplain. Are you guys elevating the whole thing and where is that water going? The map, I don't know exactly which dotted lines are floodplains and which aren't.

Don Hackbarth:

Do we want to address these as they come up or should we wait until the end?

Jean Werbie-Harris:

We can. That way if he has other questions we can continue to respond.

Mike Spence:

Mr. Richie, I'm Mike Spence. I'm the Village Engineer. And the information that you've received lately was to allow a surveyor to come in the area and survey and get the existing elevations. The intent of that work was to determine what the elevations are around your properties to find out where it does relate to a 100-year floodplain elevation. And the thing that with this park project what we're hoping to do if there are areas that are determined to be in the floodplain we would like to be able to compensate that with this park. So it's like a win-win situation so then if there was any—

Mike Richie:

Compensate, what does that mean?

Mike Spence:

That means we would take the area that's in the floodplain around your properties and we would replace that with area in the floodplain on the northeast part of the park area. In other words, we would dig out additional volume to replace the volume if we make changes around your properties to ensure that you're not in the floodplain. So that's what the recent information that you received was relative to. So once we get that information our intent is to really combine that with this project when we're looking at the overall elevation, so then if we're digging there we can compensate that volume. So it's really a positive thing for you.

Mike Richie:

So nothing that I or my neighbors have to worry about being stuck in a floodplain right now?

Mike Spence:

I guess what I can say is the elevations where you're at now—I don't know, Jean, has that floodplain ever been—

Jean Werbie-Harris:

It's been mapped. It was mapped back in 1998 as part of the Des Plaines River Watershed Study. We held numerous public hearings based on the mapping that was done by SEWRPC. Peggy is going to get the map. So that whole area adjacent to that tributary of Jerome Creel is mapped in the floodplain right now.

Mike Spence:

So nothing has changed. That was mapped and what we're trying to do is address that. And actually if we can we'd remove those areas from the floodplain by the excavation that we're doing as part of the park project.

Mike Richie:

So it's a question of if you can. Not that you are but if you can.

Mike Spence:

If we can. It depends on where it is. Based on some of the preliminary survey that I've seen it looks positive but we haven't finished that yet.

Mike Richie:

So when I go to sell my house do I claim it or do I not? You know what I mean. I'm getting actually ready to sell my house.

Mike Spence:

At this point it has been mapped as of 1998.

Mike Richie:

Is that the Army Corps of Engineers that did this or the City?

Jean Werbie-Harris:

No, the Regional Planning Commission in Waukesha puts the mapping together, and then those maps became part of the FEMA maps as part of the federal mapping. Peggy actually brought out those floodplain maps if you wanted to take a look at them with the engineer when we're done with this particular item. He can show you those maps.

Mike Richie:

Alright, that's all I have.

Don Hackbarth:

Does anybody else have a comment? Anybody else?

Jean Werbie-Harris:

I do need to read a letter into the record. It was received in my office on May 10th and possibly John Steinbrink, Jr. can respond to it. It's to the office of the Community Development Director. It says:

In regards to the recent notice of the public hearing by the Village Plan Commission concerning Ingram Park and its master conceptual plan, I would like to make my comments known to the committee. I presently own property directly adjacent to and west of the proposed development of Ingram Park. Although I'm wholeheartedly in favor of such a design for green space, I do have a concern for the possible future development in this immediate area and that should be kept in mind. My concerns are centered around any potential noise or lighting associated with the park if adjacent property is developed. To what extent will activity in the park impose on the property owners? Will any noise or lighting be directed or confined to the interior of the park and

not outward to the private properties? Will fencing or berms be part of the plan to confine activities to the park? Are there any restrictions to the operating times of the park as to being open to the public?

So maybe John could respond to some of these. This is Terry Sheve, and she's actually sending this to us from Arizona so I don't believe she's here tonight.

Don Hackbarth:

Mr. Steinbrink?

John Steinbrink, Jr.:

Jean, Mr. Chair, members of the Plan Commission, the only lighting that is proposed at this time right now is just some parking lot lighting around the main parking lot just directly west of the ballfields. And I believe it would probably be three streetlights on there and then potentially some lighting at the other parking lot just a little bit to the north and to the west, almost due west of the fishing pond. And then a couple of lights around the pavilion area at the fishing pond area. So we're really not looking at having any lit soccer fields, ball fields, roadway lights, anything like that. So I think the lighting will be kept down to a minimum.

As far as noise goes, the dog park will probably be the noisiest area depending on how the dogs are barking at that time. A lot of the dog parks that I've been to in the past around different areas have been pretty well managed and pretty well maintained. I can't say there's not going to be any noise whatsoever, but there is a fair distance from where the dog park is out to where her property is. That's something I'm not sure how we can really address the noise of the dogs, but it is going to be much quieter than having a soccer event or a baseball tournament or a football game or something like that.

She also talked about the fencing. There is going to be fencing around the dog park as approved by all standards that they have. It will be a double entry system coming in and then a fence all the way around the dog park as a whole. Then depending on what happens with the amount of material we can take out to use on the Interstate, the other material we'll probably use for berming around the perimeter as long as it does not affect any of the drainage coming in. I know that they have a little bit of drainage coming in from the northwest area, and we want to make sure that this park does not impede or really cause any drainage issues.

One of the good things about this park is that there's really hardly impervious areas at all on here, just the roadway and the parking lot. So if you take a 30 some acre site and you keep it pretty much open it really should be helping drainage more than anything, versus going through and having it all developed as homes and rooftops and wide road and stuff like that. We can definitely if the person with the issues wants to give me a call if she reads the record I'll be happy to go through this with her at the time that she calls me in my office.

Jean Werbie-Harris:

If you could just add what are the park hours? All the parks are the same are they not?

John Steinbrink, Jr.:

Just from dawn until dusk. So there will be no activities allowed once the sun goes down. We'll make sure that our police department is patrolling it on a regular basis as we do all of our other public facilities.

Jean Werbie-Harris:

And just a point to clarify, at the very beginning he had mentioned that the lights would be just east of the ball field and he meant dog park.

Don Hackbarth:

If people are concerned, too, about the lighting, we can direct those down so it doesn't impede on neighboring property.

Jean Werbie-Harris:

And we would.

John Steinbrink, Jr.:

Correct.

Don Hackbarth:

Are there any other comments from citizens? Anybody else? Yes, sir? Give us your name and address please.

Eugene Wright:

Eugene Wright. I live at 5622 93rd Street. Phase IV, I think Mr. John Steinbrink is doing a wonderful job here and I think it's going to be a nice park.

Don Hackbarth:

Thank you. Anybody else? Anybody else? I'll close the public hearing then. I have a feeling that the Ingrams are in the house tonight, right? I think I noticed a few tears out there. Raise your hand. I think this is such a gracious and generous offer. We need more open space.

Ellen Tolliver:

My name is Ellen Tolliver. I live at 4514 18th Avenue, Kenosha, Wisconsin. My question is if you're going to have a handicapped fishing ramp is that all going to be blacktopped to that or we're not sure yet?

John Steinbrink, Jr.:

Eventually it will be. The plan is for as funds are available or as grants are obtained to have everything paved all the way down and have all of our final grading done. This is a project that will be completed as funds are available or as grants are available, so it's really hard to tell exactly how things are going to work.

Ellen Tolliver:

But the goal is to have that?

John Steinbrink, Jr.:

That is the goal is to have asphalt to make everything ADA acceptable and a very nice park for the public to use.

Don Hackbarth:

Again, the Village and the Plan Commission and the Board thank the Ingrams for their gracious donation. It's wonderful. Before I open it up to Commissioners I have a couple questions myself. The pond is not there or is there a pond there already?

John Steinbrink, Jr.:

The pond is not there right now. We do have a survey, and they should be staking it out this week, at least the boundaries of it, in case that when the contractor does decide to move forward with an excavation of material we'll be ready with the erosion control and everything else that goes in its place. So we can act very quickly on it, and it makes it a much more attractive site for a contractor.

Don Hackbarth:

Another question I have is where you have dogs you have messes. How do you maintain that? How do you clean up a dog park?

John Steinbrink, Jr.:

I think you can do a lot of public education and signage. And we'll probably have one of those little dispensers with the bags as you see at other parks. Most of the dog owners that use these facilities are carrying the little pouches or bags with them, and everyone is very well behaved with that.

Don Hackbarth:

The last question I have is the usage of the park is there any kind of estimate? Because if they're going to be living in their home for a number of years is there going to be a lot of traffic going past their house?

John Steinbrink, Jr.:

There is going to be a separate drive in as shown on the place separate from where the Ingram's driveway is.

Don Hackbarth:

And where is that?

John Steinbrink, Jr.:

The drive is just north of Phase III in between where the trees are. And then their private drive is just a little bit to the west of there. So there will be some traffic along there. As far as how much there's going to be anyone using the dog park or going to the fishing pond, I'm not foreseeing a huge amount of traffic like hundreds of cars per day or anything like that. I would assume that it will be at a minimum.

Mike Spence:

Just to add to that, too, again as John mentioned being a passive park there's not going to be organized recreational activities so you're not going to have tons of cars.

Don Hackbarth:

I'd hate to have this wonderful donation and then have it become a problem for them. With that I'll open it up to Commissioners. Any comments?

John Braig:

A question to staff. What studies or tests have been made to determine that the water will stay in the pond, in other words that it doesn't perk through? And will there be enough water to maintain proper levels in the pond?

John Steinbrink, Jr.:

Yes. We have gone down last year and we dug a couple of test holes. It was clay down to 25 feet. So with the clay being impervious like that it really should hold the water. And your other question was the elevation?

John Braig:

The quantity of water available to keep the pond filled.

John Steinbrink, Jr.:

We have been in dialogue with Schreiber Anderson and they're saying that with the grading of the pond, the elevations of the pond and the slopes and everything else, and especially with the clays, it should be able to keep its own elevation. Obviously at times of really dry weather it will

be down a few feet and when it's really wet it will be up a few feet. But they have assured us that it will hold water.

John Braig:

Thank you.

Don Hackbarth:

Anybody else? Any other comments?

Judy Juliana:

I just want to compliment John Steinbrink, Jr. on the plan that's well thought out. You've really done a good job with it. And I would like to personally thank the Ingrams for doing this. It is just incredible generosity in your kind hard.

Don Hackbarth:

And it will live on.

Jean Werbie-Harris:

I also just want to mention that what we're considering this evening as part of the park master plan is Phase I. Because we started looking at Phases II and III after the notices went out, we want to make sure that anyone who is impacted by Phases II and III that they get an opportunity to take a look at this in more detail. So we're going to actually bring Phases II and III to the next Plan Commission meeting on June 14th. But Phase I we would like to have consideration for this evening so that when the time comes this month or early next one that John can begin on his Phase I work.

Don Hackbarth:

What's your pleasure?

Jim Bandura:

I move for approval.

Judy Juliana:

Second.

Don Hackbarth:

MOTION BY JIM BANDURA AND A SECOND BY JUDY JULIANA. ALL IN FAVOR SAY AYE.

Voices:

Aye.

Don Hackbarth:

Any nays? Motion passes.

Mike Pollocoff:

I'd just like to make a short announcement. The Village Board is in a meeting in Executive Session, and since you guys are in here conducting your meeting, they will be going back into open session for the purpose of adjournment, and they'll be in the executive conference room if anybody wants to attend that.

Don Hackbarth:

Are they going to adjourn in here?

Mike Pollocoff:

No, they're going to adjourn in there. I was just announcing it so if anybody here wants to watch them adjourn they'll be in that room. They're not taking any other action other than adjourning.

Don Hackbarth:

Item D.

Wayne Koessl:

I'd move approval of the site and operational plan.

Jim Bandura:

Second.

Don Hackbarth:

MOTION BY WAYNE KOESSL AND A SECOND BY JIM BANDURA TO APPROVE ITEM D. ALL IN FAVOR SAY AYE.

Voices:

Aye.

Don Hackbarth:

Opposed? So carries.

E. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to amend Section 420-47-D related to the requirements for driveways in business, manufacturing, multi-family, institutional and park and recreational zoning districts.

Jean Werbie-Harris:

Members of the Pan Commission, on April 12, 2010 the Village Plan Commission adopted Plan Commission Resolution #10-08 to request the staff to re-evaluate and update as necessary the requirements for driveways in the business, manufacturing, multi-family, institutional and park and recreational districts.

Based on staff's review of the regulations of Section 420-47 D related to the width of driveways in the business, manufacturing, multi-family, institutional and park and recreational districts we are recommending that the ordinance be amended to read as follows:

Width. The maximum minimum width of a driveway shall not exceed 35 feet at the property line. The Zoning Administrator; however, may allow an increase in width to provide for a safer and adequate traffic movements. In no case shall a driveway extend into the right-of-way so as to cross the extension of the side property line as extended into the right-of-way.

I have to mention that when the ordinance was codified back a number of years ago, for some reason some of the language had gotten messed up. We had continued to interpret it the correct or the property way but the language didn't read correctly. So this is really trying to clear up what appears to be some typos in the code. So with that I'd like to continue the public hearing.

Don Hackbarth:

This is a matter for public hearing. Does anybody want to speak to this issue? Anybody? Anybody? If not, what I'll do is I'll close the public hearing and open it up to Commissioners.

John Braig:

Move approval.

Wayne Koessler:

Second.

Don Hackbarth:

IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY WAYNE KOESSL. ALL IN FAVOR SAY AYE.

Voices:

Aye.

Don Hackbarth:

All opposed? So moved.

- F. PUBLIC HEARING AND CONSIDERATION OF SEVERAL A ZONING TEXT AMENDMENTS including: 1) to amend Section 420-152 related to the definition of Dry Cabaret, Cabaret and ambient amplified music; 2) to amend Section 420-120 D (2) (e) and Section 420-121 C (2) (e) to allow a Cabaret and a Dry Cabaret with approval of a Conditional Use Permit in the B-3 and B-4 Districts; 3) to amend Sections 420-127.1 B (2) and 420-127.1 D (3) to allow a Cabaret and a Dry Cabaret with approval of a Conditional Use Permit in the PR-2 District; 4) to amend Section 420-120 B (2) related to restaurants with outdoor seating as a permitted use in the B-3 District; 5) to create Section 420-148 B (12.1) related to specific conditions for a Cabaret in the B-2, B-3, B-4 or PR-2 Districts and 6) to create Section 420-148 B (27) related to specific conditions for a Dry Cabaret in the B-2, B-3, B-4 and PR-2 Districts.**

Jean Werbie-Harris:

Members of the Plan Commission, on April 12, 2010 the Village Plan Commission adopted Plan Commission Resolution #10-06 to request the staff to re-evaluate and update as necessary the zoning districts where dry cabarets, which are live entertainment without alcoholic beverages, cabarets which are live entertainment with alcoholic beverages, and outdoor seating areas for restaurants and to have them allowed either as a permitted use or a conditional use. This all came as a result of the Village Board amending and removing some of their provisions in Chapter 125 related to liquor licenses and Chapter 139 related to cabaret licenses.

First we'll go through the definitions. The following definitions for dry cabaret and cabaret are proposed to be amended to read as follows:

DRY CABARET: An establishment that provides or allows the provision of indoor or outdoor live entertainment or amplified music for the benefit of the public, wherein alcoholic beverages are not served or sold; and is, exclusive of indoor theaters, indoor dinner theaters, indoor concert facilities and any organized sporting events. Establishments that provide amplified ambient music are excluded from this definition.

CABARET: An establishment that provides or allows for the provision of indoor or outdoor live entertainment or amplified music for the benefit of the public, wherein in which alcoholic beverages are served or sold. Establishments that provide amplified ambient music are excluded from this definition.

So the next question you have is do we have a definition for ambient amplified music? Yes.

AMBIENT AMPLIFIED MUSIC: amplified music which cannot be heard beyond the property boundaries wherein the amplified music originated.

There's a table that you have in your packets as well as on the overhead, and this table indicates which zoning districts currently allow restaurants with outdoor seating, cabarets and dry cabarets and what the proposed changes are. We have all of the Business Districts, B-1, B-2, B-3, B-4 and two of the Park and Recreational Districts, PR-2 and PR-3 along the left column. Across the top we have the headings restaurants with outdoor seating, cabaret or dry cabaret.

So if the letters CUP are listed, then it requires a conditional use permit. If the letter P is identified, it's a permitted use. And if it's an X then it's prohibited. So, for example, in the B-1, Neighborhood Business District, a restaurant with outdoor seating is required to have a conditional use permit but it cannot have a cabaret or dry cabaret. There's no live music or amplified music. In the B-2 District which is our Community Business District it is a permitted use to have a cabaret or a dry cabaret. It's a CUP which means they need a conditional use permit. In the B-3 and B-4 District, it is a conditional use permit to have a restaurant with outdoor seating and you can have a cabaret or dry cabaret with the CUP.

The PR-2 and PR-3 which are Park Districts, the restaurant with outdoor seating is permitted in both. And in the PR-2 the cabaret and dry cabaret will require a conditional use permit, and the PR-3 it's a permitted use and no special CUP is required.

Section 420-120 B (2) related to restaurants as a permitted use in the B-3 District is proposed to be amended to correct an error related to outdoor seating. And the sections specifically is corrected as I just noted in the chart. But as you can see with or without outdoor seating has been taken out of that particular section.

Section 420-148 related to specific standards for uses requiring a conditional use permit are proposed to be created for cabarets and dry cabarets to limit the permitted hours of outdoor live entertainment or amplified music if located within 300 feet of a property zoned residential. In those cases there will be a restriction that this amplified music or live entertainment to be allowed only between 8 in the morning and 10 at night. Any cabaret or dry cabaret outside of its principal building located more than 300 feet from a property zoned residential shall meet the hours specified in the underlying district.

In addition to the proposed zoning changes, the staff is proposing that the following amendment be made to Section 250-8 B (8) of the Municipal Code related to loud and unnecessary noise. And this would read as follows: "No amplified sound shall be allowed within a residential district between the hours of 10 p.m. and 7 a.m. that can be heard beyond the property boundaries." This would limit amplified sound in a residential area where there are existing legal nonconforming uses that may cause neighborhood disturbances.

So with that I'd like to continue the public hearing.

Don Hackbarth:

This is a matter for public hearing. Does anybody want to speak to this issue? Anybody? Anybody want to speak? I'll close the public section of the hearing and we'll turn it over to the Commissioners.

Wayne Koessl:

Mr. Chairman, if there are no questions I'd move approval of the several zoning text amendments.

Judy Juliana:

Second.

Don Hackbarth:

MOTION BY WAYNE KOESSL AND A SECOND BY JUDY JULIANA. ALL IN FAVOR SAY AYE?

Voices:

Aye.

Don Hackbarth:

Any opposed say no. It's approved.

G. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to Section 420-152 of the Village Zoning Ordinance related to definitions for Convenient Cash Businesses, Secondhand Article Dealers, and Secondhand Jewelry Dealers.

Jean Werbie-Harris:

Members of the Plan Commission, on April 12, 2010 the Village Plan Commission adopted Plan Commission Resolution #10-07 to request the staff to re-evaluate and update as necessary the zoning regulations related to convenience cash businesses, second hand article dealers and second hand jewelry dealers in the Village.

Currently convenience cash businesses are allowed in the B-2, Community Business District with approval of a Conditional Use Permit and provided the following standards are met:

1. A convenient cash business in the B-2 District that is proposed to be commenced or expanded shall be not less than 300 feet in a direct line from any lot on which any school, church or day-care center for children is located or has a vested right to locate, or from any lot or from any portion of a lot zoned residential, or at the time the application for site and operational plan approval for the commencement or expansion of such proposed convenient cash business use is decided by the Village Plan Commission.
2. No convenient cash business shall be located within 2,640 feet of another convenient cash business regardless of whether such convenient cash business is located in the Village or an adjacent municipality.

3. Hours of operation. A convenient cash business shall not be open between the hours of 7:00 p.m. and 8:00 a.m. Monday through Friday; shall not be open on Saturdays except between the hours of 9:00 a.m. and 2:00 p.m.; and shall not be open on Sundays.

In reviewing the Village's ordinances and the Wisconsin State Statutes, relating to secondhand article dealers and secondhand jewelry dealers, the Village staff is recommending that the definition for convenience cash store be expanded to include secondhand article dealers and secondhand jewelry dealers with a few exceptions.

The definition is proposed to be amended to read:

CONVENIENT CASH BUSINESS: Also referred to as a payday loan business, title for cash business, check cashing business, deferred presentment service provider or similar enterprise licensed pursuant to §218.05, Wis. Stats., or a person licensed pursuant to §138.09, Wis Stats., who accepts a check or title, holds the check or title for a period of time before negotiating or presenting the check or title for payment, and pays to the issuer an agreed-upon cash, or who refinances or consolidates such a transaction, and this is where we've added some additional provisions, or a secondhand article dealer or secondhand jewelry dealer pursuant to §134.71, Wis Stats with the following exceptions: (1) a secondhand jewelry dealer for the purpose of this Chapter excludes the exchange of jewelry for different, new jewelry or where the primary business of a jewelry dealer is to sell new metals, minerals or gems customarily regarded as precious or semi-precious; and (2) secondhand jewelry includes, in whole or in part, any metals, minerals or gems customarily regarded as precious or semi- precious.

In addition, for clarification the following definitions are also proposed to be created:

SECONDHAND ARTICLE DEALER: See definition for Cash Convenient Business.

SECONDHAND JEWELRY DEALER: See definition for Cash Convenient Business.

Although the proposed amendments to the Zoning Ordinance will not consider a secondhand jewelry dealer as a person who exchanges jewelry for different, new jewelry or where the primary business of a jewelry dealer is to sell new metals, minerals or gems customarily regarded as precious or semi-precious; and that secondhand jewelry includes in whole or in part any metals, minerals or gems customarily regarded as precious or semi-precious, Chapter 246 of the Municipal Ordinance still requires the Village to issue a secondhand license pursuant to §134.71, Wis. Stats.

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

Don Hackbarth:

Does anybody want to speak on this issue? Anybody? Anybody want to speak. If not, I'll close the public hearing and open it to Commissioners.

Wayne Koessl:

Mr. Chairman, I'm going to vote no on this resolution. I know as a Commission we're going to be able to vote on a conditional use permit when these come up, but I'm adamantly opposed to any payday loan business. All it is a cancer on the low income people.

Don Hackbarth:

I have a question. How did we arrive at 300 feet? Why not more?

Jean Werbie-Harris:

I think that we were looking at other provisions of the zoning ordinance when it came to desirable uses in the community. And we wanted to come up with a somewhat acceptable distance from one to the other similar to other things that we've done in the Village. Again, if that half mile from one to another, that's the provision, the cash convenience business we have on the books today, we have that provision with a half mile from one to the next. But now we're saying in addition to that we have the 300 foot separation spacing no matter if they're in another adjacent community or in ours. But we wanted to make sure that we didn't have an outright prohibition but the restrictions were put in place so that these would not pop up.

Don Hackbarth:

My question is, is that too small a distance? Should it be further? You're talking schools and childcare centers. Should it be more than 300 feet?

Jean Werbie-Harris:

The staff recommends 300 feet. If the Plan Commission is requesting 500 feet—

Don Hackbarth:

I would like to see it more. I really would if we're going to accept these. Anybody else? Any other comments?

Andrea Rode:

. . . we already have a legal use for them. This is just tightening it down a little bit more. But I have no problem with the 300 feet.

Jean Werbie-Harris:

Again, the main part of this amendment is to make sure that we have this definition and this distance and the permission for secondhand article dealers or secondhand jewelry dealers and businesses like the cash for gold. This puts restrictions on those types of uses in the Village.

Jim Bandura:

Then how does this affect the cash for gold in the hotels when they sell them outright, when they advertise?

Jean Werbie-Harris:

The State statutes are clear as to what types of uses might be exempt from these provisions. For example, if there's some type of conference or a periodic sale they are exempt in the statutes so they'd be exempt in our ordinance as well.

Don Hackbarth:

I would like to see this go to 500 feet. I really would. Considering putting these too close to childcare. These aren't always the most upstanding businesses in the community. And the further away from children and school and things like that we can get I think the better off we're at.

Jim Bandura:

I tend to agree with Commissioner Hackbarth to increase the distance to at least 500 feet.

Judy Juliana:

I'm going to vote against this, the recommendation. I feel strongly against these payday loans. In my opinion it's just a legalized way of loan sharking and I will not approve this.

Don Hackbarth:

Anybody? Mr. Pollocoff?

Mike Pollocoff:

I would just like to remind the Commission that the vote you're taking tonight, the issue before you, is not cash convenience stores or payday loans. The commission already came up with an ordinance on that approximately two years ago when you decided that the businesses constituted a detriment and a nuisance to the area and you created this regulation that we have right now to regulate them. The question before you tonight is not the cash business or payday loans because that already has regulations here that you've adopted. The question before the Commission tonight is the secondhand art dealers, the jewelry dealers, the cash for gold. So that's what you'd be looking to regulate.

You're not voting on an issue of payday loans tonight. That's already—you created that ordinance a couple years ago. This is to regulate these other uses that have been popping up recently and we've all seen them around town. I don't know if it's an indicator of the economy or the market for those types of goods. But they can have the same impacts on a neighborhood or an area as the cash convenience stores do. So we've adopted an ordinance which we think is good. In fact, if we look back the ordinance you've adopted is a really strong ordinance. There hasn't been one more store opened since you've adopted that last ordinance. So this is applying the

same rules and the same nexus of distance to the secondhand art dealers or the cash for gold or the jewelry dealers that you applied to the payday loan businesses.

Since these involve that relational aspect of somebody getting quick cash for something, that's why it's included in the payday loan, the cash business, because they are the same types of business and we want to be able to apply these same types of regulations to them. As far as the distance, think back to some of the court decisions and the logic that the Plan Commission considered when we were regulating the secondary impacts of adult uses. We need to have a distance that's defensible, that isn't punitive where the Village could be determined to be arbitrary in setting up distances so as not to say that they couldn't be located anywhere.

So in this specific ordinance here as it relates to those secondhand jewelry dealers and that, the distance of 300 feet is what is established for the payday loan business, and staff's recommendation was to apply that same nexus of logic to these jewelry dealers and cash for gold. I don't think 500 feet puts us out of the league either, but I think that if the Commission wants to talk 1,000 feet or a half mile or things like that I think we probably have a shot of being in unreasonableness of what someone could be expected to do. But you shouldn't feel bad about the ordinance you've already adopted on controlling convenient cash businesses because since you've adopted that there hasn't been one located in the Village.

Judy Juliana:

Mike, thank you for the clarification.

Andrea Rode:

Yes. I agree we've already got the ordinance in effect and, like I said earlier, this is just tightening things up. I don't think there's any of us that don't think that those businesses are probably despicable for what it does do to other people. But I have no problem with increasing it to 500. But I agree we have to be able to defend this in court if we ever have to be brought to court for this reason. So I'm in favor of it.

Don Hackbarth:

Does anybody want to propose an amendment from 300 to 500. If not, we'll just vote.

Jim Bandura:

I'm okay either way.

Wayne Koessl:

Mr. Chairman, with the clarification from Mr. Pollocoff I'll support this zoning text amendment and I'd move approval.

Andrea Rode:

Second.

Don Hackbarth:

MOTION BY WAYNE KOESSL AND A SECOND BY ANDREA RODE TO APPROVE TEXT AMENDMENT. ALL IN FAVOR SAY AYE.

Voices:

Aye.

Don Hackbarth:

All opposed? So moved.

H. Consider the change of the official address of the property at 8321 47th Avenue (91-4-122-114-0122) to 8349 47th Avenue.

Jean Werbie-Harris:

Members of the Plan Commission, on May 3, 2010 the Village Board approved Resolution #10-09 to change the official address for an existing home located at 8321 47th Avenue. It's identified as Tax Parcel Number 91-4-122-114-0122 in the Beverly Woods Subdivision as a result of the address being out of sequence which could create problems for emergency response personnel, deliveries and other persons locating the address.

The property owner of record was notified on May 5, 2010 of the public hearing that is going to be held by the Village Board on June 7, 2010 to change the official address from 8321 47th Avenue to 8349 47th Avenue.

If approved by the Village Board, the address change would become effective on August 1, 2010. In addition, the then property owner is responsible to contact their financial institutions, family, friends and other interested parties of their new address. The staff recommends that the Plan Commission approve this address change as presented.

John Braig:

A comment or clarification. I'm not sure, but just for the record I want to state that the last four digits of the parcel involved was -0122. I believe you said something different.

Don Hackbarth:

What's your pleasure?

Andrea Rode:

So moved.

Judy Juliana:

Second.

Don Hackbarth:

MOTION BY ANDREA RODE AND A SECOND BY JUDY JULIANA TO APPROVE ADDRESS CHANGE. ALL IN FAVOR SAY AYE.

Voices:

Aye.

Don Hackbarth:

So moved.

7. ADJOURN.

John Braig:

Move adjournment.

Judy Juliana:

Second.

Don Hackbarth:

All in favor?

Voices:

Aye.