

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
6:00 P.M.  
June 14, 2010**

A regular meeting for the Pleasant Prairie Plan Commission convened at 6:00 p.m. on June 14, 2010. Those in attendance were Thomas Terwall; Donald Hackbarth; Wayne Koessl; John Braig; Jim Bandura; Andrea Rode (Alternate #2) Larry Zarletti and Judy Juliana (Alternate #1). Michael Serpe was excused. Also in attendance were 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:

Mr. Chairman, we have one piece of correspondence. It's the Compass Points. And this is the Kenosha County's Comprehensive Planning Newsletter. I believe that this is their last and their final addition of their newsletter. It specifically outlines the amendment process for all of the communities within the County and the villages and cities as well as the towns. If in fact there is some type of change or modification to their Comprehensive Plan, because ultimately all of the changes to our Comprehensive Plan do need to be approved by the County as well, and I think what they finally decided was that when there are amendments that we'd be grouping them and sending them on a five year--how often are we sending them, Peggy? Okay, we are going to be sending them to them each time we make an amendment and they'll update it as appropriate. I doubt that each time we send an amendment that they'll update it, but they'll probably group them every year or three or five years and try to update everyone in the County at the same time so that they're not constantly working on these amendments.

Tom Terwall:

Thank you. That's it for correspondence?

Jean Werbie-Harris:

Yes.

- 4. CONSIDER THE MINUTES OF THE MAY 10, 2010 PLAN COMMISSION MEETING.**

Tom Terwall:

You've received copies in written form. What's your pleasure?

Judy Juliana:

Move to approve.

Jim Bandura:

Second.

Tom Terwall:

**MOVED BY JUDY JULIANA AND SECONDED BY JIM BANDURA TO APPROVE THE MINUTES OF THE MAY 10, 2010 MEETING AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**4. CITIZEN COMMENTS.**

Tom Terwall:

If you're here for an item that appears on the agenda tonight as a matter of public hearing, we would ask that you hold your comments until that public hearing is held so we can incorporate your comments as a part of the official record of the public hearing. However, if you're here for an item that it not on the agenda or wish to raise a question about an item that is not a matter of public hearing, 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? Seeing none, we'll move on then.

**6. OLD BUSINESS:**

**A. TABLED PUBLIC HEARING AND CONSIDERATION OF THE CONCEPTUAL PLAN for Phases II and III of Ingram Park generally located at the 5600 block of 93rd Street.**

Tom Terwall:

We need a motion to remove from the table.

Wayne Koessl:

So moved, Mr. Chairman.

Larry Zarletti:

Second.

Tom Terwall:

**MOVED BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO REMOVE THE ITEM FROM THE TABLE. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? Motion carried. Jean?

Jean Werbie-Harris:

Mr. Chairman, I'd also ask that Item A under New Business be taken up at this time for a public hearing since both items are related.

## **7. NEW BUSINESS**

**A. PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #10-09 RELATED TO SEVERAL AMENDMENTS TO THE VILLAGE OF PLEASANT PRAIRIE, WISCONSIN 2035 COMPREHENSIVE PLAN including amendments to the 2035 Land Use Plan Map, the Whittier Creek Neighborhood Plan and the Park and Open Space Plan 2006-2011 related to Ingram Park.**

Jean Werbie-Harris:

On May 3, 2010, the Village Board adopted Resolution #10-12 to initiate several amendments to the Village Comprehensive Plan pursuant to Chapter 390 of the Village Code of Ordinances related to the recently donated land by Dorothy and Frank Ingram in the 5700 block of 93rd Street for the development of Ingram Park. This is a community park located within the Whittier Creek neighborhood. This is being done so that all of the components of the Comprehensive Plan are consistent as they relate to the park.

In late December of 2008, the Village received a land donation for the creation of a new park. John and Dorothy Ingram donated 30.73 acres of land located at 5726 93rd Street to the Village for the creation of a park that all residents would be able to enjoy. The Ingrams built their home on the property in 1971, and since that time they have lived and worked from the property which they had 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.

Ingram Park was named for the couple, and a memorial to them is placed at the entrance to the park. Work on a plan for Ingram Park began in the spring of 2009. Schreiber/Anderson Associates, SAA, was selected to prepare a 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 the public park. On July 29, 2009, Schreiber/Anderson held a public input session to assist in the planning of the new park.

On October 6, 2009, the Park Commission reviewed two preliminary concepts for the new Ingram Park as prepared by the consultant. On May 10, 2010, the Village Plan Commission held a public hearing and on May 17, 2010 the Village Board approved the Master Conceptual Plan for Ingram Park Phase I as shown on the slide. Phase I, as you can see, includes the development of a fishing pond, path/trail system, dog run, playground area, a terraced amphitheater, a plaza, shelter and restrooms.

The Plan Commission tabled the public hearing related to the proposed Ingram Park Phase II and III development and continued the public hearing to tonight's meeting. The Master Conceptual Plan shows a proposed 8.23-acre Phase II expansion to the northwest and a proposed 5.28-acre Phase III expansion to the southeast of Ingram Park.

There are no wetlands within the current boundaries of 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 when Phase II is proposed to be developed.

There is a 100-year floodplain area at the northeast corner of the park within Phase I and in an eastern portion of Phase II. The floodplain will not be disturbed at this time. When 89th Street is proposed to be extended, a floodplain boundary adjustment will need to be processed. 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 a future street on the west side of the Ingram Park is planned when future residential development to the west is proposed.

In addition, after the existing Ingram home on Phase I is no longer used for residential purposes, the area is proposed to be rezoned to the PR-2, Community Park and Recreational District, and the Village's Land Use Plan will need to be amended to remove the Urban Reserve designation.

The Village 2035 Land Use Plan Map 9.9 identifies Phase I and future Phase III areas as the Community Park. The Phase II area as shown on the Master Conceptual Plan is also proposed to be included as part of this Community Park in the 2035 Plan.

The following amendments to the 2035 Plan, the Whittier Creek Neighborhood Plan and the Village Park and Open Space Plan 2006-2011 are proposed. Again, all of these plans need to match and be consistent in order for the plans to be implemented.

Amendment to the Village 2035 Land Use Plan Map:

Over 36-acres of Ingram Park, Phase I, Phase III and a small portion of Phase II adjacent to the tower lines at the northeast corner of the park are currently identified on the Village 2035 Plan. However, approximate 8 acres of Phase II, which is the northwestern portion, are currently shown with the Low-Medium Density Residential land use designation with an Urban Reserve designation as well as a portion being identified as wetland. The 2035 Plan is proposed to be

amended to change that residential land use designation to Community Park within the Park and Recreation Open Space Lands designation to conform to the Ingram Park boundaries. The portion of lands within the floodplain, wetlands and the urban reserve areas will remain unchanged. This amendment affects a portion of three properties located within Section 15, and they are Tax Parcel Numbers 92-4-122-151-0020, -154-0060, and -154-0070.

In order to track these land use changes and keep the Plan actually accurate and up to date, Appendix 10-3 will list specific amendments and up to date planned amendments throughout the life of the Plan. In addition, a note is proposed to be added that addresses that you need to see Appendix 10-3 for amendments to the Plan map.

The second amendment proposed is to the Whittier Creek Neighborhood Plan. Neighborhood plans are a component of the Village's Comprehensive Plan. Ingram Park is located within the Whittier Creek neighborhood, and a neighborhood plan is proposed to be amended to include the Ingram Park as a community park. The Whittier Creek neighborhood is bounded by Highway 31 or Green Bay Road on the west, 93<sup>rd</sup> Street on the south, Cooper Road on the east and 85<sup>th</sup> Street on the north. The Whittier Creek Neighborhood Plan was adopted originally on March 12, 2007 by Plan Commission Resolution 07-10. It was supported by the Village Board with Resolution 07-10 which was adopted on March 19, 2007. The neighborhood plan is number 32 and it is identified as the Whittier Creek Neighborhood of the Village of Pleasant Prairie, Wisconsin 2035 Comprehensive Plan.

The proposed amendment affects the total acreages for open space and residential lands as well as population projections. Specifically the open space area within the neighborhood would increase from approximately 247 acres to 279 acres. Again, open space would be about 37 percent of the total neighborhood. The open space includes over 190 acres of floodplain, 30 acres of wetland, 39 acres for a community park, 3.5 acres for neighborhood park and 16 acres of other open space throughout the neighborhood.

Ingram Park is identified a community park by the Village, and so the following text is proposed to be included as part of the document. Community Park, and then basically it's the same language that I read previously. In late December of 2008 where we talk about the donation from the Ingrams and we talk about the park and the transmission land area and the wetlands and floodplain.

The Neighborhood Parks and Pedestrian Trails section of the 2035 Plan is also proposed to be amended to reference the recently adopted Village of Pleasant Prairie 2010 Bicycle and Pedestrian Trails Plan for the location of trails within this neighborhood.

The residential area designation on the neighborhood plan as amended does reduce the neighborhood area for residential from 379 acres to 345 acres. The 345 acres of land includes approximately 16 acres of other open space and 12.6 acres of woodlands to be preserved.

The number of existing single family lots would decrease by two to 249 existing single family lots, and the total number of proposed single family lots is decreased by 52. Therefore, the Neighborhood Plan as amended proposes a total of 465 single family lots, 298 multifamily units for a total of 763 dwelling units. Again, this is at full build out of the entire neighborhood. And, again, this is part of our 2035 Plan, but it doesn't mean that it has to be completed or built out by 2035, but that's what the ultimate plan is when and if it does build out.

As a result of the reduction of residential dwelling units proposed for the neighborhood, the population projections for the Whittier Creek Neighborhood are being modified. Current population 379 dwelling units, 1035 persons. Projected population within the neighborhood when it's fully developed 763 dwelling units, 2,083 persons.

The next amendment would be to the Park and Open Space Plan 2006-2011. This plan was approved and recommended by the Park Commission on February 7, 2006 by Resolution 06-01, adopted by the Plan Commission on March 13, 2006 by Resolution 06-04, and adopted by the Board on March 20, 2006 by Resolution 06-14. On December 21, 2009, the Village Board adopted the Comprehensive Plan which included the Park and Open Space Plan as a component of that plan.

Due to the spontaneous nature of that December 2008 donation by the Ingrams, Ingram Park wasn't mentioned or depicted on the Park and Open Space Plan as a potential future park, and the 2035 Land Use Plan and this Park and Open Space Plan were then inconsistent. So, again, our reasoning for updating that plan.

The memo goes on to explain that we did need to amend some sections underneath the recreational trails so that we have a consistency, again, between the plans. On Page 57 we needed to insert that similar paragraph regarding the community park section where we talk about the donation and the Ingram's intentions and wishes and what we've done with respect to the park. Map 4, planned park and recreational facilities, is also proposed to be amended to include, again, all of the Ingram area as planned community park as well as these additional Phase II and III areas. Map 5 is also proposed to be amended to include Ingram Park as a planned community park with a two miles service area. The conceptual plan for Ingram Park is also proposed to be added to Map 7, and then Appendix D entitled Cost Estimates for the Concept Plans for Ingram Park is also proposed to be amended.

So, as you can see, whenever there is a modification now, the way things have been set up for Comprehensive Plan if there's a small modification for a conceptual plan it has to go through a neighborhood plan, it needs to go through all of the various park and open space plans and bike plans and trail plans all the way up to the Comprehensive Plan. Again, the way things were set up by the State with Smart Growth all of the plans have to be identical with respect to their recommendation. What we have, though, is one plan is more refined than the next, but they all need to reflect similar overall characteristics and overall wishes of the community.

So up on the overhead you have the Ingram Park concept plan. Again, you remember we did a neighborhood plan for this particular area a number of years ago, 2006 or so, and at that time there were some additional housing units that were shown. I think there were about four more that were shown in that particular area to the northwest. And, again, we felt since this donation of Ingram Park it made more sense to have boundary roads on the perimeter of this neighborhood plan. That neighborhood plan and that concept plan of that development never went forward. It kind of went back on the shelf. And so because of that we felt that it was more appropriate to try to expand the boundaries of the park to logical boundaries, especially with Village public roads on the perimeter.

And then at the very southeast corner there's a property that, again, was identified on some of the plants. It's land that's owned by Eugene Wright, that we indicated that that might not also be a

good location to bring it back to Ingram Park to square off the boundaries of the park. This doesn't mean that the Village is going to be purchasing this land from either set of property owners at this time. But it just seemed to be a logical squaring off and balancing of that park. We're not looking to raise any structures from any property owners. We're not removing them from the tax rolls. We're not taking their land. But we are planning for the future for this particular area. So if they have existing farmland or homes or outbuildings on these properties, they will remain that way until such time as the Village or the landowner has some desire to sell, buy or modify their land in order to be incorporated into a park.

Again, this is a 2035 Plan, so it's basically a 25 year plan. So it's not to say that anything is going to happen today or tomorrow, but we do need to present plans and notify residents as soon as possible if it fits as part of the overall plan of the community. With that I'd like to continue the public hearing.

Tom Terwall:

Jean, before I open it to the public, do you want to address the issues that were in this correspondence?

Jean Werbie-Harris:

I can do that as part of the public hearing or I can do it now.

Tom Terwall:

Go ahead.

Jean Werbie-Harris:

Okay. This is a letter from Terry Scheve. Dear members of the Plan Commission: As depicted in your current notice a portion of my property has been designated as Phase II for the Ingram Park. Please inform me of the implications of this designation and how it affects my property taxes. My concern centers around any proposed acquisition of said property involved in Phase II. To what extent am I obligated to conform to this plan? Is the Phase II property purchased or confiscated? How is compensation for said land acquisition determined?

So, as I was starting to say earlier, whether it's Phase II or Phase III, these are areas that have been now identified on this plan but are going before the Plan Commission and the Board as possible expansion areas to Ingram Park. Again, it is not the Village's intention today or tomorrow to take these lands or to condemn these lands for park purposes. We can't do that. If the property owner puts the land up for sale and they're a willing seller then the Village could purchase this land. If the landowner wanted to donate a part or sell a part, the Village can participate at that time. If they wanted to sell the land to someone else that's fine, but once it's been identified for this particular purpose they would not be able to put a pole barn or some type of other urban use in that area until and unless all of these plans have either been modified, changed, corrected because we're saying this makes the most sense for the community.

At this point my understanding is that there is nothing moving forward with respect to the development of all this land. At one point we had an active developer that we were working with

and property owners that wanted to convey that land to a developer for this all to develop as single family homes pursuant to that neighborhood plan. Obviously with the economy and things slowing down and the lack of interest by the developer none of that moved forward. But we still have this neighborhood plan on the books, and it does make some sense with respect to the density, the road locations and park locations and so on and so forth.

There are some significant wetlands in this area. There would be a need for storm water in this area. So those types of uses were identified in that particular area. And we felt, again, if those could be incorporated as part of the park that made some sense. From a tax implication it doesn't change the existing use of the property today, because the existing use is either ag land or property with a single family home and out buildings. That existing use is the same. And the assessors will value that property today as how it's being used today. They don't assess it based on its future use out there.

Don Hackbarth:

Where is Mr. Sheve's property. Which Phase II is he in? Up in there, okay.

Jean Werbie-Harris:

North.

Tom Terwall:

Will you be responding?

Jean Werbie-Harris:

I will be responding in writing to them.

John Braig:

Tom, in that same vein, the owner of the property that's designated as Phase III has expressed the same concerns. In fact, he's been pestering some of the neighbors seeing if they have any more information. So if you're responding to one you might-

Jean Werbie-Harris:

I can respond. He's here.

John Braig:

Correct it to both.

Jean Werbie-Harris:

Sure.



John Braig:

Thank you.

Tom Terwall:

This is a matter for public hearing. Is anybody wishing to speak on this issue? Yes, sir. Give us your name and address.

Eugene Wright:

My name is Eugene Wright. I live at 5622 93<sup>rd</sup> Street. I'm Phase III. How is this going to affect when I want to sell my property? Nobody will buy it. It's like a black cloud over my head with it and the same with hers probably. What do you say to that? In 25 years I will be almost 90 years old and the odds are I won't be here. But I don't plan on living in my house that long, okay? How is this going to affect me for my resale value? Nobody will buy it with this hanging over it. You can't add nothing on. You just said you can't build any structures or anything else, right? Or, did I misunderstand?

Jean Werbie-Harris:

Well, let me answer the first question. If Mr. Wright puts his land up for sale, and he's probably going to put a fair market value, I mean his realtor will list a value for that particular property. Then one of the interested parties is going to be the Village of Pleasant Prairie or Park Commission through the Village of Pleasant Prairie. So we would probably at that point contact Mr. Wright to tell him whether or not the Village is interested to purchase that property at that value. If we're not interested in the property and we are not going to acquire the property, then we have to look at this plan again, because we can't take the value and his land away from him without the Village having some interest in acquiring that property.

Tom Terwall:

Do you understand?

Eugene Wright:

No.

Tom Terwall:

Basically, what she's saying is if you should decide you want to sell all or part of that property, you'll establish a selling price and the Village will make a decision whether—

Eugene Wright:

How can I do that when there's going to be no buildings or nothing allowed on this property.

Tom Terwall:

If you should decide to sell it and the Village decides that they don't want to buy it, then the plan will have to revert back to what—

Eugene Wright:

From what she just said from what I understand is that they decide if they want to pay that amount.

Tom Terwall:

Right.

Eugene Wright:

What amount are you going to pay for my land or for Terry's land. That was a question in that letter, too.

Tom Terwall:

It's got to be fair market value.

Jean Werbie-Harris:

It would have to be appraised. The land would have to be appraised.

Eugene Wright:

Would it be appraised at agriculture, would it be appraised at what the developer was going to pay?

Jean Werbie-Harris:

It would be at the highest and best use. I can't tell you today if that would be—it would either be single family or park but it would probably be single family because that's what he's existing today. That's what he is today.

Tom Terwall:

So that's what the appraisal would be based on?

Jean Werbie-Harris:

I'm not an appraiser. I have to qualify that.

Tom Terwall:

I understand.

Jean Werbie-Harris:

But similar situations that I've seen like this is they go to the highest and best use of what it's used for today.

Eugene Wright:

So in other words it would be single family homes it would be considered?

Tom Terwall:

If that was what your plan was, yes. If that's what the developer was interested in building.

Eugene Wright:

Because they came to my house a couple year back, too, and offered to buy my back property and my wife told them no. My wife is dead now. She died last year. I've lived in my house over 34 years. I've raised my children in Pleasant Prairie and some of the men here whose children went to school with my children. I'm getting older and I thought about moving and stuff like that, but with this 2035 deal with my land there won't be anybody to touch it especially with no access to building anything on it.

Tom Terwall:

If you were to decide you were thinking about selling it you would obtain an appraisal. And the appraisal would be based on the best use of your land, the highest use of your land. And if the appraiser determined that that was for single family, then that's what it would be based on. Let's say it was \$10,000 an acre that the appraisal came in. The Village has an option then to buy the property at whatever that number is.

Eugene Wright:

That's ag price is what you're quoting me right now.

Tom Terwall:

No, I'm just using that number. If single family residential is \$40,000 an acre then that's the number we would use.

Eugene Wright:

Can I have that in writing?

Tom Terwall:

Sure, right?

Jean Werbie-Harris:

I'm sorry, Peggy was talking to me.

Tom Terwall:

He would like us to tel him in writing that if he were to sell his property that we would obtain an appraisal based on the highest and best use of the property, and that the Village would have an opportunity to buy it then.

Jean Werbie-Harris:

I think we could put something similar to that in writing. I guess the situation is his lot is just over 200 feet wide and he abuts 93<sup>rd</sup> Street, so if he wanted to sell it for single family development, two single family homes could be put on there. I don't know the location of all his out buildings.

Eugene Wright:

It's 280 feet wide and it's 857 feet deep.

Jean Werbie-Harris:

And then you have the WEPCo easement, the ATC easement. How wide is that on your property?

Eugene Wright:

The easement? The easement is right directly underneath the power lines. I didn't bring my— when I bought my house in 1976, I have what their easement is. I see that they're saying 80 feet. It's not 80 feet, not on my property line. I bought it 34 years ago. It might have been changed.

Jean Werbie-Harris:

So you do have an easement or you don't have an easement?

Eugene Wright:

I do have an easement with the power lines, underneath the power lines for them to come on it.

Jean Werbie-Harris:

Right, so you have an 80 foot wide easement and then—

Eugene Wright:

That's news to me. It doesn't say 80 feet on mine. It says it on that one but not mine. I've never signed anything.

Peggy Herrick:

. . . this does not show easement, but the property to the north of your property is 80 feet wide, the ATC easement.

Eugene Wright:

Well, it's ATC but it's not mine. Mine is not—I can bring it to the office here.

Peggy Herrick:

I don't have the information as to what your easement is. We're assuming that it's the same as what it is—

Eugene Wright:

No, it's not.

Jean Werbie-Harris:

Is it narrower?

Eugene Wright:

Yes, it's quite a bit narrower. The only easement that they have is right directly underneath the power lines. Nothing else.

Jean Werbie-Harris:

So either two or three single family homes could be placed on that. I can sit down with the Village assessor and we can put something together.

John Braig:

You've got to take into consideration the existing structures, too.

Jean Werbie-Harris:

I'm sorry?

John Braig:

The existing structures would definitely influence how you can divide that land.

Jean Werbie-Harris:

Do you have any structures on—how many structures—the bases of the towers?

Eugene Wright:

No, I have no structures.

Jean Werbie-Harris:

I didn't think so.

John Braig:

There's no structures on the right of way, but there's a house and a pole barn.

Jean Werbie-Harris:

Yes, his principal home for subdividing, correct.

Tom Terwall:

Okay?

Eugene Wright:

I guess for now. That's answered everything that I can think of right at the moment.

Tom Terwall:

If you have any further questions please contact Jean Werbie-Harris.

Eugene Wright:

Thank you.

Tom Terwall:

Anybody else? Anybody else? Yes, sir?

Peter Ishmael:

Peter Ishmael, 5527 89<sup>th</sup> Street. On the Phase II, I live on 89<sup>th</sup> Street, I was just curious if there are going to be any access roads being built up 89<sup>th</sup> Street to get a better . . . for construction purposes. Because you only have 93<sup>rd</sup> Street right now and me and my neighbors are curious about that and when is that going to go into effect, off of 89<sup>th</sup> Street access to the park for construction?

Jean Werbie-Harris:

Access to the park during construction is all going to be off of 93<sup>rd</sup> Street. There will be no construction to the park from 89<sup>th</sup> Street. When and if further development occurs, I would assume that there will be an interconnection to 89<sup>th</sup>, but when we originally had this

neighborhood plan before the Plan Commission and the Board, it was discussed at that point that 89<sup>th</sup> Street needed to be improved prior to using it as any type of construction access and then it needed to be rebuilt, because it would not withstand construction traffic. So, again, I've talked to John Steinbrink, Jr. about that and there is going to be no access for building of that park through 89<sup>th</sup> Street. It can support the traffic and the weight.

Peter Ishmael:

In the grand scheme . . . .

Jean Werbie-Harris:

At some point but when the rest of the development because at some point 89<sup>th</sup> is anticipated to go all the way from Cooper Road west all the way to Old Green Bay Road but at no time in the near future for that.

Tom Terwall:

Anybody else? Anybody else? Hearing none, I'll open it up to comments and questions from Commissioners and staff.

Don Hackbarth:

On Map 5, Jean, you're showing all the designations of community and neighborhood plans and stuff like that. You're designating schools. Are these all public schools and you're not considering parochial or what?

Jean Werbie-Harris:

The neighborhood school parks as part of all of our plans typically only show public parks and public schools. They don't take into consideration a private school because some of them offer lands for public use but many don't, and some are tied to certain easements and agreements. So for that reason the Comprehensive Plan and all subsequent plans only refer to public.

Tom Terwall:

Anybody else?

Jim Bandura:

Jean, to address the issue of this gentleman's property, for my point of clarifications, what are you going to put together for him?

Jean Werbie-Harris:

I'll put together a letter in response to our meeting today, and I'll probably respond to the same questions that Terry Sheve asked and then I'll respond to each of those questions after the Board meeting.

Tom Terwall:

Thank you. If there's no further comment or question I'll entertain a motion.

Don Hackbarth:

Move approval, Mr. Chairman.

Jim Bandura:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CONCEPTUAL PLAN FOR PHASES II AND III 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. Then on Item A under New Business we need a motion to send a favorable recommendation to the Village Board on the 2035 Comprehensive Plan.

Wayne Koessler:

So moved, Mr. Chairman.

Larry Zarletti:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY LARRY ZARLETTI TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO AMEND THE 2035 COMPREHENSIVE PLAN SUBJECT TO THE TERMS AND CONDITIONS OUTLINED BY THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.



Tom Terwall:

Opposed? So ordered.

Jean Werbie-Harris:

Mr. Chairman, we do need to have you specifically state Resolution 10-09, that you're approving that resolution as well.

Wayne Koessl:

I'll amend that to add Resolution #10-09.

Judy Juliana:

Second.

Tom Terwall:

You're seconding the amendment?

Judy Juliana:

Yes.

Tom Terwall:

**MOTION BY WAYNE KOESSL AND A SECOND BY JUDY JULIANA TO ADD RESOLUTION #10-09. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**B. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT for the request Jonah Hetland of Bear Homes LLC, owner, to use the house that is currently under construction at 8525 94th Avenue on Lot 48 in the Ashbury Creek Subdivision as a model home.**

Jean Werbie-Harris:

Mr. Chairman, this is a conditional use permit, therefore it's a public hearing. And it's a request for Jonah Hetland for a model home that is currently for a house that is under construction at 8525 94<sup>th</sup> Avenue. It's Lot 48 in the Ashbury Creek Subdivision.

Public hearing comments, as a part of the public hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as presented and described:

#### Findings of Fact

1. The petitioner is requesting a Conditional Use Permit to use the house that is currently under construction at 8525 94th Avenue on Lot 48 in the Ashbury Creek Subdivision as a model home. The property is located in a part of the Southeast One-Quarter of U.S. Public Land Survey Section 8, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-084-0198.
2. The single-family lots within the Ashbury Creek Subdivision are zoned R-4.5, Urban Single Family Residential District. Pursuant to Section 420-109 C (1) (b) of the Village Zoning Ordinance, a model home for single-family purposes and related temporary real estate sales offices or marketing centers are allowed in the R-4.5 District but only with the approval of a Conditional Use Permit issued by the Plan Commission.
3. On March 9, 2010, the Village issued zoning, building and erosion control permits for the construction of the new 1,806 square foot, single-family dwelling on this property. The dwelling is currently under construction.
4. Pursuant to Section 420-148 (67) of the Village Zoning Ordinance, the model home and sales center may be located in a new development for a period not to exceed two years from the date of occupancy, and the Plan Commission may set specific time frames for which the model home and marketing center can be open.
5. The petitioner is proposing to have the following hours:
  - Sunday 12-4 p.m.
  - Tuesday: 4-6 p.m.
  - Thursday 3-8 p.m.
  - Saturday 10-3 p.m.
6. Parking shall be provided on the driveway and may be allowed on 94th Avenue adjacent to the lot.
7. Pursuant to Section 420-76 P. of the ordinance, model homes, with a an approved Sign Permit application are allowed but they're subject only to these regulations:
  - Permitted in any residential district.
  - Maximum number: one (1) per property.
  - Maximum area: four (4) square feet per face.
  - Maximum height: five (5) feet.
  - Minimum setback: five (5) feet from any public street or highway right-of-way line.
8. Notices were sent to adjacent property owners via regular mail on May 17, 2010 and notices were published in the *Kenosha News* on May 31 and June 7, 2010.

9. The petitioner was emailed a copy of this memorandum on June 11, 2010.
10. The conditions for approval of model homes, including the Village Zoning Ordinance Conditional Use Permit standard conditions pursuant to Section 420-148 (67), are set forth in our memorandum and our conditions of approval as identified in this memo.
11. According to Village Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials as well as the information presented at the hearing this evening that the project as planned will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting of a Conditional Use Permit.

With that, I know that the petitioner is here. I'm not sure if he'd like to make a presentation or not, but I would like to continue the public hearing at this point.

Tom Terwall:

The public hearing is open. Anybody wishing to comment on this matter? Anybody wishing to comment? Is the petitioner present?

Jean Werbie-Harris:

He is.

Jonah Hetland:

Jonah Hetland, 4015 80<sup>th</sup> Street. Jean did a good job of explaining. It's pretty straight forward for the most part. So I'm just here to answer any questions tonight if you guys have any.

Tom Terwall:

Have you received a copy of the requirements?

Jonah Hetland:

I did.

Tom Terwall:

And you're familiar with number 13 that says model home sites shall not display any streamers, banners, triangles, you can't turn it into a used car lot?

Jonah Hetland:

Correct. I'm okay with that condition.

Tom Terwall:

Good, thank you. Anybody else wishing to speak? Jean?

Jean Werbie-Harris:

I just wanted to mention Items 4, 5 and 5 should also be brought to the petitioner's attention, because they are concerns that adjacent residents have had and the Village has had with respect to model homes and model homes under construction. The first is if overhead doors are proposed to be removed and other alterations are made within the garage to use as a showroom, they need to obtain proper permits. And, in addition, when they're done using the facility as a model home and they sell it, it needs to be converted back and, again, permits need to be obtained and a new occupancy permit when it changes from a model home back to a single family home.

Another concern is that the petitioner is responsible to ensure that any brochures, informational, marketing materials used to market the model home that are distributed on site do not blow onto adjacent properties. Litter or debris generated at the site shall be picked up at the end of each business day. And, number 6, proper exterior maintenance of the property shall be provided such as but not limited to lawn and yard maintenance as well as snow removal.

And then the one other comment is number 8 actually and that has to do with parking. We need to make sure that when they have certain events where they have open houses or if the home happens to be used for the parade of homes, for example, that driveways are not blocked, fire hydrants are not blocked and there's accessibility through that subdivision. So we just wanted to bring some of those additional points to their attention because we're going to take it very seriously for this conditional use. Again, if conditional uses are violated the remedy is to revoke them. It's not so much—citations can be issued as well, but the intent is that if they can't comply with the conditions then we would pull the permit.

Jonah Hetland:

We're familiar with the process and the expected conditions. We don't have any issues with any of those. If the hours happen to change we'll notify the Village and make a request that we can amend our hours of operation throughout the week if that comes up as an issue for us.

Tom Terwall:

We're not trying to be hard nosed, but you need to understand that there are people living in those homes and they're certainly entitled to the privacy and the quiet.

Jonah Hetland:

We understand that.

Tom Terwall:

Thank you. Anybody else? Comments or questions from Commissioners and staff? John?

John Braig:

Just a small comment. I'm glad that we went over some of the restrictions that apply to this conditional use permit. I think we're all aware that there's been some violations of this in the recent past. I think what we're trying to say is the attempt is to get it back on track and enforce the ordinances. So I'm glad it was brought up as it was.

Jim Bandura:

Regarding item number 13, there's a mention of no off lot directional marketing or off premise advertising, signage. Off lot, does that take into account say the subdivision entrance like banners there also?

Jean Werbie-Harris:

Yes, it does. And I have to tell you that I have granted an exception. And the only exception that I have granted is there's typically one or two weekends a year that there is a parade of homes that goes on in Kenosha and Racine Counties. And typically they will put directional signage up for the parade of homes because there's so many people that are traveling throughout looking at all these homes. And I have made exceptions for the parade of homes. But, again, they come up, they come down, they don't stay up.

Jim Bandura:

So off lot means the whole subdivision?

Jean Werbie-Harris:

Unless they own that lot.

John Braig:

When I say there's been problems in the past, just one or two weeks ago we had a couple moons flying quite high over—I can't think of the subdivision right now.

Jean Werbie-Harris:

Hidden Oaks.

John Braig:

A string of pennants and banners hanging from it.

Jean Werbie-Harris:

Yes, it was an apartment complex on 88<sup>th</sup>.

John Braig:

Yup, you're aware of it.

Jean Werbie-Harris:

Yup.

Tom Terwall:

What's your pleasure?

John Braig:

Move approval.

Jim Bandura:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY JIM BANDURA TO GRANT A CONDITIONAL USE PERMIT FOR THE PURPOSE OF USING THIS HOME FOR A MODEL HOME FOR UP TO A YEAR. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**C. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT for the request of Jason Meyers of Harpe Development, agent for Dustin Harpe, owner, to use the house that is currently under construction at 8473 94th Avenue on Lot 51 in the Ashbury Creek Subdivision as a model home.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, this is also a public hearing this evening for a Conditional Use Permit at the request of Jason Meyers of Harpe Development, agent for Dustin Harpe, owner, to use the house that is currently under construction at 8473 94<sup>th</sup> Avenue on Lot 51 in Ashbury Creek Subdivision as a model home.

Under the public hearing comments, as a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as described below:

#### Findings of Fact

1. The petitioner is requesting a Conditional Use Permit to use the house that is currently under construction at 8473 94th Avenue on Lot 51 in the Ashbury Creek Subdivision as a model home. The property is located in a part of the Southeast One-Quarter of U.S. Public Land Survey Section 8, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-084-0301.
2. The single-family lots within the Ashbury Creek Subdivision are zoned R-4.5, Urban Single Family Residential District. Pursuant to Section 420-109 C (1) (b) of the Village Zoning Ordinance, model single-family homes and related temporary real estate sales office or marketing center is allowed in the R-4.5 District with the approval of a Conditional Use Permit issued by the Plan Commission.
3. On March 12, 2010, the Village issued zoning, building and erosion control permits for the construction of the new 2,398 square foot, single-family dwelling on this property. The dwelling is currently under construction.
4. The petitioner is requesting to use the garage for a showroom. If the overhead garage doors are proposed to be removed and other alterations are proposed within the garage for use as a showroom, then proper permits shall be obtained to convert the garage to a showroom. In addition, at the time the garage is no longer used for the showroom, again, they will need to get proper permits to convert it back to a single family home.
5. Pursuant to Section 420-148 (67) of the Village Zoning Ordinance, the model home and sales center may be located in a new development for a period not to exceed two years from the date of occupancy, and the Plan Commission may set specific time frames for which the model home and marketing center can be open.
6. The petitioner is proposing to have the following hours:
  - Monday thru Friday: 8:00 a.m. to 5:00 p.m.
  - Saturday and Sunday: 12 p.m. to 5:00 p.m.
7. Parking shall be provided on the driveway and may be allowed on 94th Avenue adjacent to the lot, again, in so far as it doesn't block any driveway or fire hydrants.
8. Pursuant to Section 420-76 P. of the Village Zoning Ordinance, model homes, with a an approved Sign Permit application, are allowed a sign subject to the following regulations:
  - Permitted in any residential district.
  - Maximum number: one (1) per property.
  - Maximum area: four (4) square feet per face.
  - Maximum height: five (5) feet.

- Minimum setback: five (5) feet from any public street or highway right-of-way line.
9. Notices were sent to adjacent property owners via regular mail on May 17, 2010 and notices were published in the *Kenosha News* on May 31 and June 7, 2010.
  10. The petitioner was emailed a copy of this memorandum on June 11, 2010.
  11. The conditions for approval of model homes, including the Zoning Ordinance Conditional Use Permit standard conditions are pursuant to Section 420-148 (67), and they are set forth in this staff recommended conditions of approval.
  12. According to the Village Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials and information presented at the public hearing that the project as planned will not violate the intent and purpose of all Village Ordinances and meets the minimum standards for granting of a Conditional Use Permit.

Again, specifically this application, I would like to also point out those specific items in the staff comments that we have had some concerns and would like them to pay particular attention to the conditions. The petitioner is responsible to make sure that any brochures or informational marketing materials used to market the model home that are distributed on this site do not blow onto adjacent properties. All litter and debris generated at the site shall be picked up at the end of each business day. Proper exterior maintenance of the property shall be provided such as lawn maintenance, yard maintenance and snow removal. Parking shall be allowed in the driveway and on 94<sup>th</sup> Avenue. Parking shall not violate any setbacks to fire hydrants, shall not block any driveways.

The model home shall not exceed two years. The hours they have given us are a little bit different than the last but acceptable if the Plan Commission approves of them. The signage is very critical with respect to what's allowed on site and, again, no off site signage. Again, the only exception that I have made is for that brief period of time for any type of parade of homes. Again, we don't want these homes to be putting these banners and pennants or pinwheels or anything out on their sites for the reasons you've indicated that there are residents that will be living in these subdivision homes adjacent to these homes and we don't want to change the essential residential character of these homes during that time period that the model homes have been approved. With that I'd like to continue the public hearing. I know the petitioner is here and he can come up to the podium as well.

Tom Terwall:

Does the petitioner wish to speak?

Dustin Harpe:

Dustin Harpe, 8473 94<sup>th</sup> Avenue. Jean explained it pretty good like the last one. The only difference is we plan on using the garage as a temporary showroom. We turned in with the permit we put siding across so it looks like a garage door and it stands out and we'll remove that



when we're finished using it. The hours of operation I just kind of put wide hours just in case we change hours and we have no issue with that.

Tom Terwall:

And you understand the terms and conditions set forth?

Dustin Harpe:

Yes.

Tom Terwall:

Okay, no comment or question?

Dustin Harpe:

No.

Jim Bandura:

You're okay with the two year time limit on there? Because I notice your request was from 2010 to 2013.

Dustin Harpe:

Yeah, that's not a problem. I'm not sure how long but a two year limit is fine.

Tom Terwall:

Thank you. Anybody else wishing to speak?

John Steinbrink:

Good afternoon, Commissioners. John Steinbrink, 8640 88<sup>th</sup> Avenue. I'm here to ask you to delay this until Harpe Construction can demonstrate tight management on their building projects. Unfortunately, it looked like a landfill site in the fields surrounding this. When the wind was from the north it blew to the south. Building constructions, foam board, you name it, it was there, insulation panels, packaging from you name it, it was out there. You notice it along the woods it finally ended up, a lot of it. I'm the guy that had to pick it up.

When the wind was from the west the other field to the east is totally covered. We made numerous complaints with the building inspection department. Apparently nobody at Harpe Development could go out and clean that up. I cleaned it up. Here are some of the plans from Harpe Development. Lot 51 picked out of that field with probably the equivalent of several trash containers full of debris I had to pick up. We have to do that before we can plant the fields. While we were planting, debris was still blowing into the fields. I asked the workers to not be bashful about going out there and picking up debris. Didn't happen.

So until the developer can demonstrate the fact that he can manage a site I'm not in favor of putting a model home here. Other homes in the area by Bear and Korndoerfer we had no problem with. Mainly the Harpe Development. Nice homes, I'm glad to see somebody building homes, but I'm kind of upset with the fact of a lot of debris. Like I said, it looked pretty much like a landfill site if you've ever traveled around one of those. I'll give this to Mr. Harpe and hopefully in the future they can do a better job. Thank you.

Tom Terwall:

Thank you. Anybody else wishing to speak?

Dustin Harpe:

The day in question, you can see these were in a garbage can. We've got the majority of the homes under construction in the neighborhood. It was high gusts of winds that day. I was informed the next day and sent out crews into the field. I mean I didn't send them in a large search area, but the field that was adjacent to it. We've got dumpsters on site. The job sites are cleaned up pretty much daily. Like I said, we've got 80 percent of the jobs going in the neighborhood. So I don't know—I was aware of the problem at that time. I sent out a couple of the framing crews that day when I was informed by the inspections department. So we do the best job that we can to get everything in the dumpsters, but sometimes the stuff blows out or if there's material. These I can't explain. If they were in a dumpster or blew out it's kind of hard to keep the paper in there but we do the best job that we can keeping the erosion control and the sites clean. So I apologize that you guys had to clean up a bunch of our mess. We can put our number on file if that's an issue. We have no problem with sending our people out to pick up the mess.

Tom Terwall:

Anybody else?

John Steinbrink:

It wasn't just the one house. This has been going on for months since they started construction. It's probably over a three or four month period there. It's not just Lot 51. It was the other ones also. So it's a continuing thing where they can't manage their site. I believe at one time they almost put a stop work order or they did put on on the project.

Dustin Harpe:

Not on us. It's kind of hard to . . . .

Jean Werbie-Harris:

I need you to come to the microphone.

John Steinbrink:

I know we don't want an ongoing debate here. So just the fact it was poorly done. As a neighbor I was very unhappy with it. We're no stranger to construction. I farm a lot of land all around the Village and nothing to this magnitude of debris left out in the fields and left to blow. Either they need covered containers or people that can really go out there and clean the site afterwards. It was kind of a bad looking site.

Tom Terwall:

It was the field behind the barn . . . .

John Steinbrink:

Both fields like to the east of his house and then to the south. And there's still debris up in the woods yet. It's just not a way to take care of a project.

Tom Terwall:

Anybody else have a comment or question?

John Braig:

I'm a little bit disturbed at Mr. Meyers' comment that gusts of winds and things happen on a construction site. It strikes me as an attitude that, yeah, sometimes debris blows around. But I can guarantee you that if my life depended on preventing debris from blowing off my property onto my adjacent neighbor I could figure out some way to make sure that it's battened down and not free to blow away at any time. I think this is one of an attitude, and I'm inclined to support Mr. Steinbrink on this.

Don Hackbarth:

Is there any way that we can put teeth into this to make it a warning that in the event this continues to happen that we're going to shut them down? Make it very firm.

Jean Werbie-Harris:

And we could do one of a couple things. We could put a stop work on the projects. And, in fact, I know that the building inspection department put a stop from any and all inspections until the area was cleaned up. But that was after a lot of the cleanup work was done by Mr. Steinbrink. The other thing is tickets can be issued for littering by either my department or by the police department. But, again, it's monitoring and cleaning up the sites and taking a look at the site at the close of every business day. It's not different than mud tracking on the road. Clearly, the workers could have seen by looking outside what was happening. The timing was not good because it was when Mr. Steinbrink was farming or doing the initial planting for his farm. So it made it even that much more difficult. I don't know how many hours that he spent, but I know that there were bags and bags of garbage that he picked up including brochures and plans and all sorts of things. I know it was very, very frustrating for him, and I don't know how many man hours that he lost in planting because of it. And there's still debris in the woods at this point.

Don Hackbarth:

I'm not in favor of—one way or the other wanting to stop this situation, not the situation but from approving this plan to have that as a model. On the other hand, I think if Mr. Steinbrink makes another complaint shut it down. Put teeth into it where we're warned here now that if it happens it's going to be shut down.

Jean Werbie-Harris:

We can certainly do that or we can table the petition. I don't know how close the petitioner is from getting verbal occupancy, but maybe it gets tabled until he's ready or gets closer to occupancy out there.

Don Hackbarth:

How long?

Jean Werbie-Harris:

I don't know.

John Braig:

I could support tabling it and before the next meeting I'd personally go out there.

Tom Terwall:

How close are you to completion?

Dustin Harpe:

Currently we're two weeks from completion. Like I said, I'm not one or trying to say, you know, I don't have a problem with it. The time that I'm speaking of is there's one weekend that I know for sure where the winds were high gusts all weekend. I was informed about it. I knew that we had blowing foam. And it wasn't just us. It was every home in the neighborhood. The job sites are cleaned daily. I mean there may be some lumbar or siding or something that's sitting there waiting to be picked up, but they're picked up daily. So the weekend that this happened we sent the guys out to pick up the foam. I was the first to respond. Same thing when we get a complaint about mud on the road we'll be the first ones out there to clean up the road. You can see in front of our job sites we've got a guy on hand with a street sweeper to get it done right away. The last thing I want is issues with neighbors with garbage or things blowing around. My point was just that, you know, if we put it in there maybe somebody throws these two floor layouts in the dumpsters, the wind picks up, blows them off, somebody is not around. You know, it does happen, but we're going to do the best we can to stop that from happening.

—:

Tarp it.

Don Hackbarth:

We've got a dumpster on our property, too, and when it gets windy if we see the lid blow up we go out there and we put a block on it. Simple things like that can prevent that.

Dustin Harpe:

Sure. I've got 30 yard dumpsters on every site. I've attempted to tarp it. The problem is then when the neighbors come and throw their couch in there or somebody then it's on top of the tarp and we've got to get in there and pull the stuff out. But I'll try to put some measures in and have my construction manager make sure that they're doing a better job keeping the stuff in the dumpsters.

Larry Zarletti:

Yes, Mr. Chairman, I think that the builder has gotten the loud and clear message today in public about what's been happening. My concern with this is that early on when this was going on if there were citations that could be issues based on a violation for the permit, then those things I feel should have taken place. I'm sure that you looked at it and thought you could get it done without doing that. But the point I'm making is I want to separate this as two separate situations. One, as Mr. Steinbrink brought which is an absolutely valid complaint that needs to be addressed by the builder. And the other is whether or not they can operate a model home at that site. Again, I don't think there's any better way for any one person to be put on notice than to be at a Village Board meeting and have that kind of a complaint leveled at you. So I kind of concur with Mr. Hackbarth that seeing this happen and the model home being able to operate but watching what's going on out there and giving the gentleman the opportunity to put his words in motion and see that it's not going to happen again.

Wayne Koessl:

Mr. Chairman, through the Chair to Jean. Could we move that the COP would not go into effect until July 1, 2010 to give him that two week grace period to finish the home and also show his value that he's going to keep the sites clean?

Jean Werbie-Harris:

Sure, and probably to get out there and clean up the woods on Steinbrink's property.

Wayne Koessl:

I would make that motion that we'd approve this and the conditional use permit would not be effective until July 1, 2010.

Jean Werbie-Harris:

And the other thing I will speak with—the building department goes out to do the routine building inspections out there. So I will pass on your information to the chief building inspector to let him know that something needs to be done. I was not made aware of this until kind of after the fact,

until after a lot of the junk and debris was picked up. But I know that for a fact that he did shut down pretty much everyone on that road from getting any inspections or anything at the time until things got cleaned up. But the problem is it's not just on the site. It's the stuff that's already blown into the fields.

Jim Bandura:

I tend to agree with Commissioner Zarletti and Commissioner Hackbarth. One of the issues here is can we stipulate or maybe put a condition in here to, like they say, shut it down, and even with Mr. Koessler's having it for July in there I would be okay with that, but I'd still like to have some teeth in the petition.

Wayne Koessler:

If I may, doesn't the Village have the right to revoke that conditional permit at any time they do not follow the guidelines that we put on? So I think we can handle it that way. I think if we approve it and not put it into effect until July 1, 2010-

Jim Bandura:

As a condition?

Wayne Koessler:

-as a condition and give him two weeks to finish his building and to prove that he's going to be a good neighbor. Then after that it's up to the staff if he's not doing it is to not issue the permit or revoke it. That would be my feeling.

Tom Terwall:

Did I get a second to the motion?

Wayne Koessler:

No.

Tom Terwall:

Is there a second?

Don Hackbarth:

I'll second it.

Tom Terwall:

Go ahead.

John Braig:

While I can appreciate Mr. Meyers' comment that they will respond quickly to any complaints or problems, I don't like to see a burden being put onto the Village staff. Granted I think they've got more than enough to do. I would have liked to see or added to it that say there won't be any complaints, we will check, we will see, we will make darn sure. We aren't going to let someone else find fault with what we're doing and then file a complaint. I'd like to see him take the attitude that there will never be a complaint.

Dustin Harpe:

I could sit here and tell you that that's what we're going to do, but I'm just afraid that we're going to get lumped in that if there's a piece of garbage out there that, you know, because we've kind of reason for—like I said, it's hard to—I didn't just see our foam that was blowing around that day. I was the first—I can tell you I was the first that talked to the building inspections department. I was the first one on the phone, first one sending people out there to pick this stuff up. Now, like I said, I didn't send them all over. We walked through the field right behind, but there was stuff—there's five different builders in the neighborhood and there's probably 20 houses under construction in there. We're doing a good portion of the work in there. But I'm going to do the best that we can. I'm going to tell you we're going to make sure that the jobs are clean. If I get a call because there's some garbage, whether or not it's ours or not, I'm going to send somebody out there to take care of it.

But I don't want to get in the situation where if there's a piece of garbage that we're getting shut down because maybe Korndoerfer's or another builder's garbage blew into the field. Like I said it's hard to say this part was all of our garbage because I know that's not the case. But I'm going to do everything in my power to make sure that these job sites—I drive through every morning past every one of our houses in the Village and in the City. I've got a construction manager running the job so I'm making sure that those jobs are clean and presentable for the homeowners that we're building them for and the neighbors in the neighborhood.

Tom Terwall:

Jean, when you have your discussion with the chief building inspector would you pass along the concerns of the Plan Commission not just in regard to his homes but the other builders in the area, too. Make sure they understand that you better be picking up after yourself. Because if John Steinbrink has to do it we're going to shut them down. There's people living next door to these places and it's becoming a pig pen.

Don Hackbarth:

That's exactly what I was going to say, that they should be notified.

Jim Bandura:

Put them on notification, put them all on notification. Send a little letter out with the building inspector or something and say, hey, guys start cleaning up and making sure this doesn't happen. I understand what you're saying that it's not all yours, but usually when somebody comes in and complains directly aimed at you I'd be a little leery.

Dustin Harpe:

Yeah, I understand completely. I understand his frustration. He's got the floor layout for the model in question right here.

Don Hackbarth:

It's a little hard to argue with that.

Dustin Harpe:

There's no doubt that some of our garbage whipped around. Maybe it was a lot of it. I don't know. Maybe it was all of it. But, like you said, when I got the call from the building inspection department the first thing I did was get on the phone, I went out there to the site and made sure that our people were out there picking it up. I believe all the builders were put on notice for it. We sent our people out. The same thing if it's raining and the concrete guys are coming and the truck and stuff is out on the street, whether it's the whole subdivision, I'm sending the people out there to clean out in front of the jobs. The last thing I want is our job sites looking like a pig sty. When our customers come by I want the job looking presentable. There's going to be ruts in the front yard and things like that that we take care of at the end. But as far as trash all over the place I want to take care of that.

Don Hackbarth:

You got the point, right?

Dustin Harpe:

Absolutely.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY DON HACKBARTH TO APPROVE THE CONDITIONAL USE PERMIT EFFECTIVE JULY 1<sup>ST</sup>.**

Jean Werbie-Harris:

I do have one other comment. Dustin, do you understand also comment 13 with respect to off premise advertising signs?

Dustin Harpe:

One hundred percent.

Jean Werbie-Harris:

Thank you.



Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY DON HACKBARTH THEN TO APPROVE THE CONDITIONAL USE PERMIT TO USE THIS HOME AS A MODEL HOME EFFECTIVE JULY 1, 2010 SUBJECT TO THE CONDITION THAT THE SITE HAS BEEN PROPERLY CLEANED UP. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed?

Jean Werbie-Harris:

When you're talking about the site, you're talking about the adjacent neighboring sites.

Tom Terwall:

The whole thing.

Jean Werbie-Harris:

So, Mr. Harpe, you should visit with John Steinbrink to find out what woods needs to be cleaned up if there's anything else. And at harvest time if he still is churning up some of your plans and stuff what needs to be cleaned up on the site. So you might want to visit with him.

Dustin Harpe:

We'll get people out there this week.

Tom Terwall:

Thank you.

**D. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATIONAL PLANS for the request of Michael McArdle with Stateline Enterprises, agent for the owner of Stateline Citgo located at 12720 Sheridan Road to operate a U-Haul dealership.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, this is a conditional use permit including site and operational plans at the request of Stateline Enterprises, agent, for the owner of Stateline Citgo located at 12720 Sheridan Road to operate a U-Haul dealership.

And the public hearing comments, as a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as described below:

#### Findings of Fact

1. The petitioner is requesting a Conditional Use Permit including Site and Operational Plans to operate a U-Haul dealership from the Stateline Citgo located at 12720 Sheridan Road. The property is located in a part of the Southeast One-Quarter of U.S. Public Land Survey Section 31, Township 1 North, Range 23 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 93-4-123-314-0076.
2. On an annual liquor license inspection by the Zoning Administrator, it was noted that a U-Haul dealership was being operated from the gas station/convenience center without proper Village approvals.
3. In a May 21, 2010 letter to the petitioner, the Village staff, after initial review of the application, requested additional information be submitted regarding the application.
4. On June 7, 2010, the Village responded to the May 21, 2010 letter. This response included several clarifications and a revised location for the U-Haul vehicles to be parked and stored.
5. The application as revised proposed to park and store a maximum of five vehicles or trailers with a maximum vehicle size of 24 feet in length. They will only rent these vehicles and trailers and will not provide for sale, lease or rent any additional equipment such as boxes or other packing materials, utility dollies, trailer hitches, floor or carpet cleaning equipment or supplies or furniture pads through the U-Haul dealership.

So looking at the slide, the gas station building and then the pumps are just to the west of Sheridan Road, and just behind the building to the west you can see this is where they are proposing on pavement to park U-Haul vehicles. Again, this is just north of three very large arbor vitae that they have on the very southwest corner of their building. So there's an access off of 128<sup>th</sup> Street as well as Sheridan Road, and the vehicles will be parked in that proximity.

6. In order to rent or lease a U-Haul vehicle or trailer, customers are required to produce their State issued drivers license and a credit card at the time of rental. Out of state licenses must provide at least one other means of assurance such as registration, utility bills, lease/rental agreement etc. All vehicles/trailers are tracked through the U-Haul Traffic Department. Vehicles/trailers not returned are also handled through U-Haul Corporation, since it is not necessary to return the vehicle/trailer to the same location that it's rented from. Vehicles/trailers can only be returned to this site between the hours of 6:00 am and 10:00 pm.
7. The revised application materials indicate that the vehicles/trailers will be parked on the west side of the existing building on an existing paved surface.

8. Village staff recommends that the detached garage and the fence on the adjacent property owned by the owners of Stateline Citgo be painted. It's all part of their site area, however it exists on separate properties.
9. Notices were sent to adjacent property owners via regular mail on May 17, 2010 and notices were published in the *Kenosha News* on May 31 and June 7, 2010.
10. The petitioner was emailed a copy of this memo on June 11, 2010.
11. According to the Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials and information presented at the public hearing that the project as planned will not violate the intent and purpose of all Village Ordinance and meets the minimum standards for granting of a Conditional Use Permit. Furthermore according to the Zoning Ordinance, the Plan Commission shall not approve a Site and Operational Plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village, State, federal and local requirements and County requirements.

The other thing I just wanted to mention is when I went out to the site this last time after it was decided that they were looking to put them behind the building, what I identified is that there is a single family home that is to the west of Stateline Citgo. And there is an area from about—there's like a utility pole here and then their garbage dumpsters are right here. There's a distance right in there that I'm recommending either it needs to have some type of fencing or it needs to have some type of screening through tall arbor vitae. Because our ordinance does require that there be a buffer and separation spacing through some type of means between a commercial property and a residential property. Typically they didn't have anything behind the building. It was always very clean and neat back there, but now that they're going to be parking vehicles as part of a business they are going to need to do something.

And one other issue I do need to bring up is that in talking with the Village Police Chief, he'd like to see everything on the other side of the building in plain sight. And from a planning perspective I'd like to see it all behind the building. So we have a little bit of a conflict. The biggest concern from the Police Chief is that he does not want anybody to tamper with these U-Haul vehicles and trailers. I'm not sure if they have any cameras on their site or what they have, but he just does not want people to be tampering with this area. So, again, there will need to be some fencing or some type that goes along that western perimeter. He just wants these vehicles to be—he wants it to be well lit and he does not want anybody to be tampering with them when they're not being rented. So with that I'd like to continue the public hearing.

Tom Terwall:

This is a matter for public hearing. Anybody wishing to speak in this matter?

Jean Werbie-Harris:

Petitioner? Why don't you come on up. Give your name and address please.

Pamela Bebeck:

Pamela Bebeck, 12720 Sheridan Road, Pleasant Prairie, Wisconsin.

Tom Terwall:

You're familiar with the terms and conditions that were spelled out?

Pamela Bebeck:

We are.

Tom Terwall:

And you just heard the director's comments about security and so forth?

Pamela Bebeck:

We are. I did. I don't know that one is better than the other. However, the lighting already exists. It's a small area and it is quite lit. I also know that the police park across the street on the Illinois side so it will get security when we're not even aware of it.

Jean Werbie-Harris:

I can discuss with the Police Chief if he wants to see fencing on that west side or if he wants to see arbor vitae. They have these three very tall bushes that actually effectively screen them very nicely from the south. But, again, because it abuts up to the residential to the west now the ordinance requires that we have something there to screen it.

Pamela Bebeck:

We have no issues with a fence. The requirements have been submitted to John Graham, the owner of the property, and he is under review and I don't foresee any issues at this point.

Don Hackbarth:

If it's going to be a fence, if it's not a chain link fence or whatever, if it's going to be a wooden fence I think the nice side should be towards the neighbor. Because you can create all kinds of conflict with a neighbor.

Pamela Bebeck:

I have no issues with that.

Don Hackbarth:

I prefer bushes or something like that. Something natural would be a lot nicer I think. But I think with chain link if the Chief has an issue with it maybe chain link would be more of a barrier for somebody getting in there or whatever.

Jean Werbie-Harris:

I think what we'd like to do is maybe we could sit down with the Chief for 15 or 20 minutes and find out exactly what his concerns are. He talked to me late Friday night or Saturday, so if we could just visit with him we could find out exactly what he would like to see there. If it's well lit, and I don't remember seeing it at night, but if it's well lit that was one of his concerns. The other is security for them.

Don Hackbarth:

The other comment I have is comment numbers 5 and 6. On comment number 5 we're putting a restriction on how many vehicles or how many things can be stored there. And comment 6 says the vehicles don't necessarily have to come back to the same location that they were rented from.

Jean Werbie-Harris:

That's correct.

Don Hackbarth:

I'd like to know how strategically you plan this. Let's say there are eight people that move into the area. Since you're going to be a U-Haul dealer, what's going to prevent them from taking all eight trucks to your site. Because then it's going to be the five in that area and then maybe another one out front on the Sheridan side and another one on the State line side.

Pamela Bebeck:

They are contracted as to where they are to leave their equipment on a one way. Meaning that they rented it in Racine, they're moving to Pleasant Prairie and they're going to leave it off someplace in Pleasant Prairie. There are several locations in Kenosha and hopefully now Pleasant Prairie. So they can specify that this would be their preferred because it's closer to their home, but that doesn't mean traffic will allow it. And in their contract that they do sign it specifies. Now, if they leave it anyway where they feel like it there is a fee attached. And all I have to do, because it's illegally parked on my property, I call U-Haul's traffic and tell them get a transfer in here, I need this out of here now.

Don Hackbarth:

Okay, so you can control that before.

Pamela Bebeck:

Yes, absolutely.

Don Hackbarth:

You know that there are five vehicles coming—if you're empty, five vehicles coming and you can we don't want any more?

Pamela Bebeck:

Exactly. Actually it can be—this is Mike Schultz.

Mike Schultz:

I'm Mike Schultz. I'm the U-Haul district rep. How we control the equipment coming in, like if you say I want max five vehicles at this site, we go into our computer system, and if a customer is moving into the area and Stateline Citgo is at the five limit, it will not offer an option of that location for a drop off site. Now, if a customer is driving down the road there, sees Stateline Citgo, drops the truck off and that puts her at six trucks, at that point the customer is charged a drop off fee. And at that point Pam would be calling me and I would arrange to get it out of there. I did one this past week. We got over the limit and I had it out of there within like ten hours max.

John Braig:

Is there active rental there now?

Pamela Bebeck:

Yes. We were unaware that we needed some kind of permit for this. It was not done to defy the Village. It was on a routine—twice a year we have routine inspections, so we're used to inspections. We did not know that there needed to be a conditional use permit. We did not know that there needed to be anything for this kind of enterprise. We're just trying to diversify to keep heads above water in this economy.

Jim Bandura:

Where's the sign at that indicates that you have a U-Haul business there. I don't recall.

Pamela Bebeck:

There isn't one. We have a small decal on the front door, but there is not one.

Jim Bandura:

Okay, so that brings me to my point on number 4. That means, Jean, there's not going to be any additional signage other than that one that's on the door?

Jean Werbie-Harris:

They have signage on all their trucks. So when you're driving down 128<sup>th</sup> Street you'll see a truck and that will act as their signage.

Jim Bandura:

They're parked in the back.

Jean Werbie-Harris:

They are but you can see it if you're driving on State Line.

Pamela Bebeck:

If you're heading east on 128<sup>th</sup>, yeah, you'll see it. Now, not when the fence is up though probably. That would probably block that vision. So there probably will not be any.

John Braig:

Those trucks are bigger than a fence.

Tom Terwall:

Thank you.

Jean Werbie-Harris:

I do have to mention that the U-Haul traffic department does do the best job that they can and the staff is supporting this particular application. However, I have to say from personal experience, last summer, when I had a contract and a confirmation number and I needed that 27 foot truck to move three households, I did not have it. And there was a situation that they did return the truck to three other locations during the 27 straight hours that I was calling and it did not go to the proper location. So that does happen that the truck can get delivered to another site and they may not call back right away in order to get the proper truck to the right locations for the people. But I know that they do make some effort to do that. But I personally will help monitor for that for you to U-Haul since it did create somewhat of an awkward situation for me and a number of neighbors who had to use every vehicle in site to move three households basically.

Mike Schultz:

Jean, I apologize.

Tom Terwall:

Anything further? What's your pleasure?

Jim Bandura:

We need to close the public hearing.

Tom Terwall:

I'll close the public hearing.

Larry Zarletti:

I was going to move approval.

Judy Juliana:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY LARRY ZARLETTI AND SECONDED BY JUDY JULIANA TO APPROVE THE SITE AND OPERATIONAL PLAN PURSUANT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

Jean Werbie-Harris:

And, Tom, that was subject to sitting down with the Police Chief sometime this week so we can get that final security item issued up.

Jim Bandura:

And the screening.

Tom Terwall:

Thank you.

Jean Werbie-Harris:

And then just for the Plan Commission's reference, this was something that was kind of holding up an issue that needed to go to the Village Board for this property owner, so I will inform the Village Board that we have resolved that particular issue and their liquor license and other matters will go forward on Monday night for the Village Board.

**E. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT for the request of Bill Casey agent for GFS Marketplace, LLC owner of the property located on 75th Place west of 69th Avenue to amend the Gordon Food Service Marketplace Planned Unit Development to include a reference to the required security agreement.**



Jean Werbie-Harris:

Mr. Chairman, I'd like Item F discussed at the same time.

Tom Terwall:

Fine.

**F. Consider the request of Bill Casey agent for GFS Marketplace, LLC owner of the property located on 75th Place west of 69th Avenue for Site and Operational Plan approval for the construction of a 11,346 square foot Gordon Food Service Marketplace.**

Jean Werbie-Harris:

The first item is the public hearing and consideration of a zoning text amendment, and this is at the request of Bill Casey agent for GFS Marketplace, LLC. And this is for their property on 75<sup>th</sup> Place west of 69<sup>th</sup> Avenue. This is to amend the Gordon Food Service Marketplace Planned Unit Development to include a reference to the required security agreement.

Item F is to consider the request of Bill Casey agent for GFS Marketplace owner of the property at 75th Place west of 69th Avenue. And this would be for Site and Operational Plan approval. And this is for the construction of a 11,346 square foot Gordon Food Service Marketplace.

Mr. Chairman and members of the Plan Commission, on September 25, 2006. the Village Plan Commission conditionally approved the Site and Operational Plans for the proposed Gordon Food Service Marketplace, and I'll refer to them as GFS, on the vacant property generally located on the south side of 75th Place west of 69th Avenue. After several extensions, the Site and Operational Plan conditional approval had expired. However the Gordon Food Service Planned Unit Development Ordinance that was adopted by the Village Board on October 2, 2010 as Ord. #06-47 remains in effect.

At this time the GFS is requesting approval of the Site and Operational Plans that are very similar to the plans that were conditionally approved in 2006. The plans have been reviewed for compliance with the now current Village Ordinances and requirements. As a result, while the site plans remain very similar, there were some minor changes and corrections required specifically to storm water management improvements, landscaping, site lighting details, shopping cart storage and security system. The security system that I refer to is the Digital Security Imaging System or the DSIS which shall be installed on the site pursuant to Chapter 410 of the Village Code of Ordinances.

With respect to background information, and let me just mention is is okay if I go forward or would you like to talk about GFS? Okay. The GFS Marketplace Stores were developed to service retail customers and to help support small business customers. I'm sorry, let me back up a little bit. GFS is a 112 year old, privately held, family-owned and operated company based in Grand Rapids, Michigan. GFS is the largest private food service supply company in the United States, providing restaurants, schools, churches, hospitals and other institutions with restaurant quality food and food service products. Through its wholesale divisions and distribution

business, GFS supplies national brand and private label and private label products to wholesale customers in Midwest, Southern, Mid-Atlantic state and across Canada.

GFS does not process or manufacture products. Independent processors and manufacturers supply food and non-food products to GFS for distribution to its wholesale customers. Product warehousing is handled by state of the industry high-tech distribution centers owned and operated by GFS located in Michigan, Ohio, Kentucky, Florida, North Carolina, Pennsylvania and Wisconsin, specifically Kenosha, and throughout Canada. Products are shipped directly to their wholesale customers from these facilities via the GFS truck fleet.

The GFS Marketplace stores were developed to service retail customers and help support small business customers that are not easily serviced by GFS wholesale sales representatives and the distribution system. GFS Marketplace is a wholly owned division of GFS, and has been in operation for over 30 years and operates 134 stores in Michigan, Ohio, Indiana, Illinois, Kentucky, Tennessee, Pennsylvania, and Florida. The stores nearest to Pleasant Prairie are located I believe Milwaukee is almost complete if they're not completed with their store, and the Chicago suburbs of Lansing, Olympia Fields, Orland Park, Burbank, Joliet, Aurora, Villa Park, and Palatine.

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

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

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

They are now requesting Site and Operational Plan and Zoning Text Amendment approval. The petitioner is requesting approval to construct an 11,353 square foot GFS Marketplace on the 3.15 acre parcel that has approximately 219 feet of frontage on 75th Place and approximately 160 feet of frontage on 69th Avenue. We have some photos that were taken by the GFS reps. They show various directions to the site. There is a small wetland pocket that is located on the south end of the property that was field staked on March 12, 2006 and will be maintained as a wetland and zoned C-1 or has been rezoned to C-1 on October 2, 2006.

The GFS building is designed with a blend of exterior materials similar in appearance and character to the other commercial buildings already established in this retail area, such as in the Chili's area in the Village as well as the Panera Bread, Back to Bed, Coldstone properties in the City of Kenosha. Mechanical and refrigeration equipment will be ground-mounted on the west side of the building and will be screened from view from the public with a small screening wall consisting of the same building materials as the main building. A single loading dock is located at the rear of the building away from the designated customer building entry and parking areas. Trash will be contained in a dumpster enclosure that is attached to the building and constructed of the same materials as the building and located near the loading dock.

Site access for this particular project is a little unique. Public road access to the GFS site will be from a single driveway from 75th Place, which will be aligned with the Chili's 75th Place driveway to the north. As you know, Chili's has been using the northern portion of this property as a gravel parking lot for the last several years. It is now the intention of GFS to incorporate that area as part of their overall parking lot, to pave it, stripe it, landscape it, light it, so it serves as a retail commercial parking lot area not only for them but some off site cars from the Chili's restaurant.

Upon development of the abutting property to the west, now this abutting property is in the City of Kenosha and they have no immediate plans for development to my knowledge, but eventually there will be access from this site through that site to 78<sup>th</sup> Avenue as well as 75<sup>th</sup> Place to the north in the City of Kenosha. And what GFS is proposing to do is in order to accommodate their truck traffic and their dock delivery is actually they are going to be building a temporary access through that property. And they have sought and obtained an easement from that property owner to use this property on a temporary basis as access to get from the northern part of their site to the southern part of their site, again, because of the narrowness of the site. GFS and RAP, which is the owner to the west, shall grant one another pedestrian/vehicular driveway parking and maintenance easement agreements and utility easement agreements. Copies of these agreements will be submitted to the Village prior to the issuance of building permits.

Off site improvements, again, this is where I talked about that temporary off site driveway, and again this is not only for their trucks but also for public access for our police and fire and others that might need to get to the back of their site. It's not intended for public access for people that are using, for example, visiting the site or using the retail store. It's really intended for their private use.

With respect to the property that kind of juts into the City of Kenosha area, the petitioner is required to get approvals from the City of Kenosha as they were the last time with respect to airport overlay, site and operational plan approval, and any approvals that the City may require as part of that driveway prior to getting the building permit from the Village.

With respect to on site parking, the GFS site will contain 97 parking spaces, 92 standard spaces and 5 handicapped accessible spaces. This number may decrease slightly when and if cart corrals are shown on the site plan. I'm not sure what their intention is with respect to that. The number of on-site parking spaces will provide sufficient parking not only for GFS customer and employee needs, but will also provide for and accommodate the Chili's Restaurant overflow parking. The number of on-site GFS parking spaces exceeds minimum ordinance requirements in order to deal with that overflow. A Reciprocal Cross Access, Parking & Maintenance Easement Agreement between GFS and the owner of the Chili's property needs to be prepared, executed, recorded and

a copy provided to the Village that deals with this long-term relationship with respect to the cross-access for parking.

With respect to stormwater, stormwater runoff will be collected on-site and directed to an existing retention basin located to the south of the GFS building and circulation drive. An existing drainage swale will pick up storm water from the Chili's restaurant site and then directs the stormwater, again, to the basin. The petitioner will need to prepare new stormwater access and management easement documents. At this point there is somewhat of a temporary situation in order to address the storm water in that area that's been there for quite a while. When the parking lot gets reconstructed and their storm sewer they will need to address their permanent situation which will be part of this project.

Under landscaping, open space and irrigation, landscaping will be provided as required by the Village in setback areas and within parking lot islands and peninsulas. And I've had some conversations with GFS this week to address their landscaping plan and some slight modifications to the plan that was originally submitted. They have addressed that. GFS will have 1.92 acres of open space, which is 62 percent of their site.

For security, in addition to the building and internal site security, the owner is required to install a digital security system pursuant to Chapter 410 of the Village Ordinance which is our Security Ordinance. The DSIS shall be installed pursuant to the Ordinance, and the Village Board as part of the PUD will be considering it at their June 21, 2010 meeting. This Agreement shall be executed by all parties prior to the Village issuing the required permits to commence construction. You have it as a draft as part of your packet. I would like the opportunity to continue to discuss the draft with GFS to see if there are any additional comments or concerns that they may have. Our IT director had a few things that she wanted to see added to clarify some of my comments with respect to broadband and internet connection and such. So I will get those few changes in, and we will sit down with our attorneys and their people in order to finalize that document before it goes to the Village Board.

With respect to lighting, I think that was addressed pretty much the first time around. With respect to parking lot lighting they just need to do some adjustments with respect to the height of the cement bases and the lot. Signage for GFS, one of the things that the PUD addresses is the signage and the amount of signage on the site. They are requesting to have 256.07 square feet of building signage. The staff supports their request. The ordinance says 200 square feet. We don't feel that the amount of signage that they're requesting is excessive at all, and we feel that it looks good for the site. And so we'd like to just modify the PUD to make sure it covers the signage that they have requested.

And the last thing I'd like to say is that the Plan Commission shall not approve the site and operational plan without finding in your decision that the application coupled with the satisfaction of any conditions of approval that they will comply with all Village Ordinance requirements and any other federal, State or local requirements. There are a number of recommendations or conditions of approval. And the staff is recommending that when the Plan Commission considers the site and operational plan that all these conditions set forth be conditions of approval. With that since this is a public hearing because of the PUD I'm opening up and continuing the public hearing.

Tom Terwall:

Anybody wishing to speak at this time? yes, sir?

Bill Casey:

I'm Bill Casey. I live at 305 Valley Court, Grand Haven, Michigan. I'm here to represent GFS Marketplace. I do have a couple clarifications and some changes. I don't know if this is the appropriate time to mention them or not. In our design development I met with our architect and engineer and he was working on some things this weekend. The square footage measurements of 11,346 square feet actually is going to change to 11,353 square feet. It's seven square feet bigger. And the reasoning behind that is there is the . . . brick block that is used here comes in a couple different sizes. There were some sections where it was 12 inch and some sections where it was 10 inch. So the width of the building grew by four inches because to create a better R value for our store and just from a construction streamline all the block is going to be a 12 inch block instead of this variation. So the width of the building has just changed by four inches which creates seven square feet. I found out about this morning and said are you really making me go there and tell them that. And in our building permit stage it would have come up, but I wanted to make sure that if it needed to be a matter of record tonight that it was brought up and that we were all aware of it.

I had a couple questions. I never received the DSIS agreement draft. I received the builder inspector, the Chief of Police's comments, everything you sent me on Friday as far as the review, the formal review of the staff comments, not the draft, but I just want to be clear that I don't have a DSIS agreement so I haven't even got to see what it's going to look like. I know we're going to need to work through that. I know we talked a lot about it on the phone and Jean has met a lot with a lot of GFS people on working through a lot of security issues that we have. But I just wanted to be clear on that that I haven't seen the draft agreement.

And the other thing I'd like to ask is as far as the building signage that is not including the monument sign square feet, is that correct?

Jean Werbie-Harris:

That's correct.

Bill Casey:

Okay. And I do have a number of the answers already answered in a response that will be given to you as far as we'll comply with the majority of the comments. I didn't know if you needed me to dedicate the spaces for the Chili's. The question was asked do I know where the 42 spaces are going to be. I do have that idea if that needs to be part of tonight's record. I can do that if that's staff question down the road.

Jean Werbie-Harris:

I just think that because it's been a parking lot that's been used for about seven or eight years by so many people, I think that just might be a question that the Plan Commission might want to know tonight.

Bill Casey:

Okay. It's pretty simple. It's a pretty logical position. As we look at the plan there on the north end and you take the drive that's on the west, about half way through the west—

Jean Werbie-Harris:

Do you want to take this?

Bill Casey:

Yes. This drive right here, we will come straight across. That gives about 42 spaces. I counted them up earlier. It meets about half way down here. It's the most logical place for the Chili's 42 spaces and to not affect our customers. It's closest to Chili's, it's furthest away from our front door and it makes good sense for everyone. But what I thought we could do is we'll just show it on the plan and highlight that area as a blocked area saying these are the 42 spaces, okay?

Tom Terwall:

On that subject are you prepared to say that as a condition of occupancy that that will be paved?

Jean Werbie-Harris:

Oh, it has to be paved.

Tom Terwall:

We've been waiting eight years for this.

Bill Casey:

Absolutely. And the shared parking easement is already in place. We already have the document and stuff drafted and done. And I wasn't here during the initial approvals in 2006. Jeff Bond I think was in front of most of you if not a number of you and he's no longer with GFS. But I do know the history of that and that nothing ever happened. Tom and Jean and I had met last fall about the fact that nothing had happened. I apologize. We got out there and did some cleanup work to the site. And then as spring came we realized, okay, this is the time we are going to build the store so we're ready to go so we understand that.

Tom Terwall:

Good.

Bill Casey:

Also for the cart corral locations, one will be right there and one will be right in that area. We would lose two parking spaces. We understand that no carts get stored overnight. We don't store carts overnight or anything like that. Just for convenience of shopper so we don't have carts

moving around. We constantly are circulating the parking lot making sure our carts are back in. And we only have 45 carts per store, so this isn't a . . . .

Jim Bandura:

Since we're talking about the parking issue there, what size truck are you going to have for deliveries on this?

Bill Casey:

The absolute largest truck that can come to our site is a 50 footer.

Jim Bandura:

Okay, show me how your circulation is going to run for that truck when he makes a delivery and exits. He's going to back up—

Bill Casey:

Right there. This is all concrete, so he can make a turn here.

Jim Bandura:

Because your drive aisles are 24 foot?

Bill Casey:

I think that one is 30. I think it's 30.

Jim Bandura:

And then what I'm getting at is the turning radius up towards the top when he wants to exit out however he's going to exit.

Bill Casey:

Because this plan was developed before me, usually I see the truck circulation plans. It's something that we pay extreme attention to. I can make sure that we prepare a truck circulation plan as part of our approval because that is as important to us as anyone else. Our lifeblood is started with our trucks and not our stores.

Jim Bandura:

Leaving out of there that kind of bothers me. I wouldn't be opposed to having Jean and staff look at the circulation for that.

Bill Casey:

I am almost wondering if it's right here.

Jim Bandura:

I mean even if you did that you're still—

Bill Casey:

Yeah, that's a tight corner.

Jim Bandura:

Yeah it is. It just is.

John Braig:

What's to the east of this parcel?

Jean Werbie-Harris:

It's vacant land in the City of Kenosha. And then there's a strip of land up there just north of that adjacent to 76<sup>th</sup> that is DOT land.

Bill Casey:

I can say with confidence that in our planning stages we went through that because that's usually our biggest question on sites. But I just don't know the specific answer of how they worked it out on this. But we can go back through that. That's fine.

Jean Werbie-Harris:

I can't remember either because it was so long ago. But what I can tell you is that we would certainly be willing to look at by talking to the City of Kenosha whether or not a driveway right at 76<sup>th</sup> would be appropriate. We could certainly ask that question. But the key is it would have to be a truck exit only. The problem is remember as part of the overall 2010 which is now 2020 plan for the 31 intersection with the DOT, the jug handle, does everyone remember the jug handle, this is the jug handle going to Highway 31, and the DOT was restricting if not eliminating all access on 69<sup>th</sup> Avenue even proposing to take some access away from Johnson Bank. So because of that they did not want any or very limited access on 69<sup>th</sup>. So I'm thinking that that's why that happened. So if you need to have your transportation people look at it for us to modify an island or something we should do that also. When are your deliveries made?

Bill Casey:

The delivery schedule is set typically after a store is open depending on how the trucks are making their route. But it's during our operating hours. Usually it's early in the morning right when the store is opening up before it gets real busy. On the prints and I know in the package that was sent you can notice where it is. The drive aisle right here is 35 feet wide. And then the drive aisle right here is 33 feet wide. And the drive aisle here is 36 feet wide. The reason I can tell that that is the drive aisle for the trucks is that's all heavy duty pavement. So the plan is for



the truck to make this corner and go that way which gives him the 35 feet into the 33 feet which is what the plan is, so it was planned out that is how the exit would be.

Don Hackbarth:

Would you be opposed to putting just another entrance. You see where it is on the left, the entrance coming in and out, why not put an exit on the right hand side so they can just go straight out?

Jean Werbie-Harris:

On 75<sup>th</sup> Place?

Don Hackbarth:

Right here?

Jean Werbie-Harris:

No, that's way too close to the intersection.

Jim Bandura:

Jean, what I'm saying is right across from the dock coming straight out.

John Braig:

The truck backs in backing west and when he exists he's going to be driving east. Put a driveway straight out there. Is that what you're saying?

Jean Werbie-Harris:

You mean straight to the east? We would need to cooperate with the City of Kenosha and their plans and their developer who owns that to have a cross-access easement right there.

Jim Bandura:

That would be an option to pursue if this circulation is bad. I still don't see a 55 foot or a 50 foot trailer making the radius or making the turns on that. Again, I'd leave it up to staff for circulation and verify that. Because those trucks they'll tear your parking lot up.

Jean Werbie-Harris:

Right, but trucking is their business. That's what they do so they should know.

Bill Casey:

And that is why this whole area is concrete and then this is why this is all heavy duty pavement. It's easy for us to provide a truck movement plan with all sizes of the trucks that would show the movement to staff for them to say, oh, this does in fact work. It's not that there's a ton of room there but it definitely works where we're not driving over parking spaces or worried, oh, there's a car there. And all our curbs in this case have to be vertical curbs, so none of them are curbs that we're planning on having drive overs or any other things which we don't do those. We might do curb and gutter but we don't do that.

Don Hackbarth:

Where is the entrance to your store?

Bill Casey:

Right there.

Don Hackbarth:

(Inaudible) . . . with a truck going past . . . .

Jean Werbie-Harris:

Again, as a reminder these are their trucks making their deliveries to their store. So it's in their best interest to do this all right, because they don't want to hurt their customers.

Bill Casey:

And our typical store receives anywhere from two to four semis a week. That's it. So not even one a day. And then the other trucks that come would be the bread truck or the Coca Cola truck that are small that deliver. They don't use the truck receiving area. That's the truck that pulls up and unloads the stuff and goes.

Don Hackbarth:

I like the idea of having access . . . .

Jean Werbie-Harris:

And the more I'm thinking about it this was all part of the jug handle concept and there was no access. And I bet if we look at the certified survey map for this it's going to show restricted access all the way north on 69<sup>th</sup> to 75<sup>th</sup>. So I think that train left the station lots of years ago.

Tom Terwall:

Anything further to add?

Bill Casey:

No, I'm here to answer questions if needed.

Tom Terwall:

Anybody else wishing to speak? Hearing none, I'll close the public hearing.

Don Hackbarth:

I've got a question about the Chili's outfit there. How did we mis-plan that or something where the overflow had to be on somebody else's property? Is it just such a popular place?

Jean Werbie-Harris:

That's part of it. It is part of it. The zoning ordinance identifies how many parking spaces are needed for so much retail floor area plus customers plus employees and they met the minimum. They're a very popular restaurant and they bring a lot of people to this area. They always exceed the minimums. We learned from this particular experience so that's why Famous Dave's, Olive Garden, all the rest of the restaurants had many, many more. They have 120 or 140 spaces as opposed to the 78 that were required by ordinance. So we learned from that example at the time. Again, this was when they first started. The previous developer who had owned this land wanted to move forward with this development and then he put it on hold. And then he sold the land to GFS and they were going to move forward and then they put their project on hold because of the distribution facility and other things they were building in Kenosha and elsewhere. So I mean it was just like a chain of events of different things that the parking lot didn't get built sooner. But, again, you've got a number of popular venues up there. You've got Chili's, Panera, Cold Stone, you've got some very popular restaurants so parking is at a premium when you've got some very popular areas.

Don Hackbarth:

The other question I have is let's say somebody breaks into a car on your property. Who is liable for that or if somebody gets hurt. Let's say a customer backs into another car or runs over somebody, it's not their land.

Jean Werbie-Harris:

Two things. I think that they need to make sure that their easement agreement addresses issues like that. The second part of it is, again, because of the DSIS agreement there will be cameras on this site pointed at the parking lot, pointed at the entrances and at the entrance to their development. So we are doing a live look monitoring of what's going on at their site all the time.

Don Hackbarth:

I think what they're doing is they're very gracious to allow them to have parking on their property but there are liability issues.

Jean Werbie-Harris:

And part of the problem before was it was dark and there was minimal lighting if not no lighting, gravel parking. There's no activity, things like that, no cameras, and all those things can provide more opportunity for things like that to happen. With GFS presence there, their cameras, their lighting and their security system, I think that there will be a greater presence. Again, they will negotiate whatever they need to with Chili's so they are protected I would assume.

Don Hackbarth:

And the maintenance of snow plowing in winter who would be doing that? Would you be plowing the Chili's part of the parking lot also?

Bill Casey:

Yes, we're the owners and they have an easement on our property. We have an RAA agreement in place which speaks to a lot of these issues that you're talking about.

Don Hackbarth:

Okay, just so it's clear.

John Braig:

Jean, does the building inspection department have a photo cell light meter?

Jean Werbie-Harris:

No, why?

John Braig:

Maybe it's time that they get one. You've got the restriction of a half a foot candle here. How are you going to enforce it? I can identify a number of sites that—

Jean Werbie-Harris:

It's their responsibility to comply with these plans.

John Braig:

Complying, but if they don't comply—

Jean Werbie-Harris:

Well, their architect has to certify for the State that they are complying with these plans. And if there's any question then we would go back to the architect and the developer. But they have to certify that they are complying with the plans. It's a requirement for the State.

John Braig:

It's not much, and I can think of a number of sites I'd bet my life that they're well over a half a foot candle. The Citgo station on 88<sup>th</sup> and 75<sup>th</sup> and the Truesdell station I don't know what they have but they have a floodlight that when you're eastbound on 75<sup>th</sup> Street it glares significantly.

Jean Werbie-Harris:

Are you filing a complaint with me?

John Braig:

No, I'm just saying that it exists. It's kind of a pet peeve I have every once in a while. We have things in writing that say this is an ordinance and this is the way it should be but the actual enforcement is breached in some instances.

Jean Werbie-Harris:

Again, if we don't know about it then we can't do anything about it. And my understanding is, and Jim can address this, but architects have to sign a certification of compliance which gets provided to the building inspector prior to getting a verbal occupancy or written occupancy. So it's up to them to be able to do that and file that paperwork.

John Braig:

The one installation that I'm thinking about at Truesdell could well have been engineered beautifully, but the actual installation which can be a couple degrees of raising and lowering the fixture or of rotating it is enough to make it in or out of compliance.

Jean Werbie-Harris:

The building department is available from 8 to 1 in the afternoon.

John Braig:

I still think if there was a complaint how would you enforce it? You'd still have to send somebody out there but if you don't have a light meter.

Jean Werbie-Harris:

Exactly. The burden of proof is on the builder and the owner to prove it.

Tom Terwall:

Let's get back to the issue.

Don Hackbarth:

Mr. Chairman, I move approval for the public hearing on the zoning text amendment.

Judy Juliana:

Second.

Tom Terwall:

**WE HAVE A MOTION BY DON HACKBARTH AND A SECOND BY JUDY JULIANA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD ON THIS TEXT AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

Larry Zarletti:

Mr. Chairman, reference Item F I would move approval of the site and operational plan.

Wayne Koessl:

I'll second. But does that include Jean working with them on the truck—the staff working on the truck route traffic through there.

Jean Werbie-Harris:

We'll discuss having a plan to the staff.

Wayne Koessler:

I just want it noted in the minutes seeing that we do get to that.

Jean Werbie-Harris:

Yes. And we'll also work with them on the DSIS agreement and negotiate that out.

Tom Terwall:

**WE HAVE A MOTION BY LARRY ZARLETTI AND A SECOND BY WAYNE KOESSL TO APPROVE THE SITE AND OPERATIONAL PLAN SUBJECT TO THE TERMS AND CONDITIONS OF THE STAFF MEMORANDUM INCLUDING RESOLUTION ON TRUCK TRAFFIC AND DSIS. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**G. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATIONAL PLAN for the request of Michael Gehrke of SCC Wireless, LLC agent for Open Range Communications, Inc, for a WIMAX Broadband Internet Coverage site to be installed on the existing Union Pacific Railroad tower within the exiting tower compound on the north side of Bain Station Road, west of STH 31 within the Union Pacific railroad right-of-way.**

Jean Werbie-Harris:

Mr. Chairman and members of the Commission, Item G is the public hearing and consideration of a conditional use permit including site and operational plans. And this is the request of Michael Gehrke of SCC Wireless, LCC, agent for Open Range Communications, and this is for a WIMAX Broadband Internet Coverage site to be installed on the existing Union Pacific Railroad tower within the exiting tower compound on the north side of Bain Station Road, west of 31 within the Union Pacific railroad right-of-way.

Since this is a conditional use and public hearing we have public hearing comments. As a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as presented and described below:

Findings of Fact

1. Michael Gehrke of SCC Wireless, LLC, agent for Open Range Communications, Inc, is requesting a Conditional Use Permit including Site and Operational Plans for a WIMAX Broadband Internet Coverage site to be installed on the existing Union Pacific Railroad tower within the exiting tower compound on the north side of Bain Station Road, west of Highway 31 within the Union Pacific railroad right-of-way.
2. The subject property is located in a part of the U.S. Public Land Survey Section 10, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 91-4-122-103-5000.
3. The current zoning of the property is B-2, Community Business District, and pursuant to Section 420-119 D (3) (a), the commercial communication structure and associated equipment requires a Conditional Use Permit.
4. Open Range provides simple SM wireless broadband service - high speed Internet, WiFi and unlimited local and long distance Digital Phone Service to the U.S., Canada, and Puerto Rico.
5. The following equipment will be installed within the an existing a 6 foot high chain-link fence, topped with barbed wire enclosed area at the base of the existing tower and on the existing tower.
  - H-Frame Pole Mounted Equipment Configuration to be installed at the base of the tower with protective ice shield over equipment
  - X2 external radios installed on the H-Frame
  - POWER to be brought to the H-Frame as well
  - 100 Amp / 240 Volt Service
  - X3 WIMAX Panel Antennas installed at 140'
  - X4 .48" coax cables per antenna
  - X2 ODU's (amplifiers) installed at antenna level for each panel antenna
  - X2 Microwave antennas installed at 160'
  - X1 .48" coax cable per MW
  - X1 RFU (amplifier) installed behind each MW
  - The coax cables will be installed and run up the tower within Inter-duct or plastic tube that is secured to a waveguide ladder via snap-in connectors. It's a very compact and neat installation. The center run up the tower as compared to cellular on the left.
  - The GPS antenna, very small, is generally installed on the ice bridge on the ground but may be installed at antenna level to get better signal if blockages at ground level.
6. The Communication Act of 1934 is the Federal regulation, which governs the telecommunications industry; Section 322 of said Act, as amended by subsection (6)(iv) of the Telecommunications Act of 1996, provides guidelines to state and local governments regarding the siting of antenna facilities. One such guideline governs what information may be considered during the zoning approval process. According to the Village counsel, Section 704 of the 1996 Telecommunications Act prohibits the



state/local units of government from denying a wireless communication company's request for local zoning approval based upon environmental or health effects or concerns if the wireless communication company complies with the regulations on RF emissions set by the FCC.

7. The petitioner and all of the abutting and adjacent property owners within 300 feet of the site were notified via U.S. Mail on May 17, 2010. Notices were published in the *Kenosha News* on May 31 and June 7, 2010.
8. The Village emailed the petitioner a copy of this staff report on June 11, 2010.
9. According to the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials that the project as planned, will not violate the intent and purpose of all Village Ordinance, nor shall it violate any Federal, State and County regulations, and it shall meet the minimum standards for granting of a Conditional Use Permit.
10. According to the Village's Zoning Ordinance, the Plan Commission shall not approve a Site and Operational Plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable Federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, noise, storm water management, streets and highways and fire protection.

With that, this is a public hearing and there's a representative here for the company.

Tom Terwall:

Do you wish to speak? Give us your name and address.

Mike Gehrke:

Mike Gehrke, SCC Wireless, 635 Remington Road in Schaumburg, Illinois.

Tom Terwall:

Anything to add?

Mike Gehrke:

No, sir. That pretty well covers it.

Tom Terwall:

Available for questions?

Mike Gehrke:

Yes, sir.

Tom Terwall:

Anybody else wishing to speak? Comments or questions from Commissioners and staff?

Jean Werbie-Harris:

Plan Commissioners, I'd just like to bring to your attention that we do have some general site concerns that we would like them to address with respect to this particular location. I'm not so sure that all of the antennas have always gotten the proper approvals through the Village being in the railroad right of way property. But it's not the most attractive cellular site that we have in the Village. In fact, it's one of the least attractive sites. So we have noted in the comments some of the things that we would like them to do including improve the fencing of the area, adding some additional landscaping in the area. There is a number of utility poles on the site, nine old poles on the site. We'd like to see some of those poles taken down especially when they're not being needed. There's some poles that are kind of just laying on the ground. We feel that the railroad should clean up the site a little bit. So there are some conditions as part of the site and operational plan that we would like to see some things on the site cleaned up so that it's a little bit more appropriate.

The other thing, and I'm not sure if it's a railroad requirement or not, but I don't know that any of our sites have barbed wire? None of our sites have barbed wire and that's not something that we typically encourage in these areas. I'm not sure if it's something that the railroad required, but if the barbed wire when they replace the fence is required by the railroad for some reason we can understand that. But if it's not no other communications site in the Village has barbed wire and we'd like to see that removed unless they've had some issues with vandalism.

Tom Terwall:

Have you seen the conditions?

Mike Gehrke:

Yes, sir, I have.

Tom Terwall:

Is that something you can address or the railroad addresses?

Mike Gehrke:

We're essentially going to be--Open Range would be a tenant on this site. So any issues related to the utility poles, which I don't believe are owned by the property owner, they're owned by the utility company.

Jean Werbie-Harris:

See right there, Mike, they're all kind of laying on the ground. There's a bunch of them there. This should not be a storage site for the utility. I mean whether or not they're needed on the site or not. The question needs to be asked as to why we have so many utility poles there if they're not all necessary and why do they have to keep putting up more? This isn't a switching station site, so I'm just curious as to has anyone asked the question. They just keep putting them up, putting them up, and we're just trying to figure out why they need to do that. Can't they be doing some other things to make the site look more attractive? It's at the entrance of our community from Highway 31. So we'd like to have them take a look at that. And, again, as a tenant I mean these are conditions that the owner of the property needs to take a look at.

Tom Terwall:

You can convey that back to the property owner, correct?

Mike Gehrke:

I certainly can.

Don Hackbarth:

Is this the Canadian Central Railroad?

Jean Werbie-Harris:

Union Pacific.

Don Hackbarth:

Union Pacific, so it's not Canadian?

Mike Gehrke:

No.

Don Hackbarth:

Remember a couple years ago we had trouble getting that railroad track across 31 fixed up because it was so bumpy and it took all that time. We had to twist their arm and bend their leg and finally under great duress they finally fixed it up. Are we going to run into any kind of problem with them again with this?

Jean Werbie-Harris:

I don't know if they are.

Tom Terwall:

Their solution to the Bain Station crossing was to close Bain Station Road.

Don Hackbarth:

I know. It's just foolish. So I hope we don't run into that problem again.

Jean Werbie-Harris:

Peggy brings up a good point that the owner has to sign the conditional use permit on behalf of—the tenant certainly can sign it, but the owner has to sign. And I think they should be a good steward in our community.

John Braig:

I'd move approval subject to the applicant satisfying the staff as to improving the site.

Tom Terwall:

Is there a second?

Don Hackbarth:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY DON HACKBARTH TO APPROVE THE SITE AND OPERATIONAL PLAN SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM INCLUDING—**

Wayne Koessl:

Mr. Chairman, on the question I don't think the applicant is going to be able to get the UP Railroad to improve the site.

John Braig:

We have to give them a chance at it first. If UP wants to rent the land to them and wants the income from it they've got to spend some money to get it.

Tom Terwall:

The owner of the property has to sign the site and operational plan, right?

Jean Werbie-Harris:

Conditional use permit.

Tom Terwall:

Whoever owns it has got to sign it. All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Thank you.

**H. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATIONAL PLAN for the request of Pamela Stuckman of Three Threads Consulting, agent for Open Range Communications, Inc, for a WIMAX Broadband Internet Coverage site to be installed on the existing tower owned by Tower Co. at 10415 Sheridan Road.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, this is a conditional use permit including site and operational plans at the request of Pamela Stuckman for Three Threads Consulting, agent for Open Range Communications, Inc, for a WIMAX Broadband Internet Coverage site to be installed on the existing tower owned by Tower Co. at 10415 Sheridan Road.

This is a public hearing for a conditional use permit. As a part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request as presented and described below:

Findings of Fact

1. Pamela Stuckman of Three Threads Consulting agent for Open Range Communications, Inc, is requesting a Conditional Use Permit including Site and Operational Plans for a WIMAX Broadband Internet Coverage site to be installed on the existing tower owned by Tower Co. on the property located at 10415 Sheridan Road that is owned by the Village of Pleasant Prairie.
2. The subject property is identified as Lot 1 of CSM 2449 and located in a part of the U.S. Public Land Survey Section 30, Township 1 North, Range 23 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 93-4-123-301-0901.

3. The current zoning of the property is I-1, Institutional District and pursuant to Section 420-126 D (21), the commercial communication structure and associated equipment requires a Conditional Use Permit.
4. Open Range provides simple SM wireless broadband service - high speed Internet, WiFi and unlimited local and long distance Digital Phone Service to the U.S., Canada, and Puerto Rico.
5. The following equipment will be installed within an existing 6 foot high chain-link fence at the base of the existing tower and on the existing tower.
  - Monopole Mounted Equipment Platform and Configuration with protective ice shield over equipment
  - X2 external radios installed on the H-Frame
  - POWER to be brought from the existing H-Frame to the equipment.
  - 100 Amp / 240 Volt Service
  - X3 WIMAX Panel Antennas installed at 169'
  - X4 .48" coax cables per antenna
  - X2 ODU's (amplifiers) installed at antenna level for each panel antenna
  - X2 Microwave antennas installed at 169'
  - X1 .48" coax cable per MW
  - X1 RFU (amplifier) installed behind each MW
  - The coax cables will be installed within the monopole
  - The GPS antenna (very small) is generally installed on the ice bridge on the ground but may be installed at antenna level to get better signal if blockages at ground level.
6. The existing tower, owned by TowerCo is located on property owned by the Village. Prior to obtaining required permits and this approval becoming effective, Open Range shall enter into a ground lease/access agreement with the Village or the existing lease with TowerCo shall be amended. The Village staff has met with the petitioner regarding this issue; however, no lease or amended lease has been prepared for consideration by the Village Board.

In fact, pursuant to our telephone conversation today with Pamela Stuckman, it was indicated to us that her attorneys have reviewed the original ground lease with the Village, and it's their interpretation that they are not obligated to do anything with respect to the amendment of that lease or to compensate the Village in any way because they are intending to put these antennas on the tower and not on the ground space. In our conversations, Mike Pollocoff, Tom Shircel and I were on the phone with Ms. Stuckman, we indicated that we have not yet had the opportunity to discuss this matter with our Village attorney, and we would like the opportunity for our attorney to review the ground lease at length and to review all the documents associated with that and to give us a legal opinion regarding that particular matter.

What the attorney did mention to us is that the original tower is part of a site and operational plan approval specifically granted by the Plan Commission pursuant to very

specific plans and details and antennas and so on and so forth. So they must have site and operational plan amended approval in order to move forward with any type of conditional use permit. So we do need to work with them and find to see if there's any common ground or if this is their position. So I'm going to continue reading through this, but they are seeking a conditional approval this evening, and the Village Administrator who was not able to be with us this evening, I'm not sure if he was going to make it tonight, has indicated that he recommends that this item be tabled until our attorney gets an opportunity to take a look at that and we have that conversation with them. Their attorney didn't get back to them until very late, so we just found this information out by noon today.

7. The Communication Act of 1934 is the Federal regulation, which governs the telecommunications industry; Section 322 of said Act, as amended by subsection (6)(iv) of the Telecommunications Act of 1996, provides guidelines to state and local governments regarding the siting of antenna facilities. One such guideline governs what information may be considered during the zoning approval process. According to the Village counsel, Section 704 of the 1996 Telecommunications Act prohibits the state/local units of government from denying a wireless communication company's request for local zoning approval based upon environmental or health effects or concerns if the wireless communication company complies with the regulations on RF emissions set by the FCC.
8. The petitioner and all of the abutting and adjacent property owners within 300 feet of the site were notified via U.S. Mail on May 17, 2010. Notices were published in the *Kenosha News* on May 31 and June 7, 2010.
9. The Village emailed the petitioner a copy of this staff report on June 11, 2010.
10. According to the Village Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials that the project as planned, will not violate the intent and purpose of all Village Ordinance, nor shall it violate any Federal, State and County regulations, and it shall meet the minimum standards for granting of a Conditional Use Permit.
11. According to the Village's Zoning Ordinance, the Plan Commission shall not approve a Site and Operational Plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable Federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, noise, storm water management, streets and highways and fire protection.

With that I'd like to continue the public hearing. The petitioners are here. They came from a distance so they would like an opportunity to present.

Tom Terwall:

Was your statement that the Village Administrator is requesting that we table this matter.

Jean Werbie-Harris:

He is requesting that.

Tom Terwall:

Then why would we even continue the public hearing.

Jean Werbie-Harris:

We've opened it because I made the presentation and my comments are a part of the public hearing record. And the petitioners have come a distance so it would be appropriate—

Tom Terwall:

If you'd like to add something you're welcome to do that, but understand this will be tabled.

Pam Stuckman:

Hi, I'm Pam Stuckman and I'm with SCC Wireless at 635 Remington Road in Schaumburg, Illinois. The only thing that I would like to add is because we—of course, Open Range wants to be able to resolve this issue as quickly as possible and are very anxious to work with the Village understanding that the Village owns the property. As a requirement of the conditional use permit the property owner has to sign the conditional use permit in order for it to take effect, which because the Village owns the property they would have to sign it anyway before it would take effect. We're hoping because this particular issue is not a zoning issue, it's really a land use issue or, I'm sorry, a land ownership issue in regard to the lease hold with TowerCo, our recommendation, again, is that TowerCo's attorney work with the Village's attorney and get that particular issue resolved. But we're hoping that because of this that you might consider approving the conditional use permit based on the fact that as the property owner the Village would have to sign that conditional use permit. And by that point they wouldn't do so until we had resolved the land ownership issue.

Jim Bandura:

You have a valid point there, however it's still up to this Commission to have all the facts presented.

Pam Stuckman:

Absolutely.



Jim Bandura:

So I'm still looking to table it.

Don Hackbarth:

With the other tower that we just approved what's the arrangement there?

Jean Werbie-Harris:

I can't tell you what the arrangement is because the landowner is the UP Railway and in this case it's the Village of Pleasant Prairie. And we've conditioned all of our cellular arrangements and leases on a different set of standards. I don't know specifically what agreements or arrangements they have made with a separate property owner.

Don Hackbarth:

Well, every time we approve a tower, like you said, in all the conditions we're very specific on antennas and things that are hung on that pole. And I'm sure you're going to acquire more income because you're putting more units on it. I just don't think it's fair that we shouldn't come up with some kind of compensation.

Jean Werbie-Harris:

Again, they have asked us to re-review our leases, our ground lease with them, and we would like that opportunity to be able to do that and report back to them and have a recommendation.

Don Hackbarth:

With that in mind I'd move that we table this.

Judy Juliana:

Second.

John Braig:

I'd like to amend that to table it until such time as the staff deems it appropriate to bring it before the Commission again.

Jean Werbie-Harris:

We do need to have a specific date or I do need to re-notice it. So we can say the specific date of July 12<sup>th</sup> and then if it's not ready we can leave it on the table, but this way—

Don Hackbarth:

Are you comfortable with July 12<sup>th</sup>?

Jean Werbie-Harris:

Without Mike being here I'd have to say yes or no I'm not sure, but at least it gives them some direction as to affording us some time to take a look at it. But that way the notices are already out there and we can continue the public hearing to that date.

Don Hackbarth:

I would amend to table it to July 12<sup>th</sup>.

Judy Juliana:

Second.

Tom Terwall:

**MOVED BY DON HACKBARTH AND SECONDED BY JUDY JULIANA TO TABLE THIS MATTER UNTIL THE JULY 12<sup>TH</sup> MEETING. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**I. PUBLIC HEARING AND CONSIDERATION OF A AMENDMENT TO THE VILLAGE LAND DIVISION AND DEVELOPMENT CONTROL ORDINANCE to amend Section 395-70 related required street improvements.**

Tom Terwall:

There's a request to table this, Jean, is that correct?

Jean Werbie-Harris:

Yes, until July 12<sup>th</sup>.

John Braig:

So moved.

Wayne Koessl:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY WAYNE KOESSL TO TABLE ITEM I UNTIL THE JULY 12<sup>TH</sup> MEETING. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**J. Consider Plan Commission Resolution #10-10 to initiate a zoning text amendment related creating regulations for Bed and Breakfast establishments in residential and agricultural districts.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, Resolution 10-10 is a resolution to initiate a zoning text amendment. The Plan Commission may initiate a petition for an amendment of the zoning ordinance which may include the rezoning of property, change in zoning district boundaries or changes in the text of the ordinance.

Chapter DHS 197 of the Wisconsin Administrative Code sets forth rules for bed and breakfast establishments. A bed and breakfast establishment is defined by DHS 197 as any place of lodging that provides eight or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than ten nights in a 12-month period, is the owners residence, is occupied by the owner at the time of rental, and in which the only meal served to the desk is breakfast. Bed and breakfast establishments are most commonly found in residential areas since the property owner is required to reside within the establishment.

The Village zoning ordinance currently does not allow for bed and breakfast establishments, and the Village has recently received inquiries to consider ordinance amendments to consider bed and breakfast establishments to be allowed with limitations and as a conditional use permit within single family or agricultural districts. The Plan Commission by this resolution is initiating and petitioning to evaluate and provide regulations for bed and breakfast establishments in the residential and agricultural districts of the Village. These proposed changes in the zoning text are hereby being referred to the Village staff for study and recommendation. The Plan Commission is not by this resolution making any determination regarding the merits of the proposed changes in the text, but is only initiating the process by which the proposed changes in the text can be

promptly evaluated and a public hearing can be set to consider these changes. The staff recommends approval as presented.

John Braig:

So moved.

Don Hackbarth:

Quick question. Is there somebody already interested in opening a bed and breakfast in the Village, is that what it is?

Jean Werbie-Harris:

Three.

Don Hackbarth:

Do we know where?

Jean Werbie-Harris:

Do I know where. Yes, I know where.

Jim Bandura:

Jean, the ordinance what about like happy hour when they come back, when the transients come back and want to relax. Sometimes they put out food and beverages of your choice.

Jean Werbie-Harris:

It's not considered a meal. And they're coming to somebody's home. I mean we're reviewing. Again, this is the definition of the maximum number of guests and so on and so forth. Peggy and I have been working on regulations. I actually started drafting regulations 20 years ago for these but it's just never been an issue in this community. But now more and more people are looking to own their own businesses and to try different opportunities. We do have some unique housing in the Village at certain locations, and it might be an opportunity for the Village to attract some more tourism to the area.

Don Hackbarth:

Move approval.

Judy Juliana:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY JUDY JULIANA TO APPROVE THE RESOLUTION. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**8. ADJOURN.**

John Braig:

So moved.

Larry Zarletti:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.