

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
6:00 P.M.
September 10, 2012**

A regular meeting for the Pleasant Prairie Plan Commission convened at 6:00 p.m. on September 10, 2012. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessl; Andrea Rode (Alternate #2) ; Jim Bandura; John Braig; Larry Zarletti; and Judy Juliana (Alternate #1) . Also in attendance were Mike Pollocoff, Village Administrator; Tom Shircel, Assistant Village Administrator; Jean Werbie-Harris, Community Development Director; and Peggy Herrick, Assistant Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER THE MINUTES OF THE AUGUST 13, 2012 PLAN COMMISSION MEETING.**

John Braig:

Move approval as presented in written form.

Don Hackbarth:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY DON HACKBARTH TO APPROVE THE MINUTES OF THE AUGUST 13, 2012 PLAN COMMISSION MEETING AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? Motion carries.

- 4. CORRESPONDENCE.**
- 5. CITIZEN COMMENTS.**

Tom Terwall:

If any of you folks in the audience wish to speak, now would be your opportunity to do so. We would ask that you step to the microphone and begin by giving us your name and address. Is there anybody wishing to speak?

6. NEW BUSINESS.

Tom Terwall:

Jean, you have a comment to make on Items A, B and C as I understand?

Jean Werbie-Harris:

Yes, Mr. Chairman and members of the Plan Commission, Items A, B and C have been recommended to be tabled. Both the property owner and the company petitioner are requesting that these items be tabled and the public hearings be held on October 8, 2012. We have a little bit of information we're trying to put together yet for those hearings. And so everybody will be ready for October 8th, and new notices have been sent for the updated info.

Wayne Koessler:

Mr. Chairman, I move we table A, B and C until October 8th.

Michael Serpe:

Second.

Tom Terwall:

IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY MIKE SERPE TO TABLE ITEMS A, B AND C UNTIL THE OCTOBER 8TH MEETING OF THE PLEASANT PRAIRIE PLAN COMMISSION. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

John Braig:

Question. Jean, how far south of Bain Station Road is this parcel?

Jean Werbie-Harris:

As shown on the screen it's the property that's currently owned by WisPark, LLC. It's adjacent to the cemetery, and then it runs all the way to the south as you can see just north of the waterway, just west of the power plant.

Don Hackbarth:

Is this the place where they're razing or leveling the dirt?

Tom Terwall:

No.

Jean Werbie-Harris:

They're actually just stockpiling some fill there. They are not doing any grading work or anything, just stockpiling at this point.

John Braig:

But is that the site?

Jean Werbie-Harris:

Yes.

John Braig:

Okay, I got it, thank you.

D. PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #12-12 FOR AMENDMENTS TO THE COMPREHENSIVE PLAN: to consider the adoption of the Amendment to the Regional Water Quality Management Plan Greater Kenosha Area adopted by the Southeastern Wisconsin Regional Planning Commission in June 2012 as a component of the Village's Comprehensive Plan and to create Section 390-6 F to specifically list this Plan as a component of the Village's Comprehensive Plan. In addition, to add a notation to the following Maps within the Comprehensive Plan to reference the adoption of said amendment: 1) Map 5.1 entitled "2010 Pleasant Prairie Sewer Utility District and Lake Michigan Sewer Utility District Boundaries"; 2) Map 5.2 entitled "Detailed Adopted Sanitary Sewer Service Areas within the Pleasant Prairie Sewer Utility District"; and 3) Map 5.3 entitled "Generalized Adopted Sanitary Sewer Service Areas and Existing Areas Served by Sewer".

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, this is a presentation for a public hearing to amend the Village's Comprehensive Plan in order to consider the adoption of the amendment to

the Regional Water Quality Management Plan Greater Kenosha Area adopted by SEWRPC in June of 2012 as a component of the Village's Comprehensive Plan as well as to specifically list this plan as a component of our Comprehensive Plan. In addition, there will be notations on the following maps that we'll be showing to you that reference the adoption of the amendment including 5.1 entitled 2010 Pleasant Prairie Sewer Utility District and Lake Michigan Sewer Utility District Boundaries; Map 5.2 entitled Detailed Adopted Sanitary Sewer Service Areas within the Pleasant Prairie Sewer Utility District; and Map 5.3 entitled Generalized Adopted Sanitary Sewer Service Areas and Existing Areas Served by Sewer.

You have also before you a copy of a resolution which is 12-12 which actually describes these amendments. Specifically pursuant to the statutes SEWRPC at a meeting originally adopted a Regional Water Quality Management Plan for Southeast Wisconsin 2000. They have since adopted an amendment to the Regional Water Quality Service Plan, and that was entitled 106, Sanitary Sewer Service Area for the City of Kenosha and the Environs, Kenosha County, Wisconsin, and that was done in 1985. And then by letter dated in February of 2012 the Kenosha Water Utility requested that SEWRPC again amend the plan and amend the sanitary sewer service area to include some lands located outside of the currently adopted sewer service area.

The proposed amendment is included this evening as part of our amendment as well. In response to that SEWRPC has, in fact, adopted the amendments. The slides and your packets identify the areas in Pleasant Prairie that have been added to the greater Kenosha sanitary sewer service area. As you can see, these are the areas that are west of the interstate for the Uline property. Again, it adds kind of that additional area west of the Uline main building. So it's area A and area B. It's hard to see a little bit, because one area is actually in the City of Kenosha north of Highway 50 adjacent to I-94. And the other area is that area west of where the current Uline facility is located.

Again, as part of our Comprehensive Plan update we have to amend and include these plans as part of our comprehensive plan, and that is the whole purpose of our public hearing this evening is to include these updated maps and plans as part of our Comprehensive Plan. This is a matter for public hearing. And attached also in the information is actually the written narrative and the approval documentation from SEWRPC for these amendments.

As I mentioned, generally the amendments that are shown for specifically us, the Map 5.1 and 5.2 what we're doing is we're adding basically a paragraph that says refer to the amendment to the Regional Water Quality Management Plan for the greater Kenosha area as adopted on such and such a date to show the amended boundary of the Pleasant Prairie District. We decided not to go through the plan and put in a lot of extra narrative but basically just to amend the referenced three maps, and then these will be exhibits or additional attachments that we will have for the resolution and for the Village files.

Tom Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this matter? Anybody wishing to speak? Hearing none I'll close the public hearing and open it to comments and questions from Commissioners and staff.

Michael Serpe:

I'd move approval of Resolution 12-12.

Wayne Koessl:

Second.

Tom Terwall:

IT'S BEEN MOVED BY MIKE SERPE AND SECONDED BY WAYNE KOESSL TO APPROVE RESOLUTION 12-12 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.

E. PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO CONDITIONAL USE PERMIT #12-05 (including Site and Operational plans) for the request of William Faber, agent for Skyfield Partners, LLC, agent, representing AT&T Mobility for the approval of an amendment to Conditional Use Permit #12-05 including Site and Operational Plans to include the installation of an additional microwave dish antenna to be mounted on the existing tower at 140 feet as part of the antennas upgrade of the existing cell tower located at 8851 Green Bay Road on property owned by Uttech Tower Land LLC, as approved by the Plan Commission on June 11, 2012.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, this is a public hearing in consideration of an amendment to a conditional use permit 12-05 which includes site and operational plans at the request of William Faber, agent for Skyfield Partners, LLC, agent, representing AT&T Mobility for the approval of an amendment to conditional use permit #12-05 including site and operational plans to include the installation of an additional microwave dish antenna to be mounted on the existing tower at 140 feet as part of the antenna's upgrade of the existing cell tower located at 8851 Green Bay Road on property owned by Uttech Tower Land LLC, and as originally approved by the Plan Commission on June 11, 2012.

As this is a public hearing and it's a conditional use, as part of the public hearing comments and as part of the hearing record, the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request, and they're presented and described below. And I'll read them as part of the public record.

Findings of Fact

1. AT&T Mobility is requesting to amend conditional use permit #12-05 including site and operational Plans as approved by the Plan Commission on June 11, 2012 to include the installation of an additional microwave dish antenna to be mounted on the existing tower at 140 feet as part of the antennas upgrade of the existing cell tower which is located at 8851 Green Bay Road on property owned by Uttech Tower Land LLC as provided in Exhibit 1.
2. On June 11, 2012, the Plan Commission approved conditional use permit #12-05 including site and operational plans for AT&T Mobility to remove six existing older model panel antennas and add three new LTE/4G panel antennas; to add three new remote radio units on the same bracket as the new antennas; and to install new fiber optic cable into the existing equipment shelter for streaming large amounts of data that will require a new fiber slack box to be placed on the existing ice bridge to store the extra fiber cable; and to install a new GPS antenna for the new LTE system on the existing ice bridge. This is provided as Exhibits 2 and 3.
3. The subject property is located in a part of the Southwest One-Quarter of U.S. Public Land Survey Section 15, Township 1 North, Range 22 East of the Fourth Principal Meridian, lying and being in the Village of Pleasant Prairie, Kenosha County, Wisconsin and further identified as Tax Parcel Number 92-4-122-153-0020.
4. The area of the subject property where the commercial communication structure is located is zoned I-1, Institutional District, and a portion of the property near the structure site is located within the 100-year floodplain. A commercial communication structure and associated equipment and any modifications are allowed with approval of a conditional use permit in the I-1 District.
5. The Communication Act of 1934 is the federal regulation, which governs the telecommunications industry. There are guidelines that govern what information may be considered as part of the zoning approval process. That is, as long as the antenna facility complies with emissions standards established by the FCC it's considered that there are no health or safety risks posed by the equipment. Therefore, local zoning authorities may not directly or indirectly consider health and safety issues during the zoning process when considering a telecommunications facility when it falls under this section.
6. The petitioner and all of the abutting and adjacent property owners within 300 feet were notified via U.S. Mail on August 23, 2012 regarding this public hearing for the proposed amendment. Notices were published in the *Kenosha News* on August 27, and September 3, 2012.
7. The Village emailed the petitioner a copy of this staff report on September 7, 2012.
8. 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, as well as the information presented at the hearing tonight, 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. In addition, the

Plan Commission shall not approve any site and operational plan application without finding in the decision that the application, coupled with the satisfactions of any conditions of approval, that they will comply with all applicable Village ordinance requirements and all other applicable federal, state or local requirements regarding this project for the land.

With that I'd like to continue the public hearing. Again, the Village staff findings, conclusions and recommendations would be all included as part of this public record.

Tom Terwall:

Is there anybody wishing to speak on this matter? Yes, sir? We need your name and address to begin.

William Faber:

My name is William Faber. I'm the site acquisition consultant for AT&T. My address is 738 West Randall in Chicago, Illinois. I guess I would just simply like to confirm that all the information provided adequately and accurately represents the proposed project. And if there are any other questions from the Board I would be happy to answer them.

Tom Terwall:

Thank you. Anybody else wishing to speak? Anybody else? Hearing none, I'll close the public hearing and open it up to comments and questions from Commissioners and staff.

John Braig:

I'm looking at the Village staff findings, Item E. There is no existing identified hazard. When we put something that high in the air there is something of a hazard. What does the Village do to satisfy that this tower is capable of accepting additional load?

Jean Werbie-Harris:

The petitioner needs to provide a copy of the structural analysis to verify that any additional antennas that are added to the tower can support the additional load. In fact, condition number 4 of the conditions of approval it talks – I'm sorry? Number 2? A revised structural analysis shall be provided to the Village for review. Any improvements to the tower shall be required to ensure that the new equipment can be supported on the existing tower. Actually, there are a couple of comments that all address those concerns, and they will need to address those before –

John Braig:

Before actual construction.

Jean Werbie-Harris:

– they can add additional antennas on the tower.

John Braig:

And is that reviewed by the Village Engineer?

Jean Werbie-Harris:

Yes, it is.

John Braig:

I guess that's okay. That should almost be included then as a comment under the Village staff findings.

Jean Werbie-Harris:

It will be as part of our discussion this evening, and we'll make sure it is in the future.

John Braig:

Okay, I'm happy.

Tom Terwall:

Anybody else?

Don Hackbarth:

You may have done this before, but comment number 5, findings of fact, what is the reasoning behind we can't consider any health or safety risks by the equipment? I would like that explained again.

Jean Werbie-Harris:

It's a federal law. This was a paragraph that was prepared by the Village's attorney and has been updated by our other Village attorney. And basically when federal laws – our local ordinances cannot supersede federal law, cases or case law. So I put this in here so that it's very clear that local zoning authorities for health related reasons can't disapprove of a cell tower. There might be other environmental or locational reasons that are within the authority of the Village Plan Commission that we consider –

Don Hackbarth:

Doesn't that kind of handcuff us?

Jean Werbie-Harris:

Well, it's out of our jurisdiction and authority.

Tom Terwall:

The FCC regulations address that. I recall we went through this when WLIP built the new station. There were people that lived on the east side of Green Bay Road that they didn't want that tower there because it was going to cause them cancer. It hasn't happened yet.

John Braig:

It's my guess that the feds wanted to keep it out of the hands of amateurs.

Tom Terwall:

Anybody else? If not, I'll entertain a motion.

Don Hackbarth:

So moved.

John Braig:

Second.

Tom Terwall:

IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY JOHN BRAIG TO APPROVE THE AMENDMENT TO CONDITIONAL USE PERMIT 12-05 INCLUDING A SITE AND OPERATIONAL PLAN SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM INCLUDING THE COMMENTS MADE TONIGHT. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Thank you.

F. Consider the discontinuance of a portion of 120th Avenue (West Frontage Road) north of 104th Street which has been relocated as a part of the IH-94 reconstruction.

Jean Werbie-Harris:

Mr. Chairman, I would ask that Items F and G be considered at the same time. I'm going to be referring to both of them as part of my presentation.

John Braig:

So moved.

Larry Zarletti:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY LARRY ZARLETTI TO COMBINE ITEMS F AND G FOR DISCUSSION PURPOSES, BUT TWO SEPARATE MOTIONS WILL BE REQUIRED. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

G. Consider approval of the Certified Survey Map for KABA Development LLC, owner, to dedicate a portion of 120th Avenue (West Frontage Road) north of 104th Street which was relocated as a part of the IH-94 reconstruction.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, the next two items are interrelated. The first item is to consider the discontinuance of a portion of 120th Avenue, the West Frontage Road, north of 104th Street which has been relocated as a part of the I-94 reconstruction project.

And the second item is to consider approval of the certified survey map for KABA Development LLC, owner, to dedicate a portion of 120th Avenue for the West Frontage Road north of 104th Street which was relocated as a part of the I-94 reconstruction.

On August 6, 2012 the Village Board approved Resolution #12-24 to initiate the discontinuance of a portion of 120th Avenue, the West Frontage Road right-of-way, north of 104th Street which has been designated as a public right-of-way. This portion of 120th Avenue West Frontage Road has been reconstructed as part of the I-94 reconstruction project, and the existing right-of-way is no longer required for roadway purposes. Municipal sanitary sewer and water infrastructure that was constructed in the right-of-way would remain in an easement that is granted to the Village upon the discontinuance.

On August 24, 2012, all required property owners were notified via regular mail; and the required class 3 notice was published in the *Kenosha News* on August 27, September 3 and September 10, 2012 to notify the public of the public hearing being held by the Village Board on September 17, 2012. Again, the public hearings for discontinuance or vacations of public streets are held by the Village Board. The land on both sides of the proposed street discontinuance is owned by KABA Development LLC. Therefore, upon vacation of this portion of 120th Avenue the land will be transferred to KABA Development LLC.

In addition to the proposed discontinuance of this portion of the street the Village and KABA are requesting approval of a certified survey map that will dedicate the reconstructed 120th Avenue. The area to the north and west of the reconstructed 120th Avenue is identified as Lot 1, and the land to the south and east of the reconstructed 120th Avenue is identified as Lot 2.

Lot 1 is proposed to be 10.69 acres and Lot 2 is proposed to be 29.48 acres. The required easements for the existing sewer and water infrastructure will need to be clearly shown on Lot 2. Prior to the development of Lots 1 and 2, a revised conceptual plan will need to be submitted and amendments to the Planned Development District No. 1 (PDD-1) may be required. Upon review of the conceptual plan amendments to the 2035 Comprehensive Land Use Plan and the Village zoning map also may be required prior to the development of the lots.

And then two other things that I do need to add to the CSM covers the wetland preservation language and floodplain reference language as well, and I will make sure that those two things get on the certified survey map before it goes to the Village Board. With that, the staff recommends approval.

The fact with respect to 120th Avenue that there's been a jurisdictional transfer that has occurred to the Wisconsin Department of Transportation, so one of the other conditions of approval will be that the Secretary of the Department of Transportation for the State of Wisconsin also must approve of this transfer. Since the construction of the roadway is complete, I would think that it's just a formality for the secretary to approve the transfer.

Tom Terwall:

Any comments or questions? Hearing none, I need a motion to recommend approval to the Village Board to consider the discontinuance of a portion of 120th Avenue.

Michael Serpe:

So moved.

Wayne Koessl:

Second.

Tom Terwall:

MOVED BY MIKE SERPE AND SECONDED BY WAYNE KOESSL TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE DISCONTINUANCE OF A PORTION OF THE WEST FRONTAGE ROAD. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. And then we need a motion to send a favorable recommendation to the Village Board to approve the CSM.

Larry Zarletti:

Mr. Chairman, move to approve Item G.

John Braig:

Second.

Tom Terwall:

MOVED BY LARRY ZARLETTI AND SECONDED BY JOHN BRAIG TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CSM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

7. ADJOURN.

John Braig:

Move adjournment.

Michael Serpe:

Second.

Tom Terwall:

All in favor?

Voices:

Aye.

Tom Terwall:

We stand adjourned.