

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
July 23, 2007**

A meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on July 23, 2007. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Andrea Rode; Jim Bandura; John Braig; and Larry Zarletti. Wayne Koessl and Judy Juliana were excused. Also in attendance were Michael Pollocoff, Village Administrator; Jean Werbie, Community Development Director; Peggy Herrick-Asst. Planner/Zoning Administrator and Tom Shircel-Asst. Planner/Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CITIZEN COMMENTS.**

Thomas Terwall:

If you're here for an item that's on the agenda tonight and is listed as a public hearing, we would ask that you hold your comments until the public hearing is held so we can incorporate your comments as an official part of the record. However, if you're here for an item that is not a matter for public hearing or is not on the agenda at all, 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? Anybody wishing to speak?

5. NEW BUSINESS

- A. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT the request of Adam Santa, Plant Manager for the Rehrig Pacific Company, to: 1) Install 2 additional exterior plastic pellet storage silos, 2) Install an exterior cooling fan system, and 3) Construct an interior shredder/grinder room at the existing Rehrig Pacific Company site at 7800 100th Street in the LakeView Corporate Park.**

Tom Shircel:

This is a public hearing and consideration of a conditional use permit. The request is from Adam Santa, Plant Manager for the Rehrig Pacific Company, to: 1) Install 2 additional exterior plastic pellet storage silos, 2) Install an exterior cooling fan system, and 3) Construct an interior shredder/grinder room at the existing Rehrig Pacific Company site.

1. As background information, the Rehrig Pacific Company is an injection molding company which located in the Village in 1995. The company converts virgin plastic pellets into such finished goods as recycle bins, milk crates, beverage cases, etc. The property is currently improved with a 67,609 square foot office, manufacturing, and warehouse building and other associated site improvements. The office space is two stories with each floor occupying approximately 4,000 sq. ft. The overall building height is 30'. The proposed applied for uses will not change the use of this facility.
2. The Rehrig Pacific Company is located at 7800 100th Street in the LakeView Corporate Park and is Tax Parcel Number 92-4-122-214-0106.
3. For this current request, the petitioner is requesting a Conditional Use Permit, including Site and Operational Plans, concerning further improvements at the company. The improvements include:
 - a. The installation of 2 additional exterior plastic pellet storage silos. The silos will be located on the east side of the building, near the rail spur and the existing silo. These silos will be anchored onto a newly constructed reinforced concrete pad. Each silo is 12' in diameter and 60' in height. The concrete pad will be 32' x 15'. Each silo will have required safety signage. The purpose of these silos will be to store virgin plastic pellets that are used in the manufacturing process. All of the plastic material is delivered via railcar and is then vacuum-conveyed into silos. From the silos it is then vacuum-conveyed into the facility for production use.
 - b. The installation of an exterior cooling fan system. The set of exterior cooling tower fans will be located near the existing cooling towers on the east side of the building. These fans will be anchored to a newly constructed concrete pad. The mounted fans will be 4' wide x 40' long and be no more than 15' in height. The concrete pad on which the cooling towers are mounted will be slightly larger. The purpose of these fans is to dissipate heat from the molding process into the atmosphere. The cooling fan process involves a closed loop water system transports heat from the process out to the cooling towers where outside air is drawn through the system and across the water pipes to create a cooling effect. The only thing exhausted by the fans is outside air.
 - c. The construction of an interior shredder/grinder room. The interior grinding room is inside the existing facility. This room will be located along the north wall of the facility and will be approximately 23' x 25' and extend up to the ceiling of the building which is approximately 30 feet high. Construction of the room will be concrete block. It will have one man door, one 8' x 10' overhead door, one 6' x 10' overhead door, and a 5' x 5' opening for a conveyor that will transport product into the room. Rehrig pacific will work with Ahern Fire Protection to ensure that there is the proper number of sprinkler heads and to ensure that there is an adequate fire alarm system in the room. All material will be conveyed into and out of the room so there will be very minimal time spent in the room by employees. The purpose of this room is to dampen the noise from the shredder/grinder system. The shredder/grinder is used to grind up scrap plastic parts so that the plastic can be reused.

4. Conditional Use Standards - The petitioner has provided the information to illustrate compliance with the Conditional Use Standards as follows: According to Rehrig Pacific, all three of the aforementioned proposals will in no way impair adequate supply of light or air to adjacent properties; will not increase fire risk or impede fire lanes or any traffic lanes; will not create any drainage issues; will not create any odors or other problems that will endanger the public health; will not hinder any public services; and will adhere to all Village Ordinances.
5. The current zoning of the property is M-2, Heavy Manufacturing District and the office, manufacturing, and warehouse uses associated with the plastic injection molding use is allowed within the M-2 District with a Conditional Use Permit.
6. Previous Conditional Use Permits - Conditional Use Grant No. 95-012 was approved by the Village Board on September 11, 1995. This Conditional Use Grant allowed the original construction and development of the Rehrig Pacific property.
7. Notices were sent to adjacent property owners via regular mail on July 9, 2007 and notices were published in the *Kenosha News* on July 9 and July 16, 2007.
8. The petitioner was faxed or e-mailed a copy of this memo on or about July 20, 2007.
9. According to Article XVIII of 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 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. In addition, according to Article IX of the Village Zoning Ordinance, the Plan Commission shall not approve any 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 will comply with all other requirements of applicable federal, state or local statutes, regulations, ordinances or other laws relating to land use, buildings, development control, land division, environmental protection, sewer, water, and storm water services, streets and highways and fire protection.

With that, I'll turn it over to the Plan Commission and I believe the applicant is in the audience.

Thomas Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this matter? Is the applicant in attendance? Is there anything you wanted to add?

(Inaudible)

Thomas Terwall:

Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'll open it up to comments and questions from Commissioners and staff and I'll begin. With respect to the grind

that's regrind you're making in that room I assume, correct? Does that then go into a silo or do you feed that right back into the process?

(Inaudible)

Tom Shircel:

You need to approach the microphone, sir.

Doug Machia:

Doug Machia, 4408 8th Avenue, Kenosha, Wisconsin. It could be a couple different things. It could go right to a process, right to a pelletizing machine, or we probably will vacuum convey it into an indoor silo, a 50,000 pound silo that we have currently inside of our facility. So no additional equipment. We already have a grinder right now, it just doesn't have the right size for the larger parts that we'll be making with this bigger machine.

Thomas Terwall:

And I assume you're using more than one formula of plastic, are you not?

Doug Machia:

We are. Well, currently we are not. Currently we're only using high density polyethylene with a certain melt index, and with a couple different products we will be running a polypropylene and also a little bit different variation of the polyethylene. So we'll have three different products. That's why we have the two additional silos for two new materials.

Thomas Terwall:

But in the current operation that regrind can go into any product you're making at this time unless it calls for 100 percent virgin I assume?

Doug Machia:

Depending on the color of the product it potentially could I guess depending on the regrind.

Thomas Terwall:

Now that you're going to be using different formulas now you're going to have to keep the regrind separate, correct?

Doug Machia:

Correct. We've already experienced in doing that with separate colors of the same type of materials. We'll grind up all red cases to try to put the regrind into a red finished product, so really there's no difference between that practice keeping colors separate and then keeping different materials separate.

Thomas Terwall:

Anybody else?

John Braig:

What is immediately north of this parcel?

Doug Machia:

There is a pond immediately north. I believe 35 or 40 feet of our land which is easement or something of that nature that we can't do anything with and then it drops off into a pond.

Thomas Terwall:

In the memo that was supplied to us and a copy sent to you, there's a list of 19 conditions that are conditions for approval. Are you familiar with those?

Doug Machia:

I just actually got to look at those today, and I notice there is quite a bit and there's probably some more questions I'll have once I kind of get through all those things. But we certainly are going to comply by all those things.

Thomas Terwall:

Thank you. If there's no further questions, what's your pleasure?

John Braig:

I would move approval subject to all the conditions as outlined in the staff report.

Jim Bandura:

I'll second.

Thomas Terwall:

IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY JIM BANDURA TO APPROVE THE CONDITIONAL USE PERMIT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM AND BASED ON THE STAFF CONCLUSIONS THAT ARE PRE-REQUISITES TO A CONDITIONAL USE PERMIT. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

Mike Serpe:

Tom, before you start Item B I have to excuse myself on this item agenda. My wife is in real estate and she's in negotiations with Mr. Stanich on a lot for a client so I will be withdrawing from this one.

B. PUBLIC HEARING AND CONSIDERATION OF THE PRELIMINARY PLAT for the request of Mark Eberle P.E. of Nielsen, Madsen & Barber, S.C. agent for the properties generally located east of 63rd Avenue and north of STH 165 for a Preliminary Plat for the proposed Courts of Kensington development which will include 119 single family lots and six (6) outlots.

Jean Werbie:

Mr. Chairman and members of the Plan Commission and the audience, this is a request of Mark Eberle from Nielsen, Madsen & Barber, S.C. who is the agent for the properties that are generally located east of 63rd Avenue and north of Highway 165. It's for a preliminary plat for the proposed Courts of Kensington development. This development will include 199 single family lots and six outlots. The petitioner is requesting to subdivide the approximately 83 acre property for the project to be known as the Courts of Kensington.

Just to give a little bit of background information, the Village's Comprehensive Plan has been reviewed for this project, and in accordance with the this project is located within the Highpoint Neighborhood and it is classified as being within a Lower-Medium Density Residential land use category. This requires that the neighborhood have lots that average between 12,000 and just under 19,000 square feet per lot or per dwelling unit. This allows for areas of the Neighborhood to have larger lots while some areas to have smaller lots. On January 27, 2007, the Plan Commission held a public hearing and approved the Highpoint Neighborhood Plan Alternative #1, and on March 12, 2007, the Plan Commission held a public hearing and approved Highpoint Neighborhood Plan Alternative #2. This project is in compliance with both alternatives that have been approved by the Village.

A total of 0.31 acre of the site has been field delineated as wetlands by Wetland and Waterway Consulting, LLC on February 17, 2005 and was approved by the Wisconsin DNR on April 5, 2005. At the Plan Commission meeting, the developer at one point had decided to possibly pursue a permit to fill the wetland area, but they have since decided not to pursue the filling of the wetlands. Therefore, the lots surrounding the wetland area have been reconfigured and the wetlands are now located in an Outlot as required as part of the May 21, 2007 Conceptual Plan approval.

Under the residential development for this particular project, approximately 83 acres of land are proposed to be developed into 119 single-family lots and 7 Outlots. They intend to do this in two stages. The single family lots range in size from 15,015 square feet which is about a third of an

acre to 45,383 square feet per lot with the average lot size of 18,508 square feet. Each of the lots meets or exceeds the minimum requirements of the R-4 District. The R-4 District requires the lots to be a minimum of 15,000 square feet and 90 feet in road frontage. All lots need to have a minimum of 125 feet in lot depth. The entire development provides for a net density of 1.86 units per net acre.

As I mentioned, there are a number of outlots within this development, six. Outlots 1, 2 and 3, and Peggy is identifying those to you on the slide, they're proposed to be dedicated to the Courts of Kensington Homeowners Association, Inc. for storm water drainage, retention basin, access and maintenance purposes. This is where their storm water is going to be draining to. There will be a fee interest transfer from the developer to the homeowners association as part of the final plat approval.

Outlot 4 is proposed to also be dedicated to the Courts of Kensington Homeowners Association for storm water drainage, retention basin, floodplain protection and preservation, access and maintenance. Again, as part of this project there will be a floodplain boundary adjustment and there will be some floodplain that remains on the property so that floodplain that's remaining will be within Outlot 4.

Outlots 5 and 6 which are along the northern portion of this development site are to be dedicated to the Village of Pleasant Prairie for park and open space, access and maintenance purposes. As we had talked about in previous meetings, this is an area where there's going to be a walking bike trail that eventually will connect Village Green Neighborhood Park with the Highpoint Community Park, so this will run along the northern edge of their site.

In Outlot 7 it's recommended that it be transferred or exchanged between the developer and the Kenosha Unified School District. An Agreement shall be entered into between the developer and KUSD regarding this land area prior to final plat approval. We did have a meeting with Pat Finnemore who is the director of facilities for Kenosha Unified School District, the developer and myself, and we did talk about a possible transfer. There are some things that the Unified has provided to me to review and then we will finalize this with the developer probably over the next month or so.

With respect to this development it's estimated under populations projections with 119 dwelling units that there would be 325 persons that could likely come from this development at full build out. This would equate to 75 school age children or approximately 50 public school age children.

With respect to the zoning map amendments that would be needed for this development, the properties are currently zoned R-4, Urban Single Family Residential District. A zoning map amendment will be required to be submitted at the time that the Final Plat is considered in order to rezone the field delineated wetlands into the C-1 District, and to rezone Outlots 1 through 6 into the PR-1, Park and Recreational District, except for one C-1 area. It's recommended that Outlot 7 be rezoned into the I-1 Institutional District which is the land that's being transferred to Unified. In addition, the petitioner shall request that the shoreland zoning designation be removed from the Village Zoning Map pursuant to a December 26, 2006 determination letter from the Wisconsin D DNR that there is no navigable waterway on the property. With no navigable waterway there's no shoreland jurisdictional boundary.

The 100-year recurrence interval floodplain, and I'll just refer to it as the 100-year floodplain, is also proposed to be amended. We're going to have some significant comments with respect to that discussion, but for zoning purposes the floodplain boundary will need to reflect the amended boundary once the cut and fill analysis is completed and the work is completed by the developer.

Open within the development, approximately 14.6 acres or just under 18 percent of the site is proposed to remain as open space. The open space within the development includes public parkland, wetland, 100-year floodplain and some other open space. And that other open space is essentially adjacent or part of the retention areas on the site.

Under public parkland, the developer is proposing to dedicate Outlots 5 and 6 which is a little over 1.16 acres to the Village for the construction of a bike/walking trail that will connect Village Green to the future Middle School/Highpoint Community Park area. The developer will be responsible for installing and maintaining the bike and walking trail within Outlots 5 and 6 until that expiration of the warranty at which time that maintenance responsibility will transfer to the homeowners association.

With respect to the wetlands, again, there is a small wetland just over 13,000 square feet of the site that's been field delineated as wetlands and that was done by Wetland and Waterway Consulting. Again, the developer has decided not to fill the wetlands so that will be incorporated within the outlot. If for some reason the development does not proceed within five years of that delineation, he will be required to have that wetland redelineated.

Under 100-year floodplain, approximately 9.8 acres of the site is located within the 100-year floodplain. And, as you can see on the slide, it's primarily located in the eastern portion of the site towards the northern corner. No lots shall be located within the 100-year floodplain; therefore, the developer has indicated that a floodplain boundary adjustment will be requested. The location of the 100-year floodplain can be changed pursuant to the Village Zoning Ordinance and approved by the Wisconsin DNR and the Federal Emergency Management Agency or FEMA, and that is provided that an equal volume of storage of floodplain is provided, the same or greater I should say.

The floodplain boundary adjustment is proposing to remove 6.845 acres of floodplain, and it would be from, again, the lots in the northern section, from lots 58 and 59, 75 through 77, 81 through 86, 90 through 93 and 96 through 98, as well as Outlots 3 and 4 and portions of 61st Avenue, 100th Place and Main Street. So you can see this floodplain boundary adjustment is quite significant for this project to move forward. In addition, two small portions of 100-year floodplain on the adjacent property to the east will no longer be considered floodplain once the adjustment is completed.

The developer is not proposing to fill these areas off site but is providing storage capacity for these two areas and the other floodplain proposed to be filled in a pond that will be constructed within Outlot 4. The larger floodplain area off site adjacent to Outlot 4 will remain unchanged and within the 100-year floodplain. Upon completion of the floodplain boundary adjustment approximately 2.98 acres of 100-year floodplain will remain on the property within Outlots 4 and 5 when the adjustment is completed.

The Developer has submitted all of the detailed information regarding the floodplain boundary adjustment to the Village and the Village has forwarded this information onto to SEWRPC.

Since SEWRPC prepared the original computer models for the Des Plaines River Watershed Study, they again will be reviewing this to make sure that it's in conformance with that study that was completed. The plans shall clearly illustrated the area to be added to the floodplain and the area to be removed from the floodplain. So we need to make sure that all future plans as well as the final plat do reflect exactly what is being amended.

The location of the 100 year floodplain is located within Stage 2 of this development. At the beginning I had mentioned there were two stages, a Stage 1 and Stage 2. So the amount of work and all the approvals associated with the floodplain boundary adjustment will be a process that they're going to be going through over the next many months, but it will not prohibit the Stage 1 from moving forward to its final plat. What the developer is going to be seeking is approvals from the Village, the Wisconsin DNR and SEWRPC and then a conditional letter of map revision. Again, that's a CLOMR. They will be looking for that from FEMA before they can actually start doing any of the grading and the filling of the land. Once that work is completed, they'll as built it and then we'll need to have that submitted back to FEMA for the final letter of map revision.

Under other open space, approximately 10.5 acres of other open space located within Outlots 1, 2, 3 and 4. It will remain as open space to be used for adjusting the 100-year floodplain and storm water retention facilities for this development. If for some reason when they finalize the design of the retention basins, and if that final analysis has determined that they need additional storm water, they may need to adjust their lot count or lot area and that will be their responsibility. So we are not going to be reducing any lot sizes to bring them below the minimum requirements of the district, so they'll need to accommodate any storm water additional on their outlots on their site without causing any additional concerns or problems for the zoning.

In addition and not included within the open space is a dedicated landscape easement that's going to be located along Highway 165. It will be approximately 35 feet in width. It will be along lots 1, 6 and 7 and 10 through 17. There will be landscaping and undulating berms in this area. It will be similar to Village Green and some of the other subdivisions that will be long Highway 165.

A detailed tree survey was completed on the site and it was shown on the conceptual plan. Some of you actually went out to the site, walked the site, you got copies of that tree survey. It did indicate that some trees were going to need to be removed as part of the construction of this development. What we need to do at this point is now that we're getting into more refined engineering is we need to take an even closer look, a more realistic look, at all of the trees to determine if they're going to be impacted at all during the construction grading or phasing of the development and putting in the public improvements. And I believe the developer's engineer has been working on that plan for the staff and bring it to the Plan Commission and the Board.

Under public improvements for this project, Highway 165 or 104th Street is classified as a State arterial highway. The Wisconsin DOT is finalizing a Corridor Study for Highway 165, and the staff has actually just received the D sized plans which the staff is going to be presenting shortly that shows how they intend to complete those improvements at some point in the future when warranted. The study did indicate the amount of highway right of way that needs to be dedicated for the future widening of 165. I believe their plat does show that 85 foot wide right of way is going to be required 40 foot from center so they are showing the additional right of way that does

need to be dedicated. The developer has also agreed to pay the costs for their fair share of widening Highway 165. It was done as a per unit cost and the breakdown is estimated at \$1,000 per unit.

With respect to public roadway connections, the Highway 165 project had identified that one of the public roads that exists today in the Village, 63rd Avenue, would be closed and a cul-de-sac would be constructed, and the main entrance from Highway 165 into this vacant development land area would be 62nd Avenue. So as you can see on the slide, the plan is to close 63rd Avenue and open 62nd. 63rd would connect into this development at two connection points, so any of the residents that live on 63rd Avenue on that west side can access their site by going in 62nd Avenue and then crossing to the west at one of those access roads. They can also loop around and then cut through the Meadowlands Subdivision as well to get to Highway 165. The developer will be responsible for removing that access point at 63rd Avenue as well as restoring any right of way that needs to be taken out and restored and ditch line restored as part of that improvement.

In order to efficiently, effectively and safely move traffic into and out of and through this subdivision, we looked briefly at 100th Street which is proposed to be extended from the west; Main Street, a local collector street, is proposed to be developed within this development which will eventually connect this development to the Village Green Heights Development to the east and to Highway 31. So, as you know, Main Street is an important arterial to the Village. It will go from 39th Avenue all the way to Highway 31 and towards the northern end of his project, Main Street, which is a much wider profile. I think it's 120 feet wide which has the boulevard running down through the center. They will be responsible for constructing that portion of Main Street within their development as well as maintaining any boulevards or any other types of improvements that are placed within Main Street.

The second part of this paragraph in my discussion is a roadway connection to 63rd Avenue at 102nd Street is proposed between the existing homes. 100th Place is proposed to connect to the future development to the east. 62nd Avenue is proposed to connect to future development to the north. You can see where 62nd Avenue would eventually be connected to the north. It's on the east side of the future Kenosha Unified School District property.

With respect to roads that get constructed within this development, we do require that temporary cul-de-sacs be constructed at the end of the dead ended roadways that are going to be extended in Stage 2. And we've inserted a paragraph that talks about the fact that the temporary cul-de-sacs do not need to be paved but they do need to be gravel turnarounds to facilitate emergency vehicles, school buses, snow plows, garbage trucks, any other type of large vehicles within that particular development.

The entire development must be serviced by municipal sewer, water and storm sewer at the developer's cost. In particular municipal water will need to be extended into the development from 100th Street and 64th Avenue. It will need to be extended within 63rd Avenue and throughout the development and connected to the municipal water in Highway 165. Municipal water will need to be extended in all roadways to the property boundaries.

With respect to municipal sanitary sewer, it will need to be extended into the development from Highway 165 on the south, 63rd Avenue and 100th Street on the west. Municipal sewer will need to be extended in all roadways to the property boundaries. That's a general statement because the

entire site cannot be serviced by the municipal sewer that's in Highway 165. A portion of the northern area of this project must be serviced by sanitary sewer from the north/northeast through the Stonebridge development. That was on the agenda at the last meeting and we discussed that an easement needed to be brought through that property with sanitary sewer to service the northern portion of this project.

Under municipal storm sewer, it will need to be extended in all roadways to the property boundaries. The storm sewer system will outlet into retention basins located within Outlots 1, 2, 3 and 4. The developer's engineer is continuing to evaluate the development site with respect to storm sewer and storm water management and final engineering plans are being prepared.

With respect to off-site improvements to 63rd Avenue and 100th Street, the developer will be responsible for installing municipal water within 100th Street and 63rd Avenue. A 10-year right-of-recovery may be afforded to the Developer for the installation of the water main improvements installed within those streets if, after holding a special assessment hearing the project is approved by the Village Board. The actual cost for such improvements shall be provided that the final engineering is completed. Water connection to the adjacent residents is not mandatory. The adjacent property owners would be required to pay the special assessment costs only if they choose to connect to the system or if any new homes are constructed or if a land division is proposed, in which case the special assessment will be required to be paid prior to the recording of a certified survey map, a plat, or a new building permit.

A special assessment public hearing for off-site municipal water improvements will need to be scheduled by the Village Board as it relates to these pending costs. And this hearing must be scheduled so that it times with the final plat consideration by the Village Board. It cannot be after the final plat has been approved. So it needs to work its way through a preliminary and final resolution process. We need to have notices sent out, and there's a process it needs to go through, but it does need to tie in with the final plat consideration.

The developer shall also be responsible for improving 63rd Avenue into a full urban profile roadway with curb and gutter. As you know, it currently exists as a rural cross-section similar to the way 64th Avenue existed before Scott Simon with the Meadowlands development improved that particular roadway. In this case they will also need to terminate 63rd Avenue and install an urban profile cul-de-sac at the end. The developer will be required to remove pavement, to grade, top soil, plant and restore the area between 63rd Avenue and Highway 165. The Developer will be responsible for obtaining any sloping easements that may be needed on the west side of 63rd Avenue from the residents. These public improvements shall be installed pursuant to the Village specifications. The developer shall install granular backfill within 63rd Avenue so that the Phase 1 and 2 public improvements can be installed during the first construction year for Phase 1 of improvements in order to minimize any disruption to the residents on the west side of 63rd Avenue.

The Village will not be requiring the developer to improve 100th Street to a full urban profile roadway unless the adjacent property owners request this improvement and agree to pay for special assessment costs for the curb and gutter, storm sewer and roadway improvements. If the owners would like these improvements to be installed, the developer will be required to design and install these improvements only after the Village Board has approved the special assessment hearing, has levied these assessments on the property owners. The Village's Engineer shall

contact the adjacent property owners to discuss this possible project. So this would be a project to finish out or complete the look of that area. It's not being required by the developer, so we're really going to be working with the adjacent property owners to see if they want to pay to complete those improvements on their roadway. They haven't benefitted from them in the past because they don't exist. So this would be, again, curb and gutter and storm sewer-related improvements.

For this project construction access for the installation of public improvements and home construction shall be from 62nd Avenue at Highway 165. No heavy construction equipment shall be using 63rd Avenue as a through road.

Finally, as part of our presentation, we'll have a brief discussion on the fiscal review. A fiscal impact analysis is being completed by the Village staff for the proposed development as it relates to the amount of Village tax dollars collected from the development and the level of Village services required to serve this development. The Staff is aggressively working on completing this analysis. At this point the developer has agreed to donate the parkland in Outlots 5 and 6 for the proposed bike and pedestrian trail and to construct and maintain that trail. The developer has also agreed to a cost sharing agreement and a donation of \$891 per lot to address any shortfalls in funding or fees collected for police, fire, EMS, public works and transportation needs as a direct result of this development. In addition, the developer has agreed to pay for their fair share of widening of Highway 165 to an urban profile as may be required by the Wisconsin DOT which involves bypass lane and other type of lane construction work. And they've also agreed to a future widening improvement of \$1,000 per unit for the future improvements of Highway 165. These donations shall be paid to the Village prior to or at closing with the Village or as agreed to in the development agreement prior to closing.

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

Thomas Terwall:

Does the developer wish to speak at this time?

Mark Eberle:

Mark Eberle, Nielsen, Madsen & Barber, 1339 Washington Avenue, Racine. Here tonight representing Mr. Stanich. Just happy to answer any questions you may have regarding anything Jean has gone over tonight.

Thomas Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this matter? Anybody wishing to speak? Anybody wishing to speak?

Jean Werbie:

It's my understanding that the engineer and maybe the developer met with the residents on 63rd Avenue already. I was wondering if they could share some of that discussion as part of this hearing.

Mark Eberle:

We did have a preliminary meeting last week with the residents along 63rd Avenue and a few of the residents on 100th Street regarding reconstruction of 63rd, the water main, some of the driveway issues, that type of stuff. The meeting went fairly well. I think there were only three families that attended the meeting. But we went pretty much of potential schedule, how quick it could possibly go, how late it could go to reconstruction. We talked about water main, and we need to get out some estimates to them in the near future regarding water main right of recovery costs. We talked about water main laterals and whether or not they will be installed on this project, and we also talked about 100th Avenue there. So I believe there was one resident at the meeting who did front on 100th Avenue there. Did not indicate either way if they were interested or not interested in the reconstruction. But it was a preliminary meeting and it did go well, and we will set up another meeting with them prior to finalizing the design.

Thomas Terwall:

Mark, do the existing homes on 63rd Avenue currently have sewer?

Mark Eberle:

They have sanitary sewer, yes.

Donald Hackbarth:

(Inaudible)

Mark Eberle:

Well, the schedule is really going to be tied to how quick this fall we can get Phase 1 of this project going and whether or not that component of Phase 1, the 63rd Avenue reconstruction can actually get going this fall. It's really kind of a timing thing. It's getting a little late in the season to be tearing that road open, but we do need to work through our engineering plans and that type of stuff before we decide if that's going to happen in the spring or later this year.

Jean Werbie:

If I could follow up on that question from Don, have you had any indication from the DOT as to whether or not they will allow you to have both open at the same time, or will they require you to close before you can open for construction 62nd Avenue.

Mark Eberle:

I'm actually waiting for my letter back from the DOT. I was hoping it would be here today but I should have it any day now regarding our detailed design.

Donald Hackbarth:

(Inaudible)

Mark Eberle:

Yeah, potentially I think the way the thing is really going to phase out is that 63rd Avenue is probably going to be the last part of the construction, so I'm thinking that 62nd and what is the cross street there, Jean, 102nd, all that stuff will be in before we actually get into that 63rd. It's kind of a timing thing. We need to work through that yet but we are working with the DOT.

Jean Werbie:

I just wanted to clarify something else. They need to make sure they have one-half of the right of way dedicated on the north side and that is 80 feet. The right of way on Highway 165 will be 160, so I'm not sure if I said 40 but I meant to say it's 80 from center that would need to be dedicated.

Mark Eberle:

Our plat does reflect the 80.

Thomas Terwall:

To the developer, staff has placed 41 conditions on the approval. Have you seen those?

Doug Stanich:

Yes.

Thomas Terwall:

No misunderstanding or questions?

Doug Stanich:

I don't see anything that should be a problem there. Doug Stanich, 9110 Prairie Village Drive, in Pleasant Prairie.

Donald Hackbarth:

Again, I want to reiterate that I think the job that you've done with the trees is remarkable. That doesn't always happen so I'm personally really pleased with how you've handled that project. I really am.

Doug Stanich:

Thank you very much.

John Braig:

A number of items. Regarding the trees, at our last meeting you indicated basically the trees to be removed are the ones that are in the road right of way. If in planning the outlots there's no trees that are affected? I would hope that would be identified on your proposal.

Doug Stanich:

That's not an issue. There's just a scrub tree line along 63rd.

John Braig:

That's my recollection, too, right.

Doug Stanich:

I think that's the only thing that we have to be concerned with.

John Braig:

Directed to the staff, storm water laterals will be stubbed into each parcel. Will storm sewer connection be mandatory when a house is built?

Jean Werbie:

Yes, the sump pumps need to interconnect to the storm lateral.

John Braig:

And what water shed is this, Lake Michigan or Mississippi?

Jean Werbie:

The Des Plaines.

John Braig:

When the development to the west was developed and 64th Avenue was improved and access to 165 was terminated, there was a failure in relocating or removing the street light, and the Village now is paying a monthly street lighting bill for a street light that lights basically nothing. If 63rd Avenue is to be closed off at 165 without a doubt there's a street light there that will either have to be relocated or removed and that should be addressed with the developer. That's it.

Donald Hackbarth:

I move approval subject to the conditions.

Andrea Rode:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY ANDREA RODE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE PRELIMINARY PLAT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

C. PUBLIC HEARING AND CONSIDERATION OF A PRELIMINARY PLAT for the request of Phil Godin, agent for Sunny Prairie, LLC, owner of the property generally located on the east side of 47th Avenue at approximately 109th Street for the proposed Sunny Prairie development including five (5) single family lots, one (1) outlot.

D. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of Phil Godin, agent for Sunny Prairie, LLC, owner of the property generally located on the east side of 47th Avenue at approximately 109th Street for the proposed Sunny Prairie development to rezone the property from the A-2, General Agricultural District into the following: to rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District, to rezone Lots 1-5 into the R-3, Urban Single Family Residential District, and to rezone Outlots 1 excluding the wetlands into the PR-1, Park and Recreational District. The zoning map amendment also includes the rezoning of the area of the property that is currently zoned A-2, General Agricultural District that has been attached to the adjacent property located

Jean Werbie:

Mr. Chairman and members of the Plan Commission and the audience, this is a request of a preliminary plat at the request of Phil Godin, agent for Sunny Prairie, LLC, owner of the property, generally located on the east side of 47th Avenue at approximately 109th Street. It's for the proposed Sunny Prairie development which is for five single family lots and one outlot.

There's a second item that's on the agenda this even as well that is related to this matter. We will talk about both items, however Item 2 is actually going to be tabled pending some additional information. But it makes logical sequence for us to talk about it and then you'll understand the

situation, and then at the next meeting when some legal descriptions and other things are corrected then you can act on that item at that time.

Thomas Terwall:

However, for Item D if we're going to entertain a motion to table, there won't be any discussion.

Jean Werbie:

But it's interrelated to the staff presentation and you'll be hearing about it anyway.

Thomas Terwall:

That's fine.

Jean Werbie:

So do you want me to present this one as well?

Thomas Terwall:

Yes.

Jean Werbie:

The second item is a consideration of the zoning map amendment for the request of Phil Godin, agent for Sunny Prairie, LLC, owner of the property generally located on the east side of 47th Avenue at approximately 109th. The project is requesting to rezone the property from the A-2, General Agricultural District, into the following: to rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District, to rezone Lots 1-5 into the R-3, Urban Single Family Residential District, and to rezone Outlot 1 excluding the wetlands into the PR-1, Park and Recreational District. The zoning map amendment also includes the rezoning of the area of the property that is currently A-2, General Agricultural District, that has been detached from this property and attached to the property to the south which located at 11009 47th Avenue. That portion of the property would be put into the R-4, Urban Single Family Residential District.

Again, separate actions will be needed on these items but we'll be discussing them at the same time.

The petitioner is requesting to subdivide the 4.7 acre property. He's requesting to create five single family lots and one outlot for a project to be known as Sunny Prairie. The project will have frontage on 47th Avenue on the west and 45th Avenue on the east. An eye-brow type cul-de-sac will be constructed at 47th Avenue and 109th Street to accommodate access to the two lots. The other three will front on 47th.

The proposed Sunny Prairie development is located in the Prairie Lane Neighborhood. Pursuant to the Village Comprehensive Plan, the Prairie Lane Neighborhood is classified as being within the Low Density Residential land use category wherein the average lot area within the

neighborhood is 19,000 square feet or more per dwelling unit. On November 6, 2006, the Village Board conditionally approved the Conceptual Plan for the proposed Sunny Prairie Subdivision.

Under residential development, 4.7 acres of land is proposed to be developed into five lots and one outlot. The Preliminary Plat currently shows the single family lots range in size from 19,123 square feet to 39,578 square feet with the average lot size of 29,899 square feet. All of the lots need to be a minimum of 20,000 square feet with 100 feet of road frontage unless they're on a cul-de-sac or curve in order to meet the R-3 minimum. So one of the things that I had mentioned previously is that one of the lots, Lot 5, is no longer based on some adjustments made due to storm water management no longer meets the minimum 20,000 square foot minimum. So they will need to make an adjustment of their lots and their storm water management basins in order to accommodate. It's not significant in that it's a very small area, but it is significant because it does affect the zoning and the legal descriptions that were presented as part of their application. So they will need to make an adjustment in order to meet the minimums for all lots before a preliminary plat can be finally approved.

A lot line adjustment was also recently recorded wherein approximately 3,049 square feet was transferred from this property to the land to the south. This is the area that is proposed to be put into the R-4, Urban Single Family Residential District, in order to be compatible with the adjacent lands to the south. The development provides for a net density of 1.26 units per net acre.

Under population projections for this development, school age children between the ages of 5 and 19 make up approximately 23 percent of this population. Therefore, as currently shown with five lots, it's projected that there will be 14 persons added to the population, three school age children and two public school age children at full build out.

Under open space within the development, approximately one acre or 25 percent of the entire site is proposed to remain in open space. And this open space includes wetlands, woodlands and retention area and other open space.

Under wetlands, a total of .59 acre or just over 25,000 square feet of the site has been field delineated as wetlands by SEWRPC and that was done on August 3, 2006. This area of wetlands needs to be identified as dedicated wetland preservation and protection, access and maintenance easement area. The field delineated wetlands will be rezoned into the C-1, Lowland Resource Conservancy District.

Under woodlands, the existing trees greater than ten inches have been identified on the property. The trees are located adjacent to 47th Avenue and along the south property line. None of these trees are proposed to be removed. The tree on Lot 3 is located within a tree preservation and protection, access and maintenance easements, and the trees along 47th Avenue are located within the right-of-way. The tree preservation easements shall be legally described on the Plat. The developer has included some provisions in his declarations to preserve these particular trees.

One of the things I'd like to mention in reviewing the landscaping plan is that they've identified some additional trees along 47th Avenue and 45th Avenue, and I think that we might need to take a closer look to see if it makes sense to plant the trees where they're identified, because we still need to make sure that we've got potential for driveways to come in off of 47th Avenue. So we'll need to make sure we've got driveway locations, and then if there's opportunity in addition to

what we have there as a tree line to plant those trees, I think we'll need to look at that probably out in the field to see if it still makes sense, or if there's some brush or scrub that could be removed and larger trees planted we'll have to take a look at that in more detail.

Under other open space, .54 acre of other open space is located within Outlot 1, and that will remain as open space. A portion of this Outlot will be used for storm water retention purposes to serve the development. The developer's engineer has evaluated the development site, based on actual field conditions and now has presented a more formalized storm water management facility plan for the Village to review and approve. Again, as I was mentioning, the developer's engineer has expanded the storm water area and when that was done it minimized one of the lots. So they'll need to take another look to see if they can make a little bit of an adjustment the other way because their lots adjacent to 47th Avenue are sufficiently deep that they might be able to take some of the area from those lots and still maintain five lots within the development. In addition, and not included in the open space acreage above, is the required dedicated 35 foot landscape, access and maintenance easement area adjacent to 47th Avenue.

Outlot 1 is proposed to be dedicated or transferred to the Homeowner's Association. The Outlot shall be labeled as Dedicated by the Developer to the Homeowner's Association for Open Space, Storm Water Retention, Sanitary Sewer, Access and Maintenance Purposes. There is also a wetland within Outlot 1 which will need to be identified for preservation.

Again, with respect to the zoning map amendment, the property is currently zoned A-2, General Agricultural District. The properties to the north, east and south are identified as the Whispering Knoll and Mission Hills Subdivisions. These are both zoned R-3, and it's identified that this subdivision also be identified as the R-3 District, minimum 20,000 square foot per lot. The wetlands will be placed into the C-1, Lowland Resource Conservancy District, and then that small segment that was detached previously is proposed to go into the R-4 District.

As I mentioned previously, the legal description of the PR-1 District and Lot 5 needs to be adjusted and we do need to get some corrected legals, so the staff will be recommending that the zoning map amendment for this project be tabled and that glitch be corrected, and that zoning map amendment can be brought forth at the time that the final plat is considered by the Plan Commission and the Board.

Under public improvements, no additional right of way will be required to be dedicated on 47th Avenue and an eye-brow type cul-de-sac will be constructed on 45th Avenue and 109th Street as shown on the plat. The entire development shall be serviced by municipal sewer, water and storm sewer.

Municipal water will need to be extended south in 47th Avenue to the south property boundary line of Lot 3. The water main exists in 45th Avenue and 109th Street. Granular backfill will need to be used for the water main installation due to the close proximity of the water main placement to the existing 47th Avenue pavement. The developer will be financially responsible for any repairs or damaged pavement in 47th Avenue during the construction of that water main.

Under sanitary sewer, it will need to be extended from the existing sewer located within 45th Avenue and 109th Street through an easement within Outlot 1 to service Lots 1, 2 and 3. As you can see on the slide, that's a little unusual, but because of the proximity of where sanitary sewer is

located and the shape of the lots and the depth of the sanitary sewer in 47th Avenue, it just couldn't be extended any further to the south. So sanitary sewer to service those lots is coming in from the back from 45th Avenue. When sewer is installed within 47th Avenue, and it will be from the opposite direction, to service the properties on the west side of 47th Avenue, Lots 1, 2 and 3 will not be required to pay any type of special assessment because they'll have their service coming in from the east.

45th Avenue and 109th Street eye-brow type cul-de-sac, as you can see 109th and 45th Avenue exists as an intersection now. But in order for these two lots to be buildable, Lots 4 and 5, we're putting an eye-brow type cul-de-sac at the end. And so one of the requirements is that the developer is going to be required to remove the existing curb and gutter in Whispering Knoll to the nearest joint of curb and gutter and install the new curb and gutter to service this area. We're requiring that granular backfill be installed in any of the trenches so that they can immediately pave and reinstall the curb and gutter so as to minimize any disruption to the Whispering Knoll Subdivision.

With respect to the on-street bike trail on 47th Avenue, pursuant to the Village's Park and Open Space Plan adopted by the Plan Commission on March 13, 2006, a future on-street bike trail is proposed on 47th Avenue adjacent to the development. This on-street bike trail on 47th will be constructed at such time that there is a slight widening of 47th Avenue. The developer will need to post some security for the construction of that future on-street bike trail along 47th Avenue.

Under right of recovery, a 10-year right of recovery could be afforded to the developer for water main improvements proposed to be installed in 47th Avenue if, after holding a special assessment hearing, the project is approved by the Village Board. The actual cost for such improvements shall be provided by the developer at the time the final engineering is reviewed and bid numbers have been obtained. Property owners on the west side of 47th Avenue would be required to pay the water special assessment costs only if they choose to connect to the system. Also, any new homes will be required to connect to that municipal water and pay the special assessment prior to connecting to the main.

Any new lots created will be required to pay that special assessment prior to recording a CSM or a plat. A special assessment public hearing for the off-site municipal water improvements will need to be scheduled by the Village Board related to these pending costs prior to the approval of the final plat. Again, I'm cautioning the developer that this takes time. The right of recovery process can easily take six to eight weeks because of the notice requirements as well as the resolutions that need to be adopted, and it must be timed with the approval of that final plat.

With respect to construction access for the installation of public improvements and house construction, it will be required to come in from 47th Avenue at 108th Street and south on 45th Avenue at least for Lots 4 and 5. Lots 1, 2 and 3 will be serviced off of 47th Avenue. There will be no construction equipment that will be allowed to come through Prairie Lane Heights or Mission Hills subdivision in order to access those two lots on 45th and 109th.

Under the fiscal review, a fiscal impact analysis is being completed by the staff for the proposed development as it relates to the amount of Village tax dollars collected from the development and the level of Village services required to serve the development. The Village staff is working on completing the analysis.

The first is the police, fire, EMS and public works cost sharing agreement. In addition to the impact fees due at the time of building permit, the developer has agreed to enter into a cost sharing agreement to donate \$891 per housing unit as a cost sharing contribution for each of the five residential units within the development to address current shortfalls in funding/fees collected for police, fire, EMS and public works impact fee needs as a direct result of this development. The referenced \$891.00 per residential unit payment is typically made to the Village each time that a lot sale in the subdivision is closed and the fee interest title of the lot is transferred to a new lot owner or as a condition precedent to the issuance of a building permit, whichever occurs first. Only one \$891.00 payment would be paid per residential unit.

The second item is the on-street bike trail contribution. The developer shall agree to the financial contribution for the road shoulder widening and the installation of an on-street bike trail adjacent to 47th Avenue. Cost estimates are forthcoming from the Village Engineer for this improvement.

Again, the staff does recommend approval of the preliminary plat subject to the comments and conditions as outlined in the staff memorandum. And the staff recommends to table the zoning map amendment until the revised legal descriptions for the various zoning districts can be presented and the lot are for Lot 5 can be increased to 20,000 square feet. It's not unusual for the zoning to come at the time of the final plat. It can come at either time, either preliminary or final plat. With that, I'd like to continue the public hearing.

Thomas Terwall:

Mr. Godin, would you care to add anything?

Phil Godin:

No, I'll answer questions if you have any questions.

Thomas Terwall:

Thank you. This is a matter for public hearing. Is there anybody wishing to speak? Anybody wishing to speak on this matter? Anybody wishing to speak? Hearing none, I'm going to open it up to comments and questions from Commissioners and staff.

John Braig:

Directed to the staff, what requirements or conditions or ordinances would be violated if the eye-brow cul-de-sac was not provided for?

Jean Werbie:

They couldn't construct Lot 5 - there would not be two lots because they would not have the required frontage on the adjacent roadway so they couldn't create those two lots. We identified that the only way that they could gain access and have the required frontage would be if they had that additional frontage based on the eye-brow.

John Braig:

Could they have approached the Board of Appeals for consideration?

Jean Werbie:

I think we looked at it and we felt that the frontage would be too small and the fact that that would minimize their amount of land area for them to be able to adequately get in a driveway, get the sanitary easement. I think Lot 4 had the problem because there wasn't going to be enough area there for a sanitary easement as well as a driveway. So this was a solution so that two lots could come off that area.

Thomas Terwall:

Phil, staff has attached 23 conditions in the approval process. Are you aware of them and familiar with them?

Phil Godin:

Yes, we're familiar with them.

Donald Hackbarth:

When we talk about an eye-brow cul-de-sac, does that mean there's an island in there? Is it a turnaround? Is it an island or just a bump?

Jean Werbie:

No, just a bump.

Larry Zarletti:

Is the eye-brow cul-de-sac something that we have throughout the Village? Are there other places where there is one?

Jean Werbie:

I believe we might have one or two. We have one proposed near Tirabassi's property off of 86th, I think in that area. It's not unusual. It's not typical but it's not unusual, and it meets with engineering specifications set forth in our ordinances.

Donald Hackbarth:

I move approval of the preliminary plat.

Mike Serpe:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE PRELIMINARY PLAT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM.

Jean Werbie:

I'm not sure if the developer on the record agreed to all the conditions? Did he?

Phil Godin:

Yes, we agree.

Thomas Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed?

Donald Hackbarth:

I move we table the zoning map amendment.

Mike Serpe:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY MIKE SERPE TO TABLE THE PUBLIC HEARING ON THE ZONING MAP AMENDMENT. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered. Before we take Item E I just want to make a comment. I meant to do this earlier in the evening and I'm remiss for not having done so. For the benefit of the audience here tonight you'll notice that many of the items on the agenda do not get approval from the Plan Commission. They get recommended for approval. Ultimate approval comes from the Village Board. I think it's important that the Village Board attend these public hearings because this is where all the information gets presented. And I'm happy to report that all five members of the Village Board are in attendance not only tonight but almost always. That's a significant change from prior to the April election when we had two members on the Village Board who didn't feel that it was their responsibility to be here. I don't know how a Village Board member can effectively act on these items unless they're here to hear those things. So I commence those of you that are here and ask that you keep doing that.

E. Consideration of a Memorandum of Understanding (MOU) between the Village of Pleasant Prairie and VK Development Corporation pertaining to the future required Phase 3 State Trunk Highway 50 (STH 50) Transportation Improvements to be installed, constructed and completed by VK Development Corporation.

Jean Werbie:

Mr. Chairman and members of the Plan Commission, at one of the last Plan Commission meetings, I believe it was June 25th, we had a number of items that were on the agenda that related to The Shoppes of Prairie Ridge and the Target Project. One of the items that was for your consideration was a memorandum of understanding, excuse me it was July 9th meeting, was a memorandum of understanding that was entered into between the Village of Pleasant Prairie and the Wisconsin Department of Transportation wherein it outlined the Village's obligations to complete some public improvements, Phases 1, 2 and 3 of public improvements in Highway 50 as a condition of approval of a transportation impact analysis for the Target and Shoppes project.

In the development agreement and in the memorandum, it outlined obligations of the Village. And the development agreement that you approved that night outlined the obligations of the developer for Phases 1 and 2, but it did not outline the obligations for Phase 3. So the purpose of this item on the agenda is to outline the obligations of the developer for the Village for Phase 3 improvements in Highway 50.

So with that this is a memorandum of understanding and waiver of special assessment notices and hearing. This is being entered into between the Village of Pleasant Prairie and VK Development. Again, this is a condition of the approval of the previous projects that had been before you. It specifically references the improvements that are required for Phase 3, and the Phase 3 improvements primarily are the widening of Highway 50 to six lanes and the final improvements that would take place when 50 percent of VK's offsite developments are completed. In other words, when 50 percent of the development east of the hospital is completed or ten years, 2017, whichever occurs first, these Phase 3 improvements need to start on Highway 50.

What this development agreement does is it secures that VK Development will be completing these improvements on behalf of the Village of Pleasant Prairie. That they will be paying for 50 percent of the costs associated with the engineering and construction, field staking and inspection

of all these improvements. The other 50 percent will be borne by the State DOT or any other community that they choose to share those costs with but not the Village of Pleasant Prairie.

The memorandum also goes on to talk about the developer's obligations and that they consent to the levying of special assessments under 66.0703 of the Statutes for 50 percent of the cost of these improvements against the remaining offsite parcels. In fact, there should be an Exhibit B that was handed to you this evening that identifies some estimated current construction costs for this development and kind of where we'll be looking with respect to prorating those costs across the various parcels that are owned by VK Development.

The overall cost for Exhibit B, the cost for the assessments at this time for the project is \$3 million for Highway 50. This is based on costs in today's dollars. So it's important that the agreement does reflect the fact that when the time comes for these improvements to be installed that it will need to be based on the then current costs. So if it's \$4 million in ten years from now then the 50 percent will be based on 50 percent of the then costs for this project.

The key with respect to the special assessment costs is that as offsite parcels are transferred, sold, developed, that the Village starts to collect some of this funding and places it in a separate escrow account so that this money can accumulate, not that we wait until the entire area is 50 percent developed and they have to come up with a huge amount of money in order to put in these improvements to Highway 50 or commence these improvements. So it's important for us to note that hopefully they'll be collected incrementally so we will have funds accruing to have this money in hand when the project does need to start.

Mike Pollocoff:

I might add that really, as Jean indicated, the special assessment is a backstop. At the first instance the developer is going to sell a parcel of land, on Exhibit B it identifies the parcels of land as they exist today. There's probably no doubt that some of the parcels are going to be subject to a future land division. That land division is going to make it smaller, one part or two parts we don't know, but that part to be conveyed is going to be apportioned against that other parcel. So the special assessment is a backstop. It puts us ultimately in first position. The special assessment always has to be satisfied before it occurs.

In this agreement the developer is waiving his rights to a special assessment hearing and he's acknowledging that the benefits accrue to him so if we have to at some point levy the special assessment, if that ends up being the case at ten years, then the Board is able to just conduct the hearing. We don't have to do notices. We don't have to invite any of the property owners who would be contending to say now that I'm here I don't want to pay it. That's probably the down side that the Village could face without that waiver of notice is that we'd have to conduct a hearing and then you'd have someone saying, well, I think Target benefits more than I do or I think somebody else benefits. That goes out the window. So the developer has paid that pro rata share of what his improvements are for Target as part of this development, and this Phase 3 which is future is going to be carried by the remaining parcels. So it's really a two prong approach. On Exhibit B I'd be really surprised to see those five parcels stay as they are between now and the time of close. So that will be whittled away over time.

If everything works the Village won't have to levy the special assessment in the tenth year but that's the Village's protection that the taxpayers aren't going to have to pay for this that that assessment could be levied if everything doesn't happen throughout the ten years. We've got a history with the developer and we're not concerned about it, but on the other hand we have the fiduciary responsibility to the Village to make sure that we've covered the taxpayers financially for what their exposure is.

Jean Werbie:

And if I can add to that, there's also provision in here that if the developer provides the letter of credit or an escrow deposit to the Village for the total cost of the improvements, then the Village is willing to terminate and release this memorandum to the developer. So if the proper funds have been posted up front and the improvements are commenced, then we will release any types of liens that have been placed on the property. So we're not going to keep the liens and have the money at the same time and do the improvements.

Mike Serpe:

Just a couple of questions. This is just one side of Highway 50, is that correct?

Mike Pollocoff:

Correct.

Mike Serpe:

The south side?

Mike Pollocoff:

Right.

Mike Serpe:

And one other question. Something wrong, Ajay?

(Inaudible)

Jean Werbie:

Right, but your question was the responsibility is only 50 percent of the total cost of the improvements will be Pleasant Prairie. The other 50 percent will be the Wisconsin DOT or some other entity.

(Inaudible)

Mike Pollocoff:

Well, they could talk the County into doing it. I guess there's a chance they could talk the County into it. Originally the City had said they wanted us to pay for all of it. And we indicated that there was significant residential development there that warranted some cost sharing. But we in our discussions with DOT we said really it's your highway, that's your call. If you want to give the City a pass you give the City a pass. If you want to collect money from them that's your call. From the Village's standpoint we shouldn't have to pay any more than what the south side of the highway is.

Donald Hackbarth:

If the City gives them a pass, I don't see why we should—we should get one, too, then. I think we should fight for that. I don't think we should be—

Mike Pollocoff:

You mean the City doesn't have to pay?

Donald Hackbarth:

If the City doesn't have to pay for the north side and DOT says we'll just improve it all on the north, why should Pleasant Prairie be stuck with the south side?

Mike Pollocoff:

I think that's an argument that VK would make. But if VK wants permits from the State that's where they're at. I think I'd be surprised that there's a pass. I think the City will have to pay someplace. Maybe it's not right there, but the DOT will get their money somewhere.

Mike Serpe:

I had one more question. Ajay, when you purchased the entire 400 and some acres out there was this anticipated?

Ajay Kuttemperoor:

This cost was not anticipated, but that being said when we purchased the property back in '96 we had a conceptual plan that was different than what we're presenting today. As we move forward with development east of the hospital I'm sure we may have to provide an updated TIA at that time. So, was this anticipated when we purchased the property? No.

Donald Hackbarth:

I just got a little thought on formality here. When you write resolutions like this and I think that's what we're talking when you put whereas's in here, you're identifying either a condition or a problem with the whereas, and then what you're doing is you're resolving with the now therefore. The real technical way to do this is now therefore be it resolved that in consideration—

Jean Werbie:

It's not a resolution, though. It's a memorandum of understanding.

Mike Pollocoff:

You are right for resolutions.

Jean Werbie:

You are right.

Donald Hackbarth:

I move approval.

Andrea Rode:

Second.

Thomas Terwall:

IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY ANDREA RODE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO ADOPT THE MOU BETWEEN THE VILLAGE OF PLEASANT PRAIRIE AND VK DEVELOPMENT FOR FUTURE REQUIRED PHASE 3 STH 50 TRANSPORTATION IMPROVEMENTS. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered. Items F, G, H and I are going to be tabled at the request of the petitioner, is that correct?

Jean Werbie:

That's correct.

Mike Serpe:

So moved.

Jim Bandura:

Second.

Thomas Terwall:

**MOVED BY MIKE SERPE AND SECONDED BY JIM BANDURA TO TABLE ITEMS F,
G H AND I TO A DATE CERTAIN OR NOT?**

Jean Werbie:

August 13, 2007.

Thomas Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

6. ADJOURN.

Donald Hackbarth:

So moved.

Andrea Rode:

Second.

Thomas Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

Meeting Adjourned at 6:15 p.m.