

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
August 27, 2007**

A meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on August 27, 2007. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessl; Andrea Rode; Jim Bandura; and John Braig. Larry Zarletti 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:

Items A through C on the agenda tonight are public hearings. If you're here for any of those first three items we would ask that you hold your comments until the public hearing is held so your comments can be incorporated as part of the official record. However, if you're here for Items D through G, which are not matters of public hearing, or you're here to raise an issue that's not on the agenda at all, 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.

Nancy Washburn:

My name is Nancy Washburn. My address 5008 Green Bay Road in Kenosha, 53144. I just wanted to comment I was at the Pleasant Prairie Café last week, and I wanted to first of all compliment the Village on what an outstanding job they did of putting together the Café, organizing it, planning the event, and also to congratulate all of the Plan Commission as well as the Board as well as the staff for all that they have done in the past to plan such great neighborhoods to bring such great new residents to your community. I had the opportunity to sit at the various tables with a number of people from a number of new subdivisions and old subdivisions. The Ph.Ds and the degrees and the quality and the thought process of these people was just unbelievable to me and should be very rewarding to you as a Plan Commission. I heard the words communal, I heard the words safe Village, wonderful place to work and play, and a Village full of amenities that really are functioning and working. So I think the Village has a lot to be proud of.

Also, as I told Mike Pollocoff that night, for all the nights I've been here when I've heard Mike, Mike, Mike until I couldn't take it anymore, I tried all night to sit at his table and I'll tell you what I couldn't get near it. So there's something about the man that other people wanted to be in here too. But, anyway, it was a fabulous event. I look forward to the future Cafes and I do plan

on attending them. I am a member of the overall Kenosha comp plan committee. I am a stakeholder, not a voting member, but I was very honored to be made a part of that and I am trying to get to as many of the communities on the local level as I can and congratulations. It was very successful and I look forward to the next one.

Thomas Terwall:

Thank you. Anybody else? I want to comment on that same session. I want to thank the general public for their input. Those of us on the Plan Commission and the Village Board were told to be there because we were told to be there. But there were plenty of people who show enough interest in this community to come out and give us some really good input. I heard several comments on items that never crossed my mind before. So I think this is a very good first step and I want to thank the people for being here.

I guess there's two ways you can do it. You can either call Sound Off! and complain or you can write a letter to the editor about how nobody listens or you can at least speak your mind and we'll show you that we listen. So if you didn't get an opportunity to attend that first one, there's going to be more sessions and I would encourage you to make every effort to be there.

## **5. NEW BUSINESS**

**A. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT for the request of Gershman Brown Associates to amend a specific portion of Section 420 Attachment 3, Appendix C, Specific Development Plans, entitled "17. The Shoppes at Prairie Ridge Commercial/Office Development PUD (Ord. #06-15)" of the Village Zoning Ordinance. The proposed amendment to the PUD pertains to the "Hours of Delivery" for The Shoppes at Prairie Ridge commercial development, which is generally located south of 76th/77th Streets, north of Prairie Ridge Boulevard, east of 104th Avenue and west of St. Catherine's Hospital.**

Jean Werbie:

Mr. Chairman, this first public hearing is the request of Gershman Brown Associates and it's specifically to amend a portion of Section 420 Attachment 3, Appendix C. It's referring to specific development plans and a PUD, Ordinance 06-15. The ordinance amendment that is being considered tonight is for the hours of delivery for The Shoppes at Prairie Ridge Commercial Development. That project is going to be generally located south of 76<sup>th</sup> and 77<sup>th</sup> Streets, north of Prairie Ridge Boulevard, east of 104<sup>th</sup> Avenue and west of St. Catherine's Hospital.

Just some brief background information for you, on June 25, 2007, the Plan Commission recommended approval to the Board of Trustees, and on July 16, 2007, the Board approved a Zoning Text Amendment, and this had to do with The Shoppes at Prairie Ridge PUD. Specifically, Section d.xxxii of The Shoppes PUD as recently adopted by the Village Board, there was a slight amendment that was made by the Village and it had to do with its delivery hours. Hours for deliveries or any other activities outside the principal building that might cause a disturbance to neighboring residential areas which includes outside loading or unloading, the arrival of deliveries, idling of delivery trucks, beeping of backing vehicles, and garbage pickup,

except for snow removal that the hours were to be amended to read from 6:00 a.m. to 11:00 p.m. Currently, the way the ordinance reads is that these vehicles can operate between 6 and 10. So at that time you granted a one hour extension to 11:00 p.m. for the delivery of vehicles.

Since that time, as you know, Gershman Brown has been negotiating with a number of mid-box tenants out at The Shoppes at Prairie Ridge. In addition to Target and Dick's Sporting Goods and Pet Smart and recently JC Penney. JC Penney specifically is requesting a modification of the PUD to accommodate some additional hours for delivery purposes. They feel that their store needs to be set and ready to go when the store does open, and so they are requesting through this PUD and Gershman Brown that the hours be modified so that they can receive deliveries between 4 a.m. and midnight. However, garbage, recycling pickup, those types of things would be still limited to between 6 a.m. and 10 p.m.

In support of the developer's request both abutting developments to the immediate south, Grande Prairie Health & Rehabilitation Center and Hospice Alliance, have submitted letters dated August 2, 2007 stating that they have no objection to the desired hours of delivery between 4 a.m. and midnight. Additionally, we received an e-mail on August 22, 2007 from Mr. Peter Molter. He's the Vice President of United Hospital System. He states that the hospital has no problems with the proposed 4 a.m. to 12 midnight hours of delivery for The Shoppes at Prairie Ridge.

This is a matter for public hearing. Notification was sent out and I'd like to continue the public hearing at this time.

Thomas Terwall:

Is there anybody wishing to speak on this matter? Anybody wishing to speak? Yes, sir?

Michael McTernan:

Hi Commission members. Attorney Michael McTernan, 6633 Green Bay Road, Kenosha, Wisconsin. As you know, I represent Gershman Brown and I'm the one who filed on behalf of my clients the request that is before you. The negotiations with JC Penney they do have a request to have additional hours of operation looking at not having--in their package on how they take deliveries they do need some additional time early in the morning and late at night. They find it's less disturbing to the surrounding neighborhoods to occasionally bring in trucks in later at night or early in the morning versus bringing their vehicles during the middle of the business hour.

We did look to the Village to try to find out who would be impacted by this and did circulate and go to the surrounding businesses to get their input and they had no objection to it. I did receive through the Village one person who called to inquire about it. I tried to reach Mr. and Mrs. Santelli. I believe the name was Sammy and MaryJo and I called and I did not get hold of them, no one answered, to answer their questions.

I know the site is totally built out. They're anticipating having 20 trucks on average a day. Anticipating what JC Penney would do are you looking at may one vehicle or two vehicles or two trucks during the extended hours possibly at most you'd see. But they don't see this as a huge issue. They just don't want to shrink the time period so tight that it creates a business problem for JC Penney who is going to be operating at one of the sites.

The other players at the site did not have a problem with the hours we're going to adopt and respond to it. But still I just think more the hours are spread out that it would allow the truck traffic to be spread over a greater period of time so you don't have an intense amount of traffic at this site between the hours that originally were set. With that I request your approval and if you have any questions I'd be happy to answer them.

Thomas Terwall:

Thank you. Anybody else wishing to speak? With that I'm going to open it up to comments and questions from Commissioners and staff. Just one comment first of all. With respect to the Santellis they live on 105<sup>th</sup> Avenue and there's a berm between 104<sup>th</sup> and their backyard. I don't want to put words in their mouth but I don't think they'll ever notice there's a truck arriving at JC Penney from their house.

Donald Hackbarth:

The only concern I have with trucks, and we had this by us, too, is I know we've got an ordinance about the jake break thing. They don't always abide by that. I don't know if we could post signs there to make sure that those are not allowed. I mean somewhere they've got to shut that thing off because they are horrible.

Mike Serpe:

I think at that point, Don, coming into that developer I don't think there would be a need for a jake brake. That's from a higher speed to slow down quite a bit.

John Braig:

That and coming down an incline and obviously there's no inclines in this area.

Mike Serpe:

I doubt you'd hear a jake brake operation in that area.

Donald Hackbarth:

But they would be coming off of I-94 probably, and if you forget to shut that thing off at two o'clock in the morning you have a guy that's pulling into JC Penney with a jake brake on and that's—we're on 104<sup>th</sup> and they forget once in a while and they lift you right out of your bed at night let me tell you.

John Braig:

These delivery hour restrictions are universal across the Village for all business establishments, are they not?

Jean Werbie:

That's correct.

John Braig:

I see this as a unique situation, but I hate to establish a precedent of some sort. But this is significantly far away from residential areas. The commercial and institutional uses that we have in the area have obviously indicated they've got no objection.

Donald Hackbarth:

Move approval.

Wayne Koessl:

Second.

Jim Bandura:

Just a quick question to staff. The restaurants there, what time are their deliveries scheduled for?

Jean Werbie:

They have the same delivery hours.

Jim Bandura:

That's what I thought. Normally on a restaurant you need an early morning delivery or something to that effect. I don't see any issues with them, Famous Dave's or anything like that. So with Don's move approval I can second.

Thomas Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY WAYNE KOESSL TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE AMENDMENT 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.

**B. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT for the request of Kari Kittermaster, agent for Regency Hills-Devonshire LLC, owner, to construct a house and use it as a Model Home & Sales Center for the Devonshire Subdivision on Lot 27.**

Jean Werbie:

Mr. Chairman, members of the Plan Commission and the audience, this is a consideration of a conditional use permit at the request of Kari Kittermaster, agent for Regency Hills-Devonshire LLC, owner, to construct a house and use it as a Model Home & Sales Center for the Devonshire Subdivision on Lot 27.

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

#### Findings of Fact

1. The petitioner is requesting a Conditional Use Permit to construct a home on Lot 27 in the Devonshire Subdivision and use the home as a Model Home & Sales Center for the Devonshire Subdivision.
2. The subject property is known as Lot 27 in the Devonshire Subdivision in a part of the Southeast One-Quarter of U.S. Public Land Survey Section 5, Township 1 North, Range 22 East of the Fourth Principal Meridian, in the Village of Pleasant Prairie and further identified as Tax Parcel Number 92-4-122-232-0327.
3. The Final Plat for Devonshire was approved by the Village Board on June 4, 2007, and the first phase of public improvements is currently being installed within the Development.
4. Lot 27 within the Devonshire Subdivision is zoned R-4, Urban Single Family Residential District, and pursuant to Section 420-108 C (1) (b) of the Village Zoning Ordinance, model single-family homes and related temporary real estate sales offices or marketing centers are allowed in the R-4 District with the approval of a Conditional Use Permit.
5. The petitioner is proposing to have the following hours: Monday - Thursday from 9:00 am to 6:00 pm, Fridays from 9:00 am to 4:00 pm, Saturdays from noon to 3:00 pm and Sunday from noon to 4:00 pm. As shown on the slide, there's an illustration of the ranch style home that they are looking to construct on that particular property.
6. Pursuant to Section 420-148 (67), the Model Home and Sales Center may be located in a new development for a period not to exceed two years from the date of occupancy and the Plan Commission may set specific time frames for which the model home and center can be open. Village staff recommends that the Model Home and Sales Center be allowed to be open as proposed by the petitioner.
7. Notices were sent to adjacent property owners via regular mail on August 3, 2007 and notices were published in the *Kenosha News* on August 13 and 20, 2007.
8. The Village received a phone call and visit from a resident in the Meadowdale Subdivision objecting to the Conditional Use Permit unless greater consideration is given to upgrading the size and appearance of the home. The owner indicated that the Developer had indicated that homes abutting Meadowdale would be on larger lots with larger, more upscale homes to provide a greater transition between the subdivisions.

9. The petitioner was emailed a copy of the memorandum on August 24, 2007, including the Fire & Rescue Department comments.
10. Pre-set conditions for approval of model homes are set forth in the staff recommended conditions of approval as identified below. Those typically have to do with signage and parking and a number of other conditions. They are listed below in your staff comments.
11. According to Article XVIII of the Village's 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 Ordinance and meets the minimum standards for granting of a Conditional Use Permit.

One of the things I do want to mention and it's not in the staff memo is that there was some discussion with respect to the sizing of the lots that abutted directly to that northwest end of the Meadowdale Subdivision, that the lots in that particular area would be a minimum of 20,000 square feet similar to the new phase of Meadowdale. And that was for Lots 27, 28 and 29. There were some provisions put in the declaration of restrictions that not less than 2,000 square feet for a one story dwelling, not less than 2,500 square feet for a two story dwelling. So those provisions were specifically recorded for those northern three lots that abutted Meadowdale. For all other lots the minimum square footages range from 1,650 to 1,800 for the minimum square footages. With that I'd like to continue the public hearing.

Thomas Terwall:

Is there anybody wishing to speak on this matter? Yes, sir?

Richard Schultz:

My name is Richard Schultz. I live at 4355 94<sup>th</sup> Street, Meadowdale. My lot abuts up to the proposed Lot 27 of Devonshire. Through the discussions over the past couple years with the ongoing Devonshire building, we were told—I shouldn't say we were told because it's not in writing, we assumed to believe that the homes that were going to be bordering the Meadowdale Subdivision all would be on an upper scale that Mastercraft does build. So everything was fine with that. Then we get this mailer here, and as I'm looking at the elevation of the sides and the rear, for one I was surprised that it was a ranch style home. Two, that if it was a ranch style home I'm looking at the elevations and there's nothing upscale—I'm sorry I shouldn't say that because to other people it would be, but as far as the transition or the buffer from Meadowdale to Devonshire there really isn't that much of an upscale to the rear and side elevations to the house. We were led to believe there would be two story homes on there.

The second point I want to bring up is if there is going to be a two year allowance for a sales office, there's enough lots available in the Devonshire Subdivision that they could move a sales office away from the back of my house or the easement area right there if it's going to be two years. I would like to see that if Mastercraft is going to build a home there that it's a little bit more of a larger or changes to the elevation so that there is more of a buffer between the two subdivisions. I feel it would bring down the value of my house that I put a lot into. I just wanted to make comment on that.'

Thomas Terwall:

Thank you very much. Is there anybody else wishing to speak?

Kathy Nevin:

My name is Kathy Nevin and I live in Lot 52 of Meadowdale Estates. Our lot directly abuts up to where the proposed sales office is. While I understand why Mastercraft would want to put their sales office butting up to Meadowdale Estates because it's a very nice subdivision, when we decided to build and have our home in Meadowdale it was with the understanding that there would be residential zoning on the other side. I understand what Jean is saying is that the residential technically can include sales offices but from the perspective of a citizen that's a business office and I would prefer that my lot would back up for my privacy to just a residential home. It's a large enough subdivision that I agree with my neighbor, Rich Schultz, that they have plenty of home sites to pick from to build their model home and it does not need to be in our backyard where we've already made their decision. They can place it somewhere else and that way on the front end people purchasing within their subdivision can know that they're going to be next to a sales office for two years and they'll have knowledge of it on the front end versus after we've made our decision. Thank you.

Thomas Terwall:

Thank you. Anybody else? Is there anybody else?

Nancy Washburn:

Nancy Washburn, 5008 Green Bay Road in Kenosha. I have received a copy of all of the staff's comments and conditions, and I guess the one that I wanted to clarify was Item Number 8, the model home and sales center shall only be used for the sale of lots and houses within Devonshire Subdivision. As you may be aware, we have numerous other subdivisions currently located in the Kenosha and surrounding Kenosha County area. Within the Devonshire Subdivision we certainly want to be able to allow a customer who walks in from Toledo and says I saw you on the website and I see you have a great presence in Kenosha County, we want to be able to hand them a document that says this is the site in Kenosha, this is the site out at Highway 50. None of our marketing, none of our signage in front of the building or in front of the subdivision would say anything other than Devonshire. The sales people it will be a sales staff that is only located within that subdivision, and as I said in our other existing subdivisions in Kenosha and in actually Pleasant Prairie as well they are manned full time, but I just want to understand Item Number 8 and make sure that we all understand the intent is that, yes, it is exclusively for the sale of lots in Devonshire, but we would have information there to hand out if someone wanted to go elsewhere.

I guess also in regards to the comments, I wanted to just make everyone aware obviously the small copies are difficult to see and read, but this is a very lovely home. This is a ranch style home. We've chosen this to be a model because our marketing and our market surveys tell us that a ranch style home is the number one style of home being built right now in our area. So we want to be able to offer through a sales center the most popular style of home. I would also point out that this house is 2,371 square feet so it is actually 371 square feet larger than the required square footage for that lot. We have actually exceeded what was required of us.

I think that the location being driven on Lot 29 was not chosen because of the backup to Meadowdale, although I think that was an interesting comment, but it was chosen because of its proximity to the entrance of the subdivision. So certainly we feel that also the conditions about the home sizes of our lots butting up to Meadowdale all of that was read into public comment during all of our previous years of approval through the neighborhood plan, the preliminary plat, the final plat, so these were the conditions that we were asked to meet long ago and we've met them since then. So we would hope that you would be able to support this home in this location and we think it's going to be a very, very beautiful home, full of amenities and we're going to be showing off everything that we want to build in our houses throughout the site and the Village.

John Braig:

Question, Nancy. Do you have a projected selling price for that model home?

Nancy Washburn:

That's a very good question. I would say that it's probably—right away it won't be priced but I would say probably somewhere between \$350,000 and \$400,000, but that's my best guess.

John Braig:

Thank you.

Kathy Nevin:

Kathy Nevin. Just as a point of comparison, our home that butts up to that is 4,800 square feet, and Rich Schultz's home is 5,300 square feet. So while I respect the fact that their home is 2,300 and they're meeting their minimums of course, but there's a disparity. There's a little bit of a difference.

Donald Hackbarth:

I would assume that what we're expecting here is that the driveway would be blacktopped and the sidewalks and stuff. Looking at the road map, do we have to go with number 27 or could we go with 30 or 38 as the lot? Maybe Nancy you could address that. Does it have to be 27? That is like it was picked right in the middle of the entrance there. What's wrong with 30 or 38?

Nancy Washburn:

The location of the home there at the entryway is purposely picked for that purpose because we want to be able to get the customers driving in to stop at the sales center before they just go tootling around so that they can have information in their hands. I think it's interesting that we're getting as much comment over this as we are because this is a public hearing. Should this house not be built on this lot any future homes that are built on Lot 27, 28 or 29 won't be made public to the neighbors in Meadowdale prior to the issuance of that building permit. So I guess I am surprised that they have as much objection to this. If it is the Plan Commission's choice or request that we move the lot off of Lot 27 to another lot that doesn't abut Meadowdale, we have a

whole bunch of them to choose from but they'll never know what's going there. In fact we could build a 2,000 square foot ranch there is that's what the customer wants.

Donald Hackbarth:

Just if it brings peace it would be nice to have it moved. It really would. I would support that.

Nancy Washburn:

The hedgerow of trees that we were asked to protect is there. There's a complete wooded buffer between the neighbors. Those trees I've walked them all, they're still there. They were in the landscape preservation area. So, again, I would like to keep it on 27. We feel that it's well placed within the subdivision to keep traffic in there. If your request is to tell us to move it then that's what I'll take back.

John Braig:

I'm going to argue with Don a little bit because I was thinking along the same vein as Nancy presented to us. We've got control of this and this is not a house that's comparable to what's in Meadowdale Farms, but it still is a pretty good quality ranch home. We've got control of it. And as Nancy indicated if we move this model home to a different location, a future purchaser can buy the least expensive house that the builder is willing to offer and put it on that lot and can do whatever he wants. It's a free country, it's his privilege.

Mike Pollocoff:

From the staff's perspective of course the plat in the subdivision for Devonshire has been approved for quite a while now. The nature of the homes, the Village has reviewed the covenants and we know what those are going to be. And that really shouldn't be the basis for deciding where a home is built for a startup. I think the basis for moving it is the fact that it is going to be a sales office that is going to abut an existing residential area, and it would be reasonable on that basis to request that Mastercraft consider moving it to either of the parcels that Don Hackbarth suggested.

But the subdivision is what it is. It's what we approved and it's going to go forward that way. I don't believe Mastercraft is going to sell any less of a house than they can. They're going to hope the people load up the houses with as much as possible. That will be good for everybody. But the staff would be comfortable if Mastercraft would look at, since it's going to be an ongoing sales center that would be busy, if they would move it across the street so the existing residents aren't dealing with it and the new people there would know it's theirs that comes in. I think a precedence in considering this would be look at the issues we've got with the sales offices in Prairie Ridge. They have a life. At some point they have to end and the ones we had the least problems with were the ones that were away from existing residents.

Wayne Koessler:

I had the same concerns as Commissioner Hackbarth. I think this is going to be an ongoing sales office for at least two years. I think Lot 38 would be more appropriate for that sales office.

Mike Serpe:

It doesn't make much difference to me if it's 27 or 38 and 38 might be better. But in defense of Mastercraft, if you're going to have a sales office or a model home it's going to be maintained to perfection because it's going to be an icon for the company. So the maintenance of that home would be very nice. A good point that Ms. Washburn brought up was if the model home that they're proposing as the sales office is going to go across the street, what's the least square footage size one we can put up, 2,000? Put up a 2,000 square foot home on Lot 27.

That brings back an interesting thought that went through my mind when the two Meadowdale people approached the podium. When Meadowdale Estates was brought forward, we had Meadowdale Farm residents coming here wanting to make sure that Meadowdale Estates was going to be as nice as what they're living in. Needless to see you can see it's to anybody's expectations. It's a beautiful subdivision and has taken away nothing from Meadowdale Farms. I wouldn't have an objection to support the move to Lot 38. I will say that I don't think the people in Meadowdale would be put out if 27 were to be the chosen lot. But, like I said, to reach a compromise here that 38 is better maybe we can do that.

Kathy Nevin:

Kathy Nevin, 9460 43<sup>rd</sup> Avenue. I agree. I feel completely comfortable that the consumer and agree with you that they'll upgrade. If you've driven through Village Green it's dripping with upgrades. I think the consumer wants that. But I wanted to address again the issue of privacy. Maybe the Village in the future I think perhaps Mastercraft had good intentions when they went through where that privacy tree line is to preserve those trees. But executively having a good intention and having the guy who does the work know what the specific parameters are are very tricky. We've already lost one oak tree in my backyard that compromises the privacy between us and the sales office. Some branches were ripped off. It's in the southern most oak tree that my yard faces up to, and some of the oak trees literally the property line goes right in the middle of them. Technically it's possible that that oak tree is on their property. But there has to be a little bit of a window that they don't even plow over the roots if in the future you want to preserve that kind of history. It's important to some people and it's not to others. It just happened to be somewhat important to me. Thank you for your time.

Thomas Terwall:

Thank you very much.

Wayne Koessl:

Mr. Chairman, I'm really not concerned about the quality of homes that are going in there because I'm sure they're going to be high end homes that are going to have a big value to them. I'm just concerned about the two years of traffic that's going to be around that model home that comes in consistently. I still think it should be moved further north to 38.

Mike Serpe:

I understand that the market is a little bit flat right now as far as home sales are concerned. But what if Devonshire were to sell out in 15 months? Would we still allow them to run a sales office for two years?

Jean Werbie:

If you grant a permit for two years.

Mike Serpe:

Prairie Ridge sold out in a record amount of time and the need for a sales office was not needed anymore. Matter of fact the homeowners association wanted to put an end to them after the subdivision was sold out.

John Braig:

One of the restrictions we have on this is it's restricted to sales in this subdivision. So if it's sold out they can keep the office open but they can't sell anything because what they would be attempting to sell would be outside of the conditions of approval.

Nancy Washburn:

I don't think this needs to be a great debate. I apologize for us creating one. Number one, I am more than willing to move the house to Lot 38. That's not a problem. And, number two, don't forget we have a second phase to Devonshire. So the fact is that this first two years when we go to the second phase most likely we would build a new model in the second phase. But as that gets started we would retain this one. So we hope that you're right, Mr. Serpe, and we can sell this out in a year and a half.

John Braig:

A question, Nancy. The model home that you propose to build on this lot, in the range of models that you have, is this your highest price one or are there others that would be more . . .

Nancy Washburn:

I think what you really need to look at is dollars per square foot. The amenities in this are going to be in the high end of that range. We have a very, very unique model out in Kenosha in Heritage Heights out at MB and Highway 50 which is very TND, high end, trendy kind of small lot up to the street presence, and that on a dollar per square foot basis is a very expensive home as well because it's packed with amenities and lots of windows and lots of additional features inside the houses and out. So on a dollar per square foot basis yes, John, this will be at the higher end of what you would see and certainly not the same as you would see in a smaller subdivision in Fredonia or even in our Kenosha subdivision.

Donald Hackbarth:

With that in mind I appreciate your willingness to work here. One of the comments, before I make the motion, in our group at the Café a lady sat down and she said that she really appreciated the strict zoning and adherence to that zoning in Pleasant Prairie because other communities don't do that. This is a situation right now where we're bumping up against approval of a subdivision. I don't mean to say we're playing hardball here because you're very gracious and I really appreciate that, but in regard to the comment that you made about the sales office and other properties, somebody may walk in there and I don't really see that as a problem if they're doing that just so that does not become the central office for the County and wherever you're going. So with that understanding, too, I would appreciate that. I would recommend that it be changed to another lot, maybe 38, but not 27 and with that I recommend approval.

Wayne Koessl:

I'll second it Mr. Chairman.

Thomas Terwall:

We'll give this gentleman one opportunity and then I'm going to close the public hearing.

Richard Schultz:

Richard Schultz, 4355 94<sup>th</sup> Street. I do understand that somebody else could come into this lot and build a house that's a little bit smaller, but I can't see that they'd be able to do anything more to the back or the side elevations of the house. Again, looking out my back window when I'm looking at this house there's really no architectural design that is different from any other houses being built. Sure, the front of the house people drive in a subdivision and they say, wow, what a street value. It's got a beautiful front to it. But, again, as I'm looking at it there's not much of a difference. There's not that buffer that we were expecting. It's a whole different style looking house. There's no brick on it. When I moved into Meadowdale I had certain things I had to follow.

I thought these homes that were going to be built on this lot were going to have certain standards also. The homes in Meadowdale have to be all brick. I didn't know if maybe some of the features on these homes along these few lots that are abutting Meadowdale were going to have to have maybe 50 percent brick or going to have something on the back of the house rather than just on the front of the house. So looking at it from the street you're saying, oh, it's a beautiful house and it is a beautiful house, but I was thinking it was going to be something two story would have to be built on that house or whoever bought the lot would know that if I buy this lot there's certain things that I have to follow. Just like when I did Meadowdale I couldn't just come in there and build a house that was vinyl siding. I had to build a brick house and I had certain things to follow or I just don't buy that lot and I go somewhere else. Thank you.

John Braig:

Just a comment regarding the restriction on the model home or sales, I wonder if we restrict it or somehow indicate it that overt sales efforts for other areas would be prohibited? In other words, as Nancy has indicated the handing out of a brochure or responding to a question from somebody

obviously has got to be permitted. But we wouldn't want overt sales efforts for other subdivisions.

Jean Werbie:

And that is something that in fact she has agreed to in discussions with me that there wouldn't be signs that advertise subdivisions in Kenosha or Salem or wherever else they have a development. There would be no advertising signs. There would be no additional information provided in the newspaper or anywhere else bringing them from that subdivision to this one. Basically we have allowed someone to have a sales rack in their sales office if they had other subdivisions, but not to be actively marketing another subdivision in this particular subdivision.

John Braig:

It sounds like you've got a meeting of the minds. Is there any reason to change the wording of Condition 8?

Jean Werbie:

I was going to clarify it so the intent was more understood. The other point in bringing back to the declarations there's nothing to say that as part of the good neighbor policy that Mastercraft couldn't either record additional restrictions or make a point of in those three lots, 27, 28 and 29 putting further restrictions or covenants on the rear of those homes as it abuts to the Meadowdale Subdivision. I mean this was a big consideration by the Plan Commission and the Board to plot lots of this size, again, varying in size from 15,000 to 20,000 and some compared to the larger lots in Meadowdale. So I think it would be warranted to have some further consideration with respect to those three lots. They're not asking for the whole subdivision. In fact, it really has only come up with the lots that are immediately to the north abutting to Meadowdale. We've got 140 or 150 more than that when it's all said and done. So consideration for the first few that abut Meadowdale I think that's certainly a consideration.

Donald Hackbarth:

Then I would modify my motion to include that.

Jean Werbie:

I can't force the issue at this point but we can certainly request it.

Donald Hackbarth:

I'll make it a request.

Thomas Terwall:

Will the first phase of paving be done prior to the time when this model opens? Or will this model open to a dirt road?

Mike Pollocoff:

Dirt road, gravel.

Thomas Terwall:

It will?

Mike Pollocoff:

I believe so.

Thomas Terwall:

That means you don't want to get too far from the entrance.

Thomas Terwall:

I take exception to stronger restrictions as far as the back of those houses. If you drive down 93<sup>rd</sup> Street to the latest home that was just build in Meadowdale Farms which is now for sale, evidently it was built as a spec house, it's a brick home except that the back of the house is cedar siding. The whole house is brick except the back. And I'm not about to tell Mastercraft but you can't do that. You're going to have to make the back look like the front because Meadowdale Farms isn't making the back look like the front.

Jean Werbie:

I'm not suggesting that, but you can take greater care with respect to the amount of blank walls that you have and the appearance, whether it's something around the windows or boxing in the windows. There are things you can do without adding great expense to make it a little bit more unique in the rear of a home.

Mike Pollocoff:

My caution would be on the motion, from an Open Meetings standpoint, is to put in the motion that Mastercraft should change the location. I think that's okay. It's reasonably close. But if we're also in that motion going to say that we request that they beef up their covenants for those houses that about Meadowdale we didn't notice the meeting for that purpose. That's an issue that the residents brought up that they were concerned about, but that's not what this is about.

Plus, the Village and the developer in full faith came together, worked out a plat, worked out the covenants, worked out what the deed restrictions were going to be and we both went forward. The developer, in this case Mastercraft, went forward and is building a subdivision as they go forward in reliance on what the Village approved. In turn, the Village is relying on that Mastercraft is going to do what we asked them to do. We did require that the lots be larger when they about Meadowdale on that one side and they've done that. I'm not sure how we could make it stick. If Mastercraft wants to do that on their own that's fine, but I think if we make that part of the motion tonight, we didn't notice that we're going to be doing that kind of stuff tonight.

Secondly, my recommendation is it's not good policy to come back and request the developer to change the covenants after you've negotiated with them for the final plat.

Wayne Koessl:

I agree completely with Mike Pollocoff. I think we cannot ask them to change the covenants at this time. My only request is for them to go to either Lot 30 or 38 and leave it there.

Andrea Rode:

I want to commend the Village and Mastercraft. I think in the past there have been good negotiations and Mastercraft always tries to work with the Village. We've had all kinds of meetings on this development and I don't recall any comments before now, before tonight, regarding these lots. We've gotten to this point and Mastercraft has proven that they want to work with us and we want to work with them. So I commend them and the Village and I think moving the sales office if they're willing to do that is a good step on the part of Mastercraft to try to keep the good lines of communication flowing.

Wayne Koessl:

Through the Chair to the staff, can we amend this to designate Lot 38 or 30 and then they don't have to come back anymore?

Jean Werbie:

Yes.

Thomas Terwall:

We have a motion on the floor right now, do we not?

Wayne Koessl:

I'm going to amend his motion that Mastercraft should have permission to send this to the Village Board to move their model home to either Lot 38 or 30.

Mike Serpe:

Second.

Jean Werbie:

Since I've been very close to this subdivision for several years now, I just want for it to be clear in the record that the intent that those three lots would have not only larger lots but larger homes and that they would have a little bit higher standard of quality. We did not put that to words or wordsmith it in the declarations. The declarations are enforced by the developer. But it was clear what the concerns were with respect to the residents for those few lots at the north end of the subdivision. So I'm not asking for them to promise to make a change, but I just want them to understand that barring additional bureaucratic review of these declarations to the nth degree as I

review them they understand what the concern is regarding these properties and where they abut and the distance and how they appear to the adjacent subdivision.

What we've always tried to deal with is a good transitioning of homes from one subdivision to another. That being said I think Nancy understands where we're coming from and I don't think we need to make a motion to tell her that. But it's very important that we continue to transition our homes and they've done a good job at doing that in the past. And the staff does support the movement of the model home because of the traffic that's going to be involved to the other side of the street to one of those two lots that were referenced.

Mike Serpe:

Two things. I do believe in Meadowdale Estates there are ranch homes.

Jean Werbie:

Yes.

Mike Serpe:

And they're wood homes. If you look at the back of this home that's proposed as the model it's not vinyl siding, it's not aluminum. It's the hard board, I believe it's the cement board. That's going on a number of very expensive homes today. It's a very good product.

Thomas Terwall:

In Meadowdale.

Mike Serpe:

Yes, all over the country really. So I don't have a problem with Wayne's amendment or the motion. I call the question.

Thomas Terwall:

The amendment then is to approve the sales office provided they move to lot 30 or 38. All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

Jean Werbie:

Is this subject to the staff conclusions and recommendations to be included as well as any conditions as stated along with the clarification of that point number 8 with respect to having brochures and other documents available although non active selling of another subdivision at this location.

Wayne Koessl:

I thought that was my amended motion. Thank you.

Thomas Terwall:

**NOW, THE MOTION BY WAYNE KOESSL AND SECONDED BY MIKE SERPE IS TO APPROVE THE CONDITIONAL USE PERMIT FOR THE MODEL HOME AND SALES CENTER PROVIDED IT MOVES FROM LOT 27 TO LOT 30 OR 38 SUBJECT TO THE TERMS AND CONDITIONS IN THE STAFF MEMORANDUM INCLUDING A MODIFICATION OF CONDITION NUMBER 8 FOR THE SALES OF OTHER LOTS. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered. For the record this does not go to the Village Board. Items C and D you want a motion to take those together, Jean?

Jean Werbie:

Yes, please.

John Braig:

So moved.

Mike Serpe:

Second.

Thomas Terwall:

**IT'S BEEN MOVED BY JOHN BRAIG AND SECONDED BY MIKE SERPE TO CONSIDER ITEMS C AND D TOGETHER, HOWEVER WE WILL HAVE TO TAKE SEPARATE VOTES. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

- C. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of Scott and Dora Azmus owners of the vacant properties generally located south of 87th Place and west of 47th Avenue for a Zoning Map Amendment to rezone Lots 1 and 2 of a proposed Certified Survey Map from R-4 (UHO), Urban Single Family Residential District with an Urban Landholding Overlay District to R-4, Urban Single Family Residential District.**
- D. Consider the request of Scott and Dora Azmus, owners for approval of a Certified Survey Map to subdivide the property generally located south of 87th Place and west of 47th Avenue.**

Jean Werbie:

Mr. Chairman, Items C, the first is a public hearing and consideration of a zoning map amendment for the request of Scott and Dora Azmus owners of the vacant properties generally located south of 87th Place and west of 47th Avenue for a Zoning Map Amendment to rezone Lots 1 and 2 of a proposed Certified Survey Map from R-4 (UHO), Urban Single Family Residential District with an Urban Landholding Overlay District, to R-4, Urban Single Family Residential District.

Item D is the certified survey map to subdivide those same properties that are generally located south of 87th Place and west of 47th Avenue. Again, separate action will be requested on both items.

They are requesting to subdivide the property generally located on the south side of 87th Place and west of 47th Avenue. This is an area of the Village that's located just south of the Cooper Heights Subdivision. The property is currently zoned R-4 (UHO) and they are requesting R-4. The R-4 District requires that the lots be a minimum of 15,000 square feet with a minimum of 90 feet of frontage on a public road. The UHO Overlay District typically remains in effect on vacant property until there's a plan of development and municipal services are available, both of which we have now in this vicinity.

On May 29, 2007 the Village Plan Commission approved the attached Neighborhood Plan for this portion of the Isetts Neighborhood and on and on June 4, 2007 the Village Board approved a Resolution in support of the Neighborhood Plan.

- Lot 1 of the proposed CSM is 15634.7 square feet with 94.98 feet of frontage on 87th Place.
- Lot 2 of the proposed CSM is 15,634.7 square feet with 94.97 feet of frontage on 87th Place.

- Lot 3 is the balance or 5.8 acres. It has 415 plus feet of frontage on 87<sup>th</sup> Place. Lot 3 is proposed to be subdivided in the future pursuant to the neighborhood plan that is file with the Village.

The CSM conforms with the approved Neighborhood Plan and the proposed zoning map amendment complies with the Village Comprehensive Plan and is not inconsistent with the adjacent residential zoned properties. With that, again, the first item was a matter for public hearing so I'd like to continue the public hearing at this time.

Thomas Terwall:

Is there anybody wishing to speak on this matter? Anybody wishing to speak? Anybody wishing to speak. Is the petitioner present? I'll open it up to comments and questions from Commissioners and staff.

John Braig:

Is Hawk's Grove an approved subdivision?

Jean Werbie:

No, Hawk's Grove is the petitioner's name for her future whole subdivision area. This is the first two lots of that Hawk's Grove subdivision.

John Braig:

But it has not been platted as a subdivision and approved?

Jean Werbie:

No. We've only gone as far as the neighborhood plan process.

Thomas Terwall:

I distinctly recall discussions about allowing development in this area without providing for egress and entrance other than 48<sup>th</sup> Avenue. And it seems to me that the Plan Commission went on record as saying we weren't going to approve the development of this area unless it included access other than 48<sup>th</sup> Avenue. 48<sup>th</sup> Avenue is not—I guess I don't have a problem with two houses but I certainly have a problem going farther than that. Do you recall that discussion?

Jean Werbie:

I do but not quite. Let me read what was approved by the Plan Commission. There was a resolution that was adopted by the Plan Commission and I'll read it verbatim. In one of the whereas clauses it states that whereas all of the vacant land in this area of the neighborhood will not develop at one time. The area south of 87<sup>th</sup> Place will likely develop over several years and it will be developed as shown as Exhibit B as described below. First of all, Lots 3 and 4, which are the two that they're requesting to have the certified survey map approved for this evening, are

proposed to be created by certified survey map this year. These lots will have access to the existing 87<sup>th</sup> Place and no additional public improvements are required to create these two lots.

The resolution goes on to state that the remaining seven single family lots, 1 and 2 and 5 through 9, and the proposed retention basin adjacent to 48<sup>th</sup> Avenue are proposed to be created within the next two years. This seven lot development would require public improvements to be installed in 50<sup>th</sup> Avenue, 88<sup>th</sup> Place and 48<sup>th</sup> Avenue and the construction of a retention basin. Lots 19 through 22 could be created once 50<sup>th</sup> Avenue is constructed. Lots 10 through 15 could be created if adjacent property owners to the south should decide to combine their land for development. And then Lots 16 through 18 abutting proposed 50<sup>th</sup> Avenue and Lots 1 through 11 abutting proposed 89<sup>th</sup> Street could not be created until 50<sup>th</sup> Avenue is extended south to 89<sup>th</sup> Street and 89<sup>th</sup> Street is connected to Cooper Road. So the beginning lots could occur based on what we're presenting this evening. And then as we look at additional lots then additional access and connection and improvements would be required.

Thomas Terwall:

You're saying seven additional lots in addition to these two could be approved?

Jean Werbie:

Right, with some additional improvements in 50<sup>th</sup> Avenue, 88<sup>th</sup> Place and 48<sup>th</sup> Avenue.

Thomas Terwall:

But running all that traffic down 48<sup>th</sup> Avenue? There's no improvements to that part of 48<sup>th</sup> Avenue?

Jean Werbie:

There was some discussion at the Board level that there would need to be some improvements on 48<sup>th</sup> Avenue.

Thomas Terwall:

That's where I'm coming from. I have no problem supporting these two lots. But as far as approving the other seven unless some relief is offered to the people who live on 48<sup>th</sup> Avenue now, I guess I just don't know how I can support that.

Mike Serpe:

Mike, I don't mean to put you on the spot, but have we got into any dialogue with anybody with reference to 48<sup>th</sup> Avenue, the reconstruction of?

Mike Pollocoff:

There's no planned reconstruction of 48<sup>th</sup> Avenue. What it would be is we have to go visit with the homeowners that don't have municipal water, get an easement from them to offset the water main for whenever it goes in so that we could mill up 48<sup>th</sup> Avenue and resurface it. That's a

budgetary issue that we'll be talking about in this year's budget. I won't say it's our worst road but it's definitely not one of our best roads. We'd like to get a few of those picked up and cleaned up when we can. This is just a little more difficult because we don't have utilities on that street now. If somebody says no I'm not sure the Village is prepared to go condemn an easement for an improvement we aren't going to make yet. That's what makes it a little problematic.

Thomas Terwall:

Is the property owner to the south even considering development at this time? Is that the Lenoy property?

Jean Werbie:

Yes. And they have talked about it on and off for several years.

Mike Pollocoff:

They've talked about it on and off since I've been here.

Thomas Terwall:

I was going to say that started in '77 when I first got on the Board. Any other comments or questions?

Dora Azmus:

Is it possible that I could make a comment?

Thomas Terwall:

Yes, give us your name and address please.

Dora Azmus:

Dora Azmus, 8750 47<sup>th</sup> Avenue. We're the owners of the colored portion there. I just wanted to point out that the other seven lots that would be proposed as the second phase of that don't have any utilities. So it's not just a matter of building a road which is quite expensive, but it's also bringing in the utilities from Cooper Road. And also just I believe that's south of what would be 50<sup>th</sup> Avenue and that area is another property owner that is not considering development at this time. So we're not professional developers so we aren't planning to undertake that three quarters of a million dollar development project unless we have concurrence with the whole larger plan which would be that connection to the Lenoy's property.

Thomas Terwall:

Thanks very much. If there's no further comment what's your pleasure?

Mike Serpe:

Mr. Chairman, I'd move approval of the zoning map amendment.

Andrea Rode:

Second.

Thomas Terwall:

**IT'S BEEN MOVED BY MIKE SERPE AND SECONDED BY ANDREA RODE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD FOR THE ZONING MAP AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed?

Wayne Koessl:

Mr. Chairman, I would move approval of the certified survey map.

Mike Serpe:

Second.

Thomas Terwall:

**MOVED BY WAYNE KOESSL AND SECONDED BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CSM 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.

**E. Consider the request of Pat Metzger, owner for approval of a Certified Survey Map to subdivide the property located at 10101 28th Avenue into three parcels.**

Jean Werbie:

Mr. Chairman, this is the request for a certified survey map at the request of Pat Metzger. The property is located at 10101 28<sup>th</sup> Avenue. The 9934 is his mail to address. So just to clarify it's correct on the slide, 10101 28<sup>th</sup> Avenue. It's known as Lot 29 in the Hickory Grove Subdivision. He's requesting to subdivide it into three parcels.

The property is currently zoned R-4, Urban Single Family Residential District which requires lots be a minimum of 15,000 square feet with a minimum of 90 feet of frontage on a public road.

- Lot 1 is proposed to be 30,096 square feet with 100 feet of frontage on 28th Avenue. Lot 1 has an existing home and two detached accessory buildings that will remain.
- Lots 2 and 3 are proposed to be 33,971 square feet each and each lot is proposed to have 112.9 feet of frontage on 28th Avenue. Lots 2 and 3 are vacant.

Municipal Sanitary sewer is available in 28th Avenue and new homes constructed on Lots 2 and 3 shall connect to the municipal sewer system. There is no municipal water within 28th Avenue; therefore, the owner will be required to sign a Waiver of Special Assessments Hearing Notice for all three properties. New homes constructed on Lots 2 and 3 will be allowed to have a well; however, when municipal water is available in 28th Avenue the owners will be required to connect to municipal water system. Additional right-of-way is proposed to be dedicated on 28th Avenue and no easements are required from We Energies. The staff recommends approval of the certified survey map as presented subject to the comments and conditions as outlined in the staff memorandum.

Andrea Rode:

I recommend approval.

Jim Bandura:

Second.

Thomas Terwall:

**MOVED BY ANDREA RODE AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE CSM SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed?

John Braig:

Let the record show that I abstain from voting.

Thomas Terwall:

Is it something we said, John?

John Braig:

No, I'm in the process of negotiating a new roof on my house.

**F. Consider Plan Commission Resolution #07-17 to approve the Designation of Boundaries and the Draft Project Plan for Tax Increment District #4, generally located at the southeast corner of 91<sup>st</sup> Street and 22<sup>nd</sup> Avenue.**

Jean Werbie:

Mr. Chairman, Item F is to consider the Plan Commission Resolution 07-17 and this is a two part resolution. First is to approve the designation of the boundaries, and second to approve the draft project plan for Tax Increment District #4. This is for a property area that's generally located at the southeast corner of 91<sup>st</sup> Street and 22<sup>nd</sup> Avenue.

The first thing that I would like to do is to go over for you a blight determination study that was prepared by the Village staff for the CDA. And, again, it's for the southeast corner of 91<sup>st</sup> Street and 22<sup>nd</sup> Avenue. The blight determination study was prepared for a property that is located at that southeast corner. There's three properties actually that are characterized by a run down neighborhood strip retail center which was originally developed in the 1960s. It's surrounded by smaller single family residential land uses to the south as well as to the west. There's an institutional land use to the north, and then we've got some more residential to the east.

The retail center is worn out and it's a deteriorated building. It's been the location of several fires. It's been the target of vandalism and uncontrolled dumping over the years. The building, due to significant water damage from a leaking and damaged roof has significant mold growth and several other health, safety and welfare building and fire code violations. The site also has a number of zoning and municipal code violations relating to building maintenance, obsolete signage, broken and deteriorated parking lot areas, tall weeds and grasses. The present character and appearance and conditions of this area has presented for us to identify this area as a blighted area in accordance with Section 66.133 (2m)(b) of the Wisconsin Statutes.

In accordance with the statutes and the TID project plan that Mike is going to be talking about, the staff put together then this blight determination study to give you a better idea of what the site looks like and what's contained on that site. The blight area that has been identified specifically has three parcels, Parcel 1, 2 and 3. They are owned by BFU II, LLC. The acreage of the parcels, Parcel 1 is 1.09 acres, Parcel 2 is .60 acres and Parcel 3 is 1.68 acres.

What the staff has done is we have gone out to the property, and as you can see if you've driven by, the building is currently vacant. The shopping center is made primarily of concrete block

construction, has a flat roof, concrete slab, on grade floors. Specifically, in the past this particular building housed church offices, a restaurant and bar, a laundromat and a beauty salon. Previous uses that were once housed in the building include several different restaurants, a nightclub, a travel agency, a mini mart, a dance academy, heating and air conditioning repair shop and a dry cleaning business. The site contains a broken asphalt parking lot on two of the parcels. A steel tank containing used cooking grease, a dumpster containing solid waste, two electrical transformers and scattered garbage were observed to the south of the building.

The very southern portion of the three sites is identified as a wooded property. A detailed tree survey was completed on June 11, 2007 by Dave Meyer from Wetland & Waterway Consulting. A portion of the site in the very far east side is also encumbered by a shoreland jurisdictional boundary. There are no floodplains or any other wetlands on this particular property. The parcel to the south has also been the site for a lot of dumping of garbage, asphalt and other debris, and so it's been identified as a contaminated property.

The parcels are served by municipal sewer and water, although not combined at this time. Current observations in building conditions, and Peggy has been flipping through some of the interior pictures that I have taken of the site to give you a good feel of what the inside of this facility looks like at this time. Drake Environmental has performed a Phase I environmental assessment and a Phase II environmental assessment. Again, the property has been identified as 2103 and 2133 91<sup>st</sup> Street for the record.

As you can see in the blight determination study report, the Phase I study identified that there were local records that indicated that a dry cleaning facility may have been located in this building. Solvents were typically used in the dry cleaning process, and potential exists for release to have impacted the soil and the groundwater of the property.

The study, which is Phase I and Phase II environmental is available here at the Village Hall. We did not make individual copies for everyone if you'd like to read through it. But the Phase II portion of the study did reveal that analytical results indicated that tetrachloroethene, a common dry cleaning solvent, was found to be impacting the soil of the property. It was also found to be impacting the groundwater of the property. There are two different slides that Peggy was showing, the first of which here you can see is the groundwater contamination and the extent of that contamination, and the other was the soil contamination on that particular property.

The study you have before you also talks about some of the other planning related activities that the comprehensive plan currently identifies this property as a commercial property, that the zoning of the property identifies it as B-1, Neighborhood Business District, and the southern portion is residential R-5. There is some other additional information with respect to other impacts to the property. Since this property is all under one current ownership there are no property acquisitions and no other property owners that the Village is working with with respect to this property. But the blight determination study that was prepared for your review helps to set the stage for the condition of the property and its need for rehabilitation and removal.

With that, I'd like to have Mike continue with respect to the TID project plan.

Mike Pollocoff:

Jean has identified that one of the things that the Plan Commission is going to undertake in their consideration is to determine that the property is blighted. One of the vehicles by which we can remedy that is private sector, have them of their own design go in and remediate the site and get it cleaned up and redevelop and reuse it. The other one is to seek assistance from the Village in the manner of a TIF. What the TIF does, TIF legislation, the primary premise is that the TIF financing authorities can be used if under no circumstances will you be able to redevelop this project anyway. In other words, we have to be able to financially show that if TIF resources aren't available this project would not proceed. You need the TIF assistance in order for it to happen anyway. If it could happen on its own then we wouldn't want to use the TIF and legally we shouldn't use it.

The project area is the same as Jean has identified. It's 3.37 acres. There's major project costs that are involved in this, the environmental investigation, the cleanup, monitoring, closure, demolition, brownfield specific infrastructure components. Total cost for the proposed project is estimated at \$715,365. So what the Village would be doing is TIFing that amount of money. We wouldn't be TIFing the development which would be coming in. There would be no TIF funds used for that. What this does is it takes the deficiencies in the site, the fact that it's dilapidated, the building is blighted, it's contaminated, it cleans all that up and removes all of the debris that's behind the building that's behind there, cleans the site up completely. Then from that point the developer goes forward and puts his money into the project for the actual construction. The developer pays for the land. That's his cost, that's not part of the TIF cost. All we're doing is cleaning up the site with this project.

The project cost summary for TIF you break it out to administration and other, and for us that's the time that I spend which is too much. Rocco Vita spent a ton of time on this, Jean Werbie and the legal fee or review which we contract out, that will happen over time with the biggest his being in 2008 for the time the Village spends. Then the project cost which is \$604,000. Again, that's front end loaded. Remember, the first thing we have to do with this if it proceeds is to clean the site up and they can't do anything on the site until it's been cleaned up, remediated and approved by the DNR.

One of the policy determinations you're going to be making in the future, you won't be making it tonight, this really starts the process rolling, is taking that zoning and changing it to multifamily. One of the things that Mr. Mills has looked at and we've looked at is if we're going to do a TIF and there's \$715,000 that needs to be paid to clean that site up, what the TIF says is that the school district, the County, Votek are not going to get the tax revenues for a period of time. The taxes are still going to be paid, though, and they're going to be paid to Mr. Mills to pay for the bonds he's going to issue to clean that TIF up. So those bonds will pay the TIF increments, the property taxes paid by that parcel will pay for the cost of remediation.

So what will make that work is in this real estate market and this location at this time is determined to be condominiums. The site has a dismal record as a commercial use. If you were to just roll it over to single family use you might get four houses there. There's no way that you'd begin to pay off the \$715,000 to clean the site up. Condominiums appear to be the next best use in order to accommodate the cleanup and then put something usable there on the tax roll. So that's why we'd be going with an R-11 PUD.

The map shows directly surrounding the property there's a little bit higher density housing. There's a conservancy, across the street is St. Therese. In that area there are multifamily developments in the City and there's actually one multifamily unit in the Village just a little bit farther to the east. I think the numbers we've showed that this TIF if you look at your project plan, in its conservative estimate, we're assuming that the values are not going to be really jumping. It would take 20 years to retire the TIF based on the expenses we have out there. If the numbers come in a little bit less they would be retired sooner.

As we proceed through the project before the Board has their final review of it and the Joint Review Committee has their final review of it, we're going to be entering into a development agreement with the developer to do a number of things. One is he's going to need to show to the people who he's doing banking with that the Village is committed to make those annual payments of the increment that's collected to him so he can pay off his bills. The Village is going to want to be insulated to make sure that the Village stands no financial risk whatsoever if this thing has a problem, that Mr. Mills is going to assume that risk because in this case we don't want any public tax dollars to be used to finance this.

In some areas they're a little more generous in doing brownfield development, but at this stage in time the Village is engaged in a rather large TIF project in LakeView Corporate Park and that's really tying up a lot of our resources so this is one way we can get one done and have the developer pay for it. The policy questions that the Village is going to be looking at over time is 20 years too long, or do we just wait on the site and hope that at some point it's going to develop on its own in the future. I tend to think not. That site has been around for a long time. One of the uses Jean didn't mention is it used to be part of the Town offices in that building and we got out of there. I think we got out of there because we built this place and it wasn't convenient. But the site from a commercial standpoint has problems. So that's where we are.

What this resolution does tonight is it gets everything rolling. By the end of October, assuming that it proceeds and everybody concurs with it, we'd be done with this by the end of October. The Plan Commission would be seeing subsequent along with that the CSM, the platting for the condominium as well as the rezoning and taking a look at the buildings that are actually going up. Do you have any questions?

Mike Serpe:

Mike, in order for the Village to pay Steve Mills his portion, what he's got coming from his bonding, wouldn't the improvements on that property have to take place rather not quickly I don't want to say but more completely than not? In other words, is the building of that whole parcel going to develop rather quickly or are you going to do it in stages?

Mike Pollocoff:

We've assumed that the absorption is not going to happen overnight. So when you look at the schedule for developer revenue bonds, the increment payments in the beginning are not that sufficient. He has a grant that's coming in for \$150,000, but in the development agreement if there's any deficiency between the increment and what needs to be paid that's going to have to be paid by Mr. Mills and that's true in every TIF. It takes a while for the development to come fully up to speed.

Mike Serpe:

So it's not going to come on to a burden on the Village that if he doesn't develop this parcel rather quickly it's not going to fall on us?

Mike Pollocoff:

The risk to the Village is the development doesn't happen and there's a TIF there that needs to be paid and we need to insulate ourselves to make sure that if that happens for some reason, Mr. Mills decides to develop in Hawaii and says I'm tired of you Wisconsin people and I'm out of here, and the next person it would transfer his obligations, or that the market just goes terrible and he can't sell condominiums very fast. Then at that point we'd be looking to Mr. Mills to make up the spread. When that happens it stretches out the length of the TIF. It takes all that much longer for this to go on the tax roll.

Now, if this was the industrial park where you're looking at millions of dollars of tax base that's one thing. But this development by its nature is very small and it's isolated to three acres. So the financial hit isn't as good. If we do nothing right now we're not getting any because the value of it is so low.

John Braig:

There's an extremely blighted residential property in Beverly Woods. I really believe ultimately the structure is going to have to be razed, the well abandoned. Can we create a TIF District for that?

Mike Pollocoff:

No.

John Braig:

What's the difference?

Mike Pollocoff:

Well, I take that back. Under the new TIF you can do residential. But the difference would be if it's so blighted that maybe the Village could issue a razing order on the property—

John Braig:

I believe you could.

Mike Pollocoff:

We've done this on certain parcels in the Village. You issue a razing order, tear it down, but that land has value and someone can rebuilt another house on there. That would be the difference. You're not trying to recoup as big of an up front loading as you are when you're doing an environmental cleanup. So the problem with that one house would be it's in sorry shape and

maybe the structure isn't sound, so you dig it out, you put a new foundation in and you put a house up that's more compatible with the surrounding properties and that works.

John Braig:

What I'm looking at is it sounds as though the so-called contamination of this site is what's the justification. As I see it if you've got a parcel of land with dilapidated buildings on it, I mean it happens all the time, you raze the thing and you put something new on it.

Mike Pollocoff:

That's true, but--

John Braig:

I'm getting the feeling we're asked to approve something we don't know anything about. A pig in a poke. You're telling us it's heavily contaminated. We don't know what the contamination is.

Mike Pollocoff:

No, we do know. It's shown on the map and we have a study that says it is.

John Braig:

It's shown on a map but we don't see figures. I guess that's what we've got to look at then.

Mike Pollocoff:

If you look at your project plan, of the \$715,000 the environmental investigation, cleanup and monitoring is \$430,000.

John Braig:

Where does that number come from?

Mike Pollocoff:

That comes from the Phase I of our environmental study which is the work that's done to identify these sites. This site is on the State site for environmental cleanup for dry cleaning. So the contamination is there. The difference, again, is if Mr. Mills was only just going to tear the building down because that's all he had to do that would be his cost. We would say, well, the land is worth more than the building and have at it. But he doesn't have that. We have to dig out a large chunk of the site, take it out, put in soils, put in monitoring, make sure there's no groundwater contamination before we can even begin to start the site. That's the difference. Once again, this is starting off the process, and if the Commissioners want us to recopy the environmental assessment report we'll get a copy, but the staff has reviewed that and we don't believe it's misleading.

Mike Serpe:

I'm all in favor of this project. The only fear I do have is the market right now is flat as it is. But I also believe that that's going to turn around hopefully in the next year or so. I think it's a benefit to the Village that we go ahead with this project and I appreciate certainly Mr. Mills taking it on. There is a risk. I think the risk—I think there's more benefit to us doing this than not. Like I said, the market being flat is my only concern but the analysts says that that's going to start turning around in about a year or so.

Mike Pollocoff:

I encourage you to have Mr. Mills talk about that.

Steve Mills:

My name is Steve Mills. My business address is 4011 80<sup>th</sup> Street in Kenosha. This property is kind of interesting in the fact that I drive by it quite often. I've watched it kind of linger on the market and didn't know quite why it would never sell so I did a little bit of an investigation. Plus, we have significant landholdings of about 500 acres behind it. We own the Keno Drive-In to the east of it. I thought somebody should do something with it. So I contacted the owner who really wouldn't give me any information. So I did a title search and found out the bank had been foreclosing on this for a long, long period of time. I couldn't quite figure out. There were five or six years of taxes due and the County wasn't taking it back either.

So I contacted the bank and went into negotiations basically to sign the mortgage. They made me sign a long confidentiality agreement that I wouldn't let Phase I and Phase II out to anyone. The bank did not want to take it back and be in the chain of title. So I did all of those things and took it through the foreclosure. Of course, nobody was there to buy it at the auction. But before I did all of that I called the Village and said this is an eyesore and I've heard of something called the brownfield and I've heard of a developer funded TIF. If I could line up all the stars on this I'd maybe be willing to take the risk to build something on this site that would eliminate what's on it now and ultimately make 22<sup>nd</sup> Avenue and Springbrook Road a more attractive view as you go down that road.

So I believe it was bounced around in the office here that would there be at least initial interest in me pursuing this project as opposed to having the Village do it. At some point in time either the County or the Village would have had to have done it. Somebody eventually I think would have had to take that back. Or you would have gotten tired of looking at it and stepped up to the plate. I'm no hero here, I hope to make some money, but I can't do that on this site because of the environmental contamination that's on it. If it was a clean site and all I had to do was take the buildings down we wouldn't have gone through all this.

Honestly, I don't do this very often so it's a bit of a challenge and a bit of an experiment here to do a brownfield cleanup. We have Drake Environmental here who are the people who did the report initially. I've since brought them in and they've really been very helpful on bringing me up to speed on what it takes. So I agree the real estate market is somewhat flat, but we have six different communities that we're developing now. This is not really a very large project. We're talking about building four 7-unit condominium buildings on it, very similar to what we're building on the north side of Kenosha at 22<sup>nd</sup> Avenue and 14<sup>th</sup> Place called Northpoint Court.

We're selling those units. They're not waiting in line for a ticket for the lottery to buy one, but we also believe at some point in time that will turn around.

Plus really you don't have what we think of as entry level condominium unit in Pleasant Prairie. We think there's demand for that and that we will be able to sell them. The bottom line is I know I'm on the hook if we can't. I think it's a collaboration. If you're willing to kind of go through this process with me I'm willing to take the risk and build it. I'd be glad to try to answer any questions.

Wayne Koessler:

Steve, can we use the word cooperation instead of collaboration?

Jim Bandura:

Just a question to the staff. Mike, I noticed on one of the drawings here that the contamination goes over the property line. How are we going to handle that?

Mike Pollocoff:

Once the site is cleaned up and the groundwater is no longer contaminated, then the plume disappears and that site won't be contaminated anymore. I believe from Drake they can address that.

D.J. Burns:

My name is D.J. Burn, N105W7585 Chatham Street, Cedarburg, Wisconsin. I'm the project director of Drake Environmental. As Jean had pointed out and Michael, we did the Phase I and Phase II studies of this property. As Steve also mentioned, we were heavily involved at the time that the bank really refused to take this property back from Sergio . . . . They didn't want to touch it. I think that was due in part to the Phase II environmental site assessment work we performed which identified a fairly large area of contamination both in soil and groundwater that's depicted on the map that Peggy has here.

If we go back to the soil contamination diagram, the primary area of soil contamination is contained within the property boundaries that BFU or Steve currently owns. The DNR is going to ask that we address the soil contamination to make the site acceptable for residential or any other future use. As an add on to that if you go to the groundwater contamination slide, by removing the soil contaminant mass that will have the effect of drawing back that contamination from the southern lobe of the property. So over time the chlorinated solvents from the dry cleaning solvent that Jean had mentioned earlier that will actually naturally attenuate and pull back onto the property. That will reduce any long-term liability that primarily resides with Mr. Mills or BFU II, LLC.

The DNR has had a lot of contact with this adjacent property owner to advise them of their efforts to make sure that they knew what their requirements were if they did not provide the property owner access to that property, the adjacent property owner. The DNR will continue to work with that property owner throughout the course of this project to let them know, but ultimately it is their decision. If they refused Steve or BFU access to that property, that contamination then

becomes that property owner's and there's not much that the DNR can do other than point that out. Again, we're taking a prescriptive approach where we intend to remediate the soil and in effect pull back that groundwater off of that property so we're trying to actually do that anywhere with our approach.

Thomas Terwall:

Is all of the contamination a result of the dry cleaner?

D.J. Burns:

I would say that 99 percent of the contamination that the DNR is concerned about is related to the dry cleaner. However, they are also concerned about the historical dumping that has taken place on the southern portion of the property.

Thomas Terwall:

Thank you.

John Braig:

I see if we approve this tonight we're really approving an awful lot more. We're approving the condominium project with 28 units across the street from a playground which doesn't belong to the property owner. But I'm not saying you should vote for or against it, but I think we should have the realization because of the dollars involved and the involvement of the Village we are approving or putting ourselves in a position where we will have to approve the whole package eventually.

Thomas Terwall:

I guess, John, I don't disagree, but I think the point that Mike made earlier there's going to be a \$715,000 cost to somebody to clean this site up. We can look the other way and drive by it from now until hell freezes over, but at some point it's got to be cleaned up. And that \$715,000 how many uses for that parcel of land are ever going to pay it off? So whether with a TIF or not somehow it's got to be cost justified and I don't see any other way. The dumping that goes on there is unbelievable. That Bain Station Road on the east side it really is. From lawn and garden guys dumping grass clippings and periodically we've got to go in and clean them up because there's no more room to dump stuff. I support this only because I think it's the only solution. We can turn our heads on this for as long as we want but that is an eyesore. It's a terrible eyesore and I think we owe it to the community in general, particularly the adjoining property owners to do something about it. We can't just let this continue to go on.

Mike Pollocoff:

And this is the initial. The purpose of this resolution is to get the process started and that's what you guys are doing. That's not to take away the importance of what you said. You're starting on a path and with that recognition, but it doesn't preclude the Plan Commission or the Village Board ultimately saying no for whatever reasons they would say no. Once we've created the TIF and started that then at that point we have committed.

Andrea Rode:

I make a motion that we approve this.

Mike Serpe:

I'll second it.

D.J. Burns:

Could I just interject one thing. I would like to draw the planning staff's attention to a possible error that I make in the figures or calculations. I believe it sums up correctly now at \$111,000. I may have put \$88,000 earlier in one portion.

Wayne Koessl:

I think we have those, Jean.

Jean Werbie:

We handed out to you the revised project summary schedule as well as a preliminary schedule of site preparation activities. Again, this is a draft project plan that you're considering this evening so there still will be some minor modifications and tweaks to this document. In addition, we are looking at two things this evening with that resolution. One is to approve the project boundaries and the second is to approve the draft project plan.

Thomas Terwall:

I have a question of Mike. Mike, before the TIF ever gets created and Mr. Mills is on the hook for \$715,000, before we get to that point he'll have assurance from the Village that the condo project has been approved?

Mike Pollocoff:

No. We'll have a developer agreement completed before the final TIF is approved, but just as a matter of timing the final condominium plat and approvals won't be done until after the TIF is created. We need to establish this TIF by the end of October to get it certified so that next year those increments are set aside. If for some reason that doesn't happen and the thing falls apart, the Village would decertify the TIF in the following year and the increments for the next year would be set aside. But you'll still be working through this condominium development after the TIF is created because they really track on two separate time frames. One is that land use consideration, going through the regular pools that we have to, and the TIF is separate from that.

Jean Werbie:

And I just wanted to add to the discussion that I do have a very detailed schedule prepared as to when the rezoning and the conceptual plan and the preliminary condominium plat and the final plat that all of these documents will be slated to come before the Village Plan Commission and

the Board over the next four months. There's a very succinct time schedule that we will be looking at. And the next time that this will be back before you is September 10<sup>th</sup> for the TID #4 Public Hearing and project plan consideration, Comprehensive Plan, Neighborhood Plan and Conceptual Plan Consideration and rezoning of the property.

Mike Serpe:

One question for you. When the cleaning of the site starts, is this dirt going to be hauled away or is it going to be cooked? What's going to be happening.

D.J. Burns:

The contaminated soil is scheduled to be removed off to a licensed landfill that's certified to accept this type of material.

Mike Serpe:

Where is that at?

D.J. Burns:

More than likely the final resting spot will be at the Veolia complex up in the Milwaukee area so outside the Village limits.

Mike Serpe:

And miraculously it gets cleaned up there.

D.J. Burns:

It goes into a designated portion of the landfill allowed to address it, yes.

Thomas Terwall:

**THANK YOU. I GUESS MY ONLY CAUTION WOULD BE--DO WE HAVE A SECOND TO THE MOTION? YES. I WOULD CAUTION COMMISSIONERS TO NOT SUPPORT THIS MOTION IF YOU ALSO CAN'T SUPPORT CONDOMINIUMS ON THAT SITE. I THINK WE OWE IT TO MR. MILLS OR WE OWE IT TO ANYBODY WHO IS GOING TO DEVELOP THAT SITE THAT HE HAS SOME UNDERSTANDING THAT THIS BOARD--I'M NOT ASKING THAT WE RUBBER STAMP IT UNTIL WE SEE IT, BUT IF AT THIS POINT YOU KNOW THAT YOU'RE NOT GOING TO SUPPORT CONDOMINIUMS I WOULD ENCOURAGE YOU NOT TO VOTE TO SUPPORT THE TIF DISTRICT. I THINK THE TWO GO HAND IN HAND. THERE'S A MOTION BY ANDREA RODE AND A SECOND BY MIKE SERPE THEN TO ADOPT RESOLUTION 07-17. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed?

John Braig:

Aye.

Thomas Terwall:

So ordered.

**G. Consider Plan Commission Resolution #07-18 to initiate a zoning text amendment related to the use of existing nonconforming lots in the business districts.**

Jean Werbie:

Mr. Chairman, before you you have Resolution #07-18. It's a request to initiate a zoning text amendment. As you know, the Plan Commission may initiate a petition for an amendment of the zoning ordinance, which may include rezoning of property, change in zoning district boundaries or changes in the ext of the ordinance.

Section 420-140 E of the Village zoning ordinance entitled use of existing nonconforming lots in the business district sets forth very specific requirements for existing lots within the B-1, B-2, B-3, B-4 and B-5 Districts that are nonconforming to be developed and used for allowed use subject to compliance with all applicable requirements of the zoning ordinance. However, there are a few requirements that the staff now that we're dealing with some nonconforming lots would like further consideration and direction to be placed in the zoning text so that a developer or property owner does not need to go and seek a variance for some modification.

For example, a good example that we have right now is we've got a small lot that's legal nonconforming within the B-2 District. Based on that small size of the lot and the width of that lot, they can't meet minimum setback requirements from the side or rear setbacks, so the ordinance allows the staff to modify those setbacks. It tells us what steps to go through to modify the building size, modify landscaping, modify open space. It goes through each of the steps that we've gone through before of what we can do in order to fit something on that particular parcel without having to do a PUD or a PD or having to do to the Zoning Board of Appeals.

We would like to take a look at that district one more time, those regulations one more time, to see within the B-2 District if there might be some other things we need to look at such as accessory structures like garbage enclosure or dumpster areas and some other things that the staff has thought of as we continue to move through the planning process in the Village. So we'd like to bring back a zoning text modification that looks at some of the more detailed items on a particular site to see if we can put them in this nonconforming use section.

So the staff is recommending approval of 07-18 and to bring back some modifications to the zoning text for the Plan Commission's consideration. And we would hold a public hearing to consider any consideration.

Mike Serpe:

Move approval.

John Braig:

Second.

Thomas Terwall:

**MOVED BY MIKE SERPE AND SECONDED BY JOHN BRAIG. KEEP IN MIND THAT THIS MOTION IS ONLY TO AUTHORIZE STAFF TO LOOK AT IT AND COME BACK WITH RECOMMENDATIONS. WE'RE NOT APPROVING ANYTHING AT THIS POINT. ALL IN FAVOR OF 07-18 SAY AYE.**

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

**6. ADJOURN.**

John Braig:

So moved.

Mike Serpe

Second.

Thomas Terwall:

Motion and a second to adjourn. All in favor signify by saying aye.

Voices:

Aye.

Thomas Terwall:

Opposed? So ordered.

**Meeting Adjourned at: 6:40 p.m.**