

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
6:00 P.M.  
April 22, 2013**

A regular meeting for the Pleasant Prairie Plan Commission convened at 6:00 p.m. on April 22, 2013. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessler; Andrea Rode (Alternate #2); Jim Bandura; John Braig; and Judy Juliana (Alternate #1). Larry Zarletti was excused. Also in attendance were Mike Pollocoff, Village Administrator; Jean Werbie-Harris, Community Development Director; Tom Shircel, Assistant Village Administrator; and Peggy Herrick, Assistant Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER THE MINUTES OF THE MARCH 25, 2013 AND APRIL 8, 2013 PLAN COMMISSION MEETINGS.**

Judy Juliana:

Move to approve.

Wayne Koessler:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY JUDY JULIANA AND SECONDED BY WAYNE KOESSL TO APPROVE THE MINUTES OF THE MARCH 25, 2013 AND APRIL 8, 2013 PLAN COMMISSION MEETINGS AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

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

Tom Terwall:

If you're here on an issue that's listed on the agenda as a matter for public hearing, we would ask that you hold your comments until that public hearing is held so that we can include your comment as a part of the official record. However, if you're here for an item that's not a public hearing, or you want to raise an issue that's not on the agenda, now would be your opportunity to do so. We'd ask you to step to the microphone and begin by giving us your name and address. Anybody wishing to speak under citizens' comments?

**6. OLD BUSINESS**

Tom Terwall:

Items A and B are going to be pulled, is that correct Jean?

Jean Werbie-Harris:

Yes, we need to take them off the table and then I will just have a few comments to make.

Tom Terwall:

Okay, we need a motion to remove from the table.

John Braig:

So moved.

Jim Bandura:

Second.

Tom Terwall:

**MOVED BY JOHN BRAIG AND SECONDED BY JIM BANDURA TO REMOVE ITEMS A AND B OF OLD BUSINESS FROM OFF THE TABLE. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Go ahead, Jean.

- A. Consider the request of James Ablan agent for Center 50, LLC owner, for the approval of Site and Operational Plans for the redevelopment of the Town N Country Shopping Center located south of STH 50 between 45th and 47th Avenues to be known as Center 50.**

**B. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AND ZONING TEXT AMENDMENTS for the request of James Ablan agent for Center 50, LLC owner, for the proposed redevelopment of the Town N Country Shopping Center located south of STH 50 between 45th and 47th Avenues. Specifically, to rezone the property by adding a PUD, Planned Unit Development Overlay District on the property that is currently zoned B-2, Community Business District and a Zoning Text Amendment to create the specific PUD District zoning regulations for the proposed redevelopment of said property to be known as Center 50.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, these are two items that are interrelated. They're the request of James Ablan, agent for Center 50, LLC. He's the owner of the Town N Country Shopping Center which is located just south of Highway 50 between 45th and 47th Avenues. He has been working on plans to remodel and renovate the entire Town N Country Shopping Center. And so he had initially submitted some detailed site and operational plans, and he was also requesting a planned unit development as the existing building was built in '59 prior to our zoning. And as such the building is a legal nonconforming structure.

What's happening, however, is as he gets further and further into this old building he is finding more and more things he needs to correct inside that building in order to make it safe. Whether that has to do with the electrical or the plumbing or the fire sprinklers, the asbestos removal, there's just numerous issues, leaking ceilings and roofs. So he is really trying to regroup, and he has bid out his project. He is going to be bringing it back. But now he's trying to work more closely. And, again, whenever you're doing a significant remodel or renovation project you can always look forward to coming across many problems as you go through that.

And so at this point he is asking to remove it from our agenda, and once he gets everything kind of figured out and he can successfully say he's going to be moving forward with the new plans he would like to bring it back at a later date. And we will renotice and send out notices to the neighbors and publish the news notice as well so that everything is order as opposed to leaving it on the Plan Commission agenda.

Tom Terwall:

So our action tonight is just to remove them then, is that correct?

Jean Werbie-Harris:

That's correct. He actually sent an email and asked for it to be withdrawn at this time, and he will resubmit at a later date.

Michael Serpe:

Move to remove Items A and B.

Jim Bandura:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY MIKE SERPE AND SECONDED BY JIM BANDURA TO WITHDRAW ITEMS A AND B OFF THE AGENDA. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

## **7. NEW BUSINESS**

Wayne Koessl:

Through the Chair to Jean. Are we going to take up Items A through D all at the same time as they're related and have separate votes?

Jean Werbie-Harris:

Yes, I would request that.

Wayne Koessl:

And if so could we move Item F up right before Item E?

Jean Werbie-Harris:

If the Plan Commission chooses to make that.

Wayne Koessl:

I'll make a motion to move Item F up.

Tom Terwall:

Ahead of Item E?

Wayne Koessl:

Ahead of Item E, yes.

Tom Terwall:

And discuss A through D at the same time, is that correct?

Wayne Koessl:

Yes, with separate votes.

Tom Terwall:

**MOVED BY WAYNE KOESSL AND SECONDED TO TAKE ITEMS A THROUGH D FOR ONE PRESENTATION WITH SEPARATE VOTES FOLLOWED BY ITEM F, AND ITEM E WILL BE THE LAST ITEM ON THE AGENDA. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- A. PUBLIC HEARING AND CONSIDERATION RESOLUTION #13-05 TO AMENDMENT THE VILLAGE 2035 COMPREHENSIVE PLAN for the request of Jonah Hetland of Mills Enterprises LLC, owner, to amend a portion of the Village of Pleasant Prairie 2035 Comprehensive Land Use Plan Map 9.9 to remove the Urban Reserve Designation from the property located at the northwest corner of STH 50 and 91st Avenue (the underlying community commercial land use designation will remain); and to update Appendix 10-3 of the Village of Pleasant Prairie Wisconsin, 2035 Comprehensive Plan to include said amendment.**
  
- B. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT INCLUDING SITE AND OPERATIONAL PLANS AND DIGITAL SECURITY IMAGING SYSTEM AGREEMENT AND EASEMENT for the request of Jonah Hetland of Mills Enterprises LLC, owner of the vacant property generally located at northwest corner of STH 50 and 91st Avenue for the proposed development of Goddard School, an 8,251 square foot pre-school/daycare facility.**
  
- C. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AND ZONING TEXT AMENDMENTS for the request of Jonah Hetland of Mills Enterprises LLC, owner of the vacant property generally located at northwest corner of STH 50 and 91st Avenue to rezone the property from B-2 (UHO) Community Business District with an Urban Landholding Overlay District to B-2 (PUD), Community Business District with a Planned Unit Development Overlay District. In addition, the petitioner is requesting a Zoning Text Amendment to create the specific PUD District zoning regulations for the proposed development of said property.**

- D. Consider the request of Jonah Hetland of Mills Enterprises LLC, owner of the vacant property generally located at northwest corner of STH 50 and 91st Avenue for approval of a Development Agreement for the installation of public sidewalks and associated landscaping within the right-of-way of 91st Avenue, to modify the Final Plat for Westfield Heights Subdivision related to the vision triangle easements and remove an existing access easement and dedicate a new access easement to access the vacant property to the west.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, these are four related items. And the first item is public hearing and consideration Resolution #13-05 to amend the Village 2035 Comprehensive Plan, and this is at the request of Jonah Hetland of Mills Enterprises LLC, owner, to amend a portion of the Village's Comprehensive Plan and to remove the urban reserve designation on the property. This property is located at the northwest corner of Highway 50 and 91st Avenue. The underlying community commercial land use designation will remain. And then also this will involve the updating of Appendix 10-3 of the Comprehensive Plan to include the amendment.

The next item is Item B, again, related to this item. And this is a public hearing and consideration of a conditional use permit including site and operational plans and a digital security imaging system agreement and easement also at the request of Jonah Hetland of Mills Enterprises, LLC, again, for that vacant property at the northwest corner of Highway 50 and 91st Avenue. Specifically this project is for the development of the Goddard School which would be an 8,251 square foot pre-school/daycare facility.

The next is a public hearing and consideration of a zoning map and zoning text amendment, again, at the request of Mills Enterprises, LLC. This would be to rezone that property from B-2 (UHO) Community Business District with an Urban Landholding Overlay District to the B-2 (PUD), so it would result in a Community Business District with a Planned Unit Development Overlay. In addition, the petitioner is requesting a zoning text amendment to create a specific PUD District zoning regulations for the proposed development of the property.

And then finally with respect to this project the request is from Jonah Hetland of Mills Enterprise, LLC, owner of that same property at the northwest corner of 50 and 91 for the approval of a development agreement for the installation of public sidewalks and associated landscaping within the right of way of 91st Avenue and to modify the final plat for the Westfield Heights Subdivision related to vision triangle easements. And then to remove an existing access easement for access to the land to the west and dedicate a new access easement for access to that vacant land.

Since this is a conditional use permit, the staff set it up with respect to findings of fact. So we'll go through these, and Peggy will move through the slides as well. As part of the public hearing record the Village staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request for a conditional use for a proposed pre-school/daycare facility and as presented in your staff packets.

Under the findings:

1. The petitioner is requesting several approvals for the development of a 56,784 square foot site, it's a 1.3 acre site. It's known as Lot 20 of Westfield Heights Subdivision located at the northwest corner of 91st Avenue and State Trunk Highway 50 or 75th Street). It's further identified as Tax Parcel Number 91-4-122-054-0320. It's for the proposed development of the Goddard School, an 8,251 square foot facility for children ranging in age from six weeks to six years of age. See Exhibit 1 is a copy of the application, plans and related documents.
2. The property is zoned B-2 (UHO), Community Business District with an Urban Landholding Overlay District. As discussed below the UHO is proposed to be removed and a PUD or planned unit development be added as an overlay. The B-2 District allows, with approval of a conditional use permit, the daycare facility.
3. The Goddard School is a national early childhood care and education facility. Every franchise school is co-led by an on-site owner and education director who work together to implement the developmental and learning curriculum established by Goddard Systems, Inc. The facility educates and cares for infants, toddlers and preschool children ranging from six weeks to six years of age. The school provides safe and secure classrooms of strictly limited capacities, as well as providing age defined, enclosed play areas as shown on our site. Parents are required to escort their children through the secure building to the care of their teacher, and pick them up at the end of the school day. Adult admission to the building is pre-arranged, overseen by facility staff and further confirmed by fingerprint recognition security equipment. The facility is not open during the evening or on the weekends. Pursuant to their application, there is currently a great demand for quality early childhood care and education in the area, and this facility is meant to serve this population. Being a nationally operated school, there are a number of facilities throughout northern Illinois. In the State of Wisconsin, there is only one other facility and that's in Brookfield. Goddard sees the Pleasant Prairie site being of great value to better serving southeast Wisconsin, and views Pleasant Prairie as an ideal location.
4. Goddard School Pleasant Prairie proposes an 8,251 square foot school building based on their prototype. It is anticipated that at full capacity there would be 132 children at the facility. The facility includes nine classrooms with restroom facilities and with direct access to an outside fenced play area; two office areas on either side, a secure entry vestibule; a kitchen area, staff area and restrooms within the center of the building. Two of the classrooms for children 6 weeks to 12 months and 12 months to 18 months would have a kitchenette within their classroom. There is no general purpose or general assembly space within the building. Outside, there are two separate fenced playground areas, and the children access the fenced area, again, directly from their class.
5. The hours of operation are 7:00 a.m. to 6:00 p.m. weekdays. They're closed on weekends and holidays. It is anticipated that the facility will be completed in January of 2014. It is anticipated that there will be a total of 30 full-time and part-time employees with 20 employees at full capacity on site at any one time. Employees are likely to work the following shifts: 7:00 a.m. to 4:00 p.m., 8:00 a.m. to 5:00 p.m. and 9:00a.m. to 6:00.

6. The minimum amount of on-site parking spaces required per the Village ordinance is two spaces plus one space for every employee on the maximum shift. A paved, unobstructed pickup space with adequate stacking area shall be provided in addition to standard driveway and parking requirements, or one space for every six children. A safe pedestrian walkway system through the parking area to the building entrance, with a safety zone a minimum of 15 feet in width between parking spaces and the front of the building entrance shall be provided in addition to standard driveway and parking requirements. In addition, the required number of handicapped accessible spaces are per the State building code. The plans indicate 34 parking spaces including two handicapped accessible parking spaces adjacent to the main entrance. This is an ideal number for Goddard School. They have commissioned parking engineers to provide studies on existing prototype schools indicating that their parking counts have never exceeded the minimum requirements of 30 spaces. This is primarily due to the staggered attendance times of different ages of children and the employees. While there is a spike in the beginning and at the end of the day, the 34 parking spaces will serve their needs. This was of some concern initially by the staff just because 91st Avenue would not be appropriate for parking. So we just wanted to make sure that they had adequate parking on their site.
7. The site is proposed to be landscaped with additional trees and plants within the right-of-way of 91st Avenue in order to provide the required pumper pad area for the Fire & Rescue Department to be located adjacent to the retaining wall which is set back one foot from the property line adjacent to a portion of 91st Avenue. Initially there was some discussion of trying to get the pumper pad adjacent to 91st Avenue off the right of way, and that just wasn't working with respect to the amount of traffic that can come down 74th Street from 88th Avenue from PDQ or from the vet clinic. So this really seemed to be the safest and best way to accommodate the pumper pad on the site and the adequate parking. And then we allowed a little bit closer setback but with additional landscaping.
8. The property owner and all of the abutting and adjacent property owners within 300feet were notified via U.S. Mail on March 22, 2013, and notices were published in the *Kenosha News* on April 8th and April 15th, 2013 for the public hearing related to the conditional use permit. In addition, the petitioner received a copy of this Village staff report via e-mail on April 19, 2013.
9. According to the Village Zoning Ordinance, the Plan Commission shall not approve a conditional use permit unless they find after viewing the findings of fact, the application and related information presented at the hearing this evening and in their packets and the project as planned does not violate the intent and purpose of all Village ordinances and meets the minimum standards for granting of the ordinance. In addition, the Plan Commission shall also not approve a site and operational plan unless they find in their decision, again, that that same information coupled with the satisfactions of conditions of approval will comply with all applicable Village ordinance requirements as well as any pertinent County, State, federal or other licensing or building permit requirements or zoning requirements for the site.

Now, that's the conditional use permit. Again, I'll go through the other elements. The 2035 Comprehensive Plan, Plan Commission Resolution 13-05 in your packets would need to be modified. As you know, on December 19, 2009, the Board adopted the Village's



Comprehensive Plan. The Comprehensive Land Use Plan sets forth generalized land use designations if the Village, and we need to make sure that we're consistent with respect to any approvals by the Plan Commission and the Board to that Comprehensive Plan. The development of this property will require the property to be rezoned to remove that UHO, that Urban Landholding Overlay District. And so we intend to remove that Urban Reserve designation from the Comprehensive Plan now that we have detailed plans for this particular site. In addition we'll be amending the Appendix 10-3 to include the amendments that we're discussing.

Next is the zoning map and text amendments. As I indicated, the property is zoned from B-2, Community Business, and it's got a UHO overlay. We are proposing a PUD or a Planned Unit Development overlay. And this will address very specific zoning regulations or modifications to this particular property. The PUD ordinance is being created for this property with the intent that when two other properties, 19 and 21, and again those are the next two, one to the north/northeast and one directly to the east of 91st Avenue, when and if they're developed it's possible that we could just amend the Planned Unit Development for any specific variations or modifications that may be needed.

So this is the PUD ordinance being created, again for these properties. The following dimensional variations to the B-2 District have been requested and are being supported by staff as it relates to this project. The first is they are proposing the development of the Goddard School on a 1.3 acre parcel wherein typically the ordinance would require a two acre parcel. The building setback of 20 feet from the side or the west property line wherein a typical 30 foot setback is required. A ten foot setback to the west property line and a one foot setback to the east property line for the pumper pad area, and ten feet from the parking area wherein typically a 20 foot minimum would be required.

And, finally, based on the site and the configuration, we are supporting a detached garbage enclosure. And that is actually located directly west of that bulb of the entrance. Again, it would not work to attach it to the building because really the only place you could attach it would be on the front area, and that was not appropriate. And on the east area we didn't want to encumber the walkable area adjacent to the parking for the parents to get to the front of the building. So what we've done is we're recommending that that bulbed area that there be additional landscaping put in that area, landscaping on either side as well, and then specifically this detached dumpster enclosure needs to be complementary to the building, and then the dumpster doors will have to be secured at that location at all times and locked and secured basically. And they will blend in with the building as well.

One of the other things that the Village looks for when PUDs are granted or considered to be granted by the Village is development agreements need to be put together as well as we'll be looking at a digital security imaging system. So there are a couple of additional things that are addressed in the PUD and the first is that development agreement. As part of the development agreement and as part of the required community benefit for the project, the Village will require public sidewalks to be installed within the right-of-way from the curb cut at Highway 50 and through the driveway on the site all the way up to the edge of their property line.

The five foot wide concrete sidewalk will be located five feet from the back of curb, and the four existing street trees that are currently in that proximity will need to be relocated still in that parkway area adjacent to the sidewalk. Also, additional landscaping within the right-of-way adjacent to the pumper pad and the retaining wall will be required. And we are looking for a little

bit denser, at least in explanation of the little denser landscaping in that bulbed area to screen the garbage dumpsters as you're coming down 91st Street from the east. Contractors estimates and insurance certificates will need to be provided to the Village and will be exhibits to the development agreement. Again, whenever there's public related improvements on a private site, sidewalk, street trees, they are secured by a cash deposit or a letter of credit, and that amount is released after the improvements have been completed, installed and inspected by the Village. And they're subject to a one year warranty.

The affidavit of correction of the final plat for Westfield Heights Subdivision has been prepared to reduce the vision triangle. There has been some discussion between the owners and the Wisconsin DOT, and as you can see on the slide the upper part is really the vision triangle that's needed. And there was a much greater vision triangle that was originally shown. So they've made that modification, and a right-of-way plat adjustment basically to the plat has been prepared. So as you can see the triangles are much smaller in these two locations. Again, this is 91st, 74th Street and Highway 50.

Next, a plat correction document to vacate the existing 24 foot wide cross-access easement on Lots 19 and 20, and adding a 30 foot wide cross-access easement is being proposed. So there was a cross-access easement through the property. A new cross-access easement is actually being provided. It will extend from 74th Street and then north of their property, and then it will allow this property right here, a future commercial property, to access 91st Street. There was some discussion initially in allowing the cross-access to come through, but the concern was if this would be a very active commercial development bringing all that traffic through the parking lot of a daycare facility when parents are dropping off and kids are getting into cars it really just didn't seem to be very practical. So as a result we've identified the cross-access easement to kind of go north just outside of their fenced area. And it's wide enough, it's a 30 foot wide easement to allow for a 24 foot wide pavement plus utilities on either side to get to that site that's owned by a local doctor in town.

The next item that deals with community benefit for the Planned Unit Development is the digital security imaging system known as a DSIS. And we have put together a digital security imaging system agreement as well as an access easement, a blanket easement on the site. Pursuant to Chapter 410 of the municipal ordinance the development is required to comply with the security ordinance. The DSIS will afford the opportunity for the public safety departments such as the Village Police Department and the Fire & Rescue Department to visually examine commercial establishments and their sites and will provide emergency response personnel with a visual assessment of any emergency situation in advance of arrival without placing an undue burden on the Village taxpayers.

So basically on the exterior of the building, this does not include any cameras inside the building, that's a private matter for the user, but this would address cameras on the outside of the building that focus in on the entrances to the site as well as entrances and exits to the building, the public areas on the site. This is a system for this project that will be owned and operated by Goddard School Pleasant Prairie. It's not going to be owned or operated by the Village. The Village will have the right but not the obligation to be able to access that system or to work with the owners in the event that it's not being kept up or operational. The Village would have the right but not the obligation to do that work on behalf of the owner. And then we have the right also to assess that property owner for any costs or charges that we may accrue in maintaining that system. But it's

not the intent for the Village to own or operate this system. Again, it would stream live information back to the police station.

I think that's it. So, again, there are four items before the Plan Commission tonight, one project. We will require separate action on each of the four items, but these items are a matter for public hearing. There are representatives here from Goddard School as well as from Mills Enterprises, and I'd welcome them to make any comments at this time before the Plan Commission and the audience.

Tom Terwall:

Give us your name and address, sir, to begin would you please?

S.R. Mills:

Certainly. S.R. Mills, 4011 80th Street, Kenosha, Wisconsin. Here this evening on behalf of Bear Development and Mills Enterprises, as well as Jonah Hetland from Construction Management Association, my father Steve Mills from Bear Development. Dave Carbo from Partners in Design who are the architects of records, as well as Sarah Hall from My Sunshine Real Estate, LLC who will be the eventual owner just to shed a little light on the relationships here. Bear Development Mills Enterprises currently owns this site. We have the site under contract with Sarah Hall's company, My Sunshine Real Estate. Bear Development has been hired to development and Construction Management Associates to build the site on behalf of the eventual owner Sarah. Sarah she's a franchisee with Goddard Schools. She's gone through their training, and we have worked with Goddard in great detail to come up with the plan, the operational plan as well as the safety plan. And she will be, again, the owner of this site after we sell the land assuming we proceed. Here to answer any questions.

Don Hackbarth:

Is she going to live onsite?

S.R. Mills:

Is she going to live onsite? I don't think she's going to live onsite.

Jean Werbie-Harris:

No.

S.R. Mills:

But certainly here to answer any questions this evening that you might have. Thank you.

Tom 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? Seeing none, I'm going to open it to comments and questions from Commissioners and staff. Mike?

Michael Serpe:

A question for you on security on the building. The entry to the building the front door is going to be open all the time, unlocked?

S.R. Mills:

Correct, and I'm going to -- Sarah, correct me if I say anything wrong here because this is really her field of expertise at the operations. But the front door will be open, the second door will be locked. My understanding is the reasoning so people can get out of the rain. Then there is a fingerprint and also ability to get in if you're a parent if for some reason the office area that is glass, you can see through the office area, if somebody's not there at that particular moment you can put your thumb print on and get in.

Michael Serpe:

Sounds good, thank you.

S.R. Mills:

Certainly.

Tom Terwall:

Anybody else? I think with the evidence we saw in this past week the DSIS is definitely needed, absolutely needed. Go ahead, Wayne.

Wayne Koessl:

Through the Chair to Mr. Mills. There are comments and recommendations by the Village staff on all four items. Are you aware of them and do you approve of all of them?

S.R. Mills:

Yes.

John Braig:

According to the construction materials that we see here, is that building totally brick or is it just a veneer in the front?

S.R. Mills:

It is totally brick.

Don Hackbarth:

I would like to know how the police department monitors the DSIS system.

Jean Werbie-Harris:

There is the cameras that are outside, whether they're mounted on the building or mounted on the light standards, they are cameras that are an evening camera, they work in the evening as well as during the day, they stream live back to the police department to the dispatch area. And so it's a live web connection. And so there are a series of television screens at the police department. They are not 100 percent monitoring any one camera of any site at any one time. Because they change periodically. But if there are concerns, incidents, a call in, a 9-1-1, anything like that, they can immediately bring up all of those cameras on that particular site so that they can quickly assess what's going on with respect to the vehicles, the people, what's going in and out of the site. So depending on exactly the cameras that they are selecting.

And we actually updated our DSIS ordinance about two weeks ago. So with respect to not specking specific camera types anymore, but just specking the type of technology that we need to have so that we need to be able to see a certain picture of a certain resolution. Because the camera technology is changing all the time. And so they just need to make sure that they meet those. They have a DVR that will be onsite. It will be locked in either an office or a closet or a place that's accessible only by the owner or their manager onsite. So it's not accessible to the general public. They have to make sure that their DVR records a minimum of two weeks of video for their particular site.

There's been a lot of research that has been done by our IT department with respect to what's needed, and we actually have proven time and time again exactly how valuable that this DSIS has been not only for a particular site but also for sometimes the off site camera viewing that actually occurs. So it's just been very valuable.

John Braig:

I'd like to add a comment to that. At my son's place of employment recently someone slashed tires. Took about five minutes to nail them.

Michael Serpe:

We need approvals?

Tom Terwall:

The first thing we need is a motion to approve amendment to the Comprehensive Plan.

Michael Serpe:

Move approval of 13-05.

Judy Juliana:

Second.

Tom Terwall:

**MOVED BY MIKE SERPE AND SECONDED BY JUDY JULIANA TO APPROVE THE AMENDMENT TO THE COMPREHENSIVE PLAN. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Now we need a motion to recommend approval to the Village Board for a conditional use permit.

Jean Werbie-Harris:

No, actually it should read that the Plan Commission actually has final authority on the conditional use and site and operational. There's a typo in there.

Don Hackbarth:

So moved.

Michael Serpe:

Second.

Tom Terwall:

**CORRECTION. MOTION BY DON HACKBARTH AND A SECOND BY MIKE SERPE TO APPROVE THE SITE AND OPERATIONAL PLAN. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed?

Wayne Koessl:

That includes the comments and conditions outlined by staff?

Tom Terwall:

Correct.

Wayne Koessl:

Okay, then aye.

Tom Terwall:

Opposed? So ordered. Item C, a motion to recommend approval of the zoning map and zoning text amendment subject to the terms and conditions outlined in the staff memorandum.

Wayne Koessl:

So moved, Chairman.

Jim Bandura:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP AND ZONING TEXT AMENDMENT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. And Item D, a motion to send a favorable recommendation to the Village Board to approve the development agreement subject to the terms and conditions outlined in the staff memorandum.

Michael Serpe:

So moved.

John Braig:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY MIKE SERPE AND SECONDED BY JOHN BRAIG TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE**

**DEVELOPMENT AGREEMENT INCLUDING ITEMS IN THE STAFF COMMENTS.  
ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. It's all yours.

S.R. Mills:

Thank you very much.

Tom Terwall:

Thank you.

- F. Consider the required of Nate Franke agent on behalf of Town LakeView LLC owner of the property at 9505 72nd Avenue for approval of Site and Operational Plans for Konecranes to occupy 45,479 square feet of the building for the engineering and assembling of electrical control panels.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, this is a request of Nate Franke, agent, on behalf of Town LakeView LLC owner of the property at 9505 72nd Avenue for approval of site and operational plans for Konecranes, to occupy 45,479 square feet of the building for the engineering and assembling of electrical control panels.

The petitioner is requesting approval for Konecranes to occupy the 45,749 square feet of the 60,256 square foot building located at 9505 72nd Avenue for the purpose of engineering and assembling electrical control panels for a portion of the their crane assembly business. Konecranes is a world-leading group of Lifting Businesses™, serving a broad range of customers, including manufacturing and process industries, shipyards, ports and terminals.

The property is zoned M-2, General Manufacturing District, and no exterior site modifications are being proposed. Pursuant to the application the 45,749 square foot area is being classified as an occupancy type factory group F-1 which is a moderate hazard pursuant of the Chapter 3 of the 2006 International Commercial Code. Therefore this use is a permitted use in the M-2 District.

A total of 37 to 40 full-time employees will be employed on site between the hours of 6:00 am and 5:00 p.m. five to six days per week. It is estimated that there will be four to eight truck trips per day entering and leaving the site. The site has 85 existing parking spaces including four handicapped accessible parking spaces which will provide the adequate parking for the 37 to 40 employees. This business is relocating from Gurnee, Illinois and intends to be operational by August 1, 2013.



With that, I would like to introduce Nate Franke to then introduce the representative Carl Walters from Konecranes. And then we also have a video that we would like to present to you to learn a little bit about their operations.

Nate Franke:

Hi, Nate Franke, Zilber Property Group, 9560 58th Place, Kenosha, Wisconsin. And on behalf of Zilber Property Group I'd like to thank the Plan Commission and Village staff for their review of the request. We've got Carl Walters from Konecranes here to answer any questions that you may have. And our architect is on hand as well.

Tom Terwall:

Thank you. All yours, sir.

Carl Walters:

Good evening. My name is Carl Walters. I'm Vice President and General Manager of we call it CAE Electrics. That's a division of Konecranes currently located in Gurnee, Illinois. What I'm here to do tonight is give you a little overview of our company and what we do. I've got a short PowerPoint presentation and then a short video after that showing a very cool piece of equipment that we recently delivered.

Once again, my name is Carl Walters, Vice President and General Manager of this division. I work for a company called Konecranes. We are the largest crane manufacturer in the world. We are based out of Hyvinkaa, Finland way up there. And, yes, I do get to go there. The company started in 1933. Maybe every now and then you'll see a Kone elevators around here and escalators. That's how the company started. They branched off in I think it was the '40s into overhead lifting. So I'm going to give you a little brief overview of what we do here.

These are the products and services the company does. Starting up on the upper left hand corner we do manipulators, use a lot of these in the automotive industry for holding parts so they can put them right into the jig. Light lifting systems which is small overhead. I should back up for one second. When I say overhead cranes these are not the cranes you see on the side of the road or on buildings with the big booms on track. These run inside buildings normally, and they run on track. Light lifting systems. The capacities usually go up to around two or three tons. Light manufacturing, stuff like that. Standard duty cranes, kind of a configured cranes very common here. Those usually go up to 30 or 40 tons. The heavy duty cranes those are when you really get into the big ones. Those things can go up to 500 or 600 tons that lift.

The next three in the middle row there is all for the port industry, yard cranes. As they containers come in off the ships those things will pick them up and move them up and down the rows. Straddle carriers, that can actually pick up the container and move it around in circles. And then you have the big ship to shore cranes that actually unload the containers off of the ship. The next one there is a Goliath shipyard crane. These things are used to basically build the ships. You'll see a video on this one at the end here.

Nuclear cranes, quite a big industry on that. The company has recently outreached into forklifts and reach stackers. Those things we do normal forklifts plus reach stackers into ports also can

pick up containers. Service and modernizations, we have hundreds of service branches throughout the Americas to serve local areas. And the most recent endeavor is machine tool service. That's a whole other division maintaining, servicing and selling machine tools. Trying to be an all encompassing provider for industry.

Our company on the map the company is divided into three regions, the Americas, Europe and Asia. Headquarters in Hyvinkaa, Finland. That's the big one. Our region Americas headquarters in Springfield, Ohio which is right between Dayton and Columbus. And then you have Shanghai over in Asia. And you can see all the service branches that we have there.

Our company in numbers this is as of the end of 2012 we have 12,100 employees, 626 locations, active in almost 50 countries and expanding. Equipment is 61 percent of our sales. Service down there is 39 percent of sales. You can see the amount of service calls we do a year. The maintenance contracts what we try to do in the service industry is go into a company, they may have many different cranes in there, we'll sign a contract with them, it's usually a yearly thing, we'll go in there and we service it, do the periodic OSHA inspections and do all the repairs for those things. Last year we did 2.17 billion euros in sales.

Our presence in Wisconsin, I figured I'd put this up there. I am from Wisconsin. We are moving up from Gurnee, Illinois. Back in 2007 Konecranes acquired P & H. Some of you may know that, so they are now a part of us. A lot of the groups that are in Wisconsin right now are carry overs from that acquisition. Up in Oak Creek, Wisconsin we have the heavy duty crane engineering and estimating group, so all the big cranes which are manufactured down in Houston, Texas a lot of that staff still resides up in Oak Creek. We have the parts group. Parts group is about \$80 million for us. We sell crane parts for all different makes of cranes. And we also run accounting and finance up there.

Out in New Berlin we run the nuclear group, modernizations groups. They'll take a big crane and turnkey the entire thing to modernize it. They'll rip it right down to the steel structure and put all new electrics and stuff like that on there. Out in Watertown, Wisconsin we have a machine shop and assembly out there. And Waukesha and Appleton, Wisconsin we have service branches.

CEA Electrics Factory that's us, that's what I run. We're currently located in Gurnee, Illinois. Our responsibility is to be the sole electric supplier for North and South America. So any other groups need any electrics, panels builds, electric parts, that will all come through us. We handle sales through there, engineering, manufacturing, after market support. We currently have 36 employees 4 of which are temporary. We try to keep that as minimal as possible. You can see the average salaries a year. They're not bad jobs. Sales \$45,000, engineering about \$65,000, production is around \$15.50 average.

Our 2013 projected sales is about \$17 million. We've been averaging, our growth on average is about 15 percent a year. Three years ago I think we were at 40 percent growth in one year. So we're actually busting out at the seams down in Gurnee. And generally adding about three to four employees per year. The picture on the right there that is what's called a coker crane. And the petrol industry moves the raw coke back and forth. These are severe duty cranes, they're constantly run, and Konecranes has a very good product for that.

Our product offering that we offer out of my facility VFD control which is variable frequency drives, I house about I think about \$2 million worth of variable frequency drives. When these

cranes go down they need to get up and running as fast as absolute possible. You can start shutting down factories real fast if you can't move material. Our engineering capabilities we do a lot of PLC and HMI technology. HMI for those of you who don't know is touch screen stuff telling the thing what to do. Smart features which we call sway control, skew control, sway control is where we can actually load, the pendulum will not swing at all even as you're starting and stopping this crane. All algorithms inside the variable frequency drive. Skew control as the thing is going down the track it doesn't go side to side. It automatically adjusts to keep it straight.

I do a lot of automation. That is a growing, growing thing for overhead cranes. And regen control which is one of the newer technologies that come out. When these cranes are stopping the motors on there are actually like generators, and we dump that into resistors. But now the technology is out there where we can dump it right back on the line and save companies money. We also run field service out of there. We have 24/7 technical support. We also have field service engineers to commission the large systems. Repairs, some of these drives can be very big and very costly. And it's much more cost effective for us to rebuild them for them, and then they can get more use out of it. Some of the real big ones we actually do right on site on the crane.

On the right hand side there you see some pictures. Up on the upper right hand one that's what we call an E house. Those are all controls inside. Basically think of a shipping container. We mount them all in there, we climate control that, pressurize it for real harsh duty applications. And down below there that's just a picture of a control panel. This is another picture of a control panel. The blue things there that you see those are the variable frequency drives. That's the bread and butter of our business right there.

What I'd like to show you real quick before I take questions is an animated video of the largest Goliath crane ever built. It was shipped late last year down to Brazil. This an animated rendering of the erection of it.

[Video Shown]

I think that was about a 1,200 ton capacity crane.

Don Hackbarth:

Where is this, where is that located?

Carl Walters:

It's in Brazil.

Don Hackbarth:

And what does it lift?

Carl Walters:

It's at a shipyard.

Don Hackbarth:

You need a bigger site.

Carl Walters:

I can tell you I won't be pulling one of those out of this facility here. Those are built overseas. Any questions?

Michael Serpe:

Yeah, I have. We're glad you're coming to Pleasant Prairie. How long were you in Gurnee?

Carl Walters:

The original company was called Drive Con. It was kind of a sole propriety who chief cook and bottle washer. He was an engineer and they did automation and VFD control for basically anything that anybody wanted. There used to be pictures of Ferris wheels and amusement park stuff there. I do believe it was about 2001 that Konecrane acquired them and kind of morphed into what we are right now.

Michael Serpe:

And you're going to close that down permanently?

Carl Walters:

Yes, that facility will be closed down.

Michael Serpe:

All employees are coming up?

Carl Walters:

Yes.

Michael Serpe:

Who do we thank for that?

Carl Walters:

Well, I've been coerced for the past year and a lot of looking. And this was just the right fit. The building was right, the location was right. I wanted to say as close as possible as I could to there because I'm about 60/40 employees Illinois and Wisconsin.

Don Hackbarth:

Will you use rail because the tracks are close?

Carl Walters:

No, everything that will go out of here will be on semi.

Tom Terwall:

The picture that had the Brewers and the Green Bay Packers and the Wisconsin Badgers is that quite a difficult thing for you Cub fans to overcome?

Carl Walters:

I think there's Cub fans back here, isn't there? I'm a Brewer fan. I live in Muskego.

Tom Terwall:

Any other questions/

Don Hackbarth:

Move approval, Mr. Chairman.

Jim Bandura:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY JIM BANDURA TO APPROVE THE SITE AND OPERATIONAL PLAN SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

Wayne Koessl:

Welcome to Pleasant Prairie.

Carl Walters:

Thank you very much.

Tom Terwall:

You'll be in by August 1st you think?

Carl Walters:

August 1st.

Tom Terwall:

Great, welcome.

Carl Walters:

It's got to happen because I've got to be out of there. Thank you.

**E. PUBLIC HEARING AND CONSIDERATION OF AN AMENDMENT TO CONDITIONAL USE PERMIT #12-10 for the request of Attorney J. Michael McTernan agent for VIDHYA Corp, VIII, Inc., the property owners, to allow BP Amoco to operate the gasoline station and convenience store located at 10477 120th Avenue after May 1, 2013.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, Item E is a public hearing and consideration of an amendment to conditional use permit 12-10 at the request of Attorney J. Michael McTernan, agent for VIDHYA Corp., VIII, Inc., the property owners, to allow BP Amoco to operate the gasoline station and convenience store located at 10477 120th Avenue after May 1, 2013.

As part of your Plan Commission packets of information, I have included the first thing which I'm going to read which is a brief overview since November 19, 2012, and that's when the Plan Commission granted an approval of a conditional use permit, but only until May 1, 2013. In addition, the next pages in the staff memorandum just to remind you of kind of where we were back then are all of the historical findings of fact that were presented at that November 19th public hearing and at the meetings right before that as well.

And then some of the additional information that's in your packets of information are the recommendations for the conditional use permit site and operational plans. And then what I did was I highlighted in red or put in red type the various aspects of where we were with respect to satisfying all the conditions and the outstanding items that needed to be addressed for the particular project. So I'd like to begin by just presenting the brief overview since November 19, 2012. And then I'll introduce the petitioner's attorney to make his presentation and request. And then there might be some follow-up between Village staff including Mike Spence, our Village Engineer and Mike Pollocoff.

Therefore, under public hearing comments, a brief overview since November 19, 2012. A Settlement Agreement was executed between the owners of the BP Gas Station and the Village on November 19, 2012. And this is for a gasoline and convenience store that is located at 10477 120th Avenue. The agreement stipulated conditions and milestones that the owner must be in compliance with in order to allow for continued operation and the remediation of the illicit discharge from their facility. There has been progress on the remediation. The original substantial completion date was extended from April 1, 2013 to April 22, 2013. This was a result of a request by the owners' legal counsel to allow the diesel and gasoline pumps to be replaced. During the installation of the well piping and the electrical for the pumps, it was discovered that the condition of the existing sumps was extremely deteriorated and that replacement was the best option and additional time would be needed for this. This approval was granted by the Village.

One provision in the settlement agreement was to keep the groundwater levels eight feet or more below the ground surface. The Village engineer provided a table which shows that these levels were exceeded five times for the diesel sump and twelve times for the gasoline sump. The treatment system was started up in March without three day startup or weekly compliance testing completed.

The contractor onsite is rushing to substantially complete the building by Monday, April 22, 2013. He has indicated to the Village engineer that he pulled off the job in January because he had not been paid so this had put him behind. In addition we have had to prompt the contractor for permits and inspections. Initial requests for building permits included no plans to review. The engineer has had to remind the contractor to schedule electrical and building permit inspections.

Communication between the owners' environmental consultant and the Village and the Village's consultant Drake has been sporadic and not always timely. Village staff has not received sampling results and a required update to the site investigation plan as specified in the settlement agreement amendment. The owners' consultant Midwest changed project managers with no notice. The engineer was told that Midwest, Northern Environmental and Misurelli Construction were unaware that there was an amendment to the agreement. The third groundwater extraction well has not been constructed as of today. And, again, this memo is from last Friday, April 19, 2013. And it may be installed tomorrow-Saturday only because the engineer called the owners' counsel and reminded him that this was to have been completed as per the amendment as well as three days of testing.

Work that has been completed and it has been acceptable. However, submittal of required information has been inconsistent and, in many instances it has had to be prompted by the Village staff and our consultant. There are copies of the settlement agreement amendment as well as exhibit of the milestone dates and the information related to when those things were completed or not completed and the gas well levels.

Since the November meeting, the DSIS agreement and easement have been executed with the Village, and the new camera system has been installed and is operational. The other exterior site work is ongoing. Also, I did receive a memo from the police department. I do need to work with the owners. There is some noncompliance with respect to the items pertaining to the security, not the DSIS, but just the basic security information for the store. And so I intend to, since I just got that email today, I intend to put them in contact directly with the police department to correct any

of those issues and violations. I also did an inspection on March 29th, and there were about 20 outstanding zoning related matters at that time. But they have been aggressively trying to get those items taken care of. I did not have an opportunity this past week to get out there to take a look at those. But I know that they've been working on them based on the people that have been calling me and what they've been doing out there.

So with that I would like to continue our discussion, our public hearing. And there is a representative here. I believe that the owner himself, his father died this morning I think --

--:

Yesterday morning.

Jean Werbie-Harris:

Yesterday morning, and he is actually on his way to India to be with his family. So he is not here but Attorney Mike McTernan is representing the petitioner.

Tom Terwall:

Did you want to add anything, Mike?

Michael McTernan:

I do. Attorney Michael McTernan, 6633 Green Bay Road, Kenosha, Wisconsin appearing in his stead, and Mr. Dixit Patel's father did pass away. He hadn't been well, but it was a shock to him, and he did board a plane last night to India. His assistant and manager that handles all the shops is here, Sophia Patel. And also here tonight to answer any questions about any of the scope of everything that has gone since the last time we were here for presentations. Environmental attorney that we have continued to work with and represent the property owner, Don Gallo from Reinhart is here. Richard from North Shore Environmental that has been onsite from all the way back to September when we brought track tanks on site and pumped down the site is here and has any information you need and all the work that was done to put in the entire system that's in place. Also, Vic and Todd Misurelli from Misurelli Construction are here to handle and answer any questions on the construction aspects of everything that has been done on site.

As you can imagine from any project that is of the magnitude that we took on and under a very tight constraint that we agreed to work under to finish everything prior to spring was very aggressive. Even when we were here in November of 2012 we were moving in a very fluid manner to come up with the terms and conditions of our agreement that would allow us to address the substantial issue at hand. And that was how to treat the contaminated groundwater that was under this site from gasoline spills that predated our ownership.

I have to applaud the contractors that have worked through an incredible winter and spring that have been able to have this system completely functional and operational several weeks ago with the last sump installed on Saturday. Which, by the way as Mike Spence knows, is sort of a fall back protection last gasp effort will grab water if it reaches that site because last fall we installed a big clay wall dam in front of the ditch to stop any water from infiltrating into the ditch. And what has happened on Saturday is prior to -- I should say several months ago when we drafted



this agreement we agreed to put in a shallow sump in the ditch line. And what was discovered and discussed with Mike Spence and the Village's experts and our experts was it would function and we could get it operational, but we would rather put in a much deeper well and re-engineer it and bring it on the south side of the clay wall in order to address any potential outfall that could happen from continuing groundwater saturation.

Granted this weather that we've had this winter, in February we had a two and a half inch rainfall in the middle of February. It was unprecedented in Wisconsin to have rain of that nature. And as we all know the amount of rainfall we had last week when the system was fully operational provided us some incredible tests of what the system can handle. The system obviously needs to be tweaked and is continuing to be tweaked. I know Mike Spence has been involved and is watching all the work that we're doing. But what is amazing and the reason we added and made a major modification to the design of adding this sump in the driveway of this clay wall was in one part we'd been watching this third well, and it has never once seen water. It's shallow and to us and the engineer said we've seen all this water flowing, we really should re-engineer and bring that sump to the other side of the clay wall to give us better protection and let it operate and grab anything that may flow to that site.

In that same context, as you can imagine, when we started pumping down this site and we saw that the minute you let water flow to eight feet it infiltrates the gravel basins underneath all the storm sewer, and it eventually runs to the ditch. Water just rises, and when it hits that level of the underground storm water it eventually just follows under the pipe and gets to the ditch. We've been monitoring it every day. Richard and his team have been onsite to pump these wells down. And as you've probably been out there you saw we had to [inaudible] of 25,000 gallon frac tanks onsite to control the water.

Well, we went from having great weather in December and January to having incredible frozen weather. And when it was time to remove the frac tanks to start installing the underground system we had these massive 25,000 gallon tanks onsite that were frozen solid with ice. So we were juggling many things in this winter. We were pumping the wells down at the same time we were pumping these frac tanks trying to de-ice them. They had propane tanks running 24 hours a day with guys onsite to just thaw these massive tanks. And we kept juggling from freezing weather to thawing weather to massive rainfalls. And then we had thawing ground and we had water moving everywhere.

There were incredible challenges on the site, but I think all in all these extreme challenges we've been faced with allowed us to on the fly in working with the Village redesign portions of this system including most recently that required the amendment is when we went to install the pumps and these sumps that had been there for decades. Richard said, you know, we're this far, and these sumps are very old. When he went to look to attach them he was very concerned, and I have some pictures here that illustrate -- I'm sorry I only have one but if you don't mind. It shows the rusted out sump that we found in the ground compared to the brand new one that's much bigger that we wanted to install. And the reason being we envisioned the system running for 10, 15, 20 years until everyone is in agreement that the site has been cleaned.

But if you can see the deterioration on that sump that was in the ground, and it's much smaller, we decided in working with the Village why don't we do more to even make this system that much better. And we put in two brand new sumps on site. With that said, though, as you can imagine we ripped up massive portions of the parking lot, and when we had these major rains the

water was flowing into these areas like mad. You can imagine in the pictures, just so you understand, we had runoff that typically would hit the parking lot and run to the catch basin and just go out to the property. And instead it was just soaking through the gravel because we couldn't pour concrete.

Luckily we've had an incredible break in weather, and Friday, Saturday and today they have re-concreted and sealed the side. All the concrete is installed. But just to give you an indication how bad these frac tanks were this is the ice that we faced when the weather hit ten below in January when we wanted to remove these tanks to start the operations of the site. And they were trying to pump water out of these tanks, and they couldn't get four feet into the hose to get it to the system that was installed and it would freeze up.

So with all that said I know that we still have a few items to address. Mike Spence is working with us and has a couple punch list items that we are working on to have this completely done. And I know the staff, fire department, and I know Jean has a few punch list items that we are addressing as they're presented to us. And we're seeking your approval to provide us until the end of May in order to have these last bit items finished so we can have a completed project for permanent approval and have our conditional use approved permanently. So with that I thank you for your time, and I seek for your approval to have these last few weeks to finish up everything that we have been doing on site and being able to bring this project to conclusion. Thank you.

Tom Terwall:

Thank you. Mr. Spence, share your counsel with us.

Mike Spence:

As Jean indicated in her opening remarks as far as what has happened since November 19th, the owner has made progress in installing a treatment system. As Attorney McTernan has indicated, though, it has been difficult. One of the things that throughout the process has been a lack of communication. A lot of the things that were accomplished were based on my prompting which I shouldn't need to do, but I did because I wanted to see it successfully completed.

Today is the date of the substantial completion, and that is the full operation of the three extraction points as well as the remediation system and the housing that houses the equipment. Everything is operating satisfactory or it is operating. They've pumped just since -- last Sunday with all the rain they've pumped about 45,000 gallons of groundwater. So the system has been operating.

The only caveats that I have at this point, number one, I was disappointed in that the system was effectively started up when they removed the frac tanks without sampling the effluent. The last sampling results that we have are from mid March. So even though the system's been operating we don't have any sampling results that indicate whether or not they've been meeting the discharge requirements. So that end when I made them aware of that we did -- Midwest has been out there sampling now as well as the Village's consultant. And we did have a three day startup when they installed the permanent pumps like a week ago, did three day sampling. And then Saturday they did install the final extraction well, and that three day sampling was completed today. So we have an operating system that is meant to address the contamination out there.

I guess my point at this juncture would be that as Attorney McTernan indicated there are a few things outstanding. There are a couple things that have to be completed in the building. We've asked for a sample port in the treatment system which I've talked to the contractor about and he will provide. There's some building related things, some fascia and some things that have to be completed. I don't consider that a violation of the substantial completion.

The last thing that I really am most concerned about is the lack of sampling results. And, again, Midwest has been out there. We're hoping to get results fairly soon. We haven't gotten the results from our sampling as well. I'm hoping that those will start showing up this week. And then finally the last thing I wanted to add which I really think is an important piece of this whole puzzle, we originally required them to do a site investigation to really determine the amount of contamination onsite. And they did do that, and they did it in accordance with the agreement. However, the results that we did see did show some potential contamination on the east side of the gas station as well as in the ditch.

So prior to the extension of the agreement and the amendment we asked for an updated site investigation plan. Because typically what you do when you find contamination you continue to move across the site so you can determine the extent. That was due on April 15th, and as of today we haven't received it. Now, I have talked with the environmental engineer, and they believe they could probably get that to us within a week. I think ultimately before everything is said and done I do want the opportunity to review the sampling results. And it's important to get the overall site investigation completed as well. I'd be glad to answer any other questions.

Wayne Koessl:

Through the Chair to Mike, Mike why would you expect any cooperation from them? They never did communication or cooperation with us from word one? All my tenure on this Plan Commission I've never seen such a botched up affair going on. Just constantly the Village has been bending over backwards, and all they do is slight us and slap us in the face. And I'm getting kind of fed up on it.

Don Hackbarth:

The first point is I don't remember it being ten degrees below zero this January. That's what you just said.

Tom Terwall:

Give us your name and address, sir.

Richard Worley:

Richard Worley, North Shore Environmental. When we were thawing out the frac tanks back in January/February which we were trying to remove off site for Misurelli to start their construction, the temperature, and I'm trying to find the exact date, it was actually negative seven to negative eleven that day. The water pumped about four feet and actually froze in the line. I tried numerous pumps, vacuum pumps, and the weather at that time was literally negative seven at the time of the pumping and nothing would flow at that time. I'm just trying to find my date here.

Don Hackbarth:

Well, I'm sure if you say it was negative seven we really trust you. But the other thing I'm concerned about is also the response time or the responses when the Village made requests. I think that's uncalled for that the responses are not timely. The other thing I'd like to know is on page number 12 there's some additional conditions. Are you aware of that and you complying with that?

--:

I would have to look.

Michael McTernan:

Page number 12 what additional conditions are you referring to? I guess I don't know.

Jean Werbie-Harris:

These are actually the conditions from November 19, 2012.

Michael McTernan:

Oh, absolutely.

Jean Werbie-Harris:

And we identified in red if they've been executed and completed, or the settlement agreement amended conditions not yet satisfied. So because it's not substantially complete.

Michael McTernan:

I know. And those are --

Jean Werbie-Harris:

So these aren't brand new conditions. The only new conditions I have would be when I did an inspection on the 29th.

Michael McTernan:

We know about those.

Jean Werbie-Harris:

And I've sent those in writing and by email to you.

Michael McTernan:

We know about those, and we're following through and plugging away and agree to these additional conditions that staff is bringing to us as we're moving ahead, absolutely. And honestly I know there's issues in connection with people being concerned that there's delays. In general sense without laying any blame on anybody is there's various technical environmental experts that are onsite making decisions and doing things and consulting with not only Mike Spence, Village electrician and inspectors, the building inspectors. Vic Misurelli and his son have been addressing anything and everything as it arises. And if there's something else that had fallen through the cracks it's quickly addressed. There's no intent on anyone to slight the Village or to tell the Village we're not responding to something that is being done. The big goal here was we need to get this site online because we have water that's throwing the site and we were trying to chase God and the weather.

Don Hackbarth:

But you know, Mr. McTernan, when the Village makes a request we do have telephones, and they could call in a timely manner and say this is what we're doing to try to satisfy your comment. There's a phone.

Michael McTernan:

And I can tell you there are countless emails and phone calls that I've made to people at the Village that aren't returned to me instantly. There's countless calls to lots of people in the Village where they have issues going on in the Village, it isn't just us. I understand that. And if a call doesn't get back to me by the end of the day I don't sit here and coming screaming to the Village Board saying we have a disaster [inaudible]. That happens in both ways of communication, not only in the request of the Village to our experts, but to our request to the Village at times that aren't called the same day. And I know that happens because people are busy and they have other emergencies. And whether or not they get back to Mike McTernan or Richard or Don Gallo it happens. I get it. I don't fault anyone for that. It's part of a major project that is chasing against God to catch the water before it keeps flowing off site.

John Braig:

Mr. McTernan, to what degree do you hold the Village responsible for delay? You're saying now that the Village doesn't answer your questions, doesn't respond to you. So I'm asking for an estimate of to what degree the Village has caused the problem.

Michael McTernan:

I know that in November when we came before this Board --

John Braig:

I want a percentage figure.

Michael McTernan:

What delay? We have not -- the criteria of what we've set forth in the agreement we met those conditions.

John Braig:

And you didn't pay the contractor. I suppose that's our fault, too.

Michael McTernan:

What's that.

John Braig:

You didn't pay the contractor.

Michael McTernan:

I don't know where that statement came from because every contractor that's been onsite has been paid. I don't know where that comment came from. I'd like to specifically know who said that a contractor on this project hasn't been paid because every contractor here, and I can bring them all up, they've all been paid.

Jim Bandura:

You've been controlling this project, though.

Mike Spence:

Could I answer that?

Michael McTernan:

What's that?

Jim Bandura:

You've been controlling this project. So you have the people, the contractors there that you can ask that question, and as far as Mike Spence goes he's just asking for simple answers for percentages and what have you. So it lies in your hands to be able to control and get all of these answers to the Village and oversee this.

Michael McTernan:

And we have.

Jim Bandura:

So the idea of lack of communication I'm really faulting it on your end. So I'm having a little problem of you convincing me that there's no communication here.

Michael McTernan:

Okay, well, I can go back and, again, I'm not trying to lay blame on anyone. But if someone wants to go through the details of how the project was delayed from the start, the project was presented to this Board and we sought approval in early November. We did not get a permit on our project until December 16th. Granted there were things that were requested that were fluid with the Village. The request came back to the property owner and said I need additional documentation. We in turn responded as soon as possible to provide that information. But this was a big project, and it was an area with lots of unknown. Then until we began constructing we didn't know what we were going to face. Neither did the Village. And we reacted and responded very quickly given all the constraints that we have here.

I know Don Gallo, my partner in this, has been in constant communication as well with the Village on anything that would arise that required our reaction, and we have responded incredibly fast. Is it the only project that anyone is working on the site? No. But is it a massive project that was dealt with in an incredible shortened time period? Yes. I believe, and as we sat and we talked to the Village we were put under an incredibly short time period that we even said this is awfully tight trying to do a project of this magnitude in the middle of the winter in Wisconsin. We didn't put a shovel in the ground in December, and we had it all done as of Saturday, four months. Four and a half, five months. It was an incredible project. And Don can answer some of the specifics that he has because the time line I think is important because there has been an incredible amount of work done on this site.

Judy Juliana:

Tom, my only concern is that when I have my engineer sitting there and telling us that he had to actually call many times to get responses from your people this sends up a red flag. When we were here the last time you said that the communications would be flowing both sides. And now at this point I applaud everybody for getting all this work done that you've gotten done. But when our engineer and staff is telling us that we have to initiate the contact to get the information, not once, not twice but many times, that is telling me personally that there is a problem with communication. And that's all that we're saying is why did we have to initiate the contacts to get the information. I thought that it was supposed to be free flowing, that when things came up both parties would get together, contact, say this is what's going on. But when the Village consistently from day one has had to initiate the contacts to get that information there is a glitch somewhere.

Michael McTernan:

And maybe Don could answer some of the specifics.

Michael Serpe:

Mike, it appears when Mr. Spence said he didn't get the samplings and everything, the appearance is that we're trying to hide something here. Why weren't the samplings brought forward? And everybody knew they should have been. Am I wrong, Mr. Gallo?

Don Gallo:

No, I think you're right. Mike has really done a nice job, and he's communicated well with us. I would say that every time he has brought up an issue we have jumped on it and made it a priority. And we actually -- I think you have to step back a little bit. It's not a very large project in terms of millions of dollars but it's very complex. And we changed this design all the way through to make it better. And Mike and Tim were very helpful. When I was informed by Richard that the sumps were essentially corroded and that we couldn't properly install the pitless adapters we stopped. And we pulled back and we said -- things that were done, we pulled piping out of the ground and redid it to make sure it was done right. Because we didn't want it not functioning properly. We took it very seriously.

When Mike pointed out the design was going to be a problem with the third sump we immediately changed that design. And we worked with Vic and the contractors and tried to significantly improve it, and I think we did. The third sump really is a belt in suspenders, but it's definitely needed. I mean there's some contamination that's on the site and if we can't -- one of the things that you're failing to understand, and I want to point it out because it's really important, we agreed to this eight foot level. And there's a reason for that because if it goes above that then the contamination can flow in the backfill of the storm sewer.

The problem is that when we were building this project we had, as Mike pointed out, a lot of open trenches. And so when we had these heavy rains that was directly recharging the sumps that we were trying to pump and dewater. And so it was really a challenge to stay up to that. To Richard's credit he was down there day and night. Just this weekend we actually got the concrete in place, the third pump in place. The system has dramatically changed its flow characteristics. So we're pumping just a fraction of what we were trying to handle during the construction. So I think we're judging the system a little too soon because the eight foot level I don't think is going to be a problem. I'm sorry?

--:

You're off the issue. It's not the system we're complaining about.

Don Gallo:

It's communication, I understand. When we discovered that some of these things were not properly done we asked for a change in project managers from MES, and they did that change because I was concerned that things were not being done right. And so as soon as we new that was happening we asked for a change.

Michael Serpe:

Mike, I have to ask you, what's your recommendation on this?



Mike Spence:

My recommendation is that according to the amendment to the agreement they are substantially complete as of today with the exception of providing documentation on sampling and the updated site investigation recommendations. So those are two items that are missing and that are important to finalize everything. But I want to emphasize as far as having the system operational it is operating as of today, and they have met those requirements.

Jim Bandura:

Let me ask Mr. Spence what is your estimated time line for getting that information from them.

Mike Spence:

The amendment to the settlement agreement calls for final completion on May 20th, and I think that was set up purposely for if the conditional uses temporary expanded so then that can be addressed finally because then we'll truly know everything. So my time frame would be I would like to see -- I would say at least two weeks prior to that I would like to have all sampling information as well as an expanded site investigation report. The thing I just want to say with that, that site investigation thing may, even though we have a final completion date of May 20th, that site investigation may require additional work which we'd have to I guess give a schedule and a plan to do that.

Michael McTernan:

And one of those things, Mike, as you know is that the ground in that ditch is frozen and now it has been. But we understand and we want to look at a plan to remove that contamination in that ditch line. So there's things like that, I agree, that we're not going to have done by -- because it's going to be in a follow-up site investigation plan. There's going to be some more work we want to do onsite that I now the Village wants us to do. I don't believe we'll be done by May 22nd, but that's part of the additional work that we're working with the Village to conclude.

Mike Spence:

I guess my point there, Mr. McTernan, is that we need that as soon as possible. It's a plan that we can review, and we can review with our environmental consultant. And then once we concur that there's a good approach I don't think there's any reason why then if need be supplemental soil probes or whatever can be done.

Michael McTernan:

Absolutely.

Michael Serpe:

And no problems on the sampling?

Michael McTernan:

No, and I know it's been done. Our Mike at MES has been in communication with Mike Spence to provide him all those samples that he's done and to provide that in the report. And as Mike Spence and I talked before the meeting he may need it not next week which he promised he'd have that information to include all the samples results he'd need maybe another six, seven days which Mike Spence -- as long as he's provided the information that's the core of what we don't want to see to make this is functioning properly.

Tom Terwall:

I have a question for the Village Administrator because he's the guy that gets the big bucks. Mike, what are our options? If we deny this what do you do, shut down the station?

Mike Pollocoff:

Yeah, you could start that process. I really think that if we just think back to where we were when we dealt with this thing, Mr. McTernan and Mr. Gallo were asking the Plan Commission for an extension, that we were going to enter into a settlement agreement to handle all this. They made commitments they would get it handled. We put in provisions for fines if that did not occur, and that was how we were going to move forward with this. Well, the most difficult thing, and I think this has been bantered around, is that we really expected that someone from the owner's side was going to manage this project adequately. And we know that there was weather. I don't know if it was as bad as the worse winter or the rainiest winter we've ever had, I've seen a lot worse, but some of the key things like where we're having to argue and beg for samples and then we have got samples, and we questioned whether or not some of those samples were really just fill in the blanks and whether or not the sampling was done, and we couldn't get the adequate [inaudible] information on it, those are things I think that where we're having to perform work outside of what we anticipated.

In order to get their extension they committed to us that they would provide that to us and if they didn't we'd fine them. I know as Mike has provided information or made those request to Mr. McTernan he's balked at those, and he said I'm not going to pay the fines because you're at fault or you haven't given me something. And the Village didn't create this problem. The Village is trying to find a way to solve it. We gave them the latitude to come up with the solution to get it fixed, and we expect them to do it. But we shouldn't have to chase them to live up to the commitments of it.

And my recommendation on this is they've got it slapped together, and they still got some more stuff to do, but things that they're making us struggle to get, and some of the key things that are important to us, and the sampling is one of the most key things, we want to know what's happening on this, if they don't do it they get fined. If we haven't got samples they get fined. That's what they committed to in order for us to [inaudible] this whole project. I guess my recommendation is we would extend this and go forward, but this community should not have to expend the effort and the time in order to babysit this project. If there's a sample that's due it should be sampled, turned in and brought to us, and it should be adequate. We shouldn't have to be chasing after that to get that done.

And if that's not the case, I think we have to keep fining them, then at some point when we come up to the next deadline the I think the Village has to question whether or not the owner of the station or whoever is financially involved with that has the financial wherewithal to complete this and to manage it. Because we're going to be sampling for some while in the future, and some of it is going to be unknown. And as Mike Spence said we don't know what we're going to find as we go off the site further. So we need to know we have a partner that's going to fulfill the responsibilities and do what they have to do without having professional staff prodding them along each step of the way to get this thing done.

Tom Terwall:

Go ahead, Wayne.

Wayne Koessl:

Through the Chair to Mike. Mike, what do you really need for sampling and in what time frame do you need that and other documentation?

Mike Spence:

The intent was to sample the groundwater going into the treatment system which makes sense to know what contamination we're dealing with. And then also sample the effluent from the treatment system. Again, since I made an effort -- since we communicated with the parties like last week, they have been sampling. These samples have to get sent out so the thing is they don't come back right away. So there's oftentimes a two week delay. To answer your question I would like -- I had indicated to Mr. McTernan I would say by whatever that date is a week from -- well, two weeks from today I would like to have all the sampling results.

Wayne Koessl:

Would you think May 6th would be a fair date for you to get all the sampling back?

Mike Spence:

Is that about two weeks from today?

--:

Yes.

Mike Spence:

Yes, yes.

Wayne Koessl:

Mr. Chairman and Commissioners, I'm looking at the Village comments here. I see nothing but red almost on every article. It almost looks like one of my old exam papers. But I think if we're

going to extend this that all the sampling and all other documents should be in Mike's hands by May 6th or they shouldn't come back here anymore.

Don Hackbarth:

Does that include Culver's property, Mike, the sampling? Because we don't know if it goes that far, the Culver property.

Mike Spence:

Well, the component of that that I need is they have to give us a plan. There was contamination found in the monitoring well on the east side of the gas station. So what I am looking for in this updated report is for them to tell us what they're going to do as a result of that. And then the second component is the contamination that was found in the ditch. So the first step is for their environmental consultant to give me their recommendations based on those sampling results. And then we would have a collaborative effort with our environmental consultant, and we'd get together. We'd need to concur that this is the way to proceed. And then at that point we would need to get some dates from them as to when the sampling could occur and when we should receive the results.

Regardless of what happens I would expect this process is going to continue for a couple months yet until we zero in on the extent of the contamination. And then once we do that then there's going to be the whole issue of what do we do about it.

Don Hackbarth:

I guess what I'm asking, Mike, is could contamination have leached into the soil into the Culver property?

--:

Oh, it definitely has.

Mike Spence:

Yes. I mean we found there's contamination in the monitoring well on the east side of BP. And there also was some contamination found in the ditch on the north side of Culver's property. So what we're asking for is to really zero in on what the extent of this is. And then we'd be looking for Northern Environmental or whomever to give us a recommendation which we would review as to what they're going to do about it. So we've got a good piece of the situation working now. I mean compared to where we were we have a treatment system onsite. It's quite impressive and it's doing a good -- well, if I had the results, but I'm hopeful that it's doing a good job.

Tom Terwall:

Mike, what's your recommendation? The issue before the Plan Commission is do we extend their temporary conditional use permit or do we not, is that correct?

Mike Pollocoff:

Correct, and my recommendation is we extend it I guess with the caveat if any additional deadlines aren't met that those fines will be levied. I don't want to hear, and I don't think the Village should deal with excuses for whatever's happened. The bulk of the construction's been done. If we can't see the sample results in order for us to make decisions or them to make decisions, then they should pay the fines that they committed they would pay in order to get this thing put together.

Don Hackbarth:

But, Mike, this has been an ongoing thing. Why aren't they fining them already for what they're not --

Mike Pollocoff:

We probably should have. Mike has sent requests for fines and Attorney McTernan has objected to those and said they shouldn't have to pay them, that they're making progress or it's raining a lot or other things. All things being equal we should have just fined them. Because I think, again, they're the ones that made the commitments to get this thing put together and they would pay the fines if they didn't meet their deadlines.

John Braig:

Mike, before you alluded or made a statement to the effect that the contractor had not been paid. What was your source of information on that?

Mike Spence:

My source of information was the contractor. As a matter of fact, and before I say this it's not my intent to get the contractor in trouble, the contractor has worked very diligently out there under at times difficult conditions. But I actually spoke when I was doing my final substantial completion inspection today, and the contractor said that Mr. McTernan wanted to know how he -- or who told me that somebody hadn't been paid. And Mr. Misurelli, well, I said because it's the truth. And he said to me today I could have had this project done a couple months ago but I wasn't paid so I walked off the job. As a matter of fact, we had at one instance we had the owner sent somebody else in the Village Hall wanting to know what else had to be done because they wanted to hire somebody else. So I take those statements seriously. I did not make those up.

John Braig:

This is, again, an example of doublespeak we're getting here. We're getting an attorney that tells us one thing. We've got a trusted Village engineer that tells us something entirely different. I'm reflecting back to where this whole business started where we were fining the transgressor every day and he was ignoring it. To me I think we couldn't be slapped in the face worse than we are now. I can't support an extension. We had an agreement. We had an extension. Things were going to be great. Why are we sitting here then? I can't support it.

Tom Terwall:

Tim, did you want to add something.

Tim Geraghty:

Just two very brief things. One is the amendment itself in there the owner acknowledged that the Village didn't cause any delays. So any talk about the Village was the cause of the delays right in the amendment they acknowledge that the Village did not. So if that becomes an issue I think you should consider that. The other issue dealing with fines, there was some discussion back and forth and emails about a week ago about what was getting fined and what wasn't. And one of the points I tried to make to everybody is the Village has made no determination if they're going to fine or not fine based on those daily actions. But that I thought everybody should just concentrate on getting the system running. Because we had a lot of rain, we had groundwater coming. The key issue was getting that system up and running. So the Village has retained its right to fine for missed deadlines. Even though they may not have sent out a fine yet they've certainly reserved the right to do that in the future.

Wayne Koessl:

Through the Chairman to Mr. Pollocoff. Mike, on my comments earlier about having everything in the hands of our engineer Mike Spence by May 6th, is that you think out of line?

Mike Pollocoff:

No. I think for us to be able to evaluate that, for Mike to be able to make decisions, for Mr. Gallo and Mr. McTernan would be able to make decisions I would think that they need to have samples.

Wayne Koessl:

As you know I've been a no vote on this project from the beginning. The only way I'll vote for an extension is to have that in the minutes that Mike Spence gets all the documentation and sampling he needs by May 6th or they're out of business.

Don Gallo:

Let me do the deadline a little bit different than May 6th. We could have the results the day the lab produces them. It may be May 6th, it may be May 7th. We have no control over them. So if the deadline is the day the lab produces them we can easily give those to Mike. But locking it in on May 6th is a lottery. The other thing is you're underestimating the amount of work that still needs to be done. The work in the ditch may be significant. We may need to do what we call hydroexcavation because the ground has been frozen, there's contamination below the surface that's being released as the ground thaws. And that's why the booms are there. We need to remove that ground. And so that's part of the remedial activity but it might be an interim activity that we would submit to Mike. And we're planning and trying to get a proposal together this week yet.

As to the additional investigation that may be migrating towards Culver's or that pre-dated, the migration pre-dated the current owner's operation, maybe have migrated by virtual of BP's actual

operations that's going to be a complex investigation. And that's going to take easily four to six months. So May 6th is not going to work because it's a very complicated issue and it needs to be thought out. DNR is going to require that as well. So we have to get approval both from -- you understand, Mike. Mike understands that. So I just want you to understand that's the steps that we need to go through to do this right. And there's no sense doing it if we don't do it right. We'd just be redoing it.

Tom Terwall:

To both Mikes, the request from Mr. McTernan is to continue the temporary permit until May 28th. If we were to say, okay, we'll give you until May 28th but we want the samples on the day you get them would that work for you two guys?

Mike Pollocoff:

Well, yeah. I just want to make sure the Commission understands that's just the opening round. This sampling issue is going to go on for a while.

Tom Terwall:

I understand.

Mike Pollocoff:

But we have to have some reliance that they're going to pull the samples when they should be pulled, and we'd like to be notified -- I agree with Mr. Gallo we send samples out, too, and you don't always get them back when you think you are. But we want to know at least that they were sent and when they're received that we find out as they find out.

Don Gallo:

We could have the lab do a duplicate copy right to Mike Spence. That would be the easiest way to do it. So he'll get it at the same time we get it.

Mike Spence:

I also will have an idea whether or not they're timely in getting the information to me is because we're sampling with our consultant at the same time. So labs may take a little bit longer, but I'm expecting to get results from our environmental consultant I think as early as this week. But I think it's important to now, like Mike Pollocoff said, and that's what I was trying to allude to, it's a multi step process. We've got the treatment system operating for BP, but now we have to make sure that we address any ancillary contamination in the ditch and in Culver's. Matter of fact I talked with the owner of Culver's on Monday, and he was concerned that that property was being forgotten and I told him no. That's the next part of the process, and it will take a while as Mr. Gallo said.

Jim Bandura:

Okay, this is to both Mikes. If we go to the 28th, and it sounds like, Mike Pollocoff, you said that there's probably going to be a need for additional testing, sampling, past that date. How do we guarantee that that's going to come about if needed?

Mike Pollocoff:

We believe that the samples that we look at, with the first time we sample, we believe additional samples are going to be needed, and more than likely I'd be surprised if we weren't. We expect whatever work that needs to take place to occur and resample again. If that doesn't happen then we go back to the penalty phase where we penalize or levy a fine for not complying with it. We're going to do a sample when we think we need to do a sample. If, in fact, we come to the point where we have a problem that we've determined is occurring from our sampling, the owners for whatever reasons do not sample or are reluctant to sample, then at that point I'd be bringing everybody back. My concern was I didn't want the Commission to think that once we get this first sample done that we're done. This is going to go on for a while.

The other thing I want to make sure the Commission remembers is Culver's has an issue that's important to Culver's. But the Village has a legal obligation to The Nature Conservancy and to DNR to make sure the wetlands that are endangered are not contaminated. And that's one of our primary concerns is this thing has not moved down into the wetlands and contaminated them. We haven't been to the point where we can get that determination done. That's one of the things that Mike's working on as far as looking at the contamination how far that's going down the ditch. We have an obligation that we've contracted with The Nature Conservancy and DNR to make sure that doesn't happen. We guarantee them we will not allow that land to be contaminated by anything. It's in our interest to make sure this thing moves along and we resolve that question. Either way it goes we know what we have to do.

Don Hackbarth:

Mike, I've got a funny feeling that if we would have held their feet to the fire earlier and said we were going to shut them down this project would have been done.

Judy Juliana:

Well, I really think that we have to have the sampling in a very timely fashion. If we don't get it in a timely fashion then we're going to put the feet to the fire. I believe from what I'm hearing is that everybody is trying from your side, we're trying, but there's that lack of communication. We need to start fining you and saying, well you know, we didn't meet your obligations, you didn't meet your obligations. You agreed to this amendment, to this agreement, stick to it. We have to have the sampling done. And like Don said when you get the information from the lab they send it to us the exact same time. You've got to find a better way to communicate with us. You've got to get this done. We've got to protect the wetlands. We've got to ensure that the seepage isn't into Culver's.

It's costing an inordinate amount of time from the Village to help to monitor this. You should be monitoring this, not us. That is the crux of the matter is we've got to have the proper communication every step of the way. You're here tonight because you want us to extend this to



May 28th. And we've got to have the information in a timely fashion. We can't expend any more manpower babysitting you because that's exactly what we're doing. You agreed to these time lines. You agreed if they weren't met that you would be fined and pay it. So let's get off the stick and move forward. Let's finish this project. Let's protect the wetlands. Let's protect the other businesses. And the only way that's going to get done is if the information is supplied to the Village in a timely fashion. So whatever you have to do to get that information to us you better damn well do it.

Andrea Rode:

Can I say something, Tom?

Tom Terwall:

Please do.

Andrea Rode:

As I've been sitting here listening to everything it's been almost a year since the Village has been working with this business owner for them to take care of their responsibilities, and we're the ones that have been after them and after them and after them to get the information and for them to do what they -- a year. If they had done it from the start we wouldn't be sitting here tonight. The Village has gone over and over and over beyond expectations to try to accommodate this business so that they could run their business and everything would be as it should be. But for us to sit here and go -- and for us to continue to bend over backwards I think it ridiculous. If it was my business and my investment that was on the line I'd be getting my butt in gear, and I would make sure this was done long time ago.

I think that the Village should set the deadlines by what's required. And like you said there's going to be testing and other things coming up. I feel you should set the deadline and they need to meet the deadline. If they don't, don't babysit them. Don't go after them. Hit them with the fines and you'll get what you need because that's the only way they're going to react. And I would say if they say no, no, no don't fine me, either they produce or forget it, the fines start. And that's how I feel. I mean enough is enough. And we should be running the show now, and they need to comply with what the Village's requirements are instead of coming up with excuse after excuse.

Wayne Koessl:

Well, Mr. Chairman, I'm still looking for a deadline for Mike Spence to get the documentation. If May 6th is too soon, is that too soon, Mike? I would move it to our first Plan Commission meeting in May which would be the 13th.

Mike Spence:

I guess I'm hoping that we get them before them as Don indicated. I think May 6th is doable but I don't know if you -- I mean I would propose May 6th, and if, well --

Wayne Koessl:

Then I'm going to be a no vote unless we do May 6th.

Jim Bandura:

I agree with the May 6th. This is two weeks, and I believe that a testing company can if pressured can get the tests done. So I'm in agreement with the May 6th to have that in to Mike Spence.

Michael Serpe:

You heard Mr. Gallo say that you may put the date of May 6th but you're not going to get the results, you may not get the results until after that date. So let's think back here. Why don't we give enough time so that if these samples do come in there's plenty of time for us to get the results. And if that's in the first meeting in May, the 13th, I think that's going to give us at least enough time for the labs to respond.

Jim Bandura:

Let me ask you one question. When were those samples sent in?

Don Gallo:

Today. But I would agree we will put pressure on them. We'll do whatever we can to get those as fast as we can.

Michael McTernan:

There were samples taken today. The Village took samples today. There were samples taken on Saturday and Sunday. There were also samples taken two weeks that were submitted to the lab two weeks ago. There's various samples. And as Mr. Pollocoff mentioned there are samples that we're going to be taking on a regular basis. And what Mr. Gallo is saying is we're going to alert the labs to just simultaneously when you're producing results send a copy to us and a copy to Mike Spence directly. And whatever that is we will have them delivered. And all we're saying is we will ask them that all of those tests that we're waiting on that Mike Spence needs in order to see if the system is operational we will have those delivered to Mike Spence as soon as we receive them, but we're going to ask the lab to have them simultaneously sent to them.

But then there are follow-up tests that are going to come up, and that's what Mr. Pollocoff was mentioning that is something we don't even know what we're going to be testing for yet in connection with other things. The second piece that Mike Spence wants and our engineers have told them they thought they'd have that information to him by May 6th. Is that what Mike from MES told you because that's information that Mike Spence and Mike from MES had conversations today.

Mike Spence:

Yes.

Michael McTernan:

That's the second piece is the site investigation report.

Mike Spence:

Yeah, that's equally important,. I would want that to be the May 6th deadline.

Michael McTernan:

Which is fine.

Mike Spence:

Because they already have some information that shows there's contamination. So to put together an updated report could be started now even in the absence of all the rest of the data. That will help, but I think May 6th gives them ample time to do that.

Wayne Koessl:

Mr. Chairman, I'm a believer in challenges, and I think May 6th is a good date for them to have a challenge. This has been going on for a long time and it's crazy.

Michael Serpe:

Mr. Chairman, I'd make a motion to extend the amendment to May 6, 2013.

Tom Terwall:

Well, we're extending the permit to the 28th, right?

Michael Serpe:

I'm sorry, the 28th.

Tom Terwall:

But with the testing results by May 6th.

Michael Serpe:

Right, extend the amendment to May 28th and then the testing would be no May 6th.

Tom Terwall:

Is there a second to that motion?

Wayne Koessl:

I'll second it.

Jean Werbie-Harris:

So part of that was continuing the public hearing.

Tom Terwall:

Correct, yes.

Jean Werbie-Harris:

To Tuesday, May 28th.

Tom Terwall:

That's on a Tuesday?

Jean Werbie-Harris:

After Memorial Day.

Tom Terwall:

**SO WE HAVE A MOTION BY MIKE SERPE AND A SECOND BY WAYNE KOESSL THEN TO CONTINUE THE TEMPORARY CONDITIONAL USE PERMIT TO MAY 28TH WITH THE UNDERSTANDING THAT THE TEST RESULTS ARE TO BE DELIVERED TO MIKE SPENCE BY MAY 6TH. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Jean Werbie-Harris:

And --

Mike Spence:

In addition to the test results we need to have the updated site investigation plan by May 6th.

Wayne Koessl:

That would be included.

Mike Spence:

Amended, yes.

Tom Terwall:

Okay, is that understood? All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed?

John Braig:

Opposed.

Tom Terwall:

One opposed.

Michael McTernan:

Thank you.

Tom Terwall:

Now, Tim, as I understand it we have not given up our right to levy fines, right?

Tim Geraghty:

Correct. The Village has not waived the right to levy fines.

Tom Terwall:

Good. I mean we are not a judicial body, that's not our job, but as long as we didn't tie anybody else's hands, Mike if you feel a need to do that.

**8. ADJOURN.**

Judy Juliana:

So moved.

Jim Bandura:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? We stand adjourned.

**Meeting Adjourned: 7:58 p.m.**