

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
LAKE MICHIGAN SEWER UTILITY DISTRICT
SEWER UTILITY DISTRICT "D"
9915 39th Avenue
Pleasant Prairie, WI
August 1, 2005
7:30 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Monday, August 1, 2005. Meeting called to order at 7:30 p.m. Present were Village Board members John Steinbrink, Alex Tiahnybok, Steve Kumorkiewicz, Jeff Lauer and Mike Serpe. Also present were Mike Pollocoff, Village Administrator; Jean Werbie, Community Development Director; Kathy Goessl, Finance Director/Treasurer and Jane Romanowski, Village Clerk.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES OF MEETINGS - JUNE 20 AND JULY 5, 2005**

KUMORKIEWICZ MOVED TO APPROVE THE MINUTES OF THE VILLAGE BOARD MEETINGS OF JUNE 20 AND JULY 5, 2005 AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.

5. PUBLIC HEARINGS

- A. Consider Resolution No. 05-42 for the Street Vacation of a Portion of 110th Street West of 116th Avenue.**

Jean Werbie:

Village President and members of the Board, the Village Board of Trustees of the Village of Pleasant Prairie, pursuant to Section 66.1003 of the Statutes, has initiated the discontinuance of a portion of 110th Street west of 116th Avenue, which has been designated as a public street and is improved with a driveway that services the Pleasant Prairie Prime Outlets Regional Retail Center through Resolution 05-35 which was adopted June 20, 2005. A plat of survey and legal description of the public street encompassing the discontinuance has been attached to your packets as Exhibits A and B as part of Resolution 05-42.

On April 26, 2005, the Village received a request from Kurt Meeske, Vice President of Development and Construction of Prime Retail, to vacate that portion of 110th Street west

of 116th Avenue. With the proposed development of Phase V of Prime Outlets, it becomes necessary to discontinue and vacate this portion of 110th Street in order to accommodate the Prime Outlets Phase V construction of the easternmost approximately 90,190 square foot retail building, a center court Lodge, which will be between 11,000 and 13,000 square feet, and the proposed future cut-throughs which would facilitate an improved on-site vehicular and pedestrian flow within the development.

Upon the vacation of this portion of 110th Street, the north half of the vacated street would be transferred and attached to the following properties: Tax Parcel Number 92-4-122-302-0108, which is now under the ownership of Prime Retail; and Tax Parcel Number 92-4-122-302-0107 would be transferred to GTE North, Inc. With the Street vacation, the south half would be transferred to Prime Outlets at Pleasant Prairie LLC, which is Tax Parcel Number 92-4-122-303-0210.

As you can see on the overhead, the area identified to be vacated has been highlighted on the slide. There is a detail of the specific area to be vacated and how either side would attach, either go to the north or to the south when the street is vacated. This slide is, again, an overview of the Phase V expansion which includes the two main buildings and the Lodge court. As you can see, where 110th Street currently exists it was just a driveway, but because of the new additions, it's not necessary. There are interconnections of the entire development, so they still have public access by the boundary streets which would be 116th Avenue on the east and Corporate Drive kind of to the north east and then 108th Street directly to the north.

The only condition in addition to those as listed in the resolution is that there currently is a Village water main that runs under a portion of this area to be vacated, and the Village would ask that there be an easement granted to the Village in the interim so that public main would continue to be accessed by the Village. At some point, as they progress through the project, they are going to be rerouting that main and actually put it in as a private main, and then that portion of the Village public main will be vacated, and then at that point that easement would also be vacated.

With that this is a public hearing and there are representatives from Prime Outlets available, as well as their attorney available, if there's any further questions.

John Steinbrink:

I'll open the public hearing for comment or question. We ask that you use the microphone to give us your name and address for the record.

Mike McTernan:

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Attorney Mike McTernan with O'Connor, DuMez, Alia and McTernan, 6633 Green Bay Road. Just here to support the project. If you have any questions, Kurt Meeske, Vice President of Construction, and Bob Hanke, On-Site Manager are in attendance. Thank you for your continued support.

John Steinbrink:

Anybody else wishing to speak on this item? Hearing none, I'll close the public hearing and open it up to Board comment or question.

SERPE MOVED TO ADOPT RESOLUTION NO. 05-42 FOR THE STREET VACATION OF A PORTION OF 110TH STREET WEST OF 116TH AVENUE; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

B. Consider the Request of Warren Hansen, P.E., agent for Creekside Hill, LLC, owners, for Variances from Sections 395-60 H and 395-69 A of the Land Division and Development Control Ordinance relating to the vertical curve of 114th Place and deferral of detailed grading and drainage plans and mass grading until building permits are submitted for each lot.

Jean Werbie:

Mr. President and members of the Board, on January 17, 2005 the Village conditionally approved a conceptual plan to subdivide Outlot 5 of the Country Lane Subdivision. It's generally located east of 39th Avenue at 114th Place into four single family lots. 114th Place is a proposed cul-de-sac that is proposed to be constructed with an urban profile roadway with sewer, water, curb and gutter and storm sewer to provide access to those lots.

Specifically within the development, lot 1 is 28,500 square feet and zoned R-3. Lot 1 is wooded and a Tree Preservation Protection Easement will be located on this lot to protect the trees. Lot 2 is approximately 9.06 acres and zoned C-2, R-3 and A-2. A portion of the property has a Tree Preservation Protection Easement. In addition, the detention facility is located on this particular property. Lot 3 is 53,900 square feet and zoned R-3. Again, R-3 is a residential classification. And Lot 4 is 27,900 square feet and is zoned R-3, also a residential classification.

There are no wetlands on the property, however there are wetlands on the adjacent property to the south. Tobin Creek to the south and southeast is a navigable waterway. It's also located, again, adjacent to this development.

At this time the petitioner is requesting two variances from the Village's Land Division and Development Control Ordinance. The first variance is from Section 395-60 H

related to the vertical curve of the proposed 114th Place that is proposed to be greater than one percent due to the existing slope of the site. The petitioner is requesting a six percent slope so that the roadway can follow the grade of the property which will allow for the preservation of site topography and trees within the proposed four lot development. The granting of this variance would not be considered contrary to the public interest, public safety or welfare pursuant to the staff's recommendation. In addition, it would not affect the provision of services such as garbage collect, snow plowing or emergency vehicle access.

The second variance that you'll be considering as part of this public hearing is from Section 395-69 A to defer the submittal of a detailed trading and drainage plan and mass grading for the proposed four lot development until the building permits are submitted for each individual lot. In addition, the petitioner is requesting that the mass grading and detailed grading of each lot be completed as part of the building permit process by the single family homeowners and not by the developer. The grading associated with the construction of the public roadway, 114th Place, and the detention facility is proposed to take place as part of the Phase 1 required public improvements by the developer.

The variance is being requested due to the topography and the trees that are located on the site. The top of foundations are being set by the developer's engineering firm, and there's going to be limited building areas for each lot that are being established for each lot as shown. And Lots 1 and 2 include 30 foot wide limited driveway access areas. The specific grading areas will be established for each lot, and each homeowner would then be responsible for the grading as part of their building home process.

And then I've stated that there are four different criteria that we've identified:

- Lot 1: No grading or retaining walls shall be located outside the limited building areas and limited driveway access areas.
- Lot 2: No grading or retaining walls shall be located outside the limited building areas or limited driveway access areas.
- Lot 3: No grading or retaining walls will be located within any utility easements; dedicated storm water drainage, detention or maintenance easements; or within 75 feet of the ordinary high water mark of Tobin Creek.
- Lot 4: No grading or retaining walls shall be located within any utility easements; dedicated sign, landscape, access or maintenance easements; or within 75 feet of the Tobin Creek.

The staff has outlined a number of conditions if these variances are approved. The developer's representative is here to make some additional comments on behalf of the petition for the variances.

John Steinbrink:

Once again, this being a public hearing I'll open it up to public comment or question. We ask that you give us your name and address for the record.

Warren Hansen:

I'm Warren Hansen with Farris, Hansen & Associates here representing the owner here. As indicated, we are asking for the variance for the street center line grade to match the existing. This is a site that had a farmstead on it. There are some old farm buildings and an old house and things that have been removed, and we're just trying to actually fit the existing roadway in with the existing grades at roughly about the location of the existing driveway as it was and then come up the hill and put a large circle turnaround on it. The grades are steep in some places. They're rolling. It isn't a flat level area like a lot of Pleasant Prairie is. It's unique in that way. It is wooded on two of the large lots. Lot 2, for instance, is a very, very large lot which only part of it is zoned the R-3. The other is C-2.

What we want to do is custom homes on these larger lots. They aren't the minimum size lots. They're not minimum in any way. I did submit some examples of what customer homes and custom grading is for an individual lot. We're preserving trees, we're preserving the existing grades, and depending upon what the final design of the custom home is, different grades can result and different layouts can result. Even a different foundation grade may result, but it will be based on a required engineered plan to be submitted and reviewed at the time of the home construction. As Jean indicated we will recommend or suggest what possible grades would be based upon the lay of the land and what it is, but the custom home and where the walk out or look out or different other things are might change things a little bit. That's why we wanted to do an engineered plan with this. That I think summarizes what we're doing with it. If there's any questions.

John Steinbrink:

Thank you. Anybody else wishing to speak on this item? Hearing none, I'll close the public hearing and open it up to Board comment or question.

Mike Serpe:

Can somebody answer this, Mike or Warren or Jean. We have a one percent now and a six percent. It doesn't sound like a great deal of pitch here is going to take place. Am I correct in saying that?

Mike Pollocoff:

That's fairly significant. There's not too many places in Pleasant Prairie where you would see that jump from what our standards set forth to six percent. Bob, maybe you could describe the impact of a six percent grade.

Bob Martin:

As was stated by Jean before, part of the issue is trying to grade it and save trees and still match it where it's compatible with service and it does that. I think that's really the bottom line. It's not a great deal of grade, although there is a fair amount of cut, but enough to try to balance. The hill slopes pretty significantly and just trying to balance the house that's on the north side with the homes on the south side. Given the site, it was a pretty tough site to develop based on that topography.

Mike Pollocoff:

One of the things I'd recommend, if the Board is disposed to approving this variance is that on the last page Jean has identified three comments and conditions. It's a very beautiful piece of property. From a grading standpoint it's a very troubling piece of property, but I think they can do something very nice there and they're willing to do that. But I do want to make sure from my standpoint that the Board goes on record that the conditions brought forth to us on this site are very, very unusual, not typical for the Village, and that this in no way should be considered precedent setting for the engineer to come back and say you granted a variance of minimized grading and allowed us to do lot-by-lot grading on this subdivision so allow us to do it on the next one.

If this was a larger number of lots, the lots were smaller, if we didn't have much room to make this work I wouldn't be recommending it. But there is a possibility to make it work, but I do think the Board needs to go on record that due to the unusual nature of this parcel given the grade and the quantity and quality of the woodlands that are on this parcel and given the small number of lots, that in this instance this would be a variance that they could grant, but it would not be considered a precedent and should not be considered precedent setting for a variance.

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I'm sure Mr. Hansen would like to come back for another parcel or another subdivision and say let's do this, because in the scheme of things this is what was done in Pleasant Prairie before we came up with the ordinances. You look back at the Chateau and River Oak and some of those older subdivisions where there was no grade established and it was lot by lot by lot, and the community pays for that for years on end. That's why we have that. In this one plat we can give him the grade and the site with the size of the lots and work around that. But anyplace else you wouldn't get a positive recommendation from staff on this.

Alex Tiahnybok:

The six percent grade that would exist on the stretch of 114th Place between 39th Avenue and the cul-de-sac?

Warren Hansen:

I'd just like to add to that particular question there is a vertical curve in there as it comes off of the road. It isn't just a matter of going from flat grade straight up. There is a vertical curve in there, albeit that the vertical curve isn't a very lengthy one, but it still is a true smooth transition from actually a one percent down to a six percent up and then up to a flat point.

Alex Tiahnybok:

The cul-de-sac is flat.

Warren Hansen:

Right. It's just that the curves are shorter than some of the lengths of the tangents of normal curves because of the sharpness up and down, but it still is a smooth curve. It doesn't go from flat to six percent like this. It does go through a curve.

Alex Tiahnybok:

I know this property because I know the owners of it. What is the vertical rise--when I look at this I see that the goal is to preserve the wooded areas and I'm all in favor of that. What is the vertical rise between what would be the top of foundation of one and top of foundation of four?

Warren Hansen:

The top of foundation here as we're recommending it, although it may be adjusted based on the final engineering grading plan is 707 and this is 701.5, so it's five and a half feet. The grade from the street here is at 696 and then we come up the hill and we're at 702. So we have to rise six feet here, but we do come off flat, go to a vertical curve up and then a vertical curve back.

One other thing, if this is my chance to say something here, I would add to Michael's comment about the precedent thing here. This isn't really something that we're just going to let up to the owner to set whatever grade he wants to set. Under the covenants and restrictions he has to do an engineered site plan demonstrating exactly how the grades would be and how they would fit and how it would actually work and drain, not just by the seat of your pants. I brought some examples along in case the question came up, but this is what we typically do when we do an engineered site plan. These are a couple examples of Geneva National, but we do this in a lot of places where there's larger custom homes. This is a one foot contour interval. We have to topo it at a one foot interval, locate all the trees

(THE CONNECTION TO THE RECORDING SYSTEM FAILED AT THIS POINT IN THE MEETING.)

LAUER MOVED TO APPROVE THE REQUEST OF WARREN HANSEN, P.E., AGENT FOR CREEKSIDE HILL, LLC, OWNERS, FOR VARIANCES FROM SECTIONS 395-60 H AND 395-69 A OF THE LAND DIVISION AND DEVELOPMENT CONTROL ORDINANCE RELATING TO THE VERTICAL CURVE OF 114TH PLACE AND DEFERRAL OF DETAILED GRADING AND DRAINAGE PLANS AND MASS GRADING UNTIL BUILDING PERMITS ARE SUBMITTED FOR EACH LOT, SECONDED BY SERPE WHO NOTED THAT THIS APPROVAL DOES NOT SET A PRECEDENCE IN ANY FUTURE DEVELOPMENTS; MOTION CARRIED 5-0.

6. CITIZEN COMMENTS

Eugene Wright, 5622, 93rd Street, spoke about pool impact fees, asked about the tax equity study and the relocating of the bookstores.

Gus Hauser, 143 -113th Street, asked about how road aids received from the State are used.

7. VILLAGE BOARD COMMENTS

Mr. Lauer and Mr. Kumorkiewicz indicated impact fees are not a tax and will only be paid by new residential developments.

Mr. Pollocoff explained the basics of impact fees, the duplication of services study which showed the Village taxpayers subsidize Kenosha County in the amount of 3.2 million dollars a year and if consolidation would take place, Village residents would pay more taxes and the rest of the area taxpayers would pay less. The Community Development Authority has the responsibility of finding comparable locations in eminent domain issues and offered Crossroads the site at the Willow Pointe development which was not accepted. The matter went to trial and a decision by the judge will be issued in the next month.

Mr. Pollocoff explained that road aids are paid not just for road improvements projects but are meant to go back to the departments for operations.

Mr. Tiahnybok indicated he would look into the road aids program and the consolidation study. With respect to the bookstores, the Village has been to court and the case was made.

Mr. Tiahnybok spoke on a letter he received from a resident who has concerns about parking near 108th Street and Lakeshore Drive. He spoke on parking, garbage and having portable toilets available. He feels there are private property signs on Village property and asked that all Village property be marked properly as Village property for access.

8. NEW BUSINESS

- A. Receive Plan Commission Recommendation and Consider a Master Conceptual Plan for the request of VK Development Corporation, property owner, for the Prairie Ridge commercial area located north of Prairie Ridge Boulevard, south of 75th Street (STH 50), east of 104th Avenue and west of the St. Catherine's Hospital site.**

Jean Werbie read staff comments into the record.

SERPE MOVED TO CONCUR WITH THE RECOMMENDATION OF THE PLAN COMMISSION AND APPROVE A MASTER CONCEPTUAL PLAN FOR THE PRAIRIE RIDGE COMMERCIAL AREA LOCATED NORTH OF PRAIRIE RIDGE BOULEVARD, SOUTH OF 75TH STREET, EAST OF 104TH AVENUE AND WEST OF ST. CATHERINE'S HOSPITAL SUBJECT TO CONDITIONS SET FORTH BY STAFF; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

- B. Receive Plan Commission Recommendation and Consider the request of VK Development Corporation, property owner, for a Certified Survey Map to subdivide Tax Parcel Number 91-4-122-082-0131 into two (2) lots.**

Jean Werbie read staff comments into the record.

KUMORKIEWICZ MOVED TO CONCUR WITH THE RECOMMENDATION OF THE PLAN COMMISSION AND APPROVE THE CERTIFIED SURVEY MAP TO SUBDIVIDE TAX PARCEL NUMBER 91-4-122-082-0131 INTO TWO LOTS, SUBJECT CONDITIONS SET FORTH BY STAFF; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.

- C Receive Plan Commission Recommendation and Consider Resolution #05-43 for the request of Richard Oscarson of JMC Investments, LLC, the property owner, for a Floodplain Boundary Adjustment to remove 470 cubic yards of floodplain and to create 473 cubic yards of floodplain adjacent to the existing floodplain to compensate for the floodplain proposed to be filled on the property generally located at the 8700 Block of Old Green Bay Road and known as a portion of Tax Parcel Number 92-4-122-152-0169.**

Jean Werbie read staff comments into the record.

TIAHNYBOK MOVED TO CONCUR WITH THE RECOMMENDATION OF THE PLAN COMMISSION AND ADOPT RESOLUTION #05-43 APPROVING A FLOODPLAIN BOUNDARY ADJUSTMENT ON THE PROPERTY GENERALLY LOCATED AT THE 8700 BLOCK OF OLD GREEN BAY ROAD AND KNOWN AS A PORTION OF TAX PARCEL NUMBER 92-4-122-152-0169, SUBJECT TO CONDITIONS SET FORTH BY STAFF; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

- D. Receive Plan Commission Recommendation and Consider Ord. #05-32 for a Zoning Map Amendment at the request of Esterlyn Durbin, agent, on behalf of Diane Hagemann, property owner, to rezone an approximate 1.1 acre parcel located at 7020 88th Avenue, from R-4, Urban Single Family Residential District to R-5, Urban Single Family Residential District.**
- E. Receive Plan Commission Recommendation and Consider the request of Esterlyn Durbin, agent, on behalf of Diane Hagemann, property owner, for a Certified Survey Map to subdivide the property located at 7020 88th Avenue into three (3) properties.**

Jean Werbie read staff comments into the record for both Items D & E. Separate action would be needed for each item.

Jeff Lauer indicated he will abstain from voting on Items D & E because of a family relationship with Esterlyn Durbin.

SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE NO. 05-32 APPROVING A ZONING MAP AMENDT TO REZONE AN APPROXIMATE 1.1 ACRE PARCEL LOCATED AT 7020 88TH AVENUE FROM R-4 TO R-5; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0 WITH LAUER ABSTAINING.

SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND APPROVE THE CERTIFIED SURVEY MAP TO SUBDIVIDE THE PROPERTY LOCATED AT 7020 88TH AVENUE INTO THREE PROPERTIES, SUBJECT TO THE CONDITIONS OUTLINED BY STAFF; SECONDED BY TIAHNYBOK; MOTION CARRIED 4-0 WITH LAUER ABSTAINING.

- F. Consider the Development Agreement and related documents at the request of Mitchell Howard Zyskowski for the extension of municipal water and associated street restoration work for property located at 95th Street, west of 8th Avenue.**

Bob Martin indicated Mr. Zyskowski is requesting to pay for the extension of municipal water and road improvements a total of 60 feet for property he owns on 95th Street without a right of recovery from the property owner to the south.

SERPE MOVED TO APPROVE THE DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS FOR THE EXTENSION OF MUNICIPAL WATER TO ONE LOT OWNED BY HOWARD ZYSKOWSKI ON 95TH STREET WEST OF 8TH AVENUE; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.

- G. Consider Ordinance No. 05-33 – Ordinance to Amend Chapter 242 of the Municipal Code Relating to IcePlex User and Program Fees.**

Ken Knight from the Ice Plex explained the fee amendments to include teen nights, teen lock ins and a new structure for IcePlex fees and programs.

SERPE MOVED TO ADOPT ORDINANCE NO. 05-33 TO AMEND CHAPTER 242 OF THE MUNICIPAL CODE RELATING TO ICEPLEX USER AND PROGRAM FEES; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0.

H. Consider Award of Contract for Miscellaneous Concrete Work.

Mike Pollocoff indicated sealed bids were opened for miscellaneous concrete work which consists of concrete construction in the Sanitation storage building and driveway repair in Tuckaway Trails. The recommendation is the concrete work for the sanitation storage shed be awarded to Willkomm Excavating in an amount not to exceed \$22,500 and the bid for the Tuckaway driveway repair rejected and bid at a later date.

LAUER MOVED TO AWARD A CONTRACT TO WILLKOMM EXCAVATING FOR CONCRETE CONSTRUCTION FOR THE SANITATION STORAGE BUILDING IN AN AMOUNT NOT TO EXCEED \$22,500 AND REJECT THE BID FOR THE TUCKAWAY DRIVEWAY REPAIR WORK; SECONDED BY SERPE; MOTION CARRIED 5-0.

I. Consider Award of Contract for 2005 Microsurface Program.

Mike Pollocoff indicated two bids were received for the microsurface application on 95th Street from CTH H to Old Green Bay Road. The recommendation is to award a contract to AC Paving for the 2005 Microsurface Program in an amount not to exceed \$37,990.

KUMORKIEWICZ MOVED TO AWARD A CONTRACT TO AC PAVING FOR THE 2005 MICROSURFACE PROGRAM ON 95TH STREET FROM CTH H TO OLD GREEN BAY ROAD IN AN AMOUNT NOT TO EXCEED \$37,900; SECONDED BY LAUER; MOTION CARRIED 5-0.

J. Consider Reappointments to the Community Development Authority.

Mike Pollocoff indicated he is recommending the Community Development Authority reappointments of John Steinbrink Sr. and Mike Serpe for one year terms to August 5, 2006 and Larry Nelson for a three year term to August 5, 2008.

LAUER MOVED TO APPROVE THE REAPPOINTMENTS TO THE COMMUNITY DEVELOPMENT AUTHORITY AS PRESENTED; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 5-0.

K. Consent Agenda

- 1) Approve Bartender License on File.
- 2) Approve Letter of Credit Reduction for Scott 85th Place CSM.
- 3) Approve Letter of Credit Reduction for Hideaway Homes.
- 4) Approve Letter of Credit Reduction for Arbor Ridge.

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- 5) Approve Badger State Outboard One Night Camping at Prairie Springs Park.

SERPE MOVED TO APPROVE CONSENT AGENDA ITEMS 1-5 AS PRESENTED SUBJECT TO AND INCLUDING STAFF COMMENTS; SECONDED BY LAUER; MOTION CARRIED 5-0.

9. Adjournment.

LAUER MOVED TO ADJOURN THE MEETING; SECONDED BY TIAHNYBOK; MOTION CARRIED 5-0 AND MEETING ADJOURNED AT 9:25 P.M.