

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
6:00 P.M.
June 26, 2017**

A regular meeting for the Pleasant Prairie Plan Commission convened at 6:00 p.m. on June 26, 2017. Those in attendance were Thomas Terwall; Michael Serpe; Wayne Koessler; Deb Skarda; Jim Bandura; Judy Juliana; and Bill Stoebig. John Skalbeck (Alternative #1) and Brock Williamson (Alternate #2) were excused. Also in attendance were Tom Shircel, Interim Village Administrator; Jean Werbie-Harris, Community Development Director; Peggy Herrick, Assistant Village Planner and Zoning Administrator, and Kristina Tranel, Community Development Department.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER APPROVAL OF THE JUNE 12, 2017 PLAN COMMISSION MEETING MINUTES.**

Judy Juliana:

Move to approve.

Wayne Koessler:

Second.

Tom Terwall:

MOVED BY JUDY JULIANA AND SECONDED BY WAYNE KOESSL TO APPROVE THE JUNE 12TH PLAN COMMISSION MINUTES AS PRESENTED. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- 4. CORRESPONDENCE.**

Jean Werbie-Harris:

I have none this evening.

5. CITIZEN COMMENTS.

Tom Terwall:

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

6. NEW BUSINESS:

- A. PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #17-15 TO AMEND THE VILLAGE COMPREHENSIVE PLAN to amend a portion of the Prairie Ridge Neighborhood Plan for the request Jeff Marlow, President of Lexington Homes Inc. agent for the owner, Fountain Ridge LLC, related to the proposed revised plans for Buildings 1, 2 and 3 within the Fountain Ridge Apartments generally located on 83rd Street and 90th Avenue north and west of CTH H and Bain Station Road.**

Michael Serpe:

Move to bring A and B together.

Tom Terwall:

Pardon me, Mike?

Michael Serpe:

Move to bring A and B together.

Tom Terwall:

Is there a second?

Judy Juliana:

Second.

Tom Terwall:

MOTION BY MICHAEL SERPE WITH A SECOND BY JUDY JULIANA TO COMBINE ITEMS A AND B FOR PRESENTATION PURPOSES BUT MAINTAIN TWO SEPARATE VOTES. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

B. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT for the request of Jeffery Marlow, President of Lexington Homes Inc., agent for the owner, Fountain Ridge LLC to amend Chapter 420 Attachment 3 Appendix C Specific Development Plan 46 entitled "Fountain Ridge Apartments Planned Unit Development Unit Development" (PUD). Specifically, the PUD is proposed to be amended to include revised plans for Buildings 1, 2 and 3 which are being changed from 49 unit buildings to a 54 unit buildings on the properties located on 83rd Street and 90th Avenue north and west of CTH H and Bain Station Road.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, Item A is consideration of Plan Commission Resolution #17-15, and this is to amend the Village Comprehensive Plan to amend a portion of the Prairie Ridge Neighborhood Plan at the request Jeff Marlow, President of Lexington Homes Inc. agent for the owner, Fountain Ridge LLC, related to the proposed revised plans for Buildings 1, 2 and 3 within the Fountain Ridge Apartments generally located on 83rd Street and 90th Avenue north and west of County Trunk Highway H and Bain Station Road.

And item B, consideration of a Zoning Text Amendment also at the request of Jeffery Marlow, President of Lexington Homes Inc., agent for the owner, Fountain Ridge LLC, to amend Chapter 420 Attachment 3 Appendix C Specific Development Plan 46 entitled Fountain Ridge Apartments Planned Unit Development Unit Development (PUD). Specifically, the PUD is proposed to be amended to include revised plans for Buildings 1, 2 and 3 which are being changed from 49 unit buildings to a 54 unit buildings on the properties located on 83rd Street and 90th Avenue north and west of County H and Bain Station Road.

As mentioned, these items are related and will be discussed at the same time. However, separate action is required.

The petitioner is requesting to revise the building plans for Buildings 1, 2 and 3 within the Fountain Ridge Apartment development located on 83rd Street and 90th Avenue north and west of H and Bain Station Road. Specifically the three 49-unit buildings are proposed to be changed to three 54-unit buildings. Specifically what they're requesting is that five of the two bedroom units are proposed to be changed into ten efficiency units to keep up with consumer demand for the buildings. As a result of the proposed changes, amendments to the Prairie Ridge Neighborhood Plan, a Comprehensive Plan Amendment and Fountain Ridge PUD Zoning Ordinance is requested to be amended.

So with respect to the Comprehensive Plan Amendment, Resolution #17-15, the Prairie Ridge Neighborhood Plan is proposed to be amended to include the revised building plans for Buildings 1, 2 and 3. As a result of the amendment as noted in your packets and on the screen the following changes are proposed. Red are the changes to be deleted and yellow highlighted are the areas to be added. So I'm just going to highlight those particular areas.

The Neighborhood Plan includes the following existing 1,643 units and proposed 592 units, residential units for a total of 2,235 total residential units. Again, this was within the entire neighborhood which is well over a mile square area including the proposed Fountain Ridge development. Again, all of these other details have been presented previously. It talks about all the existing developments in the Neighborhood Plan. It talks about the Prairie Ridge Development, the single family, single family for Ashbury, Bain Station Crossing, Westwood Estates, other single family within Fountain Ridge. And, again, most of those are all existing developments.

And the apartments they are proposing 242 units instead of 224 for a total of 910 units, again, within that entire neighborhood just as in the single family. Some of the other apartment developments are Hidden Oak, Lexington Village, Cobblestone Creek and Fountain Ridge. And also within this neighborhood we have some senior housing. We have the senior housing campus, we have the Bain Station Crossing proposed and Addison second phase proposed. With respect to condominium units we have 30 existing and 170 that were proposed for a total of 200 units.

So the net density of the entire neighborhood within the proposed amendment will be increased to approximately 9,120 square feet per dwelling unit. This density is in compliance with the Village Comprehensive Plan.

The population and school age children, I'm going to explain this but there's a qualifier I'd like to make at the end. The current population within the neighborhood is 3,951 persons with 1,023 school age children with 610 public school age children. The assumptions that are made as you can see there based on single family units, condominium units, apartment units it varies for the number of children per household. So with respect to apartment units the assumption that is made based on the census is that there's 2.34 persons per household per apartment unit.

In this case what they are proposing to do is they're looking to create efficiencies. So we have to remember that there's kind of checks and balances with respect to doing projections for new population development. Do I believe that there's going to be 2.34 children per efficiency unit? It is very doubtful. It's unlikely because these efficiency units are limited on how many bodies or people that could actually live there. But, again, because of the statistics that we've used these are the projections that we've been kind of providing. There really probably will be maybe one person in each of these efficiency units, not 2.34.

So projected population as noted 5,265 persons which includes 1,469 school age children, 791 which are estimated to be public school age children. Again, this is within that entire neighborhood. So a couple of other changes, 2,130 persons within the neighborhood with this modification. Another modification 791 public school age children, again, of that total 42 percent or 1,883 dwelling units.

The second part of the request is the Zoning Text Amendment, Fountain Ridge Apartment PUD ordinance. Again, the PUD is based on the exact set of plans that are submitted by the developer. So even if they tweak or modify the plans we do need to modify the PUD to reflect those changes. The site plan or Exhibit 1 is being revised to show that Buildings 1, 2 and 3 would have 54 units each rather than 49 units. The net density of the development will not exceed 11 units per acre rather than the 10.2 units per net acre currently. The three 54-unit buildings as provided in Exhibit 2 will have a mixture of efficiency, one bedroom and two bedroom units with a minimum of 60 underground parking space. And the efficiency units have a minimum floor area of 540 square feet rather than the 600 square feet.

The permits have already been issued for Buildings 2 and 3 for the 49-unit buildings. So the revised State approved plans and permit applications for the revised building plans will need to be submitted for review, approval and issuance for the required permit. We're not intending to, again, modify the footprint of these buildings because what they're doing is they're taking some of the two-unit buildings or two-unit bedrooms -- or two units in each of these units they're converting them to efficiencies. So they're going to have those additional [inaudible]. The developer is here in the event that you have any additional questions if you'd like to add anything to the presentation this evening. And this is a matter for public hearing for both the Comprehensive Plan as well as the Zoning Text.

Tom Terwall:

The modifications affect parking at all?

Jean Werbie-Harris:

It should not, it should not. Because they had enough underground parking, and they had an additional amount of above ground surface parking for this development.

Tom Terwall:

Does the developer wish to add anything? This is a matter for public hearing. is there anybody wishing to speak? Jean?

Jean Werbie-Harris:

Jeff, could you come up? I do have a question for you.

Jeff Marlow:

Sure.

Tom Terwall:

Give us your name and address for the record, sir.

Jeff Marlow:

Jeff Marlow, Lexington Homes, 1300 North Kimps Court, Green Bay.

Jean Werbie-Harris:

So, Jeff, why don't you explain just briefly for the Plan Commission what led you to this point, why you are actually doing this. I know that I've explained that you are doing it, but what's happening?

Jeff Marlow:

Sure, not a problem. We are just in the process of turning over our Skyline Building which is right next to our Cobblestone property, and that was a 60-unit building. So what we did with the 60-unit building it was somewhat similar with the 49-unit building with the same building designs. We just took off a floor of it. Well, what happened when we started filling up the building we could start to see like, wait a minute, the first six units that were rented were all efficiencies. They're gone. Wait a minute, all the one bedrooms they're gone. So we started realizing that, wow, there's a demand and there's a need. Now people are asking, we have a waiting list for people that are looking for this type of unit. So we said, geez, we have a whole bunch of beautiful two bedrooms. That's not really what the demand is really asking us.

And what Jean said was correct, with that footprint of that building we actually had an abundance of extra parking beneath the garage. We had 12 additional stalls that was there that we were going to create to give some two stall garage which we're still going to give that to some of the units because we want to be able to give some high end units, and we want to be able to give some other units of size wise that will be our efficiency so what people are looking for. So that's when we looked at it and said, you know, it would actually be pretty easy to do. So that's why we redid the plans and said we were requesting if we could do this because there is a need. People are asking for that. So that was why we are asking to be able to have this change made strictly on what the consumer is telling us and they're looking for in the community.

Tom Terwall:

Thank you.

Michael Serpe:

You know, Jeff, what you just described doesn't surprise me in the least. With everything we have going on right now in Pleasant Prairie and Kenosha County we don't have enough housing.

Jeff Marlow:

No.

Michael Serpe:

We don't have enough rooftops and there's going to be more demand on us.

Jeff Marlow:

Right.

Michael Serpe:

And I'm glad you're doing this. I wish more would come forward with some proposed subdivisions but we're going to need them.

Jeff Marlow:

We're working on it for you. We've got some more land bought.

Michael Serpe:

Good. We're going to need it.

Tom Terwall:

Thanks, Jeff.

Jeff Marlow:

You're welcome.

Tom Terwall:

Anybody else wishing to speak? Anybody else? Comments or questions from Commissioners?

Michael Serpe:

I move approval of 17-15.

Wayne Koessl:

I'll second it.

Tom Terwall:

IT'S BEEN MOVED BY MICHAEL SERPE AND SECONDED BY WAYNE KOESSL TO ADOPT RESOLUTION 17-15 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. Item B.

Wayne Koessl:

Mr. Chairman, I move that the Plan Commission send a favorable recommendation to the Village Board to approve the Zoning Text Amendments subject to the comments and conditions of the June 26, 2017 Village staff report.

Tom Terwall:

Is there a second?

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 ADOPT THE CHANGES AS LISTED. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

C. Consider the request of Mark Eberle, P.E. agent on behalf of Prairie Ridge Edge LLC owners of the vacant property located at the southwest corner of 91st Avenue and STH 50 for approval of a Certified Survey Map to subdivide the property into two parcels for the development of a multi-tenant retail building and future restaurant within the Prairie Ridge development to be known as the Prairie Edge.

Jean Werbie-Harris:

Mr. Chairman, I would ask that Items C, D and E be taken up at the same time. It's the same project and we can make one present with separate action taken for each item.

Michael Serpe:

So moved.

Judy Juliana:

Second.

Tom Terwall:

A MOTION BY MICHAEL SERPE WITH A SECOND BY JUDY JULIANA TO COMBINE ITEMS C, D AND E FOR DISCUSSION PURPOSES WITH SEPARATE VOTES. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

D. Consider the request of Mark Eberle, P.E. agent on behalf of Prairie Ridge Edge LLC owners of the vacant property located at the southwest corner of 91st Avenue and STH 50 for approval of a Site and Operational Plans including the Digital Security Imaging System Agreement and Access Easement for the proposed multi-tenant retail building within the Prairie Ridge development to be known as the Prairie Edge.

E. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT for the request of Mark Eberle, P.E. agent on behalf of Prairie Ridge Edge LLC owners of the vacant property located at the southwest corner of 91st Avenue and STH 50 to create the specific PUD requirements for the proposed multi-tenant retail building and future restaurant site within the Prairie Ridge development to be known as the Prairie Edge.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and audience, Item C is to consider the request of Mark Eberle, P.E. agent on behalf of Prairie Ridge Edge LLC owners of the vacant property located at the southwest corner of 91st Avenue and Highway 50 for approval of a Certified Survey Map to subdivide the property into two parcels for the development of a multi-tenant retail building and future restaurant within the Prairie Ridge development, again, to be known as the Prairie Edge.

And item D, consider the request of Mark Eberle, P.E. agent on behalf of Prairie Ridge Edge LLC owners of the vacant property located at the southwest corner of 91st Avenue and Highway 50 for approval of a Site and Operational Plans including the Digital Security Imaging System Agreement and Access Easement for the proposed multi-tenant retail building within the Prairie Ridge development to be known as the Prairie Edge.

And Item E, public hearing and consideration of a Zoning Text Amendment for the request of Mark Eberle, P.E. agent on behalf of Prairie Ridge Edge LLC owners of the vacant property located at the southwest corner of 91st Avenue and Highway 50 to create the specific PUD requirements for the proposed multi-tenant retail building and future restaurant site within the Prairie Ridge development to be known as the Prairie Edge.

Again, these items are related and will be discussed at the same time. However, separate action is required by the Plan Commission.

The petitioner is requesting several approvals for the development of the vacant property located at the southwest corner of Highway 50 and 91st Avenue in the Prairie Ridge development. This is immediately to the east of The Corners development. The approvals being considered by the Plan Commission at this meeting include a Certified Survey Map, a Zoning Text Amendment, Site and Operational Plans and the DSIS Agreement and Access Easement.

Under the Certified Survey Map, the property is proposed to be subdivided into two properties for the development of a multi-tenant retail building and a future restaurant site. Lot 1 is proposed to be 1.004 acres with frontage on 76th Street and Highway 50. And, again, this is immediately to the east of The Corners development which is Corner Bakery. Lot 2 is proposed to be 1.221 acres with frontage on 76th Street, 91st Avenue and Highway 50, triple frontage.

Although both lots have frontage on Highway 50, there is no direct access to Highway 50. Also, there's no direct access for Lot 2 to 91st Avenue or to 76th Street. Access for Lot 2 will be through a common access located partially on Lot 1 with cross-access and cross-parking required to allow for access and parking between Lots 1 and 2 and the developments to the west which, again, are The Corners at Prairie Ridge and then further to the west the Bulls Eye development. Lot 1 is proposed to be developed with a 7,228 square foot multi-tenant building and will likely be utilized by three tenants. Lot 2 is proposed to be developed with an approximate 5,000 square foot future restaurant with drive-thru.

Zoning Text Amendment: The property is currently zoned B-2 (PUD), Community Business District with a Planned Unit Development Overlay. The existing signage PUD on the property relates to the PUD for the entire Prairie Ridge commercial development that allows for several entry-monument signs throughout the Prairie Ridge development.

The proposed Zoning Text Amendment is provided in a separate PUD for these two properties. The PUD will allow for some dimensional variations for the development provided that there is a community benefit. The community benefits proposed in consideration of the PUD lot size reduction, along with other PUD modifications as discussed below, will include the requirement that both buildings will comply with Section 180 Fire and Rescue Protection Ordinance, the Fire and Rescue Department comments and the installation of fire sprinklers. It will include the requirement that the sites comply with Section 410 of the Village Municipal Code related to the installation, ownership and maintenance of a DSIS. It will include a provision that the landowner will prepare and record separate Declaration of Easement and Restriction document covering cross-access, cross-parking, site and building maintenance and land uses for the properties. It will include that the buildings will have enhanced architectural design features and increased amounts of landscaping with minimal annual and perennials and greater numbers of shrubs/bushes especially around signage and around the periphery of the site.

The attached PUD utilizes the following modifications to the Zoning Ordinance. And, again, some of these are very similar if not identical to the other properties lying to the west so that we maintain similar building setback lines, site setback lines for cross-access, for parking, for sidewalks and for driving.

- To reduce the lot size from two acres per lot to Lot 1 having 1.004 acres and Lot 2 having 1.221 acres;
- To reduce the open space from 30 percent to not less than 15 percent for each lot;
- To reduce the side setback for the building on Lot 1 to 20 feet rather than a 30 foot setback;
- To reduce the parking lot or maneuvering lane setbacks from 20 feet to 15 feet adjacent to 91st Avenue. And this is prior to additional right-of-way being needed by WI DOT for the future widening of 91st Avenue with the reconstruction of STH 50;
- To reduce the parking lot or maneuvering lane setbacks from 20 feet to 15 feet adjacent to 76th Street;
- To allow for a zero foot parking setback from the interior lot lines, again, this is between Lots 1 and 2 and adjacent Lot 1 of CSM 2793, the one to the west, instead of the required ten foot setback to allow for shared cross-access;
- To allow for no side lot line setbacks for the Primary Monument Sign on Lot 1. An easement shall be provided for the required five foot landscape area in all directions around the base of the sign. Not sure if five feet -- do we have five feet? Okay, it will be five feet.
- To allow for the required landscaping along the Primary Monument Sign on Lot 2 may be reduced from the required five feet to two feet around the base of the sign. Again, we'll be looking for more enhanced landscaping then in those areas, not the grasses or the annual flowers. We're going to be looking for a little bit more enhanced landscaping that doesn't grow wild beyond that two foot area.
- The maximum size of the Primary Monument signs abutting Highway 50 on Lots 1 and 2 shall be 12 feet in height from grade. Berms shall not be allowed in order to increase the sign height;
- A Secondary Monument Sign is allowed adjacent to the driveway entrance to Lot 1 off of 76th Street that includes the tenant names for Lots 1 and 2. The height of this sign shall not exceed six feet and 36 square feet of display area.
- To allow for modification of the total amount of square footage for the building wall signage per tenant similar to the other commercial developments in Prairie Ridge that has been approved which is 50 square feet per building façade per tenant or store space with a maximum height of three feet.

So finally the Site and Operational Plans for the multi-tenant building on Lot 1 and grading on Lot 2, and this is to create a pad ready site. Note prior to issuance of building permits on Lot 2 Site and Operational Plans including a Conditional Use Permit for the drive through and the DSIS plans and specs for the required DSIS system on Lot 2 will be required to be submitted for review and approval.

Lot 1 is proposed to be developed with a 7,228 square feet multi-tenant building and will likely be and is being set up to be utilized by three tenants. Site Access and Parking: As noted previously, Lots 1 and 2 of the proposed CSM will share one access driveway to 76th Street on the west side of Lot 1. This existing driveway also provides access to The Corners and Bulls Eye developments as well. A Cross-Access for Vehicular and Pedestrian Purposes Agreement, including Cross-Access Parking which provides for parking and pedestrian ingress and egress, cross-access, site, signage and landscaping maintenance and land uses shall be required. Said document shall be drafted by the developer for review and approval by the Village prior to recording the document at the Register of Deeds Office.

And just as a reminder, because of how busy it is up in Prairie Ridge, there's only two points of connection for all of these properties between 91st and 94th. And we felt that that would control that access the best. There has not been any issues up there to date. And when we looked at everything having access on the side streets, 91st, 94th or Highway 50 was not possible. And just limiting the number of access points seemed to be the most controlled way to deal with it.

The number of parking spaces needed by the future retail and restaurant tenants pursuant to the Village parking requirements are listed below. Again, we've talked through this. For restaurants that will require a minimum of one space for each 10 square feet of floor area plus one space for every two employees on the largest work shift. Retail stores require a minimum of one space for each 200 feet of primary floor area plus one space for every two employees. Medical and dental offices require a minimum five spaces for every doctor plus one space for every employee. In addition, to these minimum parking spaces, five handicapped accessible parking spaces are required by the State Code. So while we have not announced any of the tenants up there, the developer is aware of what the minimums are. And so that does preclude, for example, three restaurants from going in, and that won't happen because he's precluded because of the amount of parking that he needs for his uses.

The Site and Operational Plans indicate that Lot 1 would provide 50 parking spaces which includes two handicapped accessible spaces. If the entire building on Lot 1 is retail, then a minimum of 36 parking spaces plus one space for every two employees would be required. This would mean that the maximum number of employees within the retail building could not exceed 24 persons at any one time. Lot 2 which is a future 5,000 square foot restaurant site, provides for 66 parking spaces which includes three handicapped accessible spaces. A restaurant would require a minimum at that size of 50 parking spaces plus one space for every two employees which would mean that the maximum number of employees on the largest work shift could not exceed 26 persons.

The sites appear to meet the minimum parking requirements. However if on-site parking does become an issue for one reason for either of the lots within the development, then other arrangements will be required to be made for off-site parking. Not on street but off-site with one

of the larger users or parking areas in the area. There's at least two areas where cross-access parking could be provided south of 76th. Parking is not allowed on the adjacent 91st Avenue, 76th Street or on Highway 50. Parking on within the Bulls Eye development and The Corners developments have not been an issue. A mid-block crossing for pedestrians from the Costco parking area to the developments has been constructed so that you can walk in a pedestrian crosswalk to get to the adjacent sidewalks.

The DSIS System Agreement and Access Easement: Pursuant to the Chapter 410 of the Village Municipal Ordinance the development is required to comply with the Village Security Ordinance. The DSIS will afford the opportunity for public safety departments such as police and fire departments to visually examine commercial developments and their sites and will provide emergency response personnel with a visual assessment of an emergency situation in advance of arrival without placing an undue burden on the Village taxpayers.

Each Lot will require its own DSIS System. The attached DSIS Agreement and Access Easement for Lot 1 shall be finalized, executed by the owner and the system installed by the owner prior to occupancy by the tenants. Following the owner's installation of the DSIS, the Village will inspect the system and verify its accessibility. The DSIS will be owned and operated by Prairie Edge LLC. The DSIS Agreement and associated DSIS Access Easement will be executed and the Easement will need to be recorded at the Register of Deeds Office prior to obtaining building permits for the project.

There is a representative here if you have any questions. The staff would be happy to answer any questions as well. Again, there's three items related to this project. And since there's a public hearing as part of the Zoning Text change this is a matter for public hearing. And we can continue the public hearing at this time.

Tom Terwall:

There's a representative present? Anything you wanted to add?

Jean Werbie-Harris:

Come on up. We might have questions.

Tom Terwall:

Give us your name and address, sir, for the record.

Dimitri Dimitropoulos:

Hi, there, my name is Dimitri Dimitropoulos. Yeah, I think Jean covered everything pretty well. We also developed The Corners which is directly west of there as well. So we worked through that with Jean and the Village this last year. So I think we're pretty much on the same page going into this project as well.

Tom Terwall:

Very good.

Jim Bandura:

Which buildings go in first?

Dimitri Dimitropoulos:

The multi-tenant building.

Jim Bandura:

Multi-tenant?

Dimitri Dimitropoulos:

Yeah.

Jim Bandura:

Do you see a conflict with that? I mean if you're going to do the multi-tenant and the other one close to 91st isn't that going to be kind of hard with traffic?

Dimitri Dimitropoulos:

In a perfect world, yes, we would do both at the same time. But we've secured a tenant for the multi-tenant building so we need to get started to deliver that. And for the restaurant to the east they'll be coming in in the next couple of months as far as their approvals and trying to move everything forward. And part of what we're going to do, though, we'll be doing all the grading of that lot as well, though, preparing a pad ready site for them. So when they're ready to get just come right out of the ground.

Jim Bandura:

So most likely the two buildings will be close -- being build close together?

Dimitri Dimitropoulos:

I hope so.

Jim Bandura:

Out there I wouldn't doubt it.

Michael Serpe:

You have a restaurant coming in. Is that going to be a chain?

Dimitri Dimitropoulos:

We're negotiating with a chain, yes.

Michael Serpe:

Okay, and that's fine. You don't have to tell me the name, but is it a popular restaurant, popular as far as -- and the reason I'm asking that is every time we give approvals out there we're running into parking problems. And sometimes it's a good thing to have, but that's why I'm asking is this going to be a popular restaurant?

Dimitri Dimitropoulos:

I think it's a popular restaurant. It also does have a drive through which does a lot to help alleviate the parking issue as well. They do a good portion of their sales through the window which helps out with parking.

Wayne Koessl:

Mr. Chairman, of all the [inaudible] Commissioner Serpe's concerns about parking at Prairie Ridge now this one is going to have three businesses using one common entrance. Do we foresee any problems with that?

Jean Werbie-Harris:

Nope.

Michael Serpe:

That's good.

Jean Werbie-Harris:

It would be worse to have multiple points of connection --

Wayne Koessl:

Is there room for a body shop out there?

Jean Werbie-Harris:

Multiple points of connection on 76th Street would not work. We looked at that, evaluated it, and that would be more of a problem. There would be more points of conflict.

Dimitri Dimitropoulos:

Being out there and open for seven months now it does work well. And with the two main points of contact now, one to the east and one to the west of The Corners building, just from -- all the time I've spent there I'd say 70 percent of the traffic right now is to the entrance to the west. And the one to the east is not used very often at all. So added traffic with the rest of the development I think would not be an issue at all.

Michael Serpe:

Jean, just a quick question. How many restaurants do we have in Prairie Ridge now? I mean that's turning into a food court.

Jean Werbie-Harris:

I don't know off the top of my head, but we have a lot of people shopping out there.

Michael Serpe:

I understand.

Jean Werbie-Harris:

So it's nice to keep them in the area. They can run and get something to eat, then they can go shopping. A lot of them go to Costco and then they walk across the street and they go to eat at The Corners or Five Guys or one of the other Mod Pizzas or one of the other restaurants. So it's nice because there's that synergy that has been created. So if you want to go to get something to eat and on Highway 50 you go to the first restaurant, oh, too many people. Go to the next one, can't get parking, go to the next one. There's always lots of opportunity, lots of variety. And the intent is to keep people coming to that area. And the developers that have brought in tenants in that area find it still to be a very attractive place.

Michael Serpe:

It's popular, no question about it, it's very popular.

Dimitri Dimitropoulos:

It is. And from a restaurant user point of view I mean you go to an area and you've got plenty of restaurants and they're all busy that's what attracts more restaurants.

Jean Werbie-Harris:

Exactly.

Dimitri Dimitropoulos:

If there's a lot of empty seats people wouldn't be looking at moving here.

Tom Terwall:

This is a matter for public hearing. Is there anybody else wishing to speak? Anybody else? Comments and questions from Commissioners and staff? Seeing none I'll entertain a motion.

Judy Juliana:

Move to approve the Certified Survey Map subject to the following comments and conditions.

Tom Terwall:

Is there a second?

Jim Bandura:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JUDY JULIANA AND SECONDED BY JIM BANDURA TO APPROVE THE CERTIFIED SURVEY MAP 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.

Michael Serpe:

Move approval of the Site and Operational Plan including the Digital Security Imaging System and Access Easement.

Tom Terwall:

Is that in the form of a motion or a recommendation to the Village Board?

Michael Serpe:

Yes.

Tom Terwall:

Is there a second?

Judy Juliana:

Second.

Tom Terwall:

MOVED BY MICHAEL SERPE AND SECONDED BY JUDY JULIANA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE SITE AND OPERATIONAL PLAN AS OUTLINED. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered. Item E.

Jim Bandura:

Yeah, the Zoning Text Amendment. Item E I would recommend the Zoning Text Amendment.

Wayne Koessl:

Second, Chairman.

Tom Terwall:

A favorable recommendation to the Village Board?

Jim Bandura:

Yes, sir.

Tom Terwall:

MOVED BY JIM BANDURA AND SECONDED BY WAYNE KOESSL TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE 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.

F. PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #17-16 FOR AN AMENDMENT TO THE VILLAGE COMPREHENSIVE PLAN ORDINANCE to create Section 390-5 D related to the recent changes to the WI State Statute 66.1001 (4) (f) that requires the Village to maintain a list of persons or other interested parties for those who submit a written or electronic request to the Village to receive notice of any proposed Ordinance related to the Comprehensive Plan that affects the allowable uses of any property. In addition, the Village must inform its residents annually that they can add their name to the list.

Jean Werbie-Harris:

Item F is consideration of Plan Commission Resolution #17-16 for an amendment to the Village Comprehensive Plan Ordinance to create Section 390-5 D related to the recent changes to the Wisconsin State Statute 66.1001 (4) (f) that requires the Village to maintain a list of persons or other interested parties for those who submit a written or electronic request to the Village to receive notice of any proposed ordinance related to the Comprehensive Plan that affects the allowable uses of any property. In addition, the Village must inform its residents annually that they can add their name to the list. So I'm going to take these -- we're going to do them in order. We'll do F and we'll act on that, and then we'll do G even though it's all kind of packaged up in one section for you.

Let me begin by saying as I mentioned previously there were a number of changes that the State Legislature had put together that affected the Zoning Ordinance and the Land Division Ordinance and some of the other regulations that we enforce in the Community Development Department. And as such we are now going through and cleaning up our ordinances to bring forth new amendments to you so that we can bring our ordinances up to speed with the State Statute requirements that they adopted over the last couple of years.

The first item is that Resolution -- on May 22, 2017, the Plan Commission adopted Resolution #17-14 to initiate this amendment to the Comprehensive Plan Ordinance. Again, that was to create that 390-5 D related to the recent changes to the State Statute 66.1001 (4) (f) that requires the Village to maintain a list of persons or other interested parties for those who submit a written or electronic request to the Village to receive notice of any proposed Ordinance related to the Comprehensive Plan that affects the allowable uses of any property. In addition, the Village will inform its residents annually that they can add their name to the list.

The way that we intend to try to work with this is that in our Village Newsletter is where we will inform all of the residents of the Village of their opportunity or right to be put on a list. And then that list right now is going to be maintained by my department more or less in a spreadsheet

format until we have things set up with our new website. And so once we do then people will be able to sign up at any time through the website, and it will be managed and maintained basically by the website. And we'll still do that through our department, but it will be much easier and a lot more efficient. But the key here is that we do need to get something set up, and we do want to make that annual announcement to the residents if they want to be on that list. The staff recommends approval of Resolution 17-16 for an amendment to the Village Comprehensive Plan Ordinance as presented.

Tom Terwall:

What's your pleasure?

Jim Bandura:

Move approval for 17-16.

Michael Serpe:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JIM BANDURA AND SECONDED BY MICHAEL SERPE TO ADOPT RESOLUTION 17-16 --

Jean Werbie-Harris:

I'm sorry. This is actually a public hearing. So if there's anyone in the audience that would like to weigh in we should give them an opportunity.

Tom Terwall:

Anybody wishing to speak? Seeing none I'll open it to comments from Commissioners and staff. What's your pleasure?

Jim Bandura:

Move approval.

Michael Serpe:

Second.

Tom Terwall:

MOVED BY JIM BANDURA AND SECONDED BY MICHAEL SERPE TO APPROVE RESOLUTION 17-16 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.

G. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to create Section 420-13 F (7) due to recent changes to the Wisconsin State Statutes Section 66.10015 that requires that the Village Board cannot pass a "down zoning ordinance" unless it is approved by two-thirds of the members of the Village Board except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, then the ordinance may be enacted by a simple majority of the Village Board.

Jean Werbie-Harris:

Item G is a public hearing and consideration of a Zoning Text Amendment, and this is to create Section 420-13 F (7) due to recent changes in the Wisconsin State Statutes Section 66.10015 that requires that the Village Board cannot pass a down zoning ordinance unless it is approved by two-thirds of the members of the Village Board except that if the down zoning ordinance is requested, or agreed to, or by the person who owns the land affected by the proposed ordinance, then the ordinance may be enacted by a simple majority of the Village Board.

On May 22, 2017, the Plan Commission adopted Resolution #17-14 to initiate this amendment to the Zoning Ordinance to create Section 420-13 F (7) due to recent changes in the Wisconsin Statute Section 66.10015 that requires that the Village Board cannot pass a down zoning ordinance unless it is approved by two-thirds of the members of the Board except that if the down zoning ordinance is requested, or agreed to, by the person who owns the land affected by the proposed ordinance, then the ordinance may be enacted by a simple majority of the Village Board. A down zoning ordinance means a zoning ordinance that affects an area of land in one of the following ways: 1) by decreasing the development density of the land to be less dense than was allowed under its previous usage; or 2) by reducing the permitted uses of the land, that are specified in the zoning ordinance or other land use regulations, to fewer uses than were allowed under its previous usage.

It must have been a problem someplace in the State where communities were down zoning property, and so the State felt that they needed to put together some zoning terminologies and regulations so that each community could put it into their ordinance. That would require that super majority of the Village Board to enact a change. This is a matter for public hearing. I'll continue the public hearing at this time.

Tom Terwall:

Is there anybody wishing to speak on this matter? Anybody wishing to speak? Seeing none I'll open it to comments and questions from Commissioners and staff.

Michael Serpe:

Jean, do we get a lot of requests from residents on items that they're referring to in this to be part of --

Jean Werbie-Harris:

To receive notification or questions about down zoning? We're on the second -- the down zoning items I don't know that -- I mean usually you can tell if residents are upset by a zoning change by the number of people that attend your public hearings. And then you can see if they have had some concerns regarding that change in zoning. But we have not had significant concerns by residents in a very long time because we follow our Comprehensive Plan very closely. And when we do make a change to the Comprehensive Plan it's for a very good reason. We don't do it just on a whim, and we're very deliberate in our decision making. So as a result it's very important that we follow the procedures and policies that we've established. And we're very up front and transparent on how we present our information. As you can see our memos and our documents are very lengthy and everything is on the website. So it's very easy to see for people to know what's going on so that they probably if they have questions they can contact the staff or come to these meetings.

Michael Serpe:

I'm a little confused on this. If people call in and want to be added to the list or whatever do you have to provide their information to the Board or to the Commission?

Jean Werbie-Harris:

No. Okay, so that was the previous item on the agenda. So the previous item on the agenda that we just approved that is if someone has any questions or concerns about changes that are being made in the comprehensive plan that affects the things that were stated they can be added to a list so that they will get this information sent to them or emailed to them that there's an upcoming agenda. The situation in Pleasant Prairie is that our meeting schedule has not really wavered. It's every second and fourth Mondays. Our agendas are published in the *Kenosha News* and on our website very Friday before the meeting. And the complete packet is in there. But just in case people want to have an extra notification without just directly going to the website and clicking on the link, they'll get notification if there are proposed changes to the Comprehensive Plan that reflect those concerns that they might have.

Jim Bandura:

What about platted properties that were back in whenever? How would that affect -- say your lot sizes are a quarter of an acre and they want to make it a half acre, combine them.

Jean Werbie-Harris:

So the only purpose of this notification is, again, if they want an electronic or written information from the Village related to a Comprehensive Plan that affects allowable uses of any property. So

if you as a resident wanted to know every time that there is a Comprehensive Plan change that affects the use of a property, that changes anything with respect to that property, then you will get an email from the Village saying that go to the Village's website, click on this link, there's a change in the Comprehensive Plan. You know how many changes we make to the Comprehensive Plan. Basically every time someone does a wetland staking we do a minor change to the Comprehensive Plan. So we are going to set it up so that if there's a change in the Comprehensive Plan, even very minor, you're going to get an email if you want to know about it.

There are some residents that follow all the new development in the Village. They follow it through the Village's website. They watch for Chris's press releases. They want to know what's going on. There's many developers that are following. And there's many people who are looking to come to the community that are following. So this is just another opportunity for them to get an advance notification by email saying here's the link, go to the website, there might be a change with respect to a Comprehensive Plan change.

Tom Terwall:

I thought certainly the Legislature must have adopted a budget and adopted the tax code because they're working on stuff of this nature now. They must have to [inaudible] done.

Jean Werbie-Harris:

Well, keep in mind not every community might be as transparent as we are. I mean maybe not every community publishes their notices and posts every one of them. Everyone can do it a little bit different. There's different ways to do it. But we have a very active website that it gets published out there every time that there's public hearings. But we public every Friday and we put the whole agenda, and the whole agenda link is out there. So you can look at all the same things over the weekend before it even comes to the public hearing on Monday night if you have any concerns. And I'm sure that there are a number of people that do do that if they have any concerns. But I mean we try to get this information out any way we can so that the residents know what projects are being developed in the Village and which direction we're headed.

Michael Serpe:

What we're doing is great on putting it on the website and everybody can look at it. What do you do to a resident that calls in and says I don't have a computer and I don't have access to a website? What are you going to do with that?

Jean Werbie-Harris:

So we have two ways we can do it. We can mail it to them, they can come in and pick it up.

Michael Serpe:

Now, if we're going to be making copies do we have a right to charge for that?

Jean Werbie-Harris:

We do, we do, a nominal fee.

Michael Serpe:

All right, okay.

Jean Werbie-Harris:

And a lot of times what people will do they'll call in and they'll simply say what's this about? Explain what this project is and then we'll explain the project. And most times to be honest if they're concerned enough to call in and they're really concerned they want to come in, they'll want to see the maps, they'll want to speak with the staff to get a better understanding of what's going on. So we have to be able to accommodate because there are some -- we can also encourage them to maybe go to the local library to go onto a computer there. But we'd certainly be willing to meet with anyone to get that information to them.

Tom Terwall:

With that a motion to send a favorable recommendation to the Village Board would be in order.

[Inaudible]

Michael Serpe:

So moved.

Jim Bandura:

Second.

Tom Terwall:

MOVED BY MICHAEL SERPE AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING TEXT AMENDMENT. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

H. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to Section 420-139 B (2) (a) related to the street setback exception

for principal structures within a Village pre-incorporation residential platted area of the Village.

Jean Werbie-Harris:

So this is Item H, public hearing and consideration of a Zoning Text Amendment to Section 420-139 B (2) (a) related to the street setback exception for principal structures within a Village pre-incorporation residential platted area of the Village.

On April 24, 2017, the Plan Commission adopted Resolution #17-12 to initiate this amendment to the Zoning Ordinance to amend Section 420-139 B (2) (a) related to the street setback exception for principal structures within a Village pre-incorporation residential platted area of the Village. Specifically the amendment will allow for principal structures such as a home to modify the today street setback of 30 feet to 25 feet in any subdivision that was platted prior to April 5, 1989, which is our incorporation date, wherein said plat had a recorded deed restriction indicating that there was a 25 foot street setback when the subdivision was platted.

Then said principal structure or addition onto the principal structure may be setback a minimum of 25 feet from the property line which is the right-of-way line adjacent to the street. This affects some of the subdivisions in Carol Beach wherein several homes were built to the 25 foot setback years and years ago. Again, some of that area was platted in the '20s, '30s, '40, '50s and '60s so it affects those areas and other areas of the Village, and this would allow any lot that has that recorded deed restriction of 25 feet to build an addition or add a front porch but at that 25 foot setback.

Again, we felt that this is a good idea. We don't want to discourage existing older homes from updating themselves or residents updating them or putting minor additions or handicapped accessible entrances and access with porches on them. We wanted to be accommodating and keep the homes in a number of these older areas that were platted with a 25 foot setback to allow them to have that 25 foot setback without having to try and obtain a variance from the Village Zoning Board of Appeals. Again, a variance is granted not very often just because of the fact that you really have to have that no reasonable use of the property test. And most properties couldn't really pass that if there's no unusual topography or very unusual facts or sets of circumstances. And they probably wouldn't get those variances. So we thought that this would be accommodating. We've had a number of them ask for this, one very recently. And, again, it just affects those older platted areas that were platted with a 25 foot setback. Again, years later, 1984 is when the Town of Pleasant Prairie adopted County zoning. And that's when that 30 foot setback went into play. So we wanted to work with residents and keep them in their homes.

Tom Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this matter? Yes, sir? Need your name and address, sir.

Art Maurer:

My name is Art Maurer. My residence is 410 90th Street. It's on the corner of 4th and 5th in Carol Beach. I fall perfectly into this. My house was built in '65. My house presently is at a 26

foot setback. The garage is at 26. My out garage is at 26 so I'm in compliance with the existing plat of 25 foot. With the new 30 foot my house is not in compliance. And I'm planning on a handicapped bedroom and bathroom. The 25 would work beautiful which the house was built originally on, and 30 foot just wouldn't do it. So it's a perfect example of a house that's 50 years old, great condition, beautiful property. And this just wouldn't hurt at all. Thank you.

Tom Terwall:

Thank you very much. Thank you. Anybody else? Seeing none, yes, Mike?

Michael Serpe:

I'm very familiar with Mr. Maurer's setting. And this will do him justice on this. I'd move approval.

Judy Juliana:

Second.

Tom Terwall:

MOVED BY MICHAEL SERPE AND SECONDED BY JUDY JULIANA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO ADOPT SECTION 420-139 B (2) AS INDICATED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

I. PUBLIC HEARING AND CONSIDERATION OF SEVERAL ZONING TEXT AMENDMENTS including: 1) to amend Sections 420-91 through 420-99 related to shoreland regulations; 2) to amend Section 420-27 related to shoreland permit and application fees; 3) to amend Section 420-84 and 420-86 related to shore setbacks for swimming pools and detached accessory structures; 4) to amend Section 420-139 related to shore setback for sidewalks and patios and the average shore setback exceptions; and 5) to amend Sections 420-102 through 420-139 to amend the shoreland setback in all Zoning Districts.

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission, this is also a public hearing in consideration of several Zoning Text Amendments including, and these all relate to the shoreland jurisdictional boundary regulations of the Village of Pleasant Prairie: 1) to amend Sections 420-91 through 420-

99 related to shoreland regulations; 2) to amend Section 420-27 related to shoreland permit and application fees; 3) to amend Section 420-84 and 420-86 related to shore setbacks for swimming pools and detached accessory structures; 4) to amend Section 420-139 related to shore setback for sidewalks and patios and the average shore setback exceptions; and 5) to amend Sections 420-102 through 420-139 to amend the shoreland setback in all zoning districts.

On February 8, 2016 and on May 22, 2017, the Plan Commission adopted Resolution #16-06 and Resolution 17-14 respectively to initiate amendments to the Zoning Ordinance related to the Village shoreland regulations.

The State Statutes provides that if a Village was created by a town incorporating after April 30, 1994, that the Village shall have zoning ordinances that apply to shorelands within the newly incorporated area. See Section 61.353 (2) of the Statutes. Since the Village of Pleasant Prairie incorporated before that date, April of 1989, the Village is not required to adopt and follow the shoreland requirements of 63.353 (3) of the Wisconsin Statutes. Furthermore, 2013 Wisconsin ACT 80 effective 12-14-13 does not require the Village to adopt and follow the requirements of Section 59.692 of the Wisconsin Statutes which is the County regulations for shorelands. Villages are only required to zone wetlands within the Village shorelands under 61.35 and 62.23 of the Wisconsin Statutes and Chapter NR 117 of the Wisconsin Administrative Code.

I just want to interject that this was a little complicated for the Village because of getting clear answers and working through our attorney and with the Wisconsin DNR to clarify exactly what we were obligated to enforce and what restrictions and regulations that we should enforce as a Village. And so that's why it's been taking us a little longer because we didn't need to follow the County's regulations, and we should really be following now Village and City because of the time of our incorporation. But we have a lot of really good regulations for shorelands. So we decided to compromise and kind of merge the two together. So you'll see some modifications to our shoreland regulations based on all the changes that the State Legislators put together as well as some of the changes that were made.

Pursuant to NR 117.05 (1) (b) 1, the Village shall adopt an ordinance or an amendment to an existing ordinance or zoning code which creates a shoreland-wetland zoning district for all wetlands of five acres or more, and all portions of wetlands of five acres or more which are shown on the final wetland inventory maps and which are located in shorelands within the incorporated area of the Village. Villages have the option of zoning any wetlands within their incorporated area, including wetlands which are less than five acres in size. The Village's C-1 and C-3 Zoning Districts are the wetland zoning districts that allow for wetlands regardless of their size. And the Village recommends that this practice continue.

So basically the statutes changed for us that we don't have to regulate less than five acres, but the staff is recommending that we continue the process, procedure and the policies that we have always had, and we're recommending to regulate under five acres. But I'll continue. Based on this information and the Village staff is recommending the following amendments related to the shoreland requirements for the Village.

- a. Article XV Sections 420-91 through 420-99 related to shoreland regulations be amended to include:

- i. Section 420-91 provides the definition of a shoreland.
- ii. Section 420-92 provides that the shoreland wetland zoning requirements for the Village will to continue to rezone all wetlands into the C-1, Lowland Resource Conservancy District, pursuant to the Section 420-128 or the C-3, Natural and Scientific Area Resource Conservancy District, pursuant to Section 420-130 no matter of their size.
- iii. Section 420-93 states that all uses, site and sanitary regulations apply pursuant to the restrictions and requirements of the underlying zoning district.
- iv. Section 420-94 requires that buildings and structures except navigational aids, docks, piers and boat launching facilities, shall meet the required shore setback distance as specified in the underlying zoning district.
- v. Section 420-95 requires that any lots created by a subdivision after the adoption of this ordinance shall be located a minimum of 35 feet from the ordinary high water mark of any navigable waterway and located within a protected easement except if the lot is part of an existing residential subdivision, wherein the other lots in the subdivision abut the navigable waterway, such as existing lots adjacent to Lake Michigan or Lake Russo wherein the similar property lines are maintained. So this is one of the first changes that our distance setback to the ordinary high mark in this case instead of 75 will be 35.
- vi. Section 420-96 specifies activities that require a Stipulated Shoreland Permit to be issued by the Village including. Again, what we were find is that over the years that this became more of a burdensome ordinance and repetitive permit because a lot of it was being covered by other regulations with respect to erosion control and such. So we've made some tweaks and modifications to it.
 - 1) Tree cutting and shrubbery clearing shall be limited to no closer than 35 feet of the ordinary high water mark of all navigable waterways to prevent erosion and sedimentation, preserve and improve scenic qualities, and during foliation substantially screen any development from stream or lake users unless adequate shore protection or shore stabilization is provided. Paths and trails located within 35 feet of the ordinary high water mark shall not exceed ten feet in width and shall be so designed and constructed as to result in the least removal and disruption of the shoreland cover and minimum impairment of natural beauty. We also picked up some things from the statutes in some of these as well.
 - 2) Land disturbance, such as installing shore protection or shore stabilization, altering or enlarging of waterways, removing stream or lake bed materials, channel clearing, dredging, lagooning, grading, removing topsoil, filling, road cutting, ditching, and installing soil and water conservation structures within 35 feet of any navigable waterway. Again, they all require stipulated shoreland permits. Any permits

required by the Wisconsin Department of Natural Resources and the U.S. Army Corps of Engineers shall also be submitted to the Village prior to the Village issuing any required permits.

- 3) Prior to the issuance of a building and zoning permit for the construction of a new dwelling or building addition to an existing dwelling located on any lot abutting Lake Michigan, shore protection shall be installed that satisfies the requirements of the Wisconsin DNR and the Army Corps of Engineers. If there is existing shore protection installed on the property, then a written letter, stamped and certified by a professional engineer registered and licensed in Wisconsin stating that the existing shore protection is still serving its purpose to protect and stabilize the property from further erosion shall be submitted prior to the issuance of the building and zoning permit. Again, this was always assumed that people would do it, but we wanted to make sure it was very clear in order to protect the setback and the structure abutting the lake. The property owner is responsible to ensure that the shore protection is maintained and continues to protect the property from further erosion.
 - 4) Surface water withdrawal, diversion, or discharge for irrigation shall comply with all state, federal and village requirements.
- v. Section 420-97 outlines the procedures for obtaining a Stipulated Shoreland Permit.
 - vi. Section 420-98 requires that pursuant to 66.1036 of the Statutes if a building permit is issued for an activity in the shore setback area to which Section 59.692 (1k)(a) or (b) of the Statutes applies, then the Village shall provide a copy of the building permit to the Kenosha County Clerk. This is one that was very troublesome for very long for us because for the life of us we couldn't understand nor could the County understand why it was a State Statute requirement that we needed to provide a copy of a permit to the County, a building permit within the shoreland area. The County Clerk kind of said, well, what am I going to do with these? And I said I don't know, but we're required to give them to you so we'll be giving them to you. And we can put them on a disc, we can give them to her on paper. And she said, well, what do I do with them? I said you can do whatever you want with them, but they'll be housed at the County Clerk's office. So, again, some new legislative change and we have to do it and we're going to be doing it. We'll do it once a year we told them instead of monthly.
 - vii. Section 420-99 states that the Village may not commence an enforcement action against a person who owns a building or structure that is in violation of any Village shoreland zoning standards in the chapter if the building or structure has

been in place for more than ten years. Again, another change to the statutes. It does make some sense. The key here is that if there was a structure that was built in the shoreland area and it's been there for more than ten years and say, for example, it's abutting the water, it's in that shoreland area, and if we go out to do an inspection and all of a sudden we notice that structure is there, to rip it out and to tear up that area and disturb that whole area would do more damage to the ecosystem of that area than to leave it in place. And the statutes have a provision that says you should leave it in place. And so we agreed that that's one section of the statutes that we agreed to, and we put that provision in. It kind of grandfathered it in in those particular areas.

- b. Section 420-27 is proposed to be amended to specify that the application fee for a stipulated shoreland permit fee is \$100. No pre-development agreement or tracking of staff time is needed.
- c. The minimum shore setback requirements are being amended from the current minimum setback of 75 feet as specified below. So this is where we are recommending a number of changes for that setback distance. Before it was always 75 feet. In some cases it seemed rather excessive. And we worked with and talked with some of the buildings, and I've talked to other communities. And we are reducing the setback from 75 to 50 feet minimum adjacent to Lake Michigan. And, again, this is for all principal structures in any of the districts adjacent to Lake Michigan.

What we found over the years is that because we have so much existing development along Lake Michigan with that average similar setback they could reduce it down to 50 feet. And so what we were finding is that most of them were going in at 50 feet because of the fact that homes on either side were at 50 feet. And so the exception and modification in the ordinance already allowed them to be at 50 feet. So we made the determination that we might as well just set it at 50 feet. Can't go any closer, but it's now 50 feet.

And also with respect to all the other areas if you have a creek or waterway that's on your property that we're recommending that those be reduced to 35 feet. Again, we're not saying that development can be in the floodplain. We're not saying that there could be anything that would cause a detriment for flooding. But we're saying that the ordinary high water mark setback in those existing subdivisions or Lake Russo, for example, to be 35 feet.

Shore setback for all principal structures in any Park and Recreational District, again, 50 feet minimum adjacent to Lake Michigan provided that the shore remains stabilized and protected, 35 feet minimum adjacent to all other navigable waterways except Lake Andrea, which is stabilized all the way around, wherein the shore setback may be reduced to not less than ten feet. Again, the shore needs to maintain itself and be stabilized and protected.

Shore setback for all detached garages, gardening, tool or storage sheds, and gazebos and all other farm-related accessory structures, excluding silos and storage less than 150 square feet within any C-2, A-2, A-3, AGO, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, and R-12 Districts is 25 feet minimum from all navigable waterways.

Shore setbacks for all detached garages, gardening, tool or storage sheds, and gazebos and other farm-related accessory structures, excluding silos and storage less than 151 square feet or larger within -- oops there should be -- it should be more than -- it should say more than 151 square feet within any C-2, A-2, A-3, AGO, R-1 through R-8 District and R-12 District is a minimum of 25 feet from the navigable waterway, except a minimum of 50 feet setback from Lake Michigan.

Shore setback for a detached garages, gardening, tool or storage sheds and gazebos and other farm-related accessory structures, excluding silos within any R-9, 10 and 11 Districts is a minimum of 25 feet from a navigable waterway except a minimum of a 50 foot setback from Lake Michigan is required.

Shore setback for a swimming pool is a minimum of 25 feet from any navigable body of water.

Shore setback for a deck and porch including steps or stairs in any agricultural or residential district may be located in a shore yard, provided that it is not located on the water side of the ordinary high water mark of said navigable waterway and further provided that said structure does not block, redirect or impede the flow of water or drainage within the area.

Shore setback for any sidewalks or patios may be located within any shore yard provided that it is not located on the water side of the ordinary high water mark of said navigable waterway and further provided that said structure does not block, redirect or impede the flow of water or drainage within the area.

- d. Now, due to the reduction of the shore setbacks noted above, the current Village exceptions and modifications averaging provisions for shore setbacks is being eliminated. Note this regulations had allowed the shore setback, again as I mentioned, to be reduced to the average of the shore setback on either side but in no case less than 50 feet.

Peggy has been working with the entire staff and our Village Attorney on all these regulations and modifications. This is a matter for public hearing, and we'd be happy to answer any questions that you may have.

Bill Stoebig:

Jean, I have a question. So just to understand this a little bit better, if I have a tree within 35 feet of the water line I cannot take that down or pull out some shrubs?

Jean Werbie-Harris:

The intent is, and this has always been the interpretation, if there's a single tree that's typically not a problem. What we don't want to see happen is a complete clear cutting of the shrubbery and the tree cutting in proximity to the waterway. Those trees and all that shrubbery do serve a purpose because they kind of soak up that water. They help to -- a lot of times they're in proximity of the floodplain of that waterway. So it's always in the best interest not to do anything that does a substantial disturbance of those particular areas.

So, yes if there's a single tree or something, it's a manicured lawn and you're looking to cut a tree down that's not the intent of this. This is really to try to protect and preserve some of the more natural areas and to not do some substantial disturbance. Again, if you're doing a substantial disturbance within 35 feet of a navigable waterway you're going to be getting a Chapter 30 permit from the Wisconsin DNR. And they're going to have you do some additional site stabilization to make sure that erosion and sedimentation don't become a problem because of that removal. I mean if you have a tree right on the bank, again, what we're trying to do is minimize that erosion and sedimentation.

Bill Stoebig:

Between myself and a couple of neighbors we have about eight cottonwood trees that just stink. They are awful trees. I would love to be able to take those down.

Michael Serpe:

I bet you would.

Jean Werbie-Harris:

But you'll probably replace that area with some vegetation, some grass, some bushes, something to re-stabilize that particular area. And that's the intent is we don't want to clear cut and not re-stabilize it with something to prevent that erosion.

Jim Bandura:

So if a tree falls that's close he can go out there and clean it up.

Jean Werbie-Harris:

Absolutely.

Jim Bandura:

Okay, thanks.

Jean Werbie-Harris:

Yeah, yeah. We need to make sure -- common sense still needs to prevail.

Tom Terwall:

Did the Wisconsin Board of Realtors hold a picnic for the Legislature that precipitated this?

Jean Werbie-Harris:

I'm sorry?

Tom Terwall:

I said did the Wisconsin Board of Realtors conduct a picnic for the Legislature and that's what precipitated all of this?

Jean Werbie-Harris:

Well, actually this particular regular has been in effect in Pleasant Prairie since 1984. And the ordinance said that you couldn't clear cut or cut anything at all within 100 feet. And so we wanted to kind of introduce a little bit more common sense and realism to the ordinance and to make sure that we're protecting the environment as best we can.

Tom Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this matter? Comments and questions from Commissioners and staff? Is there a motion to send a favorable recommendation to the Village Board?

Wayne Koessl:

So moved, Chairman.

Deb Skarda:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL AND SECONDED BY DEB SKARDA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING TEXT AMENDMENT AS PRESENTED 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. I want to commend Peggy for doing all this work.

7. ADJOURN.

Wayne Koessl:

So moved.

Michael Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? We stand adjourned.

Meeting Adjourned: 7:14 p.m.