

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
August 24, 2009**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on August 24, 2009. Those in attendance were Thomas Terwall; Donald Hackbarth; Wayne Koessl; Andrea Rode (Alternate #2); Jim Bandura; John Braig; Larry Zarletti; and Judy Juliana (Alternate #1, voting member). Michael Serpe was excused. Also in attendance were Mike Pollocoff, Village Administrator; Jean Werbie, Community Development Director; Peggy Herrick, Assistant Village Planner and Zoning Administrator and Tom Shircel, Assistant Village Planner and Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**

Jean Werbie:

The only correspondence I have this evening is a reminder to the Plan Commission, an e-mail was sent out to everyone today, that the working session meeting that was originally scheduled for August 31 from 3 to 5 is being moved to September 3<sup>rd</sup> which is a Thursday at 5:30. E-mail notifications were sent out to everyone today.

Tom Terwall:

It must have been very recent? I was on my computer at four o'clock and it wasn't there.'

Jean Werbie:

Within the last half hour.

Tom Terwall:

Thank you.

- 4. CITIZEN COMMENTS.**

Tom Terwall:

If you're here for Items A or B on the agenda tonight those are matters of public hearing. We'd ask that you hold your comments until the hearing is held so your comments can be incorporated as a part of the official record. However, if you're here for Item C or for an item that's not on the agenda, we'd ask that you come to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments?

5. NEW BUSINESS

**A. PUBLIC HEARING AND CONSIDERATION OF A CONDITIONAL USE PERMIT, INCLUDING SITE AND OPERATIONAL PLANS, to consider the request of Andrew Perille, of Liberty Property Trust, owner, on behalf of Ozburn-Hessey Logistics (OHL), tenant, to fully occupy the building located at 8691 109<sup>th</sup> Street in the LakeView Corporate Park, for the storage and distribution of swimming pool-related chemical products.**

Jean Werbie:

Mr. Chairman and members of the Plan Commission and the audience, the first item is a public hearing and consideration of a conditional use permit, including site and operational plans, to consider the request of Andrew Perille of Liberty Property Trust, owner, on behalf of Ozburn-Hessey Logistics, OHL, tenant, to fully occupy the building located at 8691 109<sup>th</sup> Street in LakeView Corporate Park. This will be for the storage and distribution of swimming pool-related chemical products.

As part of the public hearing record, the staff has compiled a listing of findings, exhibits and conclusions regarding the petitioner's request. Under findings of fact:

1. Andrew Perille of Liberty Property Trust, owner, on behalf of OHL, tenant, is requesting a conditional use permit, including site and operational plans, and this is to fully occupy the approximate 240,000 square foot Liberty Property Trust building for the storage and distribution of swimming pool-related chemical products. The building is located at 8691 109<sup>th</sup> Street in the LakeView Corporate Park. It's identified as Tax parcel Number 92-4-122-282-0106.
2. On November 8, 1999, Liberty Properties Trust received Plan Commission site and operational plan approval for the construction of this building as a distribution/warehouse speculative building.
3. On March 26, 2001, the Rust-Oleum Corporation received a conditional use permit and site and operational plan approval to occupy and use this building for the distribution of packaged paint products. Since March 31, 2009 Rust-Oleum has vacated the building.
4. The OHL plans are to store and distribute swimming pool-related products from this site. The products, to be floor stacked on pallets in the building, consist of packaged pool chemicals which will be used for residential pool applications. The pool chemical products are as follows: HTH Alkalinity Plus; HTH (R) Algae Free Algaecide; HTH Algae Guard 10%; HTH Dual Action Chlorinating Tabs; HTH Chlorinating Granules; and Baquacil Oxidizer in liquid form.
5. The major exterior site improvements are shown on sheets A0.1, and they include the installation of:

- a. New pavement areas at the rear of the building to accommodate additional semi-trailer docks and parking. Small areas of green space will be lost, however the overall site will still meet the minimum green space requirement of 25 percent. In fact, they will be at 26.9 percent.
- b. New dock doors on the south side of the building.
- c. A new primary monument sign identifying OHL as the tenant.
- d. A new 88<sup>th</sup> Avenue directional sign.

And that's it for the exterior improvements.

6. For the interior improvements we have six different items:
  - a. The creation of an approximate 22,000 square foot storage room in the southeast corner of the building for the storage of the liquid Baquacil Oxidizer.
  - b. The replacement of four existing windows on the north side of the building with exhaust louvers.
  - c. The installation of five exhaust louvers on the south wall of the building.
  - d. The installation of interior protective guardrails and bollards to protect window and office areas.
  - e. Caulking of all floor joints within the storage room.
  - f. Installation of new rooftop makeup air units above the storage room to meet OHL HVAC requirements.
7. OHL operations will consist of 8 full-time and up to 40 part-time employees working one shift from 8 to 5 Monday through Friday.
8. Parking, access and landscaping on the site meets and exceeds the ordinance requirements and will remain the same.
9. There will be no outside storage of materials, products, pallets, crates, etc. All materials will be stored inside the building.
10. Additional information regarding OHL products is included in the site and operational plan application.
11. The 14.13 acre Liberty property is zoned M-2, Heavy Manufacturing District, and pursuant to 420-124 D.(4) of the zoning ordinance, the storage of chemicals does require a conditional use permit.

12. The petitioner and all of the abutting and adjacent property owners within 300 feet were notified via U.S. Mail on August 10, 2009. And notices were published in the *Kenosha News* on August 10<sup>th</sup> and August 17, 2009.

13. The petitioner was faxed and/or e-mailed a copy of this memo on or about August 21, 2009.

14. As the Plan Commission will recall, on August 10, 2009, the Commission conditionally approved a conditional use permit grant number 09-05 including site and operational plans for an OHL facility within the Towne Industrial IV building located at 8330 107<sup>th</sup> Street in the LakeView Corporate Park for the storage and distribution of swimming pool-related chemical products.

15. According to the Village zoning ordinance, the Plan Commission shall not approve a conditional use permit until after viewing the findings of fact, the application, related materials and information presented at the public hearing this evening, that the project as planned will not violate the intent and purpose of the Village ordinance and meets the standards for granting of the permit. The Plan Commission shall not approve any site and operational plan without finding in their decision this evening that the application, along with all conditions of approval, will comply with Village ordinance requirements federal, State and local requirements.

With that I'd like to continue the public hearing, and there is a representative here for the company to answer any questions or to make a further presentation if necessary.

Tom Terwall:

Thank you. This is a matter for public hearing. Is there anybody wishing to speak? Is there anything you wanted to add?

Jean Werbie:

Just introduce yourself.

Andrew Perille:

I'm Andy Perille with Liberty Property Trust. I don't know if there's anything else to add. I think it's a pretty self-explanatory project. We'll work on the inside to accommodate the interior storage and we're doing some paving outside to add a couple more trailers and dock spaces. Other than that it's pretty simple.

Tom Terwall:

Thank you.

Wayne Koessl:

I have one question. Are you storing the same chemicals in that building as you are in the Towne building?

Andrew Perille:

It's similar. Our products are meant for more residential pool use. Theirs are more commercial.

Wayne Koessl:

Basically they're the same line.

Andrew Perille:

Ours are less hazardous than in the other building.

John Braig:

Could you give me some idea of the truck traffic in and out of this facility?

Andrew Perille:

I think on the operational plan we listed—he anticipated—OHL anticipates ten trips a day for trucks in and out so that would be it.

Tom Terwall:

Is there anybody else wishing to speak on this matter? Anybody else?

Wayne Koessl:

Mr. Chairman, if there are no more questions, I would move that the Plan Commission issue the conditional use permit including site and operational plans subject to the attached comments and conditions of the Village staff report of August 24, 2009.

Tom Terwall:

Is there a second?

Judy Juliana:

Second.

Tom Terwall:

**MOVED BY WAYNE KOESSL AND SECONDED BY JUDY JULIANA TO APPROVE THE CONDITIONAL USE PERMIT INCLUDING THE SITE AND OPERATIONAL**

**PLAN SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed?

Andrew Perille:

Thank you very much.

**B. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT for the request of David and Amy Petersen, owners, to correct the Village Zoning Map and rezone the field delineated wetlands on the vacant property located on the south side of STH 165 (104th Street) at approximately 63rd Avenue into the C-1, Lowland Resource Conservancy District.**

Jean Werbie:

Mr. Chairman and members of the Plan Commission and the audience, this is a consideration of a zoning map amendment for the request of David and Amy Petersen, owners, to correct the Village zoning map and rezone the field delineated wetlands on the vacant property located on the south side of Highway 165 or 104<sup>th</sup> Street at approximately 63<sup>rd</sup> Avenue. The wetlands will be rezoned into the C-1, Lowland Resource Conservancy District.

The petitioner is requesting a zoning map amendment to correct the Village zoning map as a result of a wetland staking which was completed by Wetland and Waterway Consulting, LLC in April of 2006. The staking was approved by the Wisconsin Department of Natural Resources on July 26, 2006 for the vacant property located on the south side of Highway 165 at approximately 63<sup>rd</sup> Avenue. The property is further identified as Tax Parcel Number 92-4-122-271-0016.

The zoning map amendment proposes to correct the zoning map and rezone the field delineated wetlands into the C-1, Lowland Resource Conservancy District. The non-wetland portions of the property would remain in the R-4 (UHO), which is the Urban Single Family Residential District with a UHO or Urban Land Holding Overlay District. This is a matter for public hearing.

Tom Terwall:

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

Kit Hoover:

My name is Kit Hoover and my wife Sarah, and we live in the property to the south. I guess I'm just trying to understand more of what it is. We're not here to necessarily oppose or agree with.

On the right you have the survey with the yellow. Tell me in layman's terms what does that mean? Is that what they're requesting to be rezoned?

Jean Werbie:

When a property owner petitions to have a wetland staking, the biologist goes out to their property and delineates specifically where the wetlands are located on the property. By ordinance then our next step is to take that plat of survey that they have completed and rezone specifically that area that's been delineated as wetlands into a wetland zoning category and that's the purpose of the hearing tonight.

Kit Hoover:

So the survey that they did shows that that yellow area is probably the wetland area.

Jean Werbie:

Those are wetlands.

Kit Hoover:

And then building would be—the setback from wetlands is where you could build homes there?

Jean Werbie:

Correct, a minimum of 25 feet.

Kit Hoover:

And is that a one home parcel?

Jean Werbie:

At this point it is because there's only one parcel that exists and our ordinance requires that you may only have one single family home per parcel.

Kit Hoover:

I see. I do have a second comment. As you can see on the left there's quite a stand of pines there. Is there any protection of those pines?

Jean Werbie:

I don't believe so. I don't believe it's zoned conservancy at this time.

Kit Hoover:

So the landowner could remove whatever pines they choose to?

Jean Werbie:

They could.

Kit Hoover:

Okay. And I could certainly find out in other ways, but could you tell me what the setback would be from that southernmost—can I walk up to that?

Jean Werbie:

Sure.

(Inaudible)

Jean Werbie:

The R-4 District, which is the Single Family Residential District, you can place a home within 25 feet of your rear property line.

(Inaudible)

Jean Werbie:

That's only ten.

(Inaudible)

Jean Werbie:

Kit, one of the things is that this is an area that's served by sanitary sewer from Highway 165, and they're going to need to get gravity basement service. So it might be a little difficult to put a home that far back in order to get gravity service to Highway 165 if that is one of your concerns for a location.

Kit Hoover:

That's all. Thank you.

Tom Terwall:

Thank you. Anybody else? Anybody else? I'll open it up to comments and questions for the staff and I'm going to begin. Jean, it's been over three years since this survey was completed. Any reason for the delay? And what's the maximum time between a survey and rezoning?



Jean Werbie:

I'm going to have to turn that one over to Peggy because she was working on this project.

Peggy Herrick:

The reason for the delay is because he did not go through the Village process to request the wetland staking. He hired a biologist himself and then submitted that to the DNR. And when people choose that route they need to then file that application with us. It came up that he was looking to build his home on this site and getting plans ready. And when I spoke to him I told him he needed to continue to follow up with this project. He just had forgotten that he had to continue this process. So that's why we're seeing this now because he's getting ready to submit for building permit.

Tom Terwall:

And how long is that staking good for?

Peggy Herrick:

They're good for five years.

Tom Terwall:

Five years. Okay, thank you. Don?

Don Hackbarth:

Looking at the wetland staking there, it doesn't seem to me that it would follow a straight line to the north. Do the wetlands extend to the north on that other piece of property?

Jean Werbie:

Likely.

Don Hackbarth:

And that would have to be staked in the event that that individual would want to develop or whatever?

Jean Werbie:

Correct.

John Braig:

Peggy, in that you were talking to him about possibly building a home, do you have any information you can give these people as to size or location?

Jean Werbie:

No, we don't have any of that.

John Braig:

No plans yet. Thank you.

Don Hackbarth:

Move approval.

Tom Terwall:

Is there a second?

Judy Juliana:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY DON HACKBARTH AND SECONDED BY JUDY JULIANA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE ZONING MAP 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.

**C. Consider Plan Commission Resolution #09-05 to initiate zoning text and map amendments related to the Agricultural Districts.**

Jean Werbie:

Mr. Chairman and members of the Plan Commission and the audience, Resolution 09-05 is a resolution to initiate a zoning text and map amendments possibly. The Plan Commission may initiate a petition for an amendment of the zoning ordinance which may include rezoning of property, change in zoning district boundaries or changes in the text of the ordinance.

The Village zoning ordinance has four agricultural districts including A-1, Ag Preservation District; A-2, the General Agricultural District; A-3, Agricultural-Related Manufacturing, Warehousing and Marketing District; and A-4, Agricultural Land Holding District. In addition we have some overlay districts that were actually created by the Village back in 1994. These original ag districts were created by the County back in 1983, and as we move forward and we are doing our final evaluation of the Comprehensive Plan this fall, it is now the appropriate time to actually take a look at these ag districts to see if they still work for Pleasant Prairie, if the size still works, the location, and we really feel that we need to maybe take a look at rewriting some of the text of these districts to see if we're still going to be using them into the future for Pleasant Prairie.

So with that, the Plan Commission is not by this resolution making any determinations regarding these requests that are going to be coming forward to you, but we're only initiating the process by which the staff can evaluate these districts and texts and then bring it back to the Plan Commission for a public hearing and your consideration at that time.

Don Hackbarth:

Explain a little more the intent of this. Is there some design there to look at some agricultural or some land and take it out of agricultural? I don't understand really where this is going.

Jean Werbie:

One of the things with the Smart Growth process is that it's intended that by January 1, 2010 our zoning districts need to reflect what our Comprehensive Plan is going to provide for us in the direction of this community. As such we need to make some decisions as to whether or not we're going to have some multiple zoning districts, whether we're going to have some ag and some residential overlays on top of those. We need to make some decisions whether or not some areas are going to stay as some prime agricultural areas into the future. We want to decide if the Village is going to maintain or at least allow for the possibility of some hobby farms and what the size needs to be for those. We need to decide whether or not, for example, farm animals should be allowed in certain ag districts even if they're very small parcels of land. So there are a number of things that we're examining to see as we move forward how and where we're going to allow agricultural areas to continue. And if we are we want to make sure that we've got the provisions so that they can continue.

Don Hackbarth:

If we put an overlay on this stuff, let's say we have a residential in an ag district right now, I know in the past farmers have gotten uptight looking at some kind of plan to think that this is going to be residential and stuff like that. We're talking in terms here that if the farmer doesn't want to sell it stays agricultural?

Jean Werbie:

Well, it might have a dual zoning on it, it might have an overlay, but it's still the property owner's right to decide whether or not they're going to develop their land or not to develop their land. Again, assessing is based on use of the property not on zoning.

Don Hackbarth:

How would that affect taxes?

Jean Werbie:

Again, it's based on their use and not on--

Don Hackbarth:

The present use?

Jean Werbie:

Their current use.

Tom Terwall:

Any other questions? If not a motion to approve--

John Braig:

Move approval.

Jim Bandura:

Second.

Tom Terwall:

**MOVED BY JOHN BRAIG AND SECONDED BY JIM BANDURA TO ADOPT  
RESOLUTION 09-05. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed . . . throughout the State are as far along as we are with January 1, 2010 just around the corner?

Jean Werbie:

I know Kenosha County is. I mean we're all working towards having this adopted by, at least our plan, by the first week of December. Per our grant requirements that's what we need to do. I don't have a sense for the rest of the State. I know that not everyone received a grant two or three

years ago. Some of the grants were still issued within the last year. So I'm not sure that they're going to be able to get theirs done in that time frame, and I've not heard anything unless Mike has with respect to any extensions by the Legislature.

Mike Pollocoff:

It came up again. I think a lot of people are taking a second look at Smart Growth. There's two schools of thought. One is they shouldn't be telling these communities what to do without funding it. And the other one is the people that were pushing this, one part of the lobby was the developers. The goal was to get everything fixed at a point in time so you get the merging of the zoning and the Comprehensive Plan, so Plan Commissions really wouldn't be reviewing development proposals and giving them their zoning and doing that stuff, it's all in one. Well, that took away their flexibility, too.

So now the people that thought it was fine to have it locked up are saying, wait a minute, things are changing, economics has changed and I want to be able to change it. I have now and I can't do it under Smart Growth unless you go over the whole thing again. So you've got the devil and the details are jumping into different beds but different camps and John said that might come up before the end of next year. But, nonetheless, as Jean said we have time frames we have to work with. This whole thing could unwind next year.

John Braig:

Just a comment. On the OHL project, I'm reading there shall be no outside storage of materials, etc., etc., etc. There's another pretty significant violation of that out in the park right now. It's on 165 and the area where the storage is comes pretty close to abutting the telephone company's building there. What I'm thinking of or suggesting is it would be in WisPark's best interest to police this.

Mike Pollocoff:

I don't think WisPark has full control over there. The association has been—

John Braig:

Whatever it is, but my idea is they all know what the rules are and regulations and if somebody is not following up it affects everyone out there. So I would think somebody out there it would be to their advantage to keep the park neat and clean.

Wayne Koessl:

For one thing this park does not have any staff in the park anymore. And, secondly, that should all be covered in their covenants with their association. So the tenants should know right and wrong. I don't know how often they hold the meetings anymore for the association.

John Braig:

But you look at these things and if there's no teeth in it we're going through an awful lot of effort for nothing if people can do what they want anyhow.

Wayne Koessl:

I move we deputize John to go around and—

John Braig:

Hey, I'm not going anywhere. I just happened to see this. You guys must be driving around with your eyes closed.

Tom Terwall:

The motion is out of order until it can be put on the agenda.

**6. ADJOURN.**

John Braig:

Move adjournment.

Judy Juliana:

Second.

Tom Terwall:

All in favor say aye.

Voices:

Aye.

Tom Terwall:

Opposed?