

**PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
November 10, 2008**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on November 10, 2008. Those in attendance were Thomas Terwall; Michael Serpe; Wayne Koessl; Jim Bandura; John Braig; Andrea Rode; and Judy Juliana. Donald Hackbarth and Larry Zarletti were excused. Also in attendance were Mike Pollocoff, Village Administrator; Peggy Herrick, Assistant Village Planner and Zoning Administrator; and Tom Shircel, Assistant Village Planner

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CONSIDER THE MINUTES OF THE OCTOBER 27, 2008 PLAN COMMISSION MEETING.**

Tom Terwall:

We're going to omit Item 4, that will be discussed at our next meeting.

- 5. CITIZEN COMMENTS.**

Tom Terwall:

If you're here for any one of the three items on the agenda tonight, since all three of those are public hearings, we would ask that you hold your comments until the public hearing is held so that we can incorporate your comments as a part of the official record. However, if you're here to discuss an item not on the agenda now would be your opportunity to speak. We would ask that you step to the microphone and begin by giving us your name and address.

Before you do, I want to point out somebody has spread misinformation that one of the items tonight is going to be a discussion on RV camping in the Village. That is not the case. There was a special meeting for that purpose last Thursday night and that will come up again later, but it is not on our agenda and it will not be discussed tonight. So, anybody wishing to speak under citizens' comments now would be your opportunity to do so. We'd ask that you 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 A FINAL PLAT, DEVELOPMENT AGREEMENT AND RELATED DOCUMENTS for the request of Fouad Saab, agent, for JM Squared LLC, owner, for the approximate 15 acre**

**property, generally located on the west side of 28<sup>th</sup> Avenue, south of 116<sup>th</sup> Street, at the approximate 11900 Block, for the proposed 19 lot single-family subdivision to be known as The Orchard Subdivision.**

Tom Shircel:

Thank you. This is a public hearing and consideration of a final plat, development agreement and related documents for the request Fouad Saab, agent, for JM Squared LLC, owner, for the approximate 15 acre property generally located on the west side of 28<sup>th</sup> Avenue, south of 116<sup>th</sup> Street, at the approximate 11900 Block, for the proposed 19 lot single-family subdivision to be known as The Orchard Subdivision.

The developer is requesting approval of the final plat to subdivide the approximate 15 acre former apple orchard property for the development to be known as The Orchard generally located on the west side of 28<sup>th</sup> Avenue, south of 116<sup>th</sup> Street.

This property is located within a portion of the Sheridan Woods Neighborhood, which is generally located north of 128<sup>th</sup> Street which is State Line Road) south of 116<sup>th</sup> Street, east of 39<sup>th</sup> Avenue and west of Sheridan Road. Again, that's the entire neighborhood. In accordance with the Village Comprehensive Plan, the Sheridan Woods Neighborhood is classified as Lower-Medium Residential land use category which requires the average lot area for the neighborhood to be within the range of 12,000 square feet and 18,999 square feet per dwelling unit. The Orchard conceptual plan, the preliminary plat and the proposed final plat are in compliance with the comprehensive plan and the Sheridan Woods Neighborhood Plan.

Some quick background information.

1. On February 12, 2007, the Plan Commission approved an amendment to the Sheridan Woods Neighborhood Plan. That was Resolution #06-20.
2. On April 23, 2007 and May 7, 2007, the Plan Commission and the Village Board respectively approved the following three items:
  - a. Sheridan Woods Neighborhood Plan Amendment which is Plan Commission Resolution 06-20.
  - b. Zoning Map Amendment, Ordinance #07-16 which rezoned the property to its current configuration of R-3 for the single family lots, C-1 Lowland Resource Conservancy for the wetland areas, and PR-1, Park and Recreational District for the non-wetland areas of the two outlots.
  - c. Conceptual Plan.
3. On November 19, 2007, the Village Board conditionally-approved the preliminary plat for the proposed The Orchard which was Village Board Resolution 07-77.
4. And, finally, on July 7, 2008, the Village Board conditionally-approved a variance to Section 395-60 C of the Land Division Ordinance which granted a cul-de-sac variance for a 574 foot variance to allow a 1,374 foot long cul-de-sac.

Residential Development: The Orchard single-family subdivision consists of approximately 15 acres of land which is proposed to be developed into 19 lots which are 18 new lots and one existing lot and two outlots. The final plat shows the single family lots range in size from approximately 20,000 square feet, which is Lot 4, to 36,000 square feet which is Lot 8 with the average lot size being just under 24,000 square feet. The District requires each lot to be a minimum of 20,000 square feet with 100 feet of frontage on a cul-de-sac which can be reduced to 45 feet on a curve. And all lots shall have a depth of at least 125 feet. Each of the lots meets or exceeds the minimum requirements of the R-3, Urban Single Family Residential District. The entire development provides for a net density of 1.59 dwelling units per net acre.

Under population projections, based on the 2000 U.S. Census information for the Village, there is an average of 2.73 persons per household. School-aged children between the ages of 5 and 19 make up 23 percent of the population. Therefore, based on the proposed 19 lots, it is projected that 52 persons will be added to the population upon full build-out of The Orchard development. The subdivision would likely generate 12 school-aged children. Pursuant to the information provided by the KUSD, an addition of 8 new public school-aged children are projected to come from this development. As a note, the Village continues to provide copies of the proposed developments to the Kenosha Unified School District to assist in their school enrollment projections, school facility planning and school boundary adjustments.

Under open space within this development, approximately two acres or 13 percent of the entire approximately 15 acres is proposed to remain in open space. The open space within the development includes wetlands, storm water retention areas and other open space.

As far as wetlands are concerned, a total of approximately .5 acres or 3 percent of the site have been field delineated as wetlands by Thompson & Associates on August 7, 2006 and approved by the Wisconsin DNR on September 20, 2006. The wetland area is located entirely within Outlot 2 and is located within a Dedicated Wetland Preservation and Protection, Access and Maintenance Easement. As previously noted, the field delineated wetlands were rezoned into the C-1 District by the Village Board on May 7, 2007.

As far as woodlands are concerned, a detailed tree survey was prepared by Capitol Surveying & Engineering dated October 13, 2006. A number of apple trees on the property will be removed. However, many of the wooded areas and tree areas essentially located along the plat perimeter shall be preserved and are located within Dedicated Tree Preservation and Protection, Access and Maintenance Easement areas. These easements are legally described and the easement locations are depicted on the plat as you can see a projected on the wall. Specifically, the Dedicated Tree Preservation and Protection Easements areas are located on portions of the rear of Lots 1-7, 12, 13, 16 and 19. No significant trees located within these easements shall be removed without Village approval.

The developer shall include penalties in the Declaration of Restrictions, Covenants and Easements for removing any trees without permission from the Homeowners Association and the Village. In the past the Village has supported the following penalty: Trees that are greater than 8 inches in diameter that are dying or decayed shall be allowed to be removed upon written approval of the Homeowners Association and the Village. If trees greater than 8 inches in diameter are removed without written permission, a replacement tree, 3 inch diameter minimum, shall be planted within that easement.

Under other open space, 1.5 acres of other open space located within Outlots 1 and 2 will remain as open space. A portion of Outlots 1 and 2 will be used for stormwater retention facilities for this development. The developers engineer has evaluated the development site based on actual field conditions and has presented a storm water management facility plan to the Village for review and approval.

In addition and not included in the open space acreage is the required 35 foot wide Dedicated Landscape, Access and Maintenance Easement adjacent to 28<sup>th</sup> Avenue. Landscaping will be required to be installed by the Developer within this easement; however, a berm shall not be constructed along the 28<sup>th</sup> Avenue frontage per the area resident's request. Street trees are required to be planted within the all new public road rights-of-way including within the existing the 28<sup>th</sup> Avenue right-of-way for this development.

As far as outlots are concerned, Outlots 1 and 2 are proposed to be dedicated to the Homeowners Association. Outlot 1 is approximately 32,000 square feet and is proposed to be improved with a stormwater retention pond. Outlot 2 which is in the southwest corner of the development s just over 55,000 square feet and is proposed to be improved with a stormwater retention pond as well. Outlot 2 contains also the wetlands as discussed previously which are zoned C-1.

Access to the site, this development will have one public street access point onto 28<sup>th</sup> Avenue onto 120<sup>th</sup> Street. The plat allows for a potential future road connection to the north near the bend in 120<sup>th</sup> Street. This road stub would afford that property owner to the north of this road to have the opportunity but not obligation to connect to that roadway should that property owner ever wish to further subdivide that property for future development pursuant to the Sheridan Woods Neighborhood Plan.

Public improvements, the entire development shall be serviced by municipal sanitary sewer, water, storm sewer and roadways.

- Public Roads - In addition to the just over eight feet of right-of-way being dedicated along 28<sup>th</sup> Avenue adjacent to Lot 19 and Outlot 1, 120<sup>th</sup> Street—I'm sorry, it's an additional right-of-way will be added to Lots 19 and 1. 120<sup>th</sup> Street and 29<sup>th</sup> Court will be constructed to meet Village urban road profile requirements.

Construction access for public improvements and new home building shall be restricted to 28<sup>th</sup> Avenue. The developer will be responsible to repair or replace 28<sup>th</sup> Avenue south of 116<sup>th</sup> Street if damage occurs during the construction of the public improvements. In order to determine the 28<sup>th</sup> Avenue roadway impacts due to construction traffic and infrastructure construction, the developer shall provide to the Village Public Works Department a 28<sup>th</sup> Avenue roadway pre-construction that's prior to the commencement of the public improvements and post-construction roadway evaluation, analysis and video tape to allow the Village to monitor and evaluate the traffic impact and roadway conditions of the development. Any work that occurs within the 28<sup>th</sup> Avenue right-of-way that causes damage to the roadway or if construction vehicles damage the roadway, the developer will be financially responsible for the repairs or restoration and the cost of those repairs and restoration work to that Village road right-of-way.

The Village Public Works Department will monitor the construction vehicle activities, water utility work and roadway conditions for 28<sup>th</sup> Avenue. The Village Engineer shall determine the damages, if any, to the roadway. The Letter of Credit shall include financial security to rebuild 28<sup>th</sup> Avenue, north to 116<sup>th</sup> Street, in the event that the roadway is damaged during construction and is required to be repaired or replaced. The estimate, as provided by the Developer's Engineering and review by the Village, shall include base repair, resurfacing the road with 4 inches of asphalt, gravel shoulders and driveway approaches. It shall also include any and all costs associated with temporary repair measures that may be taken to keep the road drivable until the final repairs are eventually made. The developer will be responsible to provide additional financial security if deemed necessary by the Village Administrator.

As far as safety of school age kids walking to the bus stop which is located north on 116<sup>th</sup> Street, prior to construction the developer and contractors shall meet with the residents along 28<sup>th</sup> Avenue, from 116<sup>th</sup> Street to the Prairie Trails East north subdivision line. A follow-up memorandum shall be provided to the Village which documents the outcome of this discussion. All school age children will be identified along with the times that they walk to and from the bus. No construction traffic will be permitted during those times. The Prairie Lane Elementary School hours are from 8:40 a.m. to 3:30 p.m. Therefore, for example, no construction traffic will be permitted from 8:00-8:30 a.m. and from 3:30-4:00 p.m. again to avoid the kids waiting for the bus and catching the bus. The developer shall meet with the Transportation Director for KUSD to discuss the project and bus schedules to avoid or minimize any potential conflicts during the school year.

- Municipal Water: Currently, there is no municipal water within 28<sup>th</sup> Avenue. As noted during the Conceptual Plan approval, The Orchard Subdivision shall be serviced by a looped municipal water system. Therefore, a municipal water main is required to be installed within the development and within 28<sup>th</sup> Avenue adjacent to Lot 19 and Outlot 1 and installed within an easement through Lots 7 and 8 of the development, then south within an easement obtained from the adjacent property owner, that would be Prairie Trails East, the proposed Prairie Trails East, to connect to the existing water main in 122<sup>nd</sup> Street

- Required Public Water Main Loop Improvements: Within three years of the Village acceptance of the public water main system within The Orchard, the developer, JM Squared, shall have initiated the process to acquire any necessary easements, prepare engineering plans for Village review and approval for the developer to complete the required public water main loop on 28<sup>th</sup> Avenue north to 116<sup>th</sup> Street or identify another location to connect the water main located at 119<sup>th</sup> Street and 26<sup>th</sup> Avenue, or on 28<sup>th</sup> Avenue south to connect to municipal water in the proposed Prairie Trails East Subdivision, provided the Prairie Trails East Subdivision has been approved and the improvements are installed.

Furthermore, within five years from the Village acceptance of the public water main system within The Orchard, the developer, JM Squared, shall construct and the Village shall inspect, test and accept the public water main loop improvements. All water main loop improvements shall be at the expense of the developer and the developer may request the Village Board to approve a Right of Recovery.

At this time the developer is required to provide a surety bond for the costs related to the design and construction of the required public water main loop improvements on 28<sup>th</sup> Avenue north to 116<sup>th</sup> Street, any repair and restoration to the right-of-way and a 25 percent contingency. An amendment to the development agreement will be required to be approved for the public water main loop improvements and a letter of credit will be required as well. Upon providing the Village with the required letter of credit for the required public water main loop improvements, the Village will release the surety bond.

- Right of Recovery - A 10-year right-of-recovery could be afforded to the developer for water main improvements proposed to be installed on a portion of 28<sup>th</sup> Avenue adjacent to Lot 19 and Outlot 1 if, after holding a special assessment hearing, the project is approved by the Village Board. The actual costs for such improvements shall be provided by the developer at the time the final engineering is approved and bid numbers have been obtained. Property owners on 28<sup>th</sup> Avenue will be required to pay the water special assessment costs only if they choose to connect to the municipal water main. Also, any new homes will be required to connect to municipal water and pay the special assessment prior to connecting to the water main. Any new lots created will be required to pay the special assessment prior to recording a CSM or a plat as well. A special assessment public hearing for the off-site municipal water improvements will need to be scheduled by the Village Board related to these pending costs prior to approval of the final plat. Upon written approval of the engineering plans, profiles and specs by the Village Engineering Department, the developer shall submit cost estimate, a list of benefitting lots and cost breakdown per lot and the required exhibit for the proposed right of recovery for review and for the meetings to be scheduled.
- Municipal Sanitary Sewer - Sanitary sewer will be extended from the existing sewer located in 28<sup>th</sup> Avenue and will continue throughout the development within 120<sup>th</sup> Street and 29<sup>th</sup> Court.
- Pedestrian and Bicycle Path - A 12 foot wide pedestrian and bicycle, access and maintenance easement is being provided on Lot 10 adjacent to Outlot 2 for a pedestrian connection to the Kenosha County Bike Trail to the immediate west. Within the easement the developer is responsible for the construction of an eight foot wide concrete path. The path shall be located a minimum of five feet from the side slope of the pond within Outlot 2. It shall be centered within the 12 foot easement, and the developer will responsible for installing a wooden split rail fence along the pond to separate the pond from the pedestrian access. The gravel base for the path, the split rail fence and any required connection to the Kenosha County Bike Trail shall be installed with the phase 1 requirement public improvements. The path shall be paved with the phase 2 public improvements unless required to be installed immediately by Kenosha County.
- Flood water and Drainage Issues:
  - a. Flooding - As a part of this project, the storm water runoff will be collected and drained to one of two storm water retention ponds. The ponds will significantly reduce the peak runoff rate exiting the site. Storm sewer, swales and berms will be installed to protect the properties downstream of the development by safely directing the runoff to the retention ponds. The storm water management practices are required by Village ordinance and the Wisconsin DNR regulations

and State statutes. The Village Engineers have reviewed the site drainage and storm water plans for this development to ensure that the site conforms to the requirements and that there is no negative drainage impacts as result of this development.

- b. Concerns about Tobin Creek Flooding - The developer has completed a detailed, field topographic survey of the site. The engineers have examined the regional topographic maps in great detail and the area draining to the retention ponds and the discharge from the ponds does not drain to Tobin Creek. This area drains to the south to the Prairie Trails East Development.
- c. Storm Water Pond Safety - The storm water drainage ponds are required by the Village's storm water management ordinances and the DNR storm water regulations. In order to meet the storm water requirements the storm water ponds need to be located where they are shown. The ponds will be designed to be as safe as possible. There will be a 10 foot wide safety shelf so that the water level is 12 inches or less for the first 10 feet around the perimeter of the pond. The landscape plan has been revised so that there are trees planted between 28<sup>th</sup> Avenue and the pond on Outlot 1, and signage shall be posted to discourage trespassing in the area.
- d. Pond & Outlot Maintenance - The Orchard Homeowners Association will be responsible for the maintenance of the outlots, storm water ponds, aeration fountain, etc.

Street lighting: Street lights are proposed at the intersection of each road and at the end of the 120<sup>th</sup> Street cul-de-sac. The Orchard property owners will be responsible for the monthly maintenance and electricity facility charges for the proposed street lights. The specifics are provided in the development agreement and the Declaration of Restrictions Covenants and Easements for The Orchard.

Entry monument signage: Pursuant to the area neighbors' request, the developer will not install an entry monument sign for The Orchard Development.

Fiscal review: In addition to the impact fees due at the time of building permit, the developer has agreed to a cost sharing agreement to donate \$891 per housing unit as a cost sharing contribution for each of the residential units within the development to address current shortfalls in funding and fees collected for police, fire, EMS and public works impact fee needs as a direct result of this development.

Finally, the final plat time extension request: Pursuant to the Village Land Division and Development Control Ordinance the Village Board shall approve or deny a final plat within 60 days of filing unless the time frame is extended by the Village. The final plat and related documents were filed with the Village on October 10, 2008 and would require consideration by the Village Board on or before December 10, 2008. Since all of the approvals and required documents will not be finalized on or before December 10<sup>th</sup> of this year, the developer has requested a six month time extension for the Village Board to consider the final plat, development agreement and all related documents for The Orchard. This extension would allow the developer time to satisfy the comments and for the Village Board to consider the final plat, development

agreement and the related documents on or before April 10, 2009. With that this is a public hearing. I'll turn it back to the Plan Commission.

Tom Terwall:

Thank you. This is a matter for public hearing. Is anybody wishing to speak on this matter? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'm going to open it to comments from Commissioners and staff.

John Braig:

Under woodlands it states the developer shall include penalties in the Declaration of Restrictions, Covenants and Easements for removing any trees. I'm looking at the restrictions and covenants paragraph 3.9.10, tree and woodland protection. There's no mention of penalty.

Tom Shircel:

Correct. That's a condition. They'll need to put that penalty in there upon revising that document.

John Braig:

There is a requirement they pay a penalty?

Tom Shircel:

Yes. It's a condition of approval, right. They'll need to insert that wording.

John Braig:

We would like to know what that penalty is a little bit more than a slap on the wrist.

Mike Pollocoff:

What would you prefer?

John Braig:

I don't know what's reasonable. Several hundred dollars? Thousand dollars?

Peggy Herrick:

In the past we've approved—

John Braig:

The effort is not to recover funds because somebody did something. The effort is to prevent removal of a tree.



Peggy Herrick:

Correct. In the past you've approved the replanting of three inch trees. That's what's been approved by this Board and this Village Board in the past. That's what we're recommending unless you have a different recommendation.

John Braig:

I can live with that.

Tom Terwall:

So any tree removed illegally has got to be replaced with a minimum three inch diameter tree, correct?

Tom Shircel:

Correct.

Tom Terwall:

And how do we enforce that?

Mike Pollocoff:

That would be enforced if the tree that you moved is not identified for removal as part of the plan that's been approved, then upon inspection that tree would have to be replaced before we final out the development or we allow the final completion of the development. That landscaping would have to occur.

Tom Terwall:

Before what happens?

Mike Pollocoff:

Before they can develop. Before they can get building permits to be able to get building permits on the property.

Tom Terwall:

But let's say the lot gets sold and now some guy moves in with a chainsaw. How do we stop him from cutting all the trees down? Does that same rule apply to him?

Tom Shircel:

Yes.

Mike Pollocoff:

It's incumbent on the property. At that point it would be incumbent on the association to enforce their own covenants.

Mike Serpe:

Not the Village?

Mike Pollocoff:

We have a right but we don't have an obligation.

Tom Terwall:

So we would have a right then to go in and plant a three inch tree and put it on his tax roll if that was the last resort, correct?

Mike Pollocoff:

Right.

Tom Terwall:

That's all I care. Thank you.

Jim Bandura:

Quick one to the staff. Item 12 on Page 9 it says Village may recover from such owners. Does that mean the individual property owner?

Tom Shircel:

Yes, it does.

Mike Serpe:

Question for the engineer.

Tom Terwall:

Give us your name and address, sir.

Chris Jackson:

Chris Jackson, CJ Engineering, 13005 West Bluemound Road, Brookfield, Wisconsin.

Mike Serpe:

I don't know if this is for you, Chris. I know the owners are here also. When would grading of this parcel begin? When is the anticipated start?

Chris Jackson:

As soon as we get approval we're hoping to begin. I would guess depending on weather and finances we had hoped by the end of the year or early January assuming everything gets approved and we get the precon and everything under way. All the engineering plans have been revised, submitted. We're waiting for DNR and Waukesha County Water approval, and once we get that then we can schedule the precon meeting assuming that we get final plat approval. Then we begin shortly after that pending weather and schedule of the contractors. But the plan is to begin as soon as possible.

Mike Serpe:

And as I understand it, Mike, after the grading has taken place and the retention ponds are put in, that will greatly improve the drainage in that area?

Mike Pollocoff:

That's correct.

Wayne Koessl:

Do any of the Commissioners have any other questions or comments? Otherwise, Mr. Chairman, I'm going to recommend the Plan Commission send a favorable recommendation to the Village Board to approve the final plat, development agreements and related documents subject to the comments and conditions of the November 10, 2008 Village staff report. And also, Mr. Chairman, I think the developer has worked very well with all the neighbors to get to this point and I commend him for that.

Andrea Rode:

I second it.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY ANDREA RODE THEN TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD FOR APPROVAL SUBJECT TO THE TERMS AND CONDITIONS OUTLINED—GO AHEAD.**

Tom Shircel:

Does that include the final plat extension request as well?

Tom Terwall:

Yes, correct, Wayne?

Wayne Koessl:

Yes.

Tom Terwall:

Including the extension. All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed?

John Braig:

I abstain.

Tom Terwall:

Okay, one abstention.

**B. PUBLIC HEARING AND CONSIDERATION OF AN EXTENSION TO A CONDITIONAL USE PERMIT at the request of Tom Ventimiglia, Asset Manager for Wisconsin Electric Power Company, on behalf of Alstom Power, an international manufacturer of capital equipment for the power generation industry, to extend the operational time frame of the currently-in-use Carbon Capture Pilot Test Project (or Carbon Dioxide removal) technology at the Pleasant Prairie Power Plant located at 8000 95th Street.**

Tom Shircel:

This is a public hearing and consideration of an extension to a conditional use permit at the request of Tom Ventimiglia, Asset Manager for Wisconsin Electric Power Company, on behalf of Alstom Power, an international manufacturer of capital equipment for the power generation industry, to extend the operational time frame of the currently-in-use Carbon Capture Pilot Test Project or Carbon Dioxide removal project technology at the Pleasant Prairie Power Plant located at 8000 95th Street.

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

1. As some general background information, on June 25, 2007, the Plan Commission conditionally approved a Conditional Use Permit, which is Grant No. 07-04, including

Site and Operational Plans, to allow Wisconsin Electric Power Company, WE Energies, on behalf of Alstom Power, to demonstrate an innovative low cost and low energy consuming Carbon Capture or Carbon Dioxide removal technology at the Pleasant Prairie Power Plant known as P4 at 8000 95<sup>th</sup> Street. The project is known as the Carbon Capture Pilot Test System. The 2007-installed CCPTS also includes the installation of a small-scale pilot test system to operate, test, collect data, and optimize system performance.

The now-installed CCPTS is the first field demonstration at an actual power plant of this new carbon capture technology and is a small-scale prototype of a future full-scale carbon capture system design. Prior tests have been done in a laboratory setting. This prototype is the second step in the development of commercially marketable carbon capture technology that can be retrofitted onto existing fossil fuel fired electric generating power plants.

In general, the system removes exhaust gas from the outlet of the air quality controls system device to remove sulfur dioxide from Unit 2 at Power Plant. The existing SO<sub>2</sub> removal device is known as a flue gas desulphurization or FGD or SO<sub>2</sub> Scrubber. It will remove less than 1 percent of the total Unit 2 flue gas for testing. The system is designed to recover carbon dioxide in a highly concentrated form. The collected data is be used to evaluate the technical and economical viability of the technology.

The participants in this pilot test program consist of Alstom, the Electric Power Research Institute and WE Energies. The project is co-funded by 25 national and international utilities through EPRI which is the Electric Power Research Institute.

2. Conditional Use Permit Extension Amendment - The system is operational and testing has been in progress for approximately six months. This technology and operation have worldwide implications for future generations and testing results may have implications upon climate change and greenhouse gas emission reduction. The concept is proving to be successful and valuable data has been gathered to date. Alstom has determined that an extension in operating time will be needed to acquire additional data, test new concepts, to further refine the system to establish more exact parameters and to receive the best use of the investment in the system for additional future units now being designed.

3. In order to gain this additional time for the operation of the system, WE Energies is requesting a one year operational extension to the original Conditional Use Permit, which was, again, Conditional Use Grant No. 07-04. The scheduling that is being requested is as follows. The original plan finish was February of 2009. They're looking to revise that to finish in March of 2010. The equipment decommissioning was originally planned to finish April 2009. Again, they want to extend it to April 2010. Equipment demolition was to end in October 2009. They want to extend that to October 2010. And, finally, site restoration was to end November 2009. Again, the one year extension is requested to November 2010.

4. Pending Plan Commission approval of the requested extended time frames, WE Energies will be required to change the source of the flue gas from the current P4 Unit 2 to P4 Unit 1. The modification in the routing of the flue gas supply and return piping will

permit the pilot test plant to continue operation during a scheduled Unit 2 maintenance outage that will begin in March 2009. This is a minor piping change and involves no alteration to the arrangement or location of the system.

5. The current zoning of the property is M-2, Heavy Manufacturing, and the operation and maintenance of an electrical generation power plant is allowed within that District with a Conditional Use Permit for the existing use and for each major addition, alteration, modification or change such as what we're speaking of tonight.

6. In accordance with Village mapping, the system is not located within the 100-year floodplain, within wetlands, woodlands or other environmentally sensitive areas.

8. Pursuant to the original application for the CCPTS, this project does not impact the existing Wisconsin Department of Natural Resources Air Quality Permit issued to the site.

9. Notices were sent to adjacent property owners via regular mail on October 27, 2008 and notices were published in the *Kenosha News* on October 27, 2008 and November 3, 2008.

10. The petitioner was emailed a copy of this Village staff report including the Fire Department comments on or about November 7, 2008.

11. According to Section 420-145 F. of the Village's General Zoning Ordinance, the Plan Commission shall not approve a Conditional Use Permit unless they find after viewing the findings of fact, the application and related materials and information presented at this public hearing that the project as planned will not violate the intent and purpose of all Village Ordinance and meet the minimum standards for granting of a Conditional Use Permit. Furthermore, the Plan Commission shall not approve any Site and Operational Plan application without finding in the decision that the application, coupled with satisfaction of any conditions of approval, will comply with all applicable Village ordinance requirements and all other applicable federal, State or local requirements relating to land use, buildings, development control, land division, environmental protection, sewer service, water service, storm water management, noise, streets and highways and fire protection.

With that I'll return it to the Plan Commission.

Tom Terwall:

This is a matter for public hearing. Is there anybody wishing to speak on this matter? Anybody wishing to speak? Anybody wishing to speak? Hearing none, I'm going to open it up to comments and questions from Commissioners and staff.

John Braig:

I don't want to suggest that I know anything about this or understand it, but I've read a couple articles that deal with compressing. As the CO2 is returned to the stack it's in the gaseous form, right? These articles are dealing with compressing it into a liquid form and submerging it down a

couple thousand meters below the sea where it's denser in the salt water or the sea water and, in effect, it's going to be there forever. Is that something that's going to be considered if this got to be a full-scale project? You speak of injecting the CO<sub>2</sub> into the ground. I know there are some places where it would probably stay forever. I know the gas company stores gas under pressure underground for periods of time. I'm thinking under sea storage would probably be far more secure.

Jeff Millikan:

My name is Jeff Millikan. I'm with Alstom Power. I'm the project manager. I live in Knoxville, Tennessee of one of the branches of Alstom. Of course, what we're doing here is taking it and testing it. As you might know going from a lab to real life is considerable change. Things happen so we're in the learning curve. This does go back in the gaseous state. The premise is and it's been developed as Tom named a group called EPRI. They found these large caverns under the sea, to use that term, and that's the plan. Now, they've also used, and it has been done in the past very successfully, to inject the CO<sub>2</sub> in old oil fields to get that residue of oil that's in the caverns I guess as you call it. It makes it more viscous so they can pump out that oil. So that's another use for it beside Coca Cola, beer, whatever. But right now the plan is to inject it.

We do have another project forthcoming in the Country of Canada. They are actually going to sequester this and do that very same thing as well as they think they have a commercial product and they can sell it for different items.

The long-range plan is, for instance, there's natural gas lines all over the United States underground. This could be very well compressed and sent somewhere else to use. There's a lot of things we just don't know, sir, we just don't know it yet what we're going to do with it.

John Braig:

Thank you.

Tom Terwall:

Anybody else? Hearing none, what's your pleasure?

Wayne Koessl:

Mr. Chairman, I would recommend that the Plan Commission approve a Conditional Use Permit for the requested one year operational extension of the Carbon Capture Pilot Test Project, original Conditional Use Grant No. 07-04, subject to the attached comments and conditions of the Village staff report of November 10, 2008. You might ask has the staff of the Power Plant reviewed those items? Okay. Then I move approval, Mr. Chairman.

Tom Terwall:

Is there a second?

Andrea Rode:

Second.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY ANDREA RODE THEN TO APPROVE THE CONSIDERATION FOR THE EXTENSION OF THE CONDITIONAL USE PERMIT 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. Thank you.

**C. PUBLIC HEARING AND CONSIDERATION OF A ZONING TEXT AMENDMENT to amend Section 420-75 I of the Village Zoning Ordinance related to the Official Public Signs.**

Peggy Herrick:

Thank you. This is a zoning text amendment to amend Section 420-75 I of the Village Zoning Ordinance related to the official public signs.

As you may recall, on October 13, 2008 the Village Plan Commission adopted Resolution #08-19 to evaluate the regulations related to official public signs.

Official public signs are defined as: A sign installed or constructed by the Village, or some other federal, state or local governmental authority or public utility, to protect, preserve or foster the public health, safety, convenience or welfare. The current ordinance only allows such signs within a right-of-way.

The proposed amendment to Section 420-75 I of the Village Zoning Ordinance would allow such signs on Village owned land in any district; provided that written permission is obtained from the Village and that the size and location is approved by the Village Zoning Administrator. With that, this is a public hearing.

Tom Terwall:

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



Jim Bandura:

This might be an odd question, but to the staff are there any limitations or guidelines for the Zoning Administrator to go by?

Peggy Herrick:

Basically we're going to want to make sure that it's not obstructing traffic if it's located on Village property and that the size is appropriate for what the sign is for. Don't know if you're looking for more specific.

Jim Bandura:

Some kind of guideline that you're looking towards. I guess that's basically what I-

Peggy Herrick:

By putting a size limitation on it and a setback there might be lots of different sign types that could be located on Village property. And if you limit it to a certain size it may not work in all circumstances. So that's why we wanted to leave it more open ended.

Jim Bandura:

Somewhat discretionary.

Peggy Herrick:

Correct.

Wayne Koessl:

I guess I commend the staff because they're looking for some flexibility to handle the signs and that's what we give them. Let them make those decisions.

Peggy Herrick:

Again, these will only be on Village property as well.

Wayne Koessl:

I'll make that motion.

Jim Bandura:

I'll second.

Tom Terwall:

**IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE AMENDMENT TO THE VILLAGE ZONING ORDINANCE PERTAINING TO SIGNS. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

Mike Serpe:

Tom, I didn't vote on that because I was not a part of the deliberations.

Tom Terwall:

Okay. Let the record show that Mr. Serpe abstained. Before we move onto the final item, I'm sure this does not pertain to campaign signs. I'm wondering does the Village have any ordinance or is that State controlled? What I'm wondering is who is responsible to make signs come down and in what kind of time frame? Is that a Village requirements? Is that a State requirement.

Mike Pollocoff:

I believe there's a requirement by the Government Accountabilities Board for campaign signs to come down within a certain limit. If the Clerk was here she would probably know it off the top of her head.

Wayne Koessl:

Mike, I think it's ten days, isn't it, after the election? And they cannot be placed in any roadway right of ways. That's basically it.

John Braig:

Is there possibly some violations in the Village?

Tom Terwall:

If they came down now, no, but as of yesterday there were a whole lot of signs for one particular candidate up all over the Village. I was wondering if they were going to come down or not and whether there's any enforcement to make.

**D. Consider the request of Mark Gumbinger owner of the property located at 9928 32<sup>nd</sup> Avenue to install street lights within the Rolling Meadows Subdivision.**

Peggy Herrick:

The Village has received a request from Mark Gumbinger, who resides at 9928 32<sup>nd</sup> Avenue within the Rolling Meadows Subdivision for street lights to be installed within this Subdivision.

The Rolling Meadows Subdivision is located east of 39<sup>th</sup> Avenue and Springbrook Road between 100<sup>th</sup> Street and 98<sup>th</sup> Place west of the Kenosha County Bike Trail. Rolling Meadows Park is located on 32<sup>nd</sup> Avenue adjacent to the Bike Trail within this subdivision. The petitioner indicated that there was a safety issue and noted that there was an accident and another near accident the first week of October and Halloween yard decoration were stolen. The request also indicates that newer subdivisions have street lights at all intersections.

The criteria the Village uses for installing a public street lights in existing subdivisions include:

- At entrances to subdivisions from heavily traveled State Highways, County Highways or Village Roads.
- At hazardous Village street intersections that would present a danger to life and property without a street light.
- At such other locations that would mutually benefit Pleasant Prairie and the property owners.

Currently there are two street lights in the subdivision, at the entrances at 39<sup>th</sup> Avenue, County Trunk EZ, and 100<sup>th</sup> Street and at Springbrook Road, County Trunk Highway ML, and 98<sup>th</sup> Place.

Pursuant to the Police Chief, he is not aware of any specific problems in the area that would demand additional lighting.

When new subdivisions are development, the installation of the street lights and the monthly maintenance cost for the street lights are the responsibility of the property owners within that new subdivisions. Within the Rolling Meadows Subdivision there are seven intersections without a street light. Only one of these intersections has an existing utility pole, all other utilities within the development are underground so new poles would need to be installed. Just as a matter of information, a 2007 We Energies estimate for installing eight new poles and lights within the Devonshire Subdivision was over \$40,000 and the monthly maintenance charge is approximately \$250 per month.

Based on the criteria noted above, additional street lights are not warranted; however, if more than 50 percent of the owners submitted a petition for street lights to be installed within the subdivision a special assessment hearing could be scheduled for the creation of a street lighting district for the Rolling Meadows Subdivision, and the property owners would be responsible for the installation and the monthly maintenance costs for the street lights. Prior to the hearing the Village would request We Energies to provide an estimate for the installation and monthly maintenance cost for the proposed lights in this subdivision.

As an alternative to installing public street lights, property owners could install private yard lights on their property and/or request a private area light from We Energies, which is a metered light

that is installed on private property and is paid for by the property owner. The Village staff did send this to the street lighting committee, and we recommend that the Plan Commission and the street lighting committee send a recommendation to the Village Board to deny the street light as requested.

Tom Terwall:

Comments?

Wayne Koessler:

Mr. Chairman, I'll make the motion that we deny the request.

Mike Serpe:

I'll second that with a comment. I'm on the street light committee with Wayne, and I think the accident that the petitioner is referring to happened probably more than three blocks away from his home and it's not Rolling Meadows that it happened at. I'm familiar with the accident because I knew the person that had the accident. It was a medical condition that the person blacked out and just went into the culvert of the home and that was the extent of it. I've been out there 33 years and I think you'd be hard pressed to find too many supporters to put street lights in that subdivision. I don't think it's going to happen. I would concur with Wayne to deny it.

Tom Terwall:

**WE HAVE A MOTION BY WAYNE KOESSL AND A SECOND BY MIKE SERPE THEN TO SEND A RECOMMENDATION TO THE VILLAGE BOARD TO DENY THE REQUEST FOR STREET LIGHTS IN ROLLING MEADOWS. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**7. ADJOURN.**

Andrea Rode:

So moved.

Wayne Koessler:

Second.

Tom Terwall:

Motion and a second to adjourn. All in favor say aye.

Voices:

Aye.

Tom Terwall:

Opposed?