

**1 PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
January 9, 2006**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on January 9, 2006. Those in attendance were Thomas Terwall; Michael Serpe; Donald Hackbarth; Wayne Koessler; Jim Bandura; John Braig; and Larry Zarletti. Judy Juliana was excused and Eric Olson was absent. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie, Community Development Director, Peggy Herrick-Asst. Planner/Zoning Administrator and Tom Shircel-Asst. Planner/Zoning Administrator..

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CORRESPONDENCE.**
- 4. CONSIDER THE MINUTES OF THE NOVEMBER 28 AND DECEMBER 14, 2005 PLAN COMMISSION MEETINGS.**

John Braig:

Move approval.

Wayne Koessler:

Second.

Tom Terwall:

**MOTION BY JOHN BRAIG AND A SECOND BY WAYNE KOESSL TO APPROVE THE MINUTES OF THE NOVEMBER 28<sup>TH</sup> AND DECEMBER 14, 2005 PLAN COMMISSION MEETINGS AS PRESENTED IN WRITTEN IN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- 5. CITIZEN COMMENTS.**

Tom Terwall:

If you're here for Items A or B on the agen2a tonight, since both of those matters are for public hearing, we would ask that you hold your comments until that public hearing is held so that your comments can be incorporated as a part of the official record of that hearing. However, if you're here for any other item or any item not on the agenda, now would be your opportunity to speak. We would ask that you step to the microphone and give us your name and address.

Bonnie Tishnay:

Bonnie Tishnay, 12109 26<sup>th</sup> Avenue. I'm here representing my neighborhood which is 26<sup>th</sup> Avenue. If everyone would please stand. I'm representing them on their viewpoints and concerns on the extension of 26<sup>th</sup> Avenue. But before I go any further I need to make a confession. To save Don Hackbarth face I spoke with him about a week ago on a letter that I sent each and every one of you and Jean Werbie which she distributed to the Board. He did mention to me--all I mentioned to him was what was in the letter. He said he didn't receive the letter I gave him a copy of the letter in his mailbox. He did mention that I was not allowed to speak with him. I did not have this knowledge.

But there is something I'd like to tell the Board that I was advised by a member of the Board, which was Jeff Lauer, he came to my home and spoke with me, and he advised me to call the Plan Commission Board which I did. If you would please excuse my ignorance. I had no idea.

Don Hackbarth:

Could I make a comment? It's not your ignorance, it's his ignorance. He should have known better than that. Out Attorney Baxter said this is like a judicial board and it's like a judge. We judge evidence as it is presented to us. A judge would be found in contempt or whatever if he solicited or was bribed by any other evidence before a case came to trial. We're not an elected official. You can talk to any elected official you want. This is a Board where I hate to be this way but then I spoke to you on the phone and said I really shouldn't be talking to you. With that in mind I want to say I did talk to you, but I said that also I will not form an opinion over what we discussed. So I'll stay neutral on this subject, but Mr. Lauer made a major, major mistake as far as we discussed.

Bonnie Tishnay:

I just wanted to say that before. I didn't know if you'd get in trouble and it was entirely my fault and I apologize.

Tom Terwall:

Before you continue, just let me say that because this item is not on the agenda tonight, we're more than happy to hear what you have to say, but it would be a violation of the open meeting law if we were to comment or to take any action on an item not on the agenda. So you're free to speak and we're more than happy to listen, but I might as well tell you right now that we won't do anything tonight.

Bonnie Tishnay:

I perfectly understand that. I just wanted to give my viewpoints. This is on the Prairie Trails East Subdivision that is going between approximately 121<sup>st</sup> Street to 128<sup>th</sup> Street which is State Line Road. Last year we had a meeting and at that meeting it was decided to move the park, which was on the northwest side of that subdivision, to the northeast side which is approximately four acres of woods. Now, I'm thinking that perhaps it was an oversight that the Board didn't realize that all three of these--that 26<sup>th</sup> Avenue and 28<sup>th</sup> Avenue was possibly going to go through. I'm not sure on the final decision if that was really what the plan was. But now at the end of 26<sup>th</sup> Avenue they're putting a retention pond in and they're going to carve through the edge of the woods which will drastically take away from that park. I'm assuming that the retention pond has got to be approximately 150 feet, and then if you take I know the right of way is 66. In realistic figures it's about 33 feet, so now we're talking 186 feet that's going to be taken away from the woods. Can I show you any aerial shots that I have?

Tom Terwall:

Sure.

Bonnie Tishnay:

Do you also want the Prairie Trails East map that I have that you guys sent me to show you?

(Inaudible)

Bonnie Tishnay:

I also have a neighborhood sketch of 1994 that shows all the streets were originally planned to go through. And what I'm speaking of is 26<sup>th</sup> Avenue, 28<sup>th</sup> Avenue and Prairie Trails West which crosses the bike trail. This sketch is pretty much to the T of what the plans are for today if you'd like to see that also. I also have a homemade sketch that I kind of put all these subdivisions together which is coming off of 26<sup>th</sup> Avenue, Lighthouse Pointe, Tobin Woods and Prairie Trails East.

So we have two concerns. One concern is that these beautiful woods are going to be chopped up. My concern with the Village is, and you know more than I how many trees have been cut down for highways, subdivisions, etc. I have a subdivision next to me which is right next to my home which is called Tobin Woods, and they are restricted on cutting trees down with the penalty of a fine. These people are building million dollar houses and, believe me, they are cutting many, many trees down. It's a shame. I know the Village has put a price tag on these trees, but when you have that kind of money I think they'd probably rather pay the fine. I think the Village needs to put a little bit more respect and concern on these trees since it takes so many years to grow.

I know in speaking with Jean Werbie the Village does request and require subdivisions put in seedlings, but none of these seedlings that I have seen are oaks, hickories or maples. As a matter

of fact, the only oaks that I have seen planted are trees a little bit taller than me on Highway 31, the new Highway 31, which was really a treat to see because I won't see it in my lifetime. My children will not see it and my grandchildren will not see it. That's how long it takes for these trees to grow.

With these maps you will be able to see that we will be getting, if this street does go through, three subdivisions that will be an extreme burden on 26<sup>th</sup> Avenue. I know the Village is very concerned on fire and safety and police protection. I drove the route from the fire department to the end of 26<sup>th</sup>, and I drove the route again through Prairie Trails West which is a direct shot. It's about a quarter of a mile less, which I don't know if it's significant or not, but most certainly there's aren't any turns. There's only one turn to make. It's more of a direct shot, and to me it would make the most sense for the safety of Prairie Trails East to have that for sure go through. That pretty much sums up what I have to say.

Tom Terwall:

Let me just ask you a question for clarification. Is it your request then that 26<sup>th</sup> Avenue not go through or that 26<sup>th</sup> Avenue and 28<sup>th</sup> Avenue both go through along Prairie Trails East?

Bonnie Tishnay:

It's my request and my neighborhood's request for it not to go through. Number one to save the trees, because if you ever get a chance to drive down 26<sup>th</sup> Avenue it dead ends right into the woods. There's approximately 40 feet that 25 years ago when the sewer went through they bulldozed a temporary road to connect the two roads together so that when one road was worked on the other road would be open, so we drove back trails. But as you can see by that aerial shot, there's not much room between the end of 26<sup>th</sup>, and it would be a shame to cut all those trees down just to put a road in. My thought is you can always put a road in. If push comes to shove and it's just not going to work out, it can always go through.

Tom Terwall:

Is this item scheduled for the agenda anytime soon?

Jean Werbie:

It is. In fact, you should be receiving your packets next week. This is on January 23rd's agenda for the Plan Commission. It's one of the only items on the agenda that night, and it's a preliminary plat for Prairie Trails East. Neighbors were notified both north on 26<sup>th</sup> and 28<sup>th</sup> Avenues, as well as west in the Prairie Trails West and Greentree areas as well.

Tom Terwall:

Thank you. Anything further?

Bonnie Tishnay:

I think that pretty much covers it.

Tom Terwall:

I'm sure we'll see you on the 23<sup>rd</sup>.

Bonnie Tishnay:

I'm sure you will. Thank you for your time.

Tom Terwall:

Thank you.

John Braig:

I just have a comment. I appreciate the fact that everyone has come here tonight. It shows agreement and support, and the fact that they in effect made all their comments through you rather than a repetition of many people saying the same thing. So thank you.

Tom Terwall:

Anybody else wishing to speak under citizen comments?

Mike Pollocoff:

Mr. Chairman, one thing maybe we should bring up so it doesn't get lost in the translation, what Don Hackbarth was talking about and Mrs. Tishnay is that the Plan Commission's responsibility is to hear everybody at the same time to give everybody equal access so everybody hears the same thing rather than one by one talking to people. All you guys and everybody wants to get as much input as they can, and the Wisconsin law is to make sure that can happen and that's the purpose of a public meeting, but it happens out in the open so everybody knows what is said. That's why that's that way.

Whereas the Village Board they have the ability, again by Statute, to talk to people individually. Even then, open meeting laws encourage that those discussions occur in open session rather than where a politician or Commissioner would be talking to some one-on-one and making arrangements to agree to something or to not agree to something. That's the purpose of this. It's not to get anybody in trouble, but it just ensures that everybody hears the same thing and that everybody has equal access to the Plan Commission and not extra access for some other reason.

Don did the right thing. Our attorney says that if people--because not everybody knows that. If somebody does contact a Commissioner they have an obligation to notify the rest of the Plan Commission that they did have that contact and they directed that person to come to the meeting and that's really what we want everybody to do.

Don Hackbarth:

So then we're saying that for the Board the Board should not recommend citizens to go to the Plan Commission other than at an actual Plan Commission meeting?

Mike Pollocoff:

That's correct. That's something that we send Board members to training when they're elected to office, plus they should see that you're putting or compromising the process. The process isn't open if you're allowing contacts to be held individually with people where certain guarantees can be made, and the process has to work where everybody comes to the public hearing and has their equal access and no one has more than equal access.

Don Hackbarth:

Then how should we notify Mr. Lauer that he should refrain from doing that?

Mike Pollocoff:

We send them to training. I can send him a letter and reinforce what the laws are.

Larry Zarletti:

Would you like us to hang on to these or maybe we can have some copies. Or, Jean, will we have these provided to us?

Jean Werbie:

I'll make copies.

Mike Pollocoff:

Do you want them back, Bonnie?

Bonnie Tishnay:

No.

Tom Terwall:

Bonnie, I have one final question and if you don't want to answer this you're free to say no. In your conversation with Mr. Lauer, did he agree or indicate that he agreed that the road across the bike trail should be open? Did he support that position?

Bonnie Tishnay:

Well, we all know where Jeff lives. He did not at the time. I don't think he's in favor of it to be honest about it.

Tom Terwall:

So he didn't take a position one way or the other?

Bonnie Tishnay:

He didn't take a position. He said he's going to check with all the other neighbors and get their viewpoints. He really said nothing as far as his viewpoint, period.

Tom Terwall:

Thank you very much. Anybody else wishing to speak under citizens' comments?

## 6. NEW BUSINESS

### A. PUBLIC HEARING AND CONSIDERATION OF A FINAL PLAT for the request of Mark Eberle, P.E. of Nielsen Madsen & Barber, S. C., agent for Stanich Development Corporation, owner of the property generally located south of 70<sup>th</sup> Street, north of STH 50 and west of 88<sup>th</sup> Avenue (9030 75<sup>th</sup> Street) for a Final Plat for the proposed Westfield Heights Development.

Jean Werbie:

Mr. Chairman, the petitioner is requesting approval of the Final Plat, Development Agreement and related documents for the proposed Westfield Heights Development that is located south of 70<sup>th</sup> Street, north of STH 50 and west of 88<sup>th</sup> Avenue. The proposed Final Plat is in compliance with the Neighborhood Plan, Conceptual Plan and Preliminary Plat that all were previously approved by the Village.

As some background information, according to the Village Comprehensive Land Use Plan, the southern portion of the property adjacent to STH 50 is identified as Community Commercial, and the rear portion of the property is identified as Residential. On March 21, 2005, the Village conditionally approved a Conceptual Plan to develop the property. The project proposes to develop 18 single family lots south of 70<sup>th</sup> Street to be known as Westfield Heights Subdivision and 8.9 acres of office/retail development adjacent to STH 50 to be known as Westfield Plaza. In addition, the Conceptual Plan included an adjacent 0.93 acre vacant property west of the commercial portion which would likely be developed as Commercial. The Board conditionally approved the preliminary plat on August 15, 2005 as well as a zoning map amendment for the proposed Westfield Heights Development.

Under residential development,, the northern 86.2 acres is proposed to be developed into 18 single family lots. The Developer is proposing to extend and dedicate and construct 91<sup>st</sup> Avenue extending south and terminating in a cul-de-sac from 70<sup>th</sup> Street. A portion of 70<sup>th</sup> Street was vacated which is that portion that extended to the west towards White Caps. That was vacated because that road is never going to be extended any further into the City of Kenosha as there's a home that was built at that location. So a portion was vacated and will be transferred back to Mr. Stanich as part of a lot configuration. The lots will range in size from 12,648 square feet to 19,016 square feet per lot. The average is just under 15,000 square feet at 14,984. The entire development provides for a net density of 2.9 units per net acre.

Based on the 2000 Census information for the Village of Pleasant Prairie, the average number of persons per household was calculated at 2.73 and the school age children between the ages of 5 and 19 makes up 23 percent of the population. Therefore it is projected that 49 persons will be added to the population upon completion and full buildout, and 11 school age children or approximately eight public school age children that are likely to come from the development at full buildout. This information has been provided to the Kenosha Unified School District to assist in their planning.

Under commercial development, the southern 8.9 acres of the property is proposed to be developed as Commercial with offices and retail. The Developer is proposing to dedicate and construct 74<sup>th</sup> Street which will extend west to 91<sup>st</sup> Avenue and 91<sup>st</sup> Avenue will extend then to Highway 50. There's actually a median opening in Highway 50 across from 91<sup>st</sup> Avenue, so this commercial will have direct access to Highway 50 with an existing median.

Three commercial buildings are proposed on this property and the Conceptual Plan shows how a fourth commercial building could be constructed on that vacant property to the west. The vacant property to the west, which is .93 acre, is currently owned by AMG LLC. It's currently zoned R-4 (UHO) Urban Single Family Residential District. Again, when that property seeks to develop they will need to rezone and submit the proper documents in order for it to develop as a commercial property. The B-2, Community Commercial District, which is the area that Mr. Stanich has for his Westfield Plaza and for that area to the west, does require two acres with a minimum of frontage of 150 feet, so together that one acre parcel with Mr. Stanich's property could be developed as a commercial PUD, and there would be enough area then to develop for that purpose. The conceptual plan does indicate that the land to the west would have a shared driveway and parking and would get some of its services from Mr. Stanich.

Commercial site access: 74<sup>th</sup> Street and 91<sup>st</sup> Avenue will be public roadways that will extend from the existing commercial area to the east. There will be no direct driveway access to STH 50 from any of the properties. Any existing driveways that currently exist to Highway 50 will need to be removed and restored by the developer. The developer is working with the Wisconsin DOT to determine what improvements will be required prior to final plat approval, and they'll need to be designed and payments for construction will need to be financially secured by the developer.

Under public improvements, the DOT is not requiring any additional right-of-way to be dedicated on STH 50; however, the developer will be responsible for paying for and making the required improvements.



The entire development shall be serviced by municipal sanitary sewer, water and storm sewer.

- < Municipal water shall be extended by the developer at the developer's up front cost, and that water will be extended from 74<sup>th</sup> Place to 73<sup>rd</sup> Street east to 89<sup>th</sup> Avenue, north in 89<sup>th</sup> Avenue to 70<sup>th</sup> Street and west and south on 91<sup>st</sup> Avenue. Laterals to existing homes on 89<sup>th</sup> Avenue and 70<sup>th</sup> and 73<sup>rd</sup> Streets shall be installed only upon the request of and payment by the abutting property owners. The developer shall also contact each property owner to determine whether a lateral is being installed. Soil samples will be required to be submitted at the time that the water main is constructed to determine what, if any, or how that road would need to be reconstructed at the time that that water main is installed. At a minimum 70<sup>th</sup> and 73<sup>rd</sup> Streets and 89<sup>th</sup> Avenue roadway shall be pulverized and resurfaced by the developer where the water main is installed. The roadways will remain a rural profile. The curb and gutter and urban profile will be in 91<sup>st</sup> Avenue as well as 74<sup>th</sup> Street.
- < Municipal sanitary sewer shall be extended in 74<sup>th</sup> Street to service the commercial buildings and will be installed in 91<sup>st</sup> Avenue to service the residential lots. All residential lots shall be provided with nine foot gravity basement service.
- < Municipal storm sewer and retention: Two retention basins are proposed for the development. The basins separate the commercial land uses from the residential land uses to the north. The Developer's engineer has evaluated the development site, based on actual field conditions and a prepared a storm water management facility plan, it does meet all of the Village's requirements. The retention basins have been sized to accommodate storm water for the entire commercial area including the adjacent 0.93 acre property west that's owned by the adjacent developer.
- < An Urban Roadway Profile will be required to be installed on the south side of 70<sup>th</sup> Street adjacent to the development and taper to a rural cross section east of Lot 18. We're not asking them to reconstruct all of 70<sup>th</sup> Street just because of the existing right of way and the storm sewer and the ditches it would not be possible. So there's a portion that's going to be reconstructed.

There's two right of recoveries that are anticipated for the developer, and they have requested them from the Village Board. The first one a public hearing has already been held and it has been approved by the Board. The second has not yet been held.

The developer has requested that the Village Board consider a right-of-recovery for the off-site water improvements being installed on 70<sup>th</sup> and 73<sup>rd</sup> Streets and 89<sup>th</sup> Avenue. An initial resolution was approved by the Village Board on November 21, 2005 and a public hearing related to the request for a right-of-recovery was approved by the Village Board on December 19, 2005. The right-of-recovery, as approved, will require that property owners with existing homes to pay the costs for the municipal water only if they choose to connect to the municipal water main. All new homes will be required to connect to municipal water and pay the right-of-recovery prior to connecting to the water main and any new lots created will be required to pay the right-of-recovery. That right-of-recovery is out there for ten years. So after the tenth year if property

owners choose to connect there will not be a right-of-recovery that's due and payable to the developer.

The developer has requested that the Village Board consider a right-of-recovery for the off-site improvements being installed within the Development that will service the adjacent vacant property. The right-of-recovery include costs associated with Storm Water Retention/Water and Quality Basin improvements, Highway 50 improvements and roadway improvements in 91<sup>st</sup> Avenue and 74<sup>th</sup> Street. An initial resolution was approved by the Village Board on December 19<sup>th</sup>, and a right-of-recovery hearing for that property is being scheduled before the Board on January 19<sup>th</sup>.

The construction access for the first phase of public improvements for the commercial development will be from STH 50 at 91<sup>st</sup> Avenue. The construction access for the first phase of public improvements for the 91<sup>st</sup> Avenue cul-de-sac will follow the same route that I explained for municipal water, 73<sup>rd</sup>, 74<sup>th</sup>, 89<sup>th</sup>, 70<sup>th</sup> and then down into 91<sup>st</sup>. Building construction for the commercial buildings shall be from the south from Highway 50.

Under wetlands, a total of 1.535 acres of the site have been field delineated as wetlands by Wetland & Waterway Consulting LLC on December 16, 2003 and approved by the Wisconsin DNR on December 16, 2004. All wetlands are labeled as Dedicated Wetland Preservation and Protection, Access and Maintenance Easement Area. And those areas are to be preserved and protected throughout the construction and after the development has been completed.

Under woodlands, a tree survey was prepared and a number of the larger trees are proposed to be preserved and have been incorporated into the development of the commercial area as previously shown on the Conceptual Plan and Preliminary Plat and as shown on the Final Plat, Engineering Plans and Landscaping Plans. Tree preservation easements have been provided along the east and west property lines of Outlot 1 adjacent to the residential lots. The commercial buildings and parking lot areas have been configured to save a number of larger trees on the site. All woodland preservation easements have been identified as Dedicated Woodland Preservation, Protection, Access and Maintenance Easement.

Under zoning map amendments, on August 15, 2005 the Village Board approved a Zoning Map Amendment for the Westfield Heights Development. The single family is identified as R-4.5, the C-1 is identified as Lowland Resource Conservancy District, and the non-wetlands in Outlot 1 and Lots 1, 2 and 3 of Block 2 were zoned B-2 (UHO), Community Business District with an Urban Landholding Overlay District.

A PUD is going to be approved which allows for flexibility and dimensional requirements, modifications through the Village Zoning Ordinance. As we continued to work with Mr. Stanich all of those details will come to the Village through the site and operational plan procedures. Again, the property to the west will need to be incorporated into the PUD once the details are known as to what is being proposed at that point.

This is a matter for public hearing. This is 11 project that has been before you a number of times, but this is our final public hearing on this particular project as this entire development for the single family will be developed in one phase.

Tom Terwall:

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

John Braig:

A question to Jean. 91<sup>st</sup> Avenue as it intersects with 75<sup>th</sup> Street, is there a 91<sup>st</sup> Avenue south of 75<sup>th</sup> Street?

Jean Werbie:

There is in Prairie Ridge.

John Braig:

And will traffic existing in 91<sup>st</sup> Avenue be permitted to make both a right turn westbound, a left turn eastbound or go straight ahead into Prairie Ridge?

Jean Werbie:

At this point it is a full median opening at 91<sup>st</sup> Avenue. I don't know whether or not the State will re-evaluate that if there are any issues or concerns, but it's a full median from 91<sup>st</sup> north and 91<sup>st</sup> south.

John Braig:

The reason for my concern is traffic existing the Prairie Ridge area in a number of places have no left turn or no straight ahead indicated, but there's an awful lot of violations to that. And when you look at the physical construction of the intersection if they choose to ignore the sign they can pretty well do what they want to do.

Jean Werbie:

At 94<sup>th</sup> Avenue which is just to the west of 91<sup>st</sup>, that is one of the intersections that you're referring to. Over the years as the Whitecaps and other City development has fully built out north of Highway 50, and as new development continues to develop south of Highway 50, that has

started to become more of a problem intersection because it is a forced right in and right out there. It is not intended to be a cross-through. The State DOT as of last month is re-evaluating that particular intersection.

As you will recall when we approved Prairie Ridge back in 1996, it was identified with the traffic impact study that at some point that would be a full intersection that's signalized with a full median opening. So we might be at that point right now. Quite a bit of traffic does crisscross and go back and forth because of the school and the hospital and all the traffic for the residential north, but they are looking at that right now. So I don't know if it would be the same situation at 91<sup>st</sup> Avenue. If it's controlled at 94<sup>th</sup> hopefully the traffic will try to move to the 94<sup>th</sup> signalized intersection to make their movements if they're going across the highway.

John Braig:

I guess I'm saying if it's not signalized and if there is any intention to control it, it has to be with some very definite controlling physical attributes or construction to the roadway.

Jean Werbie:

It's not intended to be signalized. 94<sup>th</sup> is proposed to be the signalized intersection.

Tom Terwall:

Question through the Chair to Mr. Stanich. There are a series of terms and conditions attached to the recommendation by the staff to approve this. Have you seen them and are there any questions on your part?

Todd Stanich:

Todd Stanich, 9243 42<sup>nd</sup> Avenue. We've had this in our hands for a couple of weeks now and a lot of these issues have already been resolved. Some of the legal title issues will be resolved prior to the actual closing.

Tom Terwall:

So no questions on your part?

Wayne Koessl:

Through the Chair to staff, Highway 50 is almost a dead road now with the traffic on it. It's become another Highway 100 that was around Milwaukee at one time. I hope the State takes a

very crucial look at the intersections the 13 because I just think we're looking for a lot of accidents when they try to cross all lanes of 50 back and forth to the school and so forth.

Jean Werbie:

The Village has brought that to the attention. Even with the new restaurant that has opened off of 99<sup>th</sup> Avenue there is a lot of crisscrossing of traffic trying to make those lefthand turn movements and head back west which, again, not permitted. So we've asked them to look at all three of the intersections on Highway 50 between 88<sup>th</sup> and 104<sup>th</sup> because of that.

Mike Serpe:

Mr. Chairman, I'd move approval of the final plat.

Jim Bandura:

Second.

Tom Terwall:

**MOTION BY MIKE SERPE AND A SECOND BY JIM BANDURA TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE FINAL PLAT 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.

**B. PUBLIC HEARING AND CONSIDERATION OF A FINAL PLAT for the request of Mark Eberle, P.E. of Nielsen Madsen & Barber, S.C. agent for Quinton and Lisa Ackerman owners of the property located at 1804 116<sup>th</sup> Street for a Final Plat for the Kings Cove Subdivision.**

Jean Werbie:

Mr. Chairman, we had some modifications that were made since last week. So if you could pull out the green staff comments for this particular project.

The petitioner is requesting approval of the Final Plat, Development Agreement and related documents for the proposed King's Cove Subdivision that is located at 1804 116<sup>th</sup> Street. The proposed Final Plat is in compliance with the Neighborhood Plan, Conceptual Plan and

Preliminary Plat that were all conditionally approved by the Village. The reason why there's a specific address is because there is actually a home right on that corner that is proposing this particular subdivision. Each lot would be individually address.

As background information, the property is located within a portion of the Tobin Road Neighborhood. The Tobin Road Neighborhood is generally located between 104<sup>th</sup> and 116<sup>th</sup> Streets and between Sheridan Road and the Kenosha County Bike Trail. The Comprehensive Plan indicates that this neighborhood is proposed to be developed prior to 2010 and would be developed with densities of the Low-Medium Residential Development category, which means that the lots should average between 12,000 square feet to 18,999 square feet per lot.

Under residential development, the proposed development consists of 10.01 acres of land located within the south central portion of the Tobin Road Neighborhood.

The Final Plat proposes to develop 4.38 acres with 12 single-family lots; 1.96 acres of land will be used for public right-of-ways, 2.83 acres will be designated as open space which includes Tobin Creek and associated shoreland area north and south of the Creek and other open space. Outlot 3 is being created for future single family development which is kind of north and west of Tobin Creek. The average single-family lot within the development is 15,883 square feet and has a net density of 1.67 units per acre.

Under population projections, 33 persons are likely to come from this development at full build-out. The Village provides copies of these developments to the Kenosha Unified School District to assist in their budgetary and long range planning efforts, and as a result this project is proposing that five public school age children could come from this development when it's fully built out.

Under open space, approximately 2.83 acres or 28% of the development is proposed to remain in open space. This excludes Outlot 3, which is proposed to be further subdivided in the future. The open space within the development includes Tobin Creek, the retention and detention facilities and wooded areas in Outlots 1 and 2.

It is noted on the Plat that no wetlands were found on the property by Wetland & Waterway Consulting. They had done an analysis on August 1, 2002, and it was verified by the Wisconsin DNR in a letter dated August 12, 2002.

Under tree preservation, dedicated Woodland Protection and Preservation, Access and Maintenance Easements are being provided on the south side of Tobin Creek as shown on the Plat and a number of trees over 8 inches that were proposed to be removed were discussed as part of the preliminary plat due to the fact that retention and storm water basins needed to be constructed on either side of the creek.

The Developer's engineer has evaluated the development site, and based on actual field conditions has provided a storm water management facility plan to handle the storm water management requirements within Outlots 1 and 2. The 100-year floodplain in the area, although it was not officially delineated on any of the Village's maps, there was a preliminary floodplain study that was completed by Hey and Associates for this are as part of our storm water

management planning efforts. So we were able to use some of that information in helping to lay out a storm water management plan for this development. Finished yard grade and top of foundation elevations for each of the lots have been established based on that floodplain study. In addition to the retention basin on the south side of the Creek, a storm water detention area is also proposed on the north side of the creek to handle any additional storm water storage capacity. Outlots 1 and 2 shall be dedicated to and maintained by the Kings Cove Homeowners Association.

With respect to site access, the development will have a roadway connection to the north and to the east into Tobin Creek Subdivision at 112<sup>th</sup> Street and will have a second roadway connection onto 116<sup>th</sup> Street at 18<sup>th</sup> Avenue. 18<sup>th</sup> Avenue will be aligning with 18<sup>th</sup> Avenue south of 116<sup>th</sup> Street which will go directly into the Lighthouse Pointe Development or subdivision. As approved in the Conceptual Plan, 115<sup>th</sup> Street shall be dedicated as part of the final plat for Kings Cove but no required public improvements shall be installed at this time. This is the road that extends to the west, 115<sup>th</sup>. There were a number of meetings with the property owner to the west that he was not going to ever develop that particular land. However, it's been our experience oftentimes that when a property owner indicates that it's never going to happen that there is a possibility at some point in the future that it could happen. So at this point it's not being constructed but the land is being dedicated up to the property line so when and if that property owner changes his mind or he sells to someone in the future that there's an opportunity for them to continue to develop their property as well.

It's important to note that no construction traffic is to be going through the Tobin Creek Subdivision in order to access this site for roadway or public improvement construction or home building construction. And that will be re-emphasized and reiterated and signs will be posted so that the Tobin Creek Subdivision does not have to put up with the burden of construction traffic during the development of this development.

Under zoning map amendment, on September 19, 2005, the Village Board rezoned the properties:

- P the single family lots were zoned R-4, Urban Single Family Residential District;
- P Outlot 1 was zoned PR-1, Park and Recreational District; and
- P Outlot 2 remained in the R-4 (UHO), Urban Single Family Residential District with an Urban Land Holding Overlay District.

Upon review of the Final Plat by the State Department of Administration, they had made a determination that Outlot 1 needed to be further subdivided so that on the south side of the Creek there would be an Outlot 1, on the north side of the Creek there would be an Outlot 2, and then there would be a third Outlot 3 that is proposed to be retained by the developer for future purposes. So because of that, the legal descriptions now are off with respect to the rezoning that has taken place by the Village. So the developer will need to refile corrected legal descriptions and will need to hold a brief hearing in order to correct the legals so that the properties are appropriately identified as part of the rezoning efforts that have been made. So this will come

back to you probably next month for an 16er zoning map amendment to correct those legal descriptions based on the State's comments.

With that this is a public hearing. Again, what we're looking at is the final plat, the development agreement and all the related documents and engineering plans subject to the Plan Commission's approval. There are a number of conditions yet we're still working on, but the intention is that all these items will be resolved before this matter goes before the Village Board.

Tom Terwall:

This is a matter for public hearing. Anybody wishing to speak on this matter?

James LaFontaine:

My name is James LaFontaine. I live at 1900 116<sup>th</sup> Street. I'm the one to the west that's never going to sell. I have one question. Did you say something about taking some trees down?

Jean Werbie:

Maybe the developer's engineer could come up.

James LaFontaine:

There's some nice pine trees there between the property line. I don't want them to be--they told me they're not going to do anything.

Jean Werbie:

I know, but I'd like you to address it on the record.

Mark Eberle:

Mark Eberle, {Secretaries Note: Developer's Engineer} 1339 Washington Avenue, Racine. The trees that are on the east and west property lines of the subdivision will remain. Those trees are actually on your property. Those will remain. There is a number of trees that are on the north side of the creek that we need to take down to compensate for the floodplain storage that we are losing on the site. But the trees along the property lines will remain.

Tom Terwall:

Anybody else? Hearing none, I'll open it to comments and questions from Commissioners and staff.



John Braig:

17

Jean, I see or hear a conflict in what was said and what's printed here. Possibly it will be straightened out when you redo Outlots 1, 2 and 3. But you say Outlots 1 and 2 would be dedicated and maintained by the Homeowner's Association, yet on the print Outlot 2 is to be retained by the developer.

Jean Werbie:

That's because the plat and the blue comments that were sent to you last week have just been corrected by the State in the last two days. So we did not give you another copy of the plat, but we did get you a set of the revised comments. So the developer knows that their plat needs to be adjusted as well. In fact, we're just giving the corrections to them this evening.

John Braig:

So will the developer be retaining any property?

Jean Werbie:

Yes, Outlot 3. Outlot 3 is going to be retained by the developer, and outlots 1 and 2 will be initially retained by the developer while the storm water retention and detention ponds are created. And then the warranty period runs. He will own those. Once those are completed and accepted and dedicated they will then transfer Outlots 1 and 2 to the Homeowner's Association and then they'll hold onto Outlot 3.

John Braig:

Outlots 1 and 2 are the breakdown of what appears here to be Outlot 1?

Jean Werbie:

Yes.

John Braig:

Okay, I got it. Thank you.

Tom Terwall:

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

Wayne Koessl:

Mr. Chairman, I would move that the Plan 18mmission send a favorable recommendation to the Village Board for approval of the final plat of the Kings Cove Subdivision subject to the Village staff report of January 9, 2005 as amended.

Mike Serpe:

Second.

Tom Terwall:

**MOTION BY WAYNE KOESSL AND A SECOND BY MIKE SERPE TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE FINAL PLAT SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM DATED TODAY. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**C. Consider an address change for the property located at 1804 116<sup>th</sup> Street to 1796 116<sup>th</sup> Street.**

Jean Werbie:

Mr. Chairman, on December 19, 2005 the Village Board adopted Resolution #05-75 to initiate the change of the official address of the property located at 1804 116<sup>th</sup> Street pursuant to Article IV of the Village Ordinances.

The changed is required as a result of the proposed King's Cove Subdivision. The developer/owner's home is on that corner, in that northeast corner, and their direct access is going to be coming off of 18<sup>th</sup> Avenue. They're going to be taking their driveway and removing it from 116<sup>th</sup> Street, so when we turn the driveway, the garage and the main focus of the house coming off that side street, they've requested in our processing be corrected and changed to reflect that adjustment.

So the staff is looking for a recommendation for the Plan Commission. This is a matter that does need to go before the Village Board for a public hearing at their next meeting on January 16<sup>th</sup>, but the staff is recommending approval knowing that the petitioner is in the audience and has requested the change.

Mike Serpe:

Move to receive and file and set for public hearing.

Wayne Koessl:

Second.

Tom Terwall:

**MOTION BY MIKE SERPE AND A SECOND BY WAYNE KOESSL TO RECEIVE AND FILE THE COMMUNICATION AND A RECOMMENDATION TO THE VILLAGE BOARD TO SET THE PUBLIC HEARING. ALL IN FAVOR SIGNIFY BY SAYING AYE.**

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

**7. OTHER SUCH MATTERS AS AUTHORIZED BY LAW.**

Don Hackbarth:

A couple of questions. On the south side of the driveway on ML, there are two iridescent sticks, it's an X, and there's a tree that has a paint mark on it. And it either says PTP or TPT on it. Do you know what that is?

Jean Werbie:

Where is this?

Don Hackbarth:

You know where the west driveway is on ML? Just south of that exit/entrance sign. Somebody came on the property and it's iridescent orange. It's a cross and I think it says PTP. Do you know what that is?

Mike Pollocoff:

The State might have been doing some work and went out and did some surveying to establish a benchmark.

Don Hackbarth:

But they put a paint mark on the tree, too.

Mike Pollocoff:

It's nothing that the Village is doing.

Don Hackbarth:

I thought maybe you knew. The other thing is there any word from the DOT on 104<sup>th</sup>?

Jean Werbie:

The staff is going to be meeting with the DOT sometime in the next 30 days or so to discuss any alternatives that they have come up with to our comments that were transmitted to them back in December. And then it's their intention to host a second PIM sometime in the spring.

Tom Terwall:

During Mrs. Tishnay's comments tonight, she commented again about the inordinate number of trees that have been cut down in Tobin Creek Subdivision. We heard that during the hearing to approve the metal roof for that home going up in Carol Beach. Has there been any investigation by staff as to whether or not trees are being cut down illegally, and if so what's being done about it?

Jean Werbie:

We have been out there a number of times. Some of the trees that were removed they had claimed that they were diseased or they were deformed or something to that effect. We repeatedly warned the contractors and the developers to stop cutting down the trees. The developer didn't put any clear penalty provisions in his declarations at the time. We can continue to work with them, but the situation is the property owners in the subdivision are, in fact, helping enforce the covenants by talking to the property owners that are there. But I haven't seen anything come down recently. There was one or two lots by a builder, they were spec homes, that are in question or there were some concerns. And the property owners association in that development—

Tom Terwall:

Do we need more teeth in our ordinance?

Mike Pollocoff:

It's the ordinance plus the fact the developer who was seeking to get a variance for metal roofs primarily is that same developer we're having problems with. So they're pushing on every lot to get as much as they can. I think there's two things that have to happen. Based on the covenants and my readings on them, the individual homeowners have some equity in court to be able to

challenge the breach of their covenants bey211 what the Village has so they've got standing. And the easement runs to the Village so we need to do that.

We've gone out and done some--based on the trees that they've identified that they want to be able to cut, we've had our personnel go out and evaluate them. A diseased tree is a diseased tree. We're not going to make somebody keep up a tree that's hollow, but if the tree has a list to it or is leaning that's the nature of a wooded area. They all tend to lean and sooner or later they're going to come down. Now, if it's going to be in an area where it's going to hit a house that's one thing. But if it's in an area where it's just going to land in the conservancy area, again, that's the nature of a wooded area. I think it kind of goes beyond this whole tree issue.

At some point the Plan Commission may want to direct the staff or the Village Board to consider some kind of woodland or tree preservation ordinance that does have some teeth in it, but that runs across the whole Village.

Don Hackbarth:

Can I make that a motion?

Mike Pollocoff:

We can put it on the agenda.

Larry Zarletti:

I have a question.

Tom Terwall:

Jean, we'd like to at least put that on the agenda for discussion.

Jean Werbie:

The tree ordinance?

Tom Terwall:

Right, what we need to do with that.

Larry Zarletti:

What is the fine for cutting down a tree you weren't supposed to cut?

Jean Werbie:

There is no fine.

Larry Zarletti:

There is no fine. And do we periodically go back and check a site that had questions about--we have people that come here and don't want the trees cut down and the developer says, okay, we've decided to go around this way and we'll miss this one and this one. Do we ever periodically go back and check those sites?

Jean Werbie:

Yes.

Wayne Koessl:

Jean, the article in the paper regarding the storm water in Carol Beach, when is that open house?

Mike Pollocoff:

The open house is Thursday from 3 to 7, and then hearing on the storm water project is the following Monday on the 16<sup>th</sup>.

Don Hackbarth:

I've asked this before and I know you're busy. The staff is very busy, but is there any way we could get a current directly? I've still got Don Wruck and Ed Koffman on my address book. It would be kind of nice to have it updated.

**8. ADJOURN.**

Larry Zarletti:

Move to adjourn.

Mike Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.