

**1 PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
January 26, 2004**

A regular meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on January 26, 2004. Those in attendance were Tom Terwall-Chairman; Michael Serpe-Vice-Chairman; Donald Hackbarth; Wayne Koessl; Don Wruck; John Braig and Eric Olson. James Bandura is excused. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie-Community Development Director; Peggy Herrick-Assistant Planner and Assistant Zoning Administrator and Tom Shircel-Assistant Planner and Assistant Zoning Administrator.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. CORRESPONDENCE**
- 4. CITIZEN COMMENTS**

Tom Terwall:

If you're here for Item 7A which is a public hearing, we would ask that you hold your comments until the hearing is held so we can incorporate it as part of the record. However, if you're here in any issue either on the agenda or not, now would be your opportunity to speak. We would ask that you come to the microphone and begin by giving us your name and address. Is there anybody wishing to speak under citizens' comments? Anybody wishing to speak? Hearing none, we'll close citizens' comments.

- 5. PLAN COMMISSIONERS COMMENTS**
- 6. CONSIDER MINUTES OF THE DECEMBER 22, 2003 PLAN COMMISSION MEETING.**

Wayne Koessl:

I'd move they be approved in their written form.

Don Wruck:

Second.

Tom Terwall:

MOVED BY WAYNE KOESSL, SECOND BY DON WRUCK TO APPROVE THE MINUTES OF THE DECEMBER 22ND MEETING AS PRESENTED IN WRITTEN FORM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

7. NEW BUSINESS

A. PUBLIC HEARING AND CONSIDERATION OF A ZONING MAP AMENDMENT: to rezone the property generally located at the 8700 block of Old Green Bay Road from R-11, Multiple-Family Residential District to R-8, Urban Two Family Residential District and from R-11 (UHO), Multiple-Family Residential District with an Urban Land Holding Overlay District to R-8, Urban Two Family Residential District with an Urban Land Holding Overlay District.

Jean Werbie:

Mr. Chairman, on June 23, 2003 the Plan Commission adopted Resolution #03-16 to initiate the rezoning of the property generally located at 8700 Old Green Bay Road to rezone the property from R-11, Multiple-Family Residential District to R-8, Urban Two Family Residential District from R-11 (UHO), Multiple-Family Residential District with an Urban Land Holding Overlay District to R-8, Urban Two Family Residential District with an Urban Land Holding Overlay District. The areas zoned C-1, Lowland Resource Conservancy District and FPO, Floodplain Overlay District would remain unchanged.

I'm going to read some background information into the record.

- In 1994 the Village adopted a Neighborhood Plan for an area generally located between 85th and 93rd Streets, between Old Green Bay Road and approximately 56th Avenue in Section 15, which upon adoption of the Village Comprehensive Plan, in 1996, was a part of the Whittier Creek Neighborhood.
- On October 20, 1997 the Village Board had approved a Conceptual Plan for the proposed Oak Creek Apartment which included 252 apartment units with approximately 20 acres of open space generally located south of the Jerome Creek, and now known as Parcel 2 of CSM 1990 within the Whittier Creek Neighborhood. The property was identified as Tax Parcel Number 92-4-122-152-0168-0.
- On October 20, 1997 the Village Board of Trustees also approved a Zoning Map Amendment to rezone the property based upon that Conceptual Plan in the following manner: The front portion identified as Phase I, Buildings 1 and 2 of the proposed development, was zoned R-11, Multiple Family District, the field delineated wetlands were zoned C-1 Lowland Resource Conservancy District, and for the balance of the site was zoned R-11 (UHO), Multi-Family Residential District with an Urban Land Holding Overlay District.
- The October 20, 1997 zoning map amendment reflected the then current FPO, Floodplain Overlay District that was on the property pursuant to the most current floodplain

information that was shown on the Kenosha County Large Scale Topographic Map and the Federal Emergency Management Agency maps.

- The Southeastern Wisconsin Regional Planning Commission was completing a study related to the floodplain for the DesPlaines River Watershed and SEWRPC indicated that the 100 year floodplain in this area was drastically different than what was previously mapped in 1997. Therefore a condition of the Conceptual Plan approval stated that there is nearly a 3-foot elevation difference between the currently mapped floodplain and the recently identified SEWRPC floodplain in this area. Therefore the development needed be designed using the corrected floodplain elevation or an indemnification needed to be provided by the developer to hold the Village harmless from future claims or actions resulting from a revised floodplain.
- The conditional approval of the Conceptual Plan was granted for a six month time frame in which all of the conditions of said approval shall be satisfied and Site and Operational Plans shall be submitted prior to the expiration of the Conceptual Plan.
- The Conceptual Plan conditionally approved by the Village Board on October 20, 1997, and had expired April 20, 1998, since all conditions of approval were not satisfied and Site and Operational Plans were not submitted.
- On July 6, 1998, the Village Board adopted and amended the Floodplain Maps for the DesPlaines River Watershed based on the study completed by SEWRPC, resulting in an increased location of the floodplain on this property.
- On March 25, 2002, the Village Plan Commission, through Resolution #02-05, approved a Neighborhood Plan for a portion of the Whittier Creek Neighborhood which this property is located, based upon this revised information and the preservation of woodland and wetland areas of the property a new neighborhood plan was put together. The Neighborhood Plan indicated that this vacant land and a portion of the two adjacent properties to the south be development with 29 two-unit buildings. The plan further implied that the properties would need to be consolidated and two access points would be required for the referenced property to be developed, and a floodplain boundary adjustment would also be required to develop the site as shown in the neighborhood sketch plan.
- Since 1999 the property owner and/or their representatives have met with the Village to discuss various plans; however, the plans have not been officially submitted for consideration and the plans have not met the recently adopted Neighborhood Plan for the Whittier Creek Neighborhood.
- In November 2003 the property was then sold to the Catholic Archdiocese of Chicago.

The current R-11 zoning classification on the property no longer reflects the adopted Neighborhood Plan and has been conditioned upon a previously approved conceptual plan, which has since expired.

With that, obviously the staff is going to be recommending approval of the zoning map amendment this evening, but this is a matter for public hearing.

Tom Terwall:

Is there anyone wishing to speak on this matter? Anybody wishing to speak? Yes, sir.

Robert Ores:

My name is Robert Ores. I live at 8613 Old Green Bay Road. I'd like to know this property here is from where it starts on the south side to 85th Street, this was the lowest piece of ground along that road, along Green Bay Road. Now, is this piece of property going to be filled in to build on it? Are they going to fill it? Are there filling permits issued for this, or are we going through the same deal we had on the other side where the adjacent property owner was not notified of the filling on the other property, whether it was through the incompetence of the people that were notifying the people that got to have the filling permit, or maybe there was some other reason. I don't know, because I got the papers from the original one on the other side, and my name was neglected on that. I fought you people, but it still filled in, and I got flooded twice. What the hell did you do about it? Nothing. Absolutely nothing. Ask that guy right back there, he was there one day when the water was up. What happened? Nothing. I asked you to dig this drainage canal out that you so-called Johnson Creek was dug by the WPA in the '30s, asked you to clean that out and take care of the water problem, and what have you done about it? Nothing. All you're doing here is things for the developers. You're not doing a damn thing for the people that live in this area, that lived in this area. I've lived there for 34 years. You know what you've done for me? Absolutely zip, zero. Now, it's the water problem, that's the filling problem. Have you got filling permits? Because the DNR don't let you fill in.

Now, another thing is are you going to put a retention pond in there? You don't need another retention pond in this county, not with the West Nile disease prevalent in this area. You're going to make another hatchery for this disease. Is that what you people want? Not the people that live in the Village are just as susceptible to getting bit by one of these mosquitos as you are, and I don't know what you people--when are you going to do something for the people on that corner? I asked for something to be done about the headlights. They come across that road from the police station and I got two different answers. The last answer I got is when it's going to be developed. Oh, you mean the houses that are there ain't developed? What do you got, the plans to tear that all down? I know you do. But when are you going to do something for the people on that corner? You just sit there dumbfounded but you don't do nothing for the people in that corner. It's funny. It's funny to listen to somebody that's got the problem until it hits you, and then the problem all of a sudden becomes serious. When are you people going to do something for them people on that corner? Nothing. I get flooded, oh, that's alright. We're going to chase him off that corner. Another guy down the street wanted to put an addition on his house, just a little piece. It's two foot into a stinking floodplain. Oh, no, you can't do that. It's in the floodplain. But then later they find out well they could have moved some dirt from there to there and take it out of the floodplain, but they never told the guy that when he went through the whole rigamarole of trying to get it built. When are you people going to help the people over here? Quit helping these stinking, rotten developers. They come over here, they build their chicken coops, and then what do they do? They take the money and run. Look at the clown next to me that built them shacks next to me. Where did he run? He's in Arizona? The City is looking for him. Is that the kind of people you deal with? Huh? You guys better check into these developers and start doing things for the people that live in this Village and have lived in this Village for a long time. I'm sick of you people.

Tom Terwall:

Is there anybody else wishing to speak?

Mike Knuedy:

Mike Knuedy, 8653 Old Green Bay Road. Don't you need two exists for this property development here, and then what happens if this happens to go through and you build on this property? What happens when I start flooding while they're still building? Are they going to take care of it, or are they going to pay for me for being flooded out? And then once you pave all these streets back here, is all that water going to depreciate into Jerome Creek? It says you ain't supposed to add anymore water to that retention, that pond. Where is all this water going to go? Just like Bob said, is this level of property going to be brought up higher than my property? I'd really like to know all that before anything gets changed.

Tom Terwall:

We'll answer your questions. Is there anybody else?

Suzanne Keller:

Suzanne Keller, 8809 Old Green Bay Road and 8815 Old Green Bay Road. I just want to know what all of a sudden they're planning, because last time we came in front of you to get that property rezoned multifamily, when we walked out of here that motion had been denied, and the next thing you know, bam, it was approved and they were putting in those duplexes in over there without any of us knowing about it. Because when we left here from the meeting when we were here about that multifamily to get it rezoned, when we left it was denied. That motion was denied. There was only one of you guys that approved of it, and then the next thing you know those buildings went in over there. We back up to all that property that they want to develop. I guess I don't care so much if it's single family homes, but previously all the conceptual plans that we've looked at, they want to put a road between my house and the Knuedy's house in the woods there. There's only like 75 feet of property there, and we just want to make sure whatever they're doing over there is not going to mess up, like he said, our properties. We're right by the flood now. If they go up--and that's what they're doing. They did it across the street, too. And it's going right along that creek. They filled that up over there probably five feet across the way on Bain Station Road. If you looked, they put probably five feet of fill over there on that side, and those creeks--when it rains a lot, those creeks just overflow. They overflow even the one to the south of me next to Don's Landscaping. That thing fills up and runs down the hill to my house, and they told me, oh, no, my water is supposed to run up the hill. No, my water doesn't run up the hill. It sits in the ditch right in front of my house already and next to me. It stops. The culvert stops at my house, and there's no more to the north until you get to the duplexes. So maybe they should take into consideration a lot of stuff before they start doing anything over there. And we want to be notified before they start doing anything over there.

Tom Terwall:

Thank you. Anybody else? Anybody else? I'll close the public hearing and ask for input from the staff. Jean, you want to start?

Jean Werbie:

Sure. Just as a point of clarification, this property is currently zoned R-11, Multiple Family Residential District. That's the highest residential district we have for multiple family development. Based on what we know with respect to the mapped floodplain and the limitations on the property, what we're recommending today is to downzone that property so 252 units cannot be built on that property. What we know today, the floodplain map that's shown on the overhead, all of the area that's crosshatched in green is not developable. It's floodplain as we know it today. So the purpose of this, again, is to accurately reflect the floodplain where it's shown and where the buildable area is left on this property.

The area that's identified as orange is the only area that's identified as upland or outside of the floodplain. So what we're doing is based on the neighborhood plan as to what could possibly happen out here, that's where we've identified where possible development could occur. Yes, a minimum of two access points would be required to get in and out of this development, either both onto Old Green Bay Road or one to the southeast towards Creekside Development. At this point there is no active developer that's working this property. There's no one that we're working with, and there's no detailed plans that we have. But we're doing is actually downzoning the property to reflect the current plan that we have on the books in the Village.

The previous developer that wanted to put several hundred apartments on this site has since decided to do a sale/donation to the Archdiocese in Chicago. It's the Archdiocese of Chicago that is looking to sell the land at this time. They don't have a potential developer or anyone in mind at this point. So at this point we're just downzoning the property, and if it needs to be downzoned again, the Village staff would recommend that. But at this point it's just at its lowest level based on the last adopted neighborhood plan.

Wayne Koessl:

Jean, pardon me, but while you're making your comments could you just elaborate on what has to happen if someone wants to develop that land please?

Jean Werbie:

Sure. The one other point I wanted to make is that there's no active or even petitioned for fill permits, erosion control permits, or any other permits for this site. This downzoning was initiated by the Village to bring it down to a less dense classification at this point. With respect to any project that wants to move forward that isn't similar to this or the same as this, they would have to go through a public hearing process that modifies the neighborhood plan, a conceptual plan, they'd have to go through preliminary and final platting, they'd have plans drawn by an engineer, they'd have to go through a series of floodplain boundary adjustments if, in fact, that was the case. I'm not sure if they're going to be able to do them or not. They would have to identify where storm water retention basins and other things like that for storm water management would have to be located on site. So there's a lot of things that would have to happen to this property. In addition, somehow, they would have to identify two access points. And if they don't, then this dense of development could not occur on this property. If somebody wanted to put one single

family home back there, then that's a different story. But at this point, you'd not be able to do a development of this size unless there was cooperation from abutting property owners to get access to the site. So there's many, many steps before it could be development, and we're not working with anyone at this point. We're just downzoning the property at this point.

Don Hackbarth:

Jean, there's always been a water problem there. Is the Corps holding us back from cleaning out the creek? Is that the problem, or could we go back there and do something with that?

Mike Pollocoff:

I don't think it's the Corps as much as the DNR. We can't get a Chapter 30 permit that would enable us to clean Jerome Creek. And I believe back in the early '80s the Town had petitioned the DNR Board that they be able to do grading in the creek and get it flowing. And we're not able to get a permit to it. As the floodplain reflects, it is wet and it's floodplain. It always has been a floodplain. It just was never mapped that delineated where that actually went. So what we have there as far as the Jerome Creek and the drainage way is what it is. It's not going to get any better, and as time goes on it will probably get worse because the creek will fill in even more and water will back up more.

Don Hackbarth:

Would cleaning out that creek alleviate some of the water problems?

Mike Pollocoff:

It would take some dredging of the creek, but more than that it would require modifying culverts underneath railroad tracks on either side of the power plant to get the flow so we could flow more water through there. But right now, as I recall, there's a threatened species that was found in that stream, and even though we asked when it was dry if we could do it, we haven't been able to do it. So I think the likelihood of the Village being able to make an improvement in that area it probably won't happen.

Don Hackbarth:

Couldn't we suck them out, clean it out and throw them back in again?

John Braig:

Question directed to Mike. There are beavers active in that area. They've chopped up a number of young trees there. Is it possible that they have contributed to the flooding problem that Bob is complaining about? And if there is a beaver dam or a beaver obstruction there, does the DNR object to someone just going in and removing the dam?

Mike Pollocoff:

There are beaver dams in that area. And when the Village--we have a couple trappers that we permit to at least go on where we have easements to set traps to move them, and where we have an easement or access to get in with equipment and remove the dam we do that. But we don't have that across the entire drainage way. But the beavers are successful in there because there is material to work with plus it's flat and low land. It's ideal for a dam.

Mike Serpe:

Jean, on the previous overhead, the crosshatch with the new wetland delineation, prior approvals on zoning on this parcel included almost all of that hatched area, is that right?

Jean Werbie:

That's correct. So we're removing all that land from developable land as based on the 1998 floodplain maps that were adopted by the Village.

Mike Serpe:

Did we request that to be staked? That was our request, right?

Jean Werbie:

That was part of the 1991 study that was initiated with Kenosha County for the DesPlaines River Watershed, and then we requested that the Pleasant Prairie portion be pulled out so that we could effectuate that faster than the County for the entire study.

Mike Serpe:

Just for figures, and the best you can recall, I remember the amount of dwellings that was going to go in there originally was quite large, 400 and some?

Jean Werbie:

The very first proposal was close to 400. The last one that had been approved, which expired, that was 252.

Mike Serpe:

Now we're talking 58?

Jean Werbie:

Now it's down to 29 two-unit, 58. And it may go lower than that, too, because they still would have to get retention. They would have to preserve as many trees as they could in the upland area, but that would all have to be worked on, and we've have to go through the full public approval process towards that end. This is still probably a little high.

Don Hackbarth:

Is that still on the tax rolls, that piece of property?

Jean Werbie:

Technically as long as the property does not have any structures on it, it would stay as a taxable property, even though it's owned by an Archdiocese.

Mike Serpe:

Getting back to a few years ago when the approvals were made for the hundreds of dwellings, that was all done without knowing what the floodplain was going to turn out to be, what had to have happen before any structure was going to take place?

Jean Werbie:

Correct.

Mike Serpe:

So even that was approved for 400 and some dwelling units, after it was all said and done, they got to the next page they would have quickly found out it was almost impossible.

Jean Werbie:

Which they had determined that, and that is the reasoning why nothing was brought forward back in 1997.

Tom Terwall:

Anything further?

Mike Serpe:

Mr. Chairman, you talk about trying to do something for the neighborhood, I think we just did if we approve this tonight. I would move approval.

John Braig:

Second.

Tom Terwall:

MOVED BY MIKE SERPE AND SECOND BY JOHN BRAIG TO SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO DOWNZONE THIS PROPERTY AS INDICATED SUBJECT TO THE TERMS AND CONDITIONS AS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

10

Tom Terwall:

Opposed? So ordered.

B. Consider the request of Robert Cook, agent for Cousins Construction for a Certified Survey Map to subdivide the property located at 3122 93rd Street.

Jean Werbie:

Mr. Chairman, the petitioner is requesting to subdivide the property located at 3122 93rd Street into three parcels. The property is zoned R-4 (UHO), Urban Single Family Residential District with an Urban Landholding Overlay District. The R-4 District requires that lots be a minimum of 15,000 square feet with a minimum frontage of 90 feet on a public roadway.

Lot 1 has an existing home and two detached accessory structures. Lot 1 is 26,654 square feet with a frontage of 159.99 feet on 93rd Street and 179.24 feet on 32nd Avenue. Lots 2 and 3 are both 16,479 square feet with a frontage of 92 feet on 93rd Street. These lots meet and exceed the minimum requirements of the R-4 District regulations.

Municipal sanitary sewer is located on 93rd Street and 32nd Avenue; however, municipal water is located approximately 300 feet east of the property. As noted on the CSM, building and zoning permits cannot be obtained for Lots 2 and 3 until municipal water is made available. It is anticipated that municipal water will be extended from approximately 29th Avenue to approximately 34th Avenue in 2005. Additional right-of-way is being dedicated on 32nd Avenue and 93rd Street.

There is a drainage ditch that is located on the eastern property line of Lot 3; therefore a 15 foot drainage access and maintenance easement is being dedicated to the Village. A similar easement was dedicated to the Village on the property to the east.

No additional easements are required from We Energies and there are no outstanding special assessments on the property; however, 2003 property taxes shall be paid in full prior to recording the CSM.

The Village staff recommends approval of the CSM subject to the following comments and conditions: Again, payment of the 2003 property taxes; signing of a notice of waiver of special assessment for the future installation of municipal water; and recording and providing verification of the recording of the CSM and providing it back to the Village within 30 days of approval.

Don Hackbarth:

Move approval.

Wayne Koessl:

Second.

Tom Terwall:

11

MOTION BY DON HACKBARTH AND SECOND BY WAYNE KOESSL TO APPROVE THE CSM SUBJECT TO THE TERMS AND CONDITIONS OUTLINED IN THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

C. Consider the request of Renee Kyro, owner for a Certified Survey Map to subdivide the property located at 2503 91st Street.

Jean Werbie:

Mr. Chairman, the petitioner is requesting to subdivide the property located at 2503 91st Street into two parcels. The property is zoned R-6, Urban Single Family Residential District. The R-6 District requires that lots be a minimum of 6,000 square feet with a minimum frontage of 60 feet on a public roadway.

Lot 1 is 7,800 square feet with a frontage of 60 feet on 91st Street. Lot 2 has an existing home. Lot 2 is 10,237 square feet with a frontage of 78.75 feet on 91st Street. These lots meet and exceed the minimum requirements of the R-6 District regulations.

No additional easements are required from We Energies and there are no outstanding special assessments on the property; however, 2003 property taxes shall be paid in full prior to recording the CSM.

The Village staff recommends approval of the CSM subject to the following comments and conditions. Again, payment of the 2003 property taxes, and the owner shall record the CSM and provide a recorded copy back to the Village within 30 days of approval.

Don Hackbarth:

Jean, is there a minimum or a setback for a driveway, like a blacktop or asphalt driveway from a property line.

Jean Werbie:

From the side lot line it's five feet.

Wayne Koessl:

I'd move approval, Mr. Chairman, subject to the conditions outlined by staff.

Mike Serpe:

12

Second.

Tom Terwall:

A MOTION BY WAYNE KOESSL AND A SECOND BY MIKE SERPE TO GRANT THE CSM SUBJECT TO THE TERMS AND CONDITIONS OF THE STAFF MEMORANDUM. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

9. SUCH OTHER MATTERS AS AUTHORIZED BY LAW.

10. ADJOURN.

John Braig:

So moved.

Mike Serpe:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

So ordered.