

**1SPECIAL MEETING OF THE  
PLEASANT PRAIRIE PLAN COMMISSION MEETING  
VILLAGE HALL AUDITORIUM  
9915 39TH AVENUE  
PLEASANT PRAIRIE, WISCONSIN  
5:00 P.M.  
April 29, 2002**

A special meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on April 29, 2002. Those in attendance were Tom Terwall-Chairman and Village Trustee; Michael Serpe-Vice-Chairman and Trustee; Donald Hackbarth-Secretary; Wayne Koessl; Eric Olson; Donald Wruck; James Bandura; and Alternate John Braig. Also in attendance were Michael Pollocoff-Village Administrator; Jean Werbie-Community Development Director; James Baxter, Quarles and Brady-Village Attorney; 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. NEW BUSINESS**

**A. PUBLIC HEARING AND CONSIDERATION OF PLAN COMMISSION RESOLUTION #02-09: related to amendments to the Village's Comprehensive Land Use Plan.**

Jean Werbie:

Mr. Chairman, the four maps that I'm going to be referring to and talking about are both on the overhead as well as the four maps that you can see on the very north side of the Village Hall here. Specifically, the Village has been divided on these maps into two segments, segments 1 and 2, pretty much with Highway 31 being the dividing line between the east half of the Village and the west half of the Village. The first two maps are the maps that show the existing comprehensive plan of the Village, and then the second two maps the proposed comprehensive plan as recommended this evening, April 29, 2002.

Mr. Chairman, it is the duty and the function of the Village Plan Commission, pursuant to Section 62.23(2) of the Wisconsin Statutes, to make and adopt a master plan, or portions thereof, for the development of the Village of Pleasant Prairie.

The Southeastern Wisconsin Regional Planning Commission (SEWRPC), with the assistance of a Technical Advisory Committee, completed the Comprehensive Plan for the Kenosha Urban Planning District in July 1995. This Plan was prepared in a cooperative effort with the City of Kenosha, Town of Somers, Kenosha Unified School District, Kenosha County and the Village of Pleasant Prairie. The Plan represents a second generation Comprehensive Plan prepared by SEWRPC for the entire area located east of I-94 for the referenced three communities. The planning effort, completed over a five year time period involved extensive inventories and analyses of the factors and conditions affecting land use development in the area. The plan also involved the preparation of forecasts of future population, household, economic activity levels; the formulation of community development objectives and standards; and the design of a land use plan in supporting transportation, community facility and public utility plan elements. The land use plan identifies land uses and reserve land uses.

On June 5, 1996 the Village adopted Plan Commission Resolution #96-06 which approved the aforementioned Comprehensive Plan for those areas within the Village with minor modifications as specified in the formal resolution. This Plan serves as a Master Plan for the Village and is used for development decision making and projecting the direction of future growth in our community.

Since the adoption of Plan Commission Resolution #96-06 in 1996 the Village Plan Commission has amended the Comprehensive Plan as specified below. There were five different Plan Commission resolutions since 1996.

- Plan Commission Resolution #99-07 as adopted on April 12, 1999 to amend the Plan for areas generally located in LakeView Corporate Park east of the UP Railway, west of Old Green Bay Road at STH 165 and between the CP Railway and CTH H (88<sup>th</sup> Avenue) at 116<sup>th</sup> Street by bringing these areas into the industrial classification where TID 2 is actually located.
- Plan Commission Resolution #99-15, which was adopted on July 12, 1999, amended the Plan for the area west of I-94 that have been annexed into the Village. That area is generally located between Highway C on the north and 116<sup>th</sup> Street on the south. Again, this is an area from Highway C to 116<sup>th</sup> Street that included the area which we refer to as TID #3.
- Plan Commission Resolution #99-18 was then adopted on August 9, 1999 to amend the Plan for the land area generally located east of 88<sup>th</sup> Avenue and west of the CP Railway.
- Plan Commission Resolution #00-10 as adopted on September 25, 2000 to amend the Plan for the land area generally located east of the UP Railway in a portion of the LakeView East Neighborhood southwest of 108<sup>th</sup> Street.
- Plan Commission Resolution #01-13 as adopted on August 27, 2001 to amend the Plan for the area generally located at east of I-94 and to include the area west of I-94 between C and 116<sup>th</sup> Street with some modifications that we had made in the TID area.

Again, as you can see, over the years the Land Use Plan is intended to be a dynamic document for this community. It's not intended to be something that we do once and we put on a shelf. We evaluate the plan very critically with each development proposal that's advanced to the community. So if it warrants modification to the plan, we will make the change as it benefits the entire community. But if it doesn't benefit the community, then we stick with the comprehensive plan as projects are advanced for our review.

Now, the Village staff has also begun to re-evaluate the Comprehensive Plan as a part of the State of Wisconsin Smart Growth law that was adopted. Specifically Smart Growth requires that on or before January 1, 2010 all municipalities who participate in planning, development and zoning activities shall prepare, adopt and maintain a Comprehensive Plan. The Comprehensive Plan shall be the cornerstone of all local land-use decisions; therefore, all land use related ordinances shall be consistent with the Comprehensive Plan on or before January 1, 2010. The updates that you are going to be seeing tonight are one of our first steps towards implementing that Smart Growth law that was adopted.

The Village has recently received the Land Use Plan, which is a component of the Comprehensive Plan as prepared by SEWRPC in a digital mapping format for the Village to maintain on a GIS mapping system. So those beautiful maps that you're looking at were not hand drawn by the staff and they weren't colored by the staff. They were all done by computerized digital files which we have that technology now to do. Upon receiving the digital Land Use Map data from SEWRPC, the

Land Use Plan was updated to include the 13<sup>th</sup> use plan related amendments as approved by the Village through Plan Commission Resolutions 96-06, 99-07, 99-15, 99-18, 00-10, and 01-13. As the Village staff began to re-evaluate the Land Use Plan, it was determined that in order to make this map a more effective planning tool, as required by Smart Growth, the parcel boundary or cadastral information should be added to further assist in the interpretation of the Land Use Plan. Upon adding this information to the Land Use Plan, it was amended to better conform to property boundaries. This is a step that we felt as a staff needed to be done so that there could be better interpretation of the Land Use Plan as adopted by the community. Most communities do not do this. What they do is they have generalize colors and generalized locations on a plan, but due to our conviction with respect to why and how we use this map, we felt that it was very important that the colors and the locations of the land use really are defined very clearly to the property boundaries. This way it gives better direction to the Village staff, to the Plan Commission, to the Board, the residents, developers, realtors, anybody who is picking up this document.

The Land Use Plan was also evaluated for consistency with the development plans approved by the Village over the past five years, and the plan was amended to reflect new developments. Again, because we didn't have the technology or ability to update these maps other than with crayons or with markers, we felt that this would be the time that any developments that had been approved that we had approved through resolutions and such would be accurately reflected on the Land Use Plan maps. For example, the following facilities were put into the Institutional classification: Grande Prairie Nursing Home, Extended Love Childcare, St. Catherine's Hospital, Lamb of God Church and the Pleasant Prairie Post Office. So now all of those areas reflect as blue areas on the map or institutional governmental related uses. Furthermore the Village staff recommends that the other existing churches, which I'll be listing below, be classified as Institutional Uses on Exhibit A, which is Exhibit A that you're looking at in your packets, on the overhead and on the boards, of Plan Commission Resolutions #02-09. There are five different churches that we felt needed to be reflected as institutional land uses:

- Apostolic Faith Church located at 1021 95<sup>th</sup> Street;
- Baptist Church of Pleasant Prairie located at 12323 Green Bay Road;
- Pleasant Prairie United Methodist Church located at 8405 104<sup>th</sup> Avenue;
- Outdoor Church of God located at 10927 Sheridan Road; and
- Unity Church of Kenosha located at 9220 26<sup>th</sup> Avenue.

So all of those changes are reflect on this comprehensive plan update.

As a result of re-evaluating the business district regulations, which is the next item on the agenda, the Land Use Map, which is the community guide for development, was reviewed to ensure that the Business District regulations including the zoning maps were compliant with the Comprehensive Plan as required by Smart Growth. The Commercial Land section of the Comprehensive Plan, which begins actually page 247 of the plan, was used as a starting point in re-evaluating the Business zoning regulations and maps. The Business zoning regulations and map amendments are being considered as the next item on the agenda. So the business districts this evening are reflected in these Comprehensive Plan updates as well.

Based upon this review and redrafting of the Village Business District regulations, the Commercial Land categories have been re-evaluated and modified to conform to the proposed business zoning district regulations. There are some changes as a part of the map itself. There are changes that needed to be made to the Comprehensive Plan, and the Comprehensive Plan is about a two inch

thick document that was prepared again by SE4/WRPC with the assistance of the communities and the technical advisory committee. There are three different areas of that comprehensive plan document that need to be amended to reflect the changes as shown on the plan.

1. The first is the land use plan itself. Map 91 in the comprehensive plan is proposed to be amended as shown in Exhibit "A" which is shown on the overhead and on the board as amended to add the aforementioned churches and them into the Institutional classification which is resolution 02-09, and also to include all the resolutions that I previously referenced for the Plan Commission. It's also recommending that all the cadastral, which is the property boundary information, that that be added to the plan, and any other minor amendments that was originally shown as kind of a blue blob on the map for a school, that it now conforms to the property parcel boundaries of that particular school. So those are the type of cleanup things that we had done to the comprehensive plan. Also to reflect any minor corrections as it pertained to re-evaluating the business districts.
2. The second area that we amended in the plan document is to include a modification to Resolution 96-06 as it pertains to a reserve area. I'm just going to read this paragraph so there is a clear understanding. The reserve area as shown on all of the maps is like that cross-hatched area. It's those areas that we anticipate to be further off from development further down the line due to some deficiency or inability to have some type of service like sewer or water.

"The Reserve areas are intended to provide landowners and the Village with a measure of flexibility in the location of and timing of, the new development such as commercial and industrial. These lands should be viewed as being available for urban development within the next 20 years, even though it is recognized by all parties that not all such lands will be needed for urban development during this time frame. Furthermore, it is understood from the Village's view that reserve areas should be encouraged for quality urban development where municipal urban infrastructure exists, sanitary sewer, water, and roadways where they are readily available. It is for this reason that those commercial areas, which are slated for commercial development prior to 2010, or are in the development pipeline, should be removed from the commercial reserve designation. This is the same philosophy which is detailed in the 1991 Village adopted in the SEWRPC prepared, A Land Use and Transportation System Development Plan for the I-94 South Freeway Corridor."

Just to remind you, there are a number of land use plans that might have just addressed a freeway corridor along Highway 50, so there's overlapping plans, but ultimately all the plans need to say the same thing with respect to how we perceive growth and development within the community.

3. And then the last modification to the plan document is that the plan document is amended related to Commercial Land located within the Village of Pleasant Prairie, specifically in the sections entitled Neighborhood Retail and Service Centers, Community Retail and Service Centers, Freeway-Oriented Regional Retail and Service Centers and Freeway Office Centers, and this is shown on pages 248- 249 as shown in Exhibit B of Plan Commission Resolution #02-09.

Again, when SEWRPC did the original plan, they were a little bit more generalized with respect to some of the definitions for the neighborhood, community, freeway office and freeway retail categories. And what we have done is redefined them as it pertains to Pleasant Prairie, and actually we added the freeway regional center designation which they did not have in the original comprehensive plan.

Finally, the Village staff recommends that the existing churches be added as the Institutional Land Uses designation on the 2010 Comprehensive Plan.

One other thing I'd like to mention is when a Land Use Plan is put together, it's done based on a design year. It doesn't mean that the entire community will build out by that design year, but the basic underlying inventories, data, analysis and projections needs to be based on a design year. So when this plan was originally done in 1995, it was done with a design year 15 years out to 2010. We're already in 2002, and a great deal of this land will not develop by 2010, but it was based on that original design year. When we complete the final amendments with all of the smart growth regulation for this particular plan, it probably will have a design year of 2020. So, again, the land use plan document is one that is forever changing and forever needing to be evaluated by the community based on the direction that we want to see things go in the community. But there are some basic underlying premises and things we have defined with respect to residential should be located, where the commercial centers should be located and why, where the industrial growth should occur and why, so the basic understanding of this plan is we are proposing that new growth in the community will take place in accordance with this comprehensive plan, and we need to keep working towards the implementation of this plan if we want the community to develop in an orderly manner.

With that, I'd like to open it up for the public hearing. Again, what we're talking about right now is the proposed comprehensive plan. The business districts themselves will be part of the next public hearing.

Tom Terwall:

Thanks, Jean. This is a matter for public hearing. Typically the Plan Commission does not have a sign up sheet. We allow people to get up and speak. We would ask, given the size of the audience, that you make every effort to limit your comments to three minutes and give everybody an opportunity to speak, after which we'll give people a second opportunity to speak. I'd ask that you listen carefully to the questions and answers that your neighbors ask, because I'm quite confident that in many cases the question that you have on your mind is also a question that a neighbor has on his mind and we'll make an effort to answer them only once if possible. So with that, I'll open this up. This is a matter for public hearing which requires us to maintain a record, including the name and address of everybody who speaks. So we would ask that you please step to the microphone, begin by giving us your name and address, and then begin your comments or questions.

John Michael McTernan:

Good evening. My name is John Michael McTernan. I'm an attorney with the law firm of O'Connor & Willems in Kenosha at 6633 Green Bay Road. I'm here representing Prime Retail. First, I'd like to thank the Village, specifically staff, Mike, Jean, Peggy and Tom for taking long hours out of their day and answering a lot of the questions that our firm and our client has had with regards to the B-3 District that affects our property. So thank you.

We've worked quite a while in going through the ordinance and coming with some issues that we do have some comments on, and I know the Village staff has been willing to work with us and is going to be getting back to us on several of these issues. But I bring them up tonight letting you know that the staff does know of our concerns and they are working towards a resolution, some that will be addressed soon and some that will be addressed in the long term. We will continue to have our office and Prime Retail open to their comments and concerns as we work through this process, but I thank them.

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The first issue is the areas in the ordinance that appear to be either typographical or other issues that Jean specifically has addressed with me and said that will be corrected or addressed, and I bring them up just for comment sake, Jean, if that's okay.

Jean Werbie:

That's fine. We're talking about the Comprehensive Plan. Are you going to come and make the comments twice?

John Michael McTernan:

No, I'm not.

Jean Werbie:

Or do we want to defer his comments to when we open up the business district public hearing? How would you like to handle it? Otherwise, we'll need to have him come up again.

Tom Terwall:

No, I think we'd just as soon do it now. We'll take the comments now even if they pertain to issues in the second public hearing. Rather than go through it twice--

Jean Werbie:

Okay, because I have not made any presentation on the business districts, so it might be confusing for people in the audience because I haven't made a presentation on that.

John Michael McTernan:

I can do either. I apologize.

Tom Terwall:

Let's hold off then. Thanks.

Jean Werbie:

Unless you have comments on the comp. plan, then we should hear those now.

John Michael McTernan:

No, I don't. That's fine.

Tom Terwall:

Any comments or questions relating to the comprehensive plan?

Robert Fredrickson:

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My name is Robert Fredrickson, 11100 120<sup>th</sup> Avenue. I'm wondering does the change to B-5 zoning affect homeowners in the affected areas? And in what ways does it affect us if it does?

Jean Werbie:

Do you want me to talk about that now, or should I just make a listing of the questions and then respond as far as the business districts, because that's the next public hearing.

Robert Fredrickson:

I'd like to hear it now.

Tom Terwall:

Why don't you do it now, because it may elicit another question.

Jean Werbie:

So you wanted to find out if the B-5 district impacts the residential property owners in the Village?

Robert Fredrickson:

Right.

Jean Werbie:

The B-5 district in the Village of Pleasant Prairie as proposed under the new ordinance is entitled our freeway office district. The freeway office district, I don't have the maps up, but basically the freeway office areas are those areas that are contiguous or adjacent to the freeway interchanges. So if this property owner has land adjacent to the freeway interchange, and his property is zoned into the B-5 district, then there could be some impact on his particular residential property. If you live elsewhere in the Village, there should be no impact. Specifically, the B-5 district is intended to provide for corporate, business and professional offices at a community or regional level. So those are the types of uses in a general format that we're proposing in the B-5 area.

Robert Fredrickson:

Alright, let's put it this way, then. Let's say if before my land would sell for a decent price and be developed that I would die off. Can one of the children inherit and start living there or sell it for a residential property?

Jean Werbie:

You're in one of the B-5 districts?

Robert Fredrickson:

Right. You're changing me to B-5. I think we're in B-4.

Jean Werbie:

Okay, then if it's an existing residential home right now and something would happen to you, then your children could continue to live and use that single family home as a residential property as long as it's continued in its use.

Robert Fredrickson:

It could be sold then for the same?

Jean Werbie:

That's correct.

Robert Fredrickson:

Alright, then I've got another question. In our area, the land which will be zoned B-5 and not presently owned and slated for development consists of about 13 acres. I understand Jockey owns everything to the north of us, and all of a sudden we're sitting there with 13 acres in our area. I know the neighbors I think one owns ten and one owns two and I own three quarters. I wasn't too thrilled with evening zoning it--see I couldn't have any kind of development or sell it for development to begin with although I might live there for quite a while yet. Does the 15 acre requirement make our property unable to be developed and unable to be sold for fair market value? You kind of left us out on a limb there sort of.

Jean Werbie:

The 15 acre minimum is for the entire B-5 district area, so individual properties can be smaller than that. The dimensional standards for an individual lot can be 2.5 acres minimum for this type of use. And if the uses are smaller than that, then it was envisioned that when it did change uses, that it would probably consolidate with an adjacent lot in order to have enough land for that future use.

Robert Fredrickson:

In other words, you wouldn't have to have an 15 acre parcel, just--alright, I'm just curious.

Jean Werbie:

No, just two and a half acres.

Robert Fredrickson:

That's what I understood reading it. Like I say, I object to the two and a half, but obviously . . . development anyway, but we'll see. Thank you very much.

Burt Zielinski:

I'm Burt Zielinski. I live at 5122 91<sup>st</sup> Place by Anton's Greenhouse. From what I understand, if his zoning remained the same, he could not enlarge or do anything. However, if it's changed to Agricultural 1 he can add greenhouses and build greenhouses on his existing property. Am I right? In other words, this is going to benefit him more than actually the neighborhood at this point.

Jean Werbie:



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The current or proposed B-1 and B-3 district would not allow for his greenhouse use to exist and his outdoor storage and his deliveries. Greenhouse activities are not considered permitted uses within the B-1 and the B-3 districts. So, the staff felt that putting them into the agricultural district would make Mr. Anton's business more conforming to the actual use and the operation that he has currently.

Burt Zielinski:

Okay, but can he expand at this point?

Jean Werbie:

I don't know if he has enough land to expand on his existing zoned property.

Burt Zielinski:

Okay, that comes into the second question. He owns property next to him. Can that be rezoned to Ag-1 or whatever it's going to be?

Jean Werbie:

Any property owner has the right to petition for the zoning of their property.

Burt Zielinski:

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This I know, but I'm asking the Board, would you agree to something like that where he already is in residential?

Jean Werbie:

I guess I can't make a recommendation not knowing what he's doing, but the Plan Commission will make a recommendation and the Board takes the final official action. So without knowing exactly what he's proposing, I can't say.

Burt Zielinski:

I have no idea what he's proposing. I'm just trying to put a stop to him growing because he has not been a good neighbor. I'm in here at least once or twice a year. Mike knows it. He doesn't like to see me come in. I'm just kidding, Mike.

Mike Pollocoff:

I think, Burt, the question you're asking is could he expand, at that point based on Jean's comments on the comprehensive land use plan, where we've now taken that plan to the property parcel level, whereas before the line were kind of vague as to where that property or where that land use existed in that area, that area under the land use plan surrounding Anton's use is designated as residential. So the Village would have to agree to amend the land use plan as well as amending the zoning ordinance and the recommendation of staff from that standpoint would be to leave the land use plan the way its. I think that, I don't want to say it's the lesser of two evils, but one of the things about modifying that use down to agricultural from the business zoning is it reduces the varying numbers of uses that you could have if you left it in a business district. Right now under B-3 there's a big, broad spectrum of things that could go on in that parcel, whereas if it's brought down to an agricultural use that limits the activity that could happen. Given the fact that that's in a residential neighborhood, I think that's good policy. Now, if it could grow on its existing site, I'm not sure that there's that much room left to grow or add greenhouses on that parcel and still meet setbacks that that district has.

Burt Zielinski:

Okay, thank you.

Pete Neihaus:

Pete Neihaus, 10909 Sheridan Road, the Village Supper Club. My wife and I bought the Supper Club about nine months ago. When we invested in this business, it's our second substantial investment in Pleasant Prairie. Our home is here, too. We planned this as a long-term business, something that we want to retire from our full-time jobs and do for the rest of our lives. I'm wondering if there's any consideration for the proposal that says if the business burns down or a tornado knocks it down or something, we're not allowed to rebuild as the existing business it is. This is what we've chosen to do. We've invested a lot of money as many of the property owners have because this is what we choose for the rest of our lives or for whatever time we determine. And we lose the ability to go back and rebuilt if tomorrow, after the rezoning, the day after, the building is blown down by a tornado. I can't rebuilt and run the Village Supper Club anymore. I'm residential. Which also is another consideration. I want to know if because now I'm told I can only build residential, it's kind of like choosing what I'm going to do with the property. It robs us of our right to choose our business, and it robs us of future potential income, because somebody may want to

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come in and take my property and build something else on it, or they may not give me the value that the property is because they have the same thing hanging over their head. Somebody may not want to buy this business in ten years because the potential is the day after they buy it that it could be knocked down or burned to the ground and that they wouldn't be able to run something that they wanted to do. I just wanted to bring that up as a matter of record.

Tom Terwall:

Thank you. Anybody else?

Bart Mengo:

Hi guys, ladies. It's been a long time. Bart Mengo, 1715 60<sup>th</sup> Street. I was wonder if I could get back on the mailing list. I didn't get any of this stuff.

Tom Terwall:

Sure. Where is your property, Bart?

Bart Mengo:

11101 75<sup>th</sup> Street, Highway 50.

Tom Terwall:

The place you've always had, okay. We'd be happy to.

Jean Werbie:

Tom, what mailing list did Bart want to be put on? Because there were no zoning changes on his property or in his area along Highway 50, and that's why he didn't receive a notice.

Tom Terwall:

So there is no Zoning change to the Mengo property?

Jean Werbie:

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No. But if his property is impacted with respect to a zoning change or if he's within 300 feet of someone who is impacted with a zoning change, he would certainly be notified if he's an owner of record.

Tom Terwall:

Thank you.

Ray McClosfsky:

Ray McClosfsky, 1501 116<sup>th</sup> Street. My property is currently zoned B-3. I've got 6½ acres. I'm between the Wooden Nickle, Ray Radigan, and the golf course. Now you want to rezone me to R-4. I've got a letter here from the Planning Commission that said I was prematurely zoned B-3 in 1990, and that they would look into it and make me agricultural. I've got horses. I've got the property, and I don't want to be residential. I finally got to the place where I think it's worth B-3 now from an investment standpoint, and I can't see going to residential 4. There's nothing residential on my side of the street.

Tom Terwall:

You're between the Wooden Nickle and Ray Radigans?

Ray McClosfsky:

Ray Radigans and the Wooden Nickle are both to the east of me. My property abuts theirs all the way long to the south of Radigans. And Thompson's Golf Driving Range hits me on the west side. I've got 6½ acres in there. That's not really a residential site as you guys have got them spelled out. I think it should either stay B-3 or take me back to agricultural.

Tom Terwall:

What's the minimum parcel size for ag, Jean?

Jean Werbie:

Five acres for the A-3 district.

Tom Terwall:

He already has horses.

Ray McClosfsky: 13

I've had horses for 34 years.

Jean Werbie:

What's your frontage width?

Ray McClosfsky:

Three seventy.

Jean Werbie:

He could be moved into the A-3 district.

Ray McClosfsky:

Could I be left just B-3?

Jean Werbie:

Or we could put him in an ag overlay, like an AGO district that would allow him to continue to have his ag uses such as his horses on the property. We could certainly do that as well. We just conferred with the attorney as to whether or not we could do anything with respect to this. I guess I could bring it up at the public hearing which is the next item on the agenda. I just don't want to go into too much more detail under the comprehensive plan, but we certainly could consider it, and as long as the property owner is requesting this and there is no objection from staff on that--

Ray McClosfsky:

Could I be left B-3 or made B-1? It's B-3 now, and quite frankly I intend to sell pretty soon. I'm retired, and it's the first time I've had an opportunity when you guys are building in my area to perhaps make a little bit of money on the property.

Jean Werbie:

We would not recommend that it be brought into the business district, and there is no B-3 district on this end of the Village. That's only the freeway retail district.

Ray McClosfsky:

Why isn't it B-1?

Jean Werbie:

Because we've reclassified and rewritten all of the business districts which I will talk about at the next public hearing. This area adjacent to your property we're proposing to be B-1. All the districts have been completely rewritten, and so there is no more B-3 anywhere in the Village except for along the Interstate. The business in this area would be B-1, and then I can go into the details with respect to that use, but it's limited with respect to the area. We can't have more than 20 acres of B-1 at one clustered intersection location. And because the use as proposed, I understand he'd like to have business, but there is no active and operating business there, and it was probably premature in

putting it into the business, and we have a gr14 deal of business at that intersection at this time. The staff would support an Ag zoning district with the residential so he could have his home and the ag business.

Ray McClosfsky:

So you're going to make B-1 business across the street from me on a new subdivision on the corner, and yet I've been business the whole time and I can't stay that way? Is this to make Mills more money.

Jean Werbie:

No, but I can talk about it at the hearing. Otherwise I'm going to say all the same stuff-

Ray McClosfsky:

I'm a little bit upset about this.

Tom Terwall:

Okay, Ray. Let's hold the comments until the public hearing.

Ray McClosfsky:

When's the public hearing.

Tom Terwall:

Next item on the agenda.

Todd Hansen:

Todd Hansen, 4500 75<sup>th</sup> Street and 4506 75<sup>th</sup> Street, both investment properties. I've owned the second one for about six years now, and the first one I just picked up about a month ago. They are zoned B-3 now, but the proposed change is to go to R-3, and the whole purpose of buying those two parcels was to combine them together and perhaps pick up the parcel immediately to the north and now I would have a pretty could sized lot that could easily support a business. So by rezoning, you're taking away that opportunity, and I just don't think that's right. It's immediately east of 75<sup>th</sup> Street Auto, and that whole block is B-3. The usage has always been residential for those parcels that I'm talking about, so I can understand why the Village would want to change the zoning to residential. However, as an investor, that takes away my opportunity, and maybe a year from now I'll sell them and put up some kind of business there myself. Perhaps I could have it rezoned if it was changed to R-3. But if I was to sell it to someone else and it was changed to R-3 zoning, then the value would not be there. Sure, a guy could say, well, you could buy it and then propose that it be rezoned, but it's just not right. I don't know why the Village would take that away.

Jean Werbie:

There's a number of things we took a look at. Specifically, what we wanted to do is take a look at actual uses, and if it was being used as single family homes, we were wondering why it was pre-zoned by the County for a commercial use. Secondly, the State Department of Transportation has been very, very restrictive in granting any new commercial access points on State Trunk Highway 50. It's doubtful, maybe even impossible, for him to get any additional access points. It might be

possible if there's some shared driveways (if there's a consolidation of parcels that something could be worked out, but what we wanted to do was we wanted to wait until there was either a consolidation of parcels and we knew that there was a permit that could be granted by the DOT for access, whether or not that could be converted as a commercial use. It's single family homes right now. We're not saying that it couldn't be, because it does fit into the framework that we're establishing under the business zoning districts. The problem is right now is that there are single family homes there with no commercial access. I can't guarantee that even if it is zoned commercial, that he'll get any commercial access because the State has denied them in the past.

Todd Hansen:

First of all, the 4500 property is not single family. It's a two unit, so you need to do your homework on that.

Jean Werbie:

Well, it's residential. It's residential, not commercial.

Todd Hansen:

Right, but it has been a two unit for over twenty years.

Jean Werbie:

From our standpoint that's still residential.

Todd Hansen:

Secondly, there is access on 45<sup>th</sup> Avenue, and if those two properties were combined, that would be an off 75<sup>th</sup> Street entrance.

Jean Werbie:

I understand that, but the State typically requires at least 400 feet for a commercial access that intersects a State highway, that the closest point you can a commercial driveway access now is about 400 or 460 feet, so whether or not they would grant that access, I guess that would be something we'd have to talk to the DOT about. They have denied them in the past, many, many uses that have been proposed along Highway 50.

Todd Hansen:

Thank you.

Mike Serpe:

Tom, could I suggest something here, that we get back to the agenda on the amendments. I know Jean has a big presentation on the business district, and if anybody doesn't have any objections on the amendments, then I think we should address that first, get that off and on its way so we can get into the business part of this.

Tom Terwall:

Anybody else?

James Cameron:

Jim Cameron, 11605 Old Green Bay Road. Back in 1977 I bought that property because it was being used for something that I planned to use it for which I did and I planned to make my living at and continue making my living at. It was rezoned by the County to residential. They switched it back, and now you want to rezone it residential again. It doesn't fit in my plans, and I've been there for almost 30 years. That's where I and my son make our living at. I don't quite think it's fair that you take it away from us. The State took my highway access away when they did the highway, so I don't have any real highway access, but I'm on the corner. It's on Old Green Bay Road so for what I do it suits me real well. To switch it to residential I don't think it would be fair to I and my son because that is my livelihood there. Unless, like I said to the one gentleman, if you guys would like to set me up with a place somewhere else that suited your plans, well, I'd be more than happy with that.

Tom Terwall:

He is a legal nonconforming use, is he not?

Jean Werbie:

Yes.

Tom Terwall:

So you would be allowed to continue. You and your son would be allowed to continue running your business there forever.

James Cameron:

Well, from what I understood if for some reason I wanted to take a sabbatical for a year, I would lose that opportunity.

Tom Terwall:

If it were closed for an entire year that's correct.

James Cameron:

Otherwise I can continue operating there?

Tom Terwall:

Absolutely. You would be zoned legal nonconforming use.

James Cameron:

It would be R-4 or what? From what I understood it's an overlay district, and if the overlay was removed from it, then it would go to residential.

Jean Werbie:



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It would be rezoned to R-4, which is a residential classification, and the UHO is the overlay district, because urban services are not yet available to that location. The only way the UHO would be lifted would be if urban services would be made available to the site.

James Cameron:

Well, they're pretty close to it right now.

Jean Werbie:

They're close but they're not quite there.

James Cameron:

I understand that, but what happens when they get there and you remove the overlay district?

Jean Werbie:

Then things would still remain the same as a legal nonconforming use. Nothing would change with respect to your use with the removal of the UHO.

James Cameron:

Is this going to be in the whatever you call it?

Tom Terwall:

In the ordinance, yes.

James Cameron:

Okay, thank you.

Robert Fredrickson:

I have another question--

Tom Terwall:

I need you to come to the microphone, sir. This is being recorded so that we can transcribe the minutes. Give us your name and address again, sir.

Robert Fredrickson:

Robert Fredrickson, 11100 120<sup>th</sup> Avenue. Now, when you talk about taking a sabbatical for a year, now I've got residential property zoned B-4. Now, do I have to be there a certain length of time during the year to keep it residential. I was just kind of curious about that. I'm retired now.

Tom Terwall:

You're welcome to go to Florida as long as you want to stay there. It does not change the zoning.

Robert Fredrickson:

I just wondered about that if I was there part time.

Robert Ores:

My name is Robert Ores, 8613 Old Green Bay Road. I run a nonconforming business for the last 32 years. I want to know what's going to happen to that business.

Tom Terwall:

Nothing, right, Jean?

Jean Werbie:

Nothing.

Tom Terwall:

It's legal nonconforming.

Robert Ores:

What would happen to that business if I took a partner in?

Jean Werbie:

Nothing.

Robert Ores:

If I died and that partner kept on that business could keep going?

Tom Terwall:

Yes, or you could sell the business, yes.

Robert Ores:

Okay, thank you.

Tom Terwall:

Anybody else? If not, I'm going to close the public hearing and open it to comments and questions from Commissioners and staff. Jean, you had some corrections you wanted to read into the record or not?

Jean Werbie: 19

That's for the next item.

Tom Terwall:

Okay, comments or questions?

**SERPE MOVED THAT THE PLAN COMMISSION APPROVE THE CONSIDERATION OF PLAN COMMISSION RESOLUTION #02-09: RELATED TO AMENDMENTS TO THE VILLAGE'S COMPREHENSIVE LAND USE PLAN. SECONDED BY KOESSL.**

Tom Terwall:

Jean, I have a question relative to a legal but nonconforming use in case of a fire or storm that damages more than 50%. Should that come up under the next public hearing?

Jean Werbie:

Yes.

Tom Terwall:

Good, then I'll hold my comments on the issues I want to raise. Any other comments or questions? Hearing none, we have a motion and a second to adopt Resolution 02-09. All in favor signify by saying aye.

**MOTION CARRIED TO APPROVE.**

**B. PUBLIC HEARING AND CONSIDERATION THE FOLLOWING ZONING TEXT AND MAP AMENDMENTS: To amend Section 12.11, relating to Site and Operational Plan Review; Sections 12.22-1, 12.22-2, 12.22-3, 12.22-4 and 12.22-5, relating to the B-1 through B-5 Business Zoning District regulations, respectively; Section 12.28-5, relating to Non-Conforming Uses, Lots and Structures; Section 12.29, relating to Conditional Uses; and Appendix A, relating to definitions; and to repeal of Section 12.26-3 entitled AEO, Adult Entertainment Overlay District; and to consider extensive amendments to the Village Zoning Map.**

Jean Werbie:

Mr. Chairman, the first thing I'd like to mention is that of all the items that we're going to be talking about this evening, there are three of them that we were still making some modifications to, so we're going to recommend that they be tabled until a future Plan Commission meeting, and they relate to conditional uses, proposed amendments to the site and operational plan review and Appendix A relating to definitions.

On June 22, 1998 the Village Plan Commission adopted Plan Commission Resolution #98-06 to initiate the recodification, update, modification, repeal and recreation of the Village's General Zoning and Shoreland/Floodplain Zoning Ordinance. As a part of the recodification, the Village Board approved Village Board Resolution #01-63 on October 1, 2001 to initiate amendments to the Zoning Ordinance as it relates to Business Districts. In addition, as result of changes in the Business Districts, other sections of the Ordinance needed to be re-evaluated and updated such as but not

limited to specific regulations related to Conditional Uses within the Business Districts, Definitions, and corresponding Amendments to the Zoning Map.

The Village planning staff has re-evaluated the business district regulations and its compliance with the adopted comprehensive plan, with consultation from the Village Attorney, Village Administrator, Village Clerk, Village Fire Chief and Village Police Chief. This evaluation is a part of a recodification of the entire Village General Zoning and Shoreland/Floodplain Zoning Ordinance, which I'll refer to as the zoning ordinance which is proposed to be completed this year.

The Smart Growth law imposed by the State requires that all municipalities who participate in planning, development and zoning activities shall prepare, adopt and maintain a Comprehensive Plan and further that all land use related ordinance shall be consistent with that Comprehensive Plan on or before January 1, 2010. Therefore, the Village's Comprehensive Plan was a starting point for evaluating the commercial business district regulations.

As discussed at the previous hearing related to amendments to the Comprehensive Plan, the proposed amendments to the Land Use Plan, which is Map 91, and the Commercial Land text components of the Comprehensive Plan, the proposed changes to the Zoning Text and Map are consistent with the Comprehensive Plan.

I'd like to begin with an overview: Existing business zoning districts.

The Village Zoning Ordinance currently has the following five business districts: B-1, Neighborhood Business District; B-2, Community Business District; B-3, Highway Business District; B-4, Planned Business District; and B-5, Business Recreational District.

The B-1 through B-4 districts were created in 1983 by Kenosha County as part of a countywide business zoning regulations, which were adopted by the then Town of Pleasant Prairie in 1984. Upon the Town's incorporation into the Village of Pleasant Prairie in 1989, the Village carried over the zoning regulations and adopted the Kenosha County Zoning Ordinance in effect at the time of the incorporation. Over the past 12 plus years, the Village has made numerous amendments to the zoning ordinance to regulate uses in the Village, in accordance with the Village's goals and objectives.

At this time, the Village has begun the process of revising the entire ordinance as a part of the Smart Growth requirements. A majority of the amendments to the zoning ordinance are proposed to be completed by the end of the year. Several large sections of the Ordinance have already been revised including the Village's Floodplain ordinance, which is a part of the zoning ordinance and the sign regulations.

The re-evaluation of the business district regulations required the Village to examine other sections of the Zoning Ordinance, including the Site and Operational Plan requirements, Conditional Use provisions, and non-conforming regulations. Upon approval of these sections of the ordinance, the Village will begin to re-evaluate the other District classifications including: Agricultural, Residential, Manufacturing, Institutional, Park and Recreational and Conservancy Districts. Upon review and rewriting of each of these District regulations subsequent public hearings will be held to consider amendments to these Districts.

Now the proposed business zoning districts. The Village staff is recommending that five new and amended business district classifications be approved. The Districts have been structured in accordance with the Comprehensive Plan in a hierarchical fashion beginning with neighborhood businesses which are the least intensive business uses, to community businesses and regional businesses which are more intensive business districts. In addition, a separate district was created

specifically for freeway service uses, specifically hotels, restaurants and gasoline stations, at the three I-94 interchanges of the Village and also a Freeway Office District was created. Chart 1 that's in your packets, and I know the type is small and you might have to come up to it, illustrates general dimensional requirements of each of the proposed business districts. The new business districts Sections 12.22-1, 12.22-2, 12.22-3, 12.22-4 and 12.22-5, relate specifically to the B-1 through B-5 Business Zoning Districts. I'd like to describe each of the districts a little bit for you. Again, just because someone was in a B-3 district before doesn't mean they'll be in a B-3 district now because they have been completely rewritten and we're reclassified the districts.

- The first district is the B-1, Neighborhood Business District. The B-1 Neighborhood Business District is intended to provide for a cluster of retail, service and office uses of a type and at a scale designed to serve the needs of the surrounding residential neighborhoods. B-1 Districts shall be located at the intersection of two arterial streets or highways. The area of each B-1 District shall include at least one corner of the intersection, and at least five acres but not more than 20 acres in size. Again, that the entire district needs to be between 5 and 20 acres.

Uses in the B-1 District are the most limited. Examples of permitted uses include, bakeries, antique stores, restaurants, real estate offices, medical offices for example. However, uses like taverns and hotels are not permitted in this District. Gas stations are permitted with a conditional use. Principal buildings in the B-1 District shall be a minimum of 1,500 square feet and shall not exceed 5,000 square feet in area. Again, that's the building itself between 1,500 and 5,000 square feet, and the hours open to the public are limited to 6:00 a.m. and 11:00 p.m., except for uses requiring a Village liquor license, the hours open to the public are governed by the Wisconsin Statutes. And liquor licenses are special permits that have to be issued by the Village Board. The Plan Commission and the staff have no authority to issue those licenses. They are only issued by the Village Board. In addition, hours for delivery in the B-1 are limited to 6:00 a.m. and 10:00 p.m.

- The next district, again going up on the scale a little bit more intense is the B-2, Community Business District: The B-2 Community Business District is intended to provide for a cluster of retail, service and office uses of a type and at a scale designed to serve the entire community, such as a funeral home or a grocery store. B-2 Districts shall be located at the intersection of two arterial streets or highways. The area of each B-2 District shall include one corner of the intersection and a minimum of 5 acres. There is no maximum in the B-2 District with respect to the size of the commercial area in the B-2.

Uses in the B-2 District are more encompassing, than the B-1 District; however, uses that require special conditions are allowed only with a conditional use permit such as a tavern, gasoline station, or a new or used car lot. Principal buildings in the B-2 District shall be a minimum of 4,000 square feet and shall not exceed 25,000 square feet in area, and the hours open to the public are limited to 5:00 a.m. until midnight, except for a hotel which can operate 24 hours and uses requiring a Village liquor license in which the hours are governed basically by the Wisconsin Statutes. In addition, similarly to the B-1 District, hours for delivery are limited from 6:00 a.m. and 10:00 p.m. So B-1 and B-2 have the same delivery hours because, again, they are in proximity to residential areas.

- The next district getting more intense again but moving all the way to the west end of the Village is the B-3, Regional Retail Business District: The B-3 Regional Retail Business District is intended to provide for big box retail stores or regional retail shopping centers to serve the needs of the region as well as the entire community. The area of each B-3 District shall be at least 20 acres and individual lots shall be a minimum of 10 acres.

Uses in the B-3 District include most of the uses allowed within the B-2 District, however the uses are grouped together in a shopping center or a stand alone big box uses or a grouping of big box uses such as a Home Depot, Circuit City, Best Buy, Barnes and Noble or other types of big box use with a building at least 50,000 square feet. Principal buildings in the B-3 District shall be a minimum of 50,000 square feet and the hours open to the public are limited from 6:00 a.m. and 11:00 p.m., except for uses requiring a Village liquor license in which case the hours open to the public, again, are govern by the Wisconsin Statutes. And basically that means certain days of the week that liquor sales through bar time and consumption of alcohol is up to 2:00, and on Friday nights and Saturday nights it's 2:30.

- The next district which is, again, going up on the scale again for a little bit more intensity, a little bit different, though, is the B-4, Freeway Service Business District: The B-4 Freeway Service Business District is intended to provide for a cluster of hotels, restaurants and gasoline stations designed to serve the needs of freeway travelers as well as the entire community. B-4 Districts shall be located near freeway interchanges. The area of each B-4 District shall include a minimum of 10 acres. Individual lots shall be a minimum of 2.5 acres in area.

Uses in the B-4 District include hotels, restaurant and gasoline stations. Principal buildings in the B-4 District shall be a minimum of 45,000 square feet for hotels and 4,000 square feet for gasoline stations or restaurants. The hours open to the public are limited to 6:00 a.m. until midnight, except for a hotel which can operate 24 hours, and uses requiring a Village liquor license in which the hours open to the public are governed by the Statutes, and uses proposed to be open 24 hours may apply for a conditional use permit if approved by the Plan Commission. Again, just a reminder, conditional uses are not permitted as a matter of right. They require special permits and approvals by the Plan Commission.

- The next and final district is the B-5, Freeway Office District: The B-5 Freeway Office District is intended to provide for corporate, business and professional office uses at a community or regional level. B-5 Districts shall be located near freeway interchanges. The area of each B-5 shall be a minimum of 15 acres.

Uses in the B-5 District include offices and also day-care facility; however, the B-5 District allows for auxiliary principal uses, in that they are located in the principal office building and are designed to serve the needs of the occupants of the principal office building. They shall have no dedicated outside entrance to such building, and have no signage visible from the exterior of such building for commercial use. Further all auxiliary permitted uses in a principal office building together shall not occupy more than 10% of the gross floor area of such building. What I'm saying there is there might be a situation where commercial permitted uses are needed to serve that office building in the lower level. The general public can use those services as well, but there won't be a lot of big advertising signs and separate entrances and stuff for a Subway or some type of dime store or something that may be located in that lower level. The principal use in that district is intended to be the professional offices, and that should be the key focus of these buildings. Principal office buildings in the B-5 District shall be a minimum of 36,000 square feet and day-care facilities shall be a minimum of 10,000 square feet. The hours open to the public are limited to 6:00 a.m. until midnight, except for uses requiring a Village liquor license in which the hours open to the public are governed by the Statutes.

Now the zoning map amendments. In addition to the proposed amendments to the Business Zoning District Regulations, the Village staff has evaluated all properties in the Village that are currently zoned business and all of the areas proposed to be developed as business as shown on the Comprehensive Land Use Plan. The properties were compared to the areas on the comprehensive

plan that are identified as commercial areas ;23l reclassified to the appropriate zoning classification. All of the proposed changes are shown in Exhibit A attached to the Zoning Map Amendment Ordinance. They are also shown on the two maps that are on the easel further to the podium as well as on the overhead, but that's difficult to read so we'll go through them.

There's some additional amendments that the staff is recommending to what you're seeing before you. Exhibit A includes the following additional amendments:

The owners of Tax Parcel Numbers 91-4-122-081-0105-0, 91-4-122-081-0131-0, 91-4-122-081-0200-0, 91-4-122-081-0210-0, 91-4-122-081-0221-0, 92-4-122-082-0120-0, 91-4-122-082-0131-0, and 91-4-122-082-0132-0 in Prairie Ridge Development are owned by VK Development Corporation. So there was a typo that it said that they were owned by VK Development LLC. Just for the recorded we needed to identify that the proper name for ownership of those parcels is VK Development Corporation.

The next correction is that the following Tax Parcel Numbers 93-4-123-314-0288-0, 93-4-123-314-0290-0, 93-4-123-314-0292-0, 93-4-123-314-0294-0, 93-4-123-314-0304-0, 93-4-123-314-0306-0, 93-4-123-314-0308-0 and 93-4-123-314-0310-0 which are located on 128<sup>th</sup> and 127<sup>th</sup> Streets east of Sheridan Road owned by Charles and Sharon Bishop are proposed to be zoned to the B-2; however, even though these properties, even though they're proposed in the B-2 district as part of that comprehensive plan effort down at the State line, that detailed wetland stakings would be required on these properties prior to development. If there's wetlands found to be on the property, the wetland area would not be able to be developed unless proper permits could be obtained from the Wisconsin DNR to fill in those wetlands. So while it's being brought into that B-2 classification today, wetland staking still need to be done in that particular area. And if any wetlands are found, then the wetland area would need to be modified.

The next modification is a portion of Tax Parcel 91-4-122-023-0501. The property is owned by Allan and Judith Kohlmeier located at 5107 Harrison Road is currently zoned B-3 and was not listed in the notice to be rezoned to B-2 but was shown on the map to be rezoned into the B-2. Bob Nelson, on behalf of the property owner, had called on April 25, 2002 to point out that error, and so we just wanted to bring it to your attention because that is part of the rezoning effort.

Generally the zoning map amendments that you have this evening affect 290 properties. In fact, there were 22 areas of which notices were sent out, so not every property owner received all 22 notices. They only received the notice that impacted or affected their property, so that's why there's so many people here this evening and there's so many questions because it did cover a comprehensive Village wide area, not just one particular area. At the end of this presentation we will go through all 22 areas and we'll put map after map up so that everybody understands which areas they are if someone has specific questions, again, because the one map we have on the overhead is very difficult to see a particular property.

Most of the properties being rezoned are existing businesses that are being reclassified into a new business zoning classification that complies with the Comprehensive Plan and the proposed Business Districts regulations as described above. Several uses that are currently zoned business are being reclassified into Institutional Districts. Some are medical offices, dental offices and churches. A couple of the properties being used as retail plant nurseries or greenhouses are being reclassified into a residential district with an agricultural overlay that will allow for the use on the properties to remain as conforming uses; however, if the properties are subdivided they would need to conform with residential district regulations. Again, to answer one of the previous questions, as long as they continue with that particular use for those that are changing and they don't stop that use for more than 12 months, they don't change that use and they don't try to expand that use onto additional areas. They will continue as legal nonconforming uses.

Numerous properties that are currently zoned business are being reclassified into a residential district in accordance with the Comprehensive Plan. Most of these properties were zoned into a business classification in 1983 by Kenosha County when the Village was a Town. Most of these properties are in primarily residential areas, and it is not intended for the property to expand their current uses and the surrounding area to be developed commercially. These uses would be able to continue as legal non-conforming uses, again, even though the entire area surrounding them is residential.

For example, the area on Springbrook Road between 26<sup>th</sup> Avenue and 22<sup>nd</sup> Avenue has several properties that are currently zoned business; however, in accordance with the Comprehensive Plan this area is not intended to expand as a commercial area. Some of the properties currently have a single family home on them, a few buildings are being used for storage or are vacant; however, there are a few properties in that house existing businesses. Another area where properties are currently zoned business are scattered on Sheridan Road between the 9800 block and 10900 block; however, in accordance with the Comprehensive Plan commercial development is not proposed to string along Sheridan Road. It is intended to developed at the intersections of arterial streets, at 91<sup>st</sup> and Sheridan Road, at 104<sup>th</sup> Street and Sheridan Road, 116<sup>th</sup> Street and Sheridan Road and 128<sup>th</sup> Street and Sheridan Road. Some of the properties currently have single-family homes on them or are vacant properties and some have existing businesses.

If the proposed amendments to the zoning map are approved, commercial business that are lawful at the time the amendments are adopted, but the current use does not conform with the new zoning classification, be it a commercial business be rezoned to residential or a commercial business not allowed in the business district, then the use will be classified as non-conforming use.

Lawful non-conforming uses may be continued. Only that portion of the property in actual use may be continued and the non-conforming use shall not be extended, enlarged or moved. If a non-conforming use is discontinued or terminated for a period of 12 months, any future use of the property shall conform to the underlying basic zoning district as well as the Zoning Ordinance. Once a non-conforming use has been changed to comply with the provisions of the Zoning Ordinance, it shall not revert back then to that non-conforming use. In addition, the Zoning Board of Appeals may permit the substitution of a more or equally restrictive non-conforming use for an existing non-conforming use. So if you have a legal non-conforming commercial use and they don't want to operate that commercial business any longer, they could request a substitution use of equal or less intense commercial use for that property. If it's approved by the Zoning Board of Appeals, then that use would continue. The intent is if you had a commercial use in a residential area that's been down zoned and they want to substitute a use, we don't want a use that generates more parking, more traffic, more lighting and signage problems. We don't want to create a situation where it becomes more of a problem for the residential neighborhood. We want it to be the same or less.

Other zoning ordinance text amendments. As I mentioned previously, in addition to the business district, there's some other zoning text amendments that we're proposing this evening.

1. The Village staff is recommending that Section 12.26-3 entitled AEO, Adult Entertainment Overlay District be repealed because adult uses are proposed to be handle by the Village Board through specific licenses issued.
2. The Village staff is recommending that Section 12.28-5a entitled Use of Existing Nonconforming Lots in the Business Districts be created which specifically sets forth specific modifications to the Zoning Ordinance to allow for the continued use or development of vacant lots zoned B-1, B-2, B-3, B-4 or B-5 that do not currently meet the minimum lot size or minimum public street frontage requirements. Each item that can be modified is evaluated sequentially and cumulatively to determine the minimum amount of



modification necessary to allow protective development and use of the nonconforming lot. The modifications set forth the maximum amount of modification permitted and the extent and priority of said modification. Again, what this means is there might be some existing non-conforming lots that are vacant that are in a commercial area, and they're not going to necessarily be able to meet the requirements of the business district that they're located in, whether it pertains to landscaping requirements or parking requirements or some requirement, so what we've done is set up a hierarchy of things that can be modified one after another than can allow for a new use to happen on that vacant non-conforming lot. And then we would go down the lot until we can try to fit something on that lot that will work in that district.

This amendment may allow non-conforming lots to be developed without obtaining a variance from the Village Zoning Board of Appeals. These are standards that will enable staff to work with property owners to comply with the Village Ordinance. However, in the event that the modifications provided for in this amendment are not sufficient to allow the lot to be developed and used in compliance with the remaining applicable requirements of this Zoning Ordinance, then the lot may only be developed and used or continue to be used or further developed for a less intense use. For example, a use requiring less parking with a variance. So, for example, if the particular use that's being proposed has a big parking demand and there's not enough site area for it, then they need to either apply for a variance, or we need to have that property owner re-evaluate that use, because we want all parking to be on site and not parked in the street.

In evaluating a proposed development or addition or alteration on a non-conforming lot priority there is a list below I'm going to read. These reductions are only allowed as necessary for compliance for the remaining applicable Ordinance requirements. For example, again, this non conforming lot, if they can't meet the district requirements, the first thing they're going to need to do is:

- Reduce or eliminate any existing or proposed accessory structures or additions;
- Reduce or eliminate any extra principal structure or any proposed addition to a principal structure;
- For a vacant lot, reduce the proposed principal building size minimum of 1,500 square feet in the B-1 District or minimum of 2,000 square feet in the B-2, B-3, B-4 or B-5 District;
- Reduce in size or number, or eliminate the required landscape islands within the parking lot;
- Reduce the required side setbacks for a principal structure on a vacant lot minimum of 10 feet in the B-1 and B-2 Districts and a minimum of 25 feet in the B-3, B-4 and B-5 Districts;
- Reduce the street setback for a principal structure on a vacant lot minimum of 50 feet from arterial streets and minimum of 30 feet from non-arterial streets;
- Reduce the setback for parking areas from the property lines minimum of 10 feet; and
- Reduce the minimum width of internal site circulation ways, access roads and private roads, to a minimum of 24 feet, provided that fire-fighting equipment can be safely maneuvered through the lot.

Again, all of these elements will allow someone to build if possible on these legal non-conforming lots. These are the tests we try to bring them through. If not, they'll have to try the variance, or they have to re-evaluate the use that they want to put there.

Number 3 with respect to the conditional use districts, and number 4 the definitions and number 5 the site and operational plans, again, the staff is recommending because of the changes that we're still going through, that those all be carried over to a subsequent Plan Commission meeting. Notices will be sent out for those particular ordinance modifications.

With that, I'm going to ask my staff to go through each of these 22 areas very quickly just so that you know if a property owner comes up and he says that I'm in area 2, that you know kind of generally where area 2 is and you can flip through your book to find out where area 2 is.

This is area 1. It's located south of Highway 50 right at the Interstate just east of the frontage road. Currently it exists as B-3, Highway Business District. We rewrote the business district for B-3, and the proposed zoning classification is B-4, and a portion of the land that is owned by the Village of Pleasant Prairie is being identified as I-4, Institutional District, and then there's a small piece of land that is further east that is being recommended for R-2, which is a Single Family Residential classification. The other piece in area 1 is currently zoned B-3, and we're proposing that it go into the B-2 classification.

Area 2 is the area that is located south of Highway 50 between 88<sup>th</sup> Avenue and 104<sup>th</sup> Avenue. It's the Prairie Ridge Development area. The existing zoning is a compilation of the B-4 PUD District regulations, B-4 regulations, and C-1 regulations. This particular area is proposed to go-- the B-4 areas are proposed to be moved to the B-2, again, which is that Community Business District.

Area 3 is north of Highway 50 in either side of County Trunk Highway H or 88<sup>th</sup> Avenue. The existing zoning is B-3 on either side of 88<sup>th</sup> Avenue, and it's proposed to go to B-2 on either side of 88<sup>th</sup> Avenue. The next area is north of there on 88<sup>th</sup> Avenue on the west side of 88<sup>th</sup> Avenue, one single parcel, and it's proposed to go from the B-1, Old Neighborhood Business District, to the R-4, Single Family Residential District.

The next area is area 4. Again, this is located along Highway 50 on the south side east of 88<sup>th</sup> Avenue or County Trunk Highway H. The businesses along this area are proposed to be rezoned from the B-3 and B-3 PUD section to the B-2, Community Business District.

The next area is area 5. This is located south of Highway 50 between Highway 31 and the land area west to the tracks. This is an area that's proposed to go from B-3 adjacent to where Johnson Bank is up to 70<sup>th</sup> Avenue in an A-2 District entirely to the B-2 District along Highway 50.

The next area is area 6. This is an area that is located both north and south of Bain Station Road, west of State Highway 31. It's proposed to be rezoned from the M-2 classification and the A-2, General Agricultural classification and M-1, which is the Manufacturing classification, and this entire area is proposed to be moved into the B-2, Community Business District.

The next is area 7. This is an area that is east of Old Green Bay Road, south of 85<sup>th</sup> Street. It's proposed to go from the B-3, Highway Business District, to the R-2, Residential District. There are residential districts both north and south east of Old Green Bay Road. The other zoning area in this area is located both north and south of 93<sup>rd</sup> Street, east of Highway 31. It's proposed to go from the B-1, Neighborhood Business District, and the R-4 APO, R-4 being Residential, and APO is Agricultural Preservation Overlay to the B-2, Community Business District.

The next area is area 8. This is located between Old and New Green Bay Road at approximately 107<sup>th</sup> Street south of Highway 165. The current zoning in this area is B-1 on the east side of Old Green Bay Road and B-3 on the west side of Old Green Bay Road. And the east side is proposed to go to R-4 UHO and the west side is proposed to go to B-2, Community Business District. The next change is south of 116<sup>th</sup> Street east of Old Green Bay Road, and the property there is proposed to be modified from the B-3, Highway Business District, to the R-4, Residential with a UHO Overlay District. And further south than that on Highway 31 just north of the State line there is a parcel that's identified as a B-3, Highway Business District, and it's proposed to go to the R-4, Residential District, and the UHO, Urban Landholding Overlay District.

The next is area 9, and this is located just east of I-94, actually at the northeast corner of 122<sup>nd</sup> Street, which is County ML and I-94. The land is currently zoned B-3, Highway Business District, and C-1, Lowland Resource Conservancy District, and the land is proposed to be rezoned to R-2, Single Family Residential, and the C-1, Lowland Resource Conservancy District.

The next is area 10. This is the location of Prairie Springs Park. It's located north of Highway 165 and to the west of 88<sup>th</sup> Avenue. It's currently zoned B-5, Planned Business Residential District, and the entire park area is proposed to be rezoned to the PR-1, Park and Recreational District. The next area is on either side of I-94 north and south of 104<sup>th</sup> Street which is 165. This is in an area that we've identified as TID #3. It looks like there's portions of TID 2 in here as well. A number of changes are proposed here. The areas that are proposed to be zoned as B-5, those were areas that were previously B-4 Districts, and we have some B-5 in the southwest quadrant that is now proposed to be B-5. B-4 is now going to be B-5, and there's some other areas on the southeast corner that were B-4 and B-5, and we're proposing them to be B-3, B-5, some Institutional District, and the Conservancy Districts would stay as they are.

The next area is area 11. This is located on the east side of I-94 just south of Wilmot Road or County Trunk Highway C. It's currently zoned B-3, Highway Business District, and it's proposed to be B-4.

The next area is area 12. This is located at the intersection of Bain Station Road and 104<sup>th</sup> Avenue. The properties in this area are proposed to be rezoned from the B-2, Community Business District into the B-1, Neighborhood Business District, and a portion that's designated as wetlands would be in the C-1 District.

The next area is area 13 along Highway 50, on either side of 50 basically between 45<sup>th</sup> Avenue and Cooper Road and extending a little bit further to the west. This is an area we are proposing be moved from the B-3, Highway Business District, into the B-2, Community Business District. And there will be a few small areas that will be residential along Highway 50.

The next area is area 14. It's located on the east side of Cooper Road at approximately the 7900 block. This is Crawford's Dental Office and Orthodontic office. It's currently zoned B-1, Neighborhood Business District, and that's proposed to go into the I-1, Institutional District. The next area is located further south on Cooper Road at 91<sup>st</sup> Place. This happens to be Anton's Greenhouses. They are proposed to be zoned from the B-3 and the B-1 into the R-4, which is the Residential classification with an AGO overlay, Agricultural Overlay District.

The next is area 15, which is located on 39<sup>th</sup> Avenue and 85<sup>th</sup> Street. I believe this is Dr. Wedell's office. It's proposed to go from the B-1, Neighborhood Business District, into the I-1, Institutional District. The next two areas are located on either side of 39<sup>th</sup> Avenue north of 93<sup>rd</sup> Street. The first one is just north of 91<sup>st</sup> Street and is proposed to go from the B-2, Neighborhood Business District, into the R-4 UHO District. And the other just north of 93<sup>rd</sup> Street is proposed to go from the B-1, Neighborhood Business District, also to the R-4 UHO District.

The next is area 16. This area is located just west of the Village Hall on 39<sup>th</sup> Avenue adjacent to County Trunk Highway ML. Existing zonings consist of B-1, Neighborhood Business, B-2, Community Business, and B-3, Highway Business. And the two northern pieces where Gordy's and the bank are located are proposed to go to B-2, Community Business. The post office is proposed to go to I-1, Institutional District, and the property south of Springbrook Road is proposed to go into the R-4, Residential classification.

The next is area 17, which is located just south of 104<sup>th</sup> Street just to the west of 32<sup>nd</sup> Avenue. It's Hansen's property, the greenhouses. That is currently zoned B-1, Neighborhood Business District, and it's proposed to go into the R-4, Residential classification with an AGO, Agricultural Overlay District.

Next area is area 18. This district includes the Starlight Club which is on the north end which is currently zoned B-1. There's a cluster of commercial uses that are identified as B-3 Districts. This District is Springbrook Road at about 24<sup>th</sup> Avenue, and then another cluster of commercial uses at 26<sup>th</sup> Avenue either zoned B-1 and B-3. It's proposed that the Starlight Club be rezoned to the R-6 District, and the uses on the north side of Springbrook Road be rezoned into the Residential-6 classification, and the uses south of Springbrook Road would be rezoned into the Residential-5 classification.

Just as a point of clarification, each of the Residential Districts 1-12 refer to lot sizes and district requirements. For example, the R-1 District has the largest residential lots, the greatest width in lot width on the street, and then R-2, R-3 and R-4, so as it pertains to residential R-1 through R-6 are all single family residential districts, with R-1 requiring the largest sized lots and R-6 requiring the smallest sized lots.

The next is Area 19, and this is located south of 91<sup>st</sup> Street at the intersection of 22<sup>nd</sup> Avenue and also at the intersection of Sheridan Road. At 22<sup>nd</sup> Avenue the property is currently zoned B-4, that's Sergio's Strip Mall, currently zoned B-4, and that's proposed to go to B-1, Neighborhood Business District. And the property that is where the Keno Theater is currently is zoned B-3 and some R-5 UHO . . .

Area 20, a large portion is proposed to go to the R-3, Residential District. The next area is south of 104<sup>th</sup> Street or Highway 165 on either side of Sheridan Road. The first area on the west side, A-1 Marine Sales, is proposed to go from the B-3, Highway Business District, to the R-4, Single Family Residential with a UHO overlay. Then going further south, the properties on either side of Highway 32 are currently both zoned B-3, Highway Business District, and they are both proposed to go into the R-4, UHO District. And then there's an existing church that's proposed to go into the I-1, Institutional District.

The next area is area 21. This is located north and south of 116<sup>th</sup> Street on either side of Sheridan Road. Currently there's B2 UHO north of 116<sup>th</sup> Street. There is a large B-3 area which is west of Highway 32, and a B-3 area east of Highway 32, and the proposed zoning for this entire area from north to south largely is B-1, Neighborhood Business District. Mr. McClusky I believe had property that was zoned B-3 and we're proposing that to go to R-4 UHO. He's made a request this evening to bring that into an Ag District or an AG Overlay District because he has horses and that's the type of use that he currently has on the property. And then there's a piece of business currently zoned that is east of the wetlands south of 116<sup>th</sup> Street which would be proposed to go into the A-2 District. And at the very south end of this area the proposal is to bring it into the R-4 and an R-4 APO District.

And the last area, area 22, is located on either side of Sheridan Road on the south end of Sheridan Road, and existing zoning in this area is largely B-3, Highway Business District stripped up and down Sheridan Road, and we are proposing that the northern lots be incorporated into the R-3,

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Residential classification. There's a portion 30' C-1, Lowland Resource Conservancy, and then the south end to be brought into the B-2 classification. And then one of the amendment that we had recommended is that the four lots between 127<sup>th</sup> and 128<sup>th</sup> Streets that those be identified as part of the B-2 District with the understanding that detailed wetland stakings would need to be completed. The bulk of that area east of this has already completed a wetland staking, and most of this land where all these little lots are, that's all wetland and undevelopable. So there would need to be some wetland stakings to determine what would be buildable and not buildable.

With that, I would like to continue the public hearing regarding the business districts and the other ordinance amendments that were presented this evening.

Tom Terwall:

Thanks, Jean. This is a matter for public hearing. We'll employ the same rules that we had before. Sir, I'm going to begin with you since you deferred your questions. I'll give you the opportunity to raise your issues now. Please give us your name and address again if you would.

John Michael McTernan:

Attorney John Michael McTernan with the Law Firm of O'Connor & Willems at 6633 Green Bay Road appearing on behalf of Prime Retail. I think they're subject to neighborhood 10 I believe that was flashed up on the Board. In this regard, I'd like to again thank the Village for the time they've taken to work through with us with some of the many issues we've had with regards to development of Prime Retail's project on I-94. While we worked through a number of the issues, there's a few issues I'd just like to raise that I know staff has discussed with us with regard to some of the changes that appear to be in the works or look at other ways of accommodating or working towards the resolution of allowing for other uses that were not thought of or detailed in the B-3 District that applies to Prime Retail.

The first being what appears to be possibly a typographical error or otherwise and oversight on the drafting of certain language in the B-3 District that Jean and I specifically discussed. And I point your attention to 12.23-3(b)(2). Jean, if you want me to, or you can explain to them the issue that is addressed there in regards to that paragraph, and then as it relates to (d) of that same proposed ordinance (2).

Jean Werbie:

We have some amendments that we could specifically read into the record due to typos or some corrections in talking with people, or we can just talk about this one in particular. But I do want Peggy to read the amendments for all the districts into the record. So how would you like to handle that?

Tom Terwall:

Let's do them all now then.

Jean Werbie:

Would you might waiting?

John Michael McTernan:

I'll wait.

Peggy Herrick:

I'm going to start with the B-1 District regulations if you want to pull those out. There's a few typos in here. On page 5 of this B-1 District, item number (g) it should read as follows: "Except as otherwise specifically provided in this Zoning Ordinance, accessory uses to principal uses allowed in the B-1 District, are allowed subject to Section 12.11 and all other applicable provisions of this Zoning Ordinance and all other Village ordinances and codes, as follows:". That top paragraph we switched some words around. Want me to read that again? Everybody has that? It should read as follows: "(g) Accessory Uses. "Except as otherwise specifically provided in this Zoning Ordinance, accessory uses to principal uses allowed in the B-1 District, are allowed subject to Section 12.11 and all other applicable provisions of this Zoning Ordinance and all other Village ordinances and codes, as follows:". It lists some things. So there are few typos in there that we wanted to correct.

Also in the B-1 District on page 7, item (i) under design standards, number 8, it should read: "Each use, site, building and structure . . .". "Or" should be an "and". That's a typo there. On Page 8 of the B-1 District, number 8 in the middle of that page, again, this should read: "Each use, site, building and structure . . ." instead of or. "Or" should be changed to an "and". Those are the typos in the B-1 District.

In the B-2 District if you pull those out similar changes are being proposed here. On page 7, (g) accessory uses, the same language as in the B-1 should be in here as well. It should read: "Except as other wise specifically provided in this Zoning Ordinance, accessory uses to principal uses allowed in the B-2 District are allowed subject to Section 12.11 and all other applicable provisions of this Zoning Ordinance and of other Village ordinances and codes, as follows:" and it specifies some.

The other typos in this District continue on page 9, number 8. "Each use, site, building and structure" instead of "or". There's a typo there. (j) operational standards 1, in the second line there is a common I believe after hotels, that common should be removed. That is not needed. On the last page, page 10, first line number 8, "Each use, site, building and structure . . .". "Or" should be an "and". In item (k), municipal services required, the third line down the first word is buildings. That should be building, so the "s" should be removed.

In the B-3 District regulations, this is what Mike was referring to. On page 2, number 2 under service uses in regional retail shopping center, if you go down seven lines, the seventh line starts out with restaurant, and in parenthesis is says "(whether or not alcoholic beverages are served or sold, . . .", after that it should be inserted "and with or without a dedicated bar". That should be added into that section.

On the following page, number 2, middle (3)2he page (d)2.i., these are conditional uses, and this should read: "Restaurant (not including a drive-in restaurant or a restaurant with a drive-thru facility)" and this is what we're proposing to insert: "with outdoor seating and/or with a dedicated brewing facility". That's proposed to be added, so that means that a conditional use permit is required if you want outdoor seating or if there is going to be a brewing facility within the restaurant that would need a conditional use permit. We continue further and these, again, are located within a regional shopping center, "whether or not alcoholic beverages are served or sold, and without or without a dedicated bar." So that paragraph I'm going to read it as it should read: "Restaurant (not including a drive-in restaurant or a restaurant with a drive-thru facility) with outdoor seating and/or with a dedicated brewing facility located within a regional retail shopping center, whether or not alcoholic beverages are served or sold and with or without a dedicated bar." So, again, in the B-3 District, restaurants are allowed by right of the permitted use. If you want to have outside seating or a dedicated brewing facility within that restaurant, that's allowed with a conditional use permit. There were some typos and both of them read the same and we needed to clarify that. We're also proposing at the request of Prime to add a third conditional use under services as movie theaters.

The next typo error is on page 5 of the B-3 District, number 4, it should read: "The area of a building . . .". The word "the" should be changed to an "a" on page 5, number 4. That's all the typos. There are no typos in the B-4 or B-5 Districts.

Tom Terwall:

With that, Mr. McTernan, you can continue.

John Michael McTernan:

The other comment I make is in an area that I understand from staff is something that is going to be brought together before the Plan Commission and the Board that will address the need for special event permits. As many of you are probably familiar, Prime Retail has many sidewalk sales, Memorial Day sales, 4<sup>th</sup> of July sales, potentially midnight madness sales. There are other types of special events that are not allowed in the existing ordinance or specifically provided for how you would obtain those permits and permission. I understand working with staff that that is something that they are working towards in the coming months of providing for those outdoor temporary uses that are short in nature, a week, couple of week, maybe even a couple of days only, and we look forward to working with staff on watching to see how that fits in with the current uses that are planned for the facility in the coming years. I appreciate their assistance in pointing those out how they will be addressed in the future, even though they're not addressed here today.

Then finally, the last item that has not been addressed but we're going to be working on seeing if it can be addressed in an amendment is the potential use of having a separate outdoor kiosk building or accessory building to a region retail box center like Prime has to accommodate some potential uses that are seen in other prime outlets on the coast and other areas such as something in a separate building that isn't specifically attached and connected to the main building. There's some thoughts, and it has now come to the attention of Prime, to bring those to staff. Obviously, they weren't included, and we're going to be working with staff to see if that is something that is



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workable in the future and, if so, we'll 33k at providing an amendment to that. Again, I appreciate the time and thank them for their assistance.

Tom Terwall:

Thank you.

Barry Webb:

My name is Barry Webb. We have Camper's Factory Outlet, 9420 120<sup>th</sup> Avenue. I'm looking at everything here tonight and it's pretty common knowledge in the Village that our business and our neighbors to the north and the south are going to be relocated or bought out at some point. If it wasn't for our illustrious Governor, probably we'd be packing already. I'm looking through this new definition here. I think we're B-4 now if I'm right.

Mike Pollocoff:

B-3.

Barry Webb:

We're B-3, and it looks like we now would be under B-2, and we were told back in 1998 when this all started that we were going to get like property at some point when you do take us if that's what's going to happen. I'm looking at the Interstate and I don't see any B-2, and that bothers me a little bit, because our business is driven by that Interstate. So my question posed to everybody here is where are we going?

Mike Pollocoff:

I guess the short answer is we don't know where you're going yet because we haven't started that process. We aren't far enough along--

Barry Webb:

If you did right now, let's say that everything kicked in and the Governor's budget was all settled, I just would like to have an idea. I don't see any B-2 out there.

Mike Pollocoff:

There was B-2 up at Highway 50 and 94.

Jean Werbie:

It's before.

Mike Pollocoff:

That's right. So if there isn't B-2, I guess what we'd be indicating is that your relocation, assuming you wanted to stay on the Interstate and that's what the relocation effort ended up, it wouldn't be in Pleasant Prairie. It would have to be in the Kenosha County zoning areas which would be B-3--

Barry Webb:

That's not real exciting because I have my home here in Pleasant Prairie, family, and we like it here, and that doesn't make me feel real well. I just don't think that's right, because I've been told all along, we've been nursed all along on this since 1998, hey, no problem, you're going to have exact property or something real similar. We're just going to move you into that back field, but it looks like you guys are pushing us out of there and I'm not happy with that.

Tom Terwall:

That's an issue, Mike, that will be addressed as part of the relocation, correct?

Mike Pollocoff:

Right.

Tom Terwall:

I mean we've got an obligation and a commitment to try to relocate him in a comparable situation to what he's got now.

Mike Pollocoff:

In a relocation that ends up being the real issue is what is comparable. As much as the Webbs have run a good business in the Village, how that business fits in with the TIF District we've already indicated that that's not a compatible use with the proposed TIF development, and I guess the Village would have to take a look at the other area which would be up at I-94 and 50. The statute that governs relocation doesn't guarantee what community somebody lands into, but you do need to find something comparable. To the extent that something's comparable or not ends up being part of the acquisition price and the expenses of relocation in finding another relocation for someone.

Tom Terwall:

He could end up on I-94 south of where he is now and still be in the Town of Bristol, correct?

Mike Pollocoff:

That's correct.

Tom Terwall:

He wouldn't have to go very far south?

Mike Pollocoff:

No.

Tom Terwall:

So that is a possibility.

Mike Pollocoff:

Since we're kind of on hold, we haven't really gone the next step on this, but I think the B-2 as defined by Jean is not a use that fits into an office park or a corporate park development. Like I said, there's some modifications to be made at 94 and 50, or identifying other similar areas that are close that would be under Kenosha County zoning which ultimately permitted the use that exists today. We can't start looking for or identifying parcels until we've had a relocation plan that's been started, received some input from the property owners, and approved by the State of Wisconsin.

Tom Terwall:

Thank you.

Evelyn Nickle:

Hi, I'm Evelyn Nickle. I have a business at 11606 Sheridan Road, the Wooden Nickle. I'm being changed from Business 3 to Business 1, and I don't understand it. Go down to the State line and they're being changed to a B-2. Go up the road north of me and they're making them residential. Where does this all tie into anything? We're still just a little business area on a major highway.

Tom Terwall:

Jean, the difference is the total area of the business district. Why don't you explain that?

Evelyn Nickle:

Why different, 1, 2, 3? I mean the smaller you get, the more restricted it is. I understand, right, to what can be. And does this have anything to do with the subdivision going up right north of my business off of 116<sup>th</sup> which runs all the way up to Tobin Creek Bar? Is that a reason why we're going to a 1?

Tom Terwall:

No.

Evelyn Nickle:

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Then why are we going to a 1 and those poor people are going to residential and State line is going to a 2?

Jean Werbie:

Again, as part of our evaluation of the comprehensive plan, we identified certain areas of the Village to be identified for commercial uses that are clustered around intersections.

Evelyn Nickle:

I'm on an intersection.

Jean Werbie:

So when we looked at them, we didn't want to, number one, exceed the district area requirements by having too much land identified within a particular business district classification. For example, in the B-1 District, it's a maximum of 20 acres, and so we evaluated all the land uses in that particular area, and we identified how much land could go into that B-1 District. And so her property was not one that we included within that because of its proximity and with respect to the amount of land use that had already been put into the B-1 District.

Evelyn Nickle:

I just don't understand how they come up with this.

Jean Werbie:

The tavern that she has can continue. It's a legal nonconforming use. It can't expand at its current location, but its current operation, as well as inside and outside the facility, can continue as long as they continue to get a liquor license permit from the Village, which I would anticipate-

Evelyn Nickle:

Yes, but I have to leave it the same as it is, which now is fine. I'm ready to retire in two years. When a future buyer looks at that and sees that R-1 as opposed to R-3, real estate people have already told me it will make a big difference on the selling price of it. This is my retirement, okay?

Jean Werbie:

Again, anyone who purchases it can continue that particular commercial use or they can request a substitution of an equal or lesser intensity in use for that particular property.

Evelyn Nickle:

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I was also told that if something would happen to the building itself that I could never rebuild it as what it is now because of the change. It would have to conform to, for example, craft store or something which I would have no clue what to do with one, okay?

Tom Terwall:

That's an issue that I said I was going to bring up again. The law says if the facility is damaged more than 50% of its assessed value, you could not restore it.

Evelyn Nickle:

Right.

Tom Terwall:

That's an issue I want to raise with staff as well.

Evelyn Nickle:

Who determines 50%, the insurance company, fire department, safety?

Mike Pollocoff:

It's a mix between the building inspector, the Village assessor, your insurance company. I mean there's a group of people who have their hands in that decision.

Evelyn Nickle:

I still don't get why this stretch of businesses is going from 2 to 1 to residential. It just does not make sense to me. I don't care what the State says. This is a major highway. Most places want to keep that as business property. I've noticed right along South Sheridan Road there's a lot of houses being built right on Sheridan Road where there's not going to be room to--well, some of them their front yard is as close as my bar is where you can't widen the road in future times. I just don't understand any of this.

Jean Werbie:

She's staying in a business classification.

Evelyn Nickle:

I'm being more restricted than I was before as to if something were to happen.

Jean Werbie:

She's going from the B-3 District which no longer exists in its current form, to the B-1 District.

Evelyn Nickle: 38

I'm asking why I can't be a B-2, which mine is.

Jean Werbie:

Oh, because that entire area is going into the B-1 classification because it's not a community business use.

Evelyn Nickle:

What makes mine different than--

Jean Werbie:

I can refer to that one next. In the B-1 District, maybe it would help if I read the uses in the B-1 District. Antiques, apparel, appliances, art, art supplies, audio recording, automotive supplies, bakery goods, bicycles, accessories, books, camping supplies, candy, cameras, photographic supplies, cards, carpets, cosmetics, electronic equipment, fabric, flowers, frames, furniture, home furnishings, gifts, glassware, groceries, hardware, hobby, craft supplies, home improvement, jewelry, kitchen, bathroom supplies, lawn and garden equipment supplies, luggage, novelties, marine supplies, musical instruments, newspapers, magazines, office supplies, eye glasses, related products, paint, pets, pet supplies, pharmaceuticals, prepared foods, souvenirs, sporting goods, sundries, telephones, tobacco, toys, video. I mean that seems pretty--I mean that's just the retail uses. Then I could go on to read the services uses. So this is pretty encompassing with respect to the uses that could be done on that particular property.

Tom Terwall:

Evelyn is legal as a nonconforming use.

Jean Werbie:

That's correct.

Evelyn Nickle:

I just didn't understand where there would be such a variance between me and a mile down the road, same highway.

Tom Terwall:

It's the total area encompassing the district.

Jean Werbie:

Right, and, again, at each clustered intersection, we didn't want to put all B-1 uses, so in certain areas where we thought based on the traffic and the area and a whole bunch of things that we looked at with respect to that property area, some are clustered as B-2 and some are clustered as B-1, and the B-1 just has a smaller cluster area than the B-2 which might be further south or further north.

Evelyn Nickle:

I guess I could say I would have rather been the B-2.

Tom Terwall:

Thank you.

John Van Handel:

My name is John Van Handel. We're the Red Barn Antiques on Sheridan Road. You have a letter that we delivered to the Village this morning. The only reason I want to speak for just a couple of moments is because I think there's a lot of other people who probably have the same question or the same reasoning that we're concerned with. The piece of our property is shown on your map of area 21. It's the lowest, the farthest south little piece of property. We have 1,320 frontage feet. That piece, as drawn on the map, is about 840 frontage feet. The piece of our property now zoned B-3 proposed to be zoned R-4 has minimal, if any, potential for residential development because of the existing barn which is the antique shop and smaller buildings housing our antique business, and because of its proximity to the heavy traffic on Sheridan Road. Sheridan Road is not attractive as a residential street. Further, no one has ever contacted us with an interest in building a residence or residences on this piece of our property. And the established wetlands backing all of this part of our property prohibit any inclusion of this piece to be residential property to be included in a development to the west, because the development will take place on the west side of the wetlands. The north 45% of this piece is now undeveloped, and it's approximately 250 feet of frontage, 200 feet deep. That's logical potential for retail business. It's practically next to Ruffolo's. It's separated from Ruffolo's driveway by one residence.

Our property is not on the market, but we have had a number of people express interest in the piece of the property that houses our house and the barn and the business in terms of converting the 109 year old house into a bed and breakfast operation or converting the barn into a restaurant. If rezoned, this use of the property would be prohibited. We could sell the business as long as the people wanted to continue in the antique business. We have not had any contact with anyone who is interested in that. That's the only commercial use would be the antique business. We just consider it a little unfair to lock us into a residential use of this piece of property on Sheridan Road. It would be very detrimental to the value of our property adversely limiting our potential for any future sale, and if anybody is really interested in building a house on Sheridan Road, we certainly would entertain some offers if we do get rezoned.

Tom Terwall:

What's south of your property?

John Van Handel: 40

South of our property is area 22.

Peggy Herrick:

There's wetlands south of the area that's supposed to be rezoned.

John Van Handel:

There's an upholstery shop and there's what we call the dirty book store, and then there were all those taverns down towards State Line Road which have been closed. There's still the tattoo parlor.

Tom Terwall:

Is this all one parcel that we're talking about?

John Van Handel:

Just a piece of our parcel.

Tom Terwall:

Of the same parcel number? I guess I'm inclined to agree with Mr. Van Handel that the possibility of that ever being sold for single family development is slim and none.

John Van Hendel:

We just want some consideration in terms of at least looking at the situation. Thank you.

Tom Terwall:

Thank you. Jean, what was the reasoning why the south part of that parcel was separated or zoned differently than the north portion?

Jean Werbie:

Again, because the B-2 District is intended--excuse me, the B-1 District is intended to have a maximum area for that district of 20 acres. And we did not want to see the continued stripping of commercial along Sheridan Road extending south. So for that reason we tried to confine it to a particular area. I now in his letter he mentions that a bed and breakfast establishment would be a prohibited use, and actually the ordinance doesn't even allow for bed and breakfast, and we intend to put them in residential districts. So it would be a permitted use in the residential district. They're not even listed as uses right now in the commercial district. Then the other issue



with respect to land value, we do have the 41lage assessor here, but I don't believe that his land is being assessed as commercial land value at this point, and for commercial land to continue to develop, we're going to need to have full services. There's a number of things that we evaluated as part of this. Another big issue, and we had this along Highway 50, is the State is very, very restrictive with respect to granting commercial highway access, as well as increasing commercial access for the intensity of a particular use.

Tom Terwall:

He does have commercial access now, does he not, to the business portion of that lot?

Jean Werbie:

To the antique business? I don't know whether or not the DOT would consider that if someone wanted to intensify that use as to whether or not the DOT would permit that. Again, he would have a similar situation as all the other legal nonconforming uses is that he could continue that particular use, or he could request a substitution of use that is equal or less nonconforming with respect to its intensity.

Tom Terwall:

This isn't going to get resolved tonight. I guess all I'm saying is if I vote in favor of this tonight, I want it understood that this is an issue that needs to be looked at again, at least from my perspective.

Mel Surdel:

Hi, Mel Surdel. I own two properties, 10428 and 10434 Sheridan Road, A-1 Marine. I'd just like to say I moved down here in 1990 after I retired from the Navy, 36 years, with my son, Mike. My wife had passed away with cancer, and I wanted a really nice place to bring him up, and it was. It's very nice, and I gave the property to my son, Michael. I'm just a little concerned about that was--everything I had from my 36 years in the Navy went into that piece of property. I bought it for cash, and due to the car slump now with the zero percenters and that, some of the used cars have been kind of difficult, but our marine survey business has been good. The marine supplies have been sort of poor because West Marine opened up down the street, but the marine survey business has been good and we do sell a few cars and a few motorcycles. Now, I was just wondering, and I sort of agree with the gentleman from the Red Barn Antiques, if this was zoned residential, boy I'd sure hate to have my kids out there. There are millions of cars going by that street everyday, and to have young children over there, boy it would be a hazard. It really would. I mean it was fine for me. Mike was already 9 years old and he was fine. But people who want to buy houses don't want to buy houses on a busy, busy highway like that. We probably wouldn't be able to sell it. Who wants a six car garage? So I was just wondering, and I've talked to a few people who are supposedly in the know with real estate, and they said if I'm downgraded to that, there goes my actual what I have into that place will not be there anymore. The value will not be there. No one would want to buy it as residence.

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I'm sort of concerned about my son, Mike. I spent a lot of my life over here to give it to him, and it looks like I'm going to be losing some of his value. Secondly, since it's going to be devalued as an R-4, is this going to cut my taxes down? Those are the only two questions I had.

Tom Terwall:

Where did Rocco go? Rocco, can you answer that? What impact would that have on the assessed value of a parcel if it's downzoned? It's going to still be based on its use, correct?

Rocco Vita:

Rocco Vita, 9915 39<sup>th</sup> Avenue. All these properties have been valued based upon their current use, and they're valued in light of what a potential purchaser would pay for the property and continue that sort of use. So these people being allowed to continue that use really wouldn't impact the value today if they were to sell it tomorrow.

Tom Terwall:

If somebody should sell a parcel like that and the next owner uses it for residential, then the assessment would be based on residential accordingly?

Rocco Vita:

Correct.

Tom Terwall:

In Mr. Surdel's case, though, he still has a legal nonconforming use, correct?

Jean Werbie:

Yes.

Tom Terwall:

So he could sell the business to a guy like me who needs a six car garage to put his toys in.

Mel Surdel:

Are you interested?

Tom Terwall:

I'm trying to get rid of my toys. Thank you.

Mel Surdel:

Thank you very much, sir.

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Gary Rosecrans:

My name is Gary Rosecrans and I'm with WisPark at 10411 Corporate Drive, Pleasant Prairie. I wanted to just mention three areas of concern to WisPark. This deals with area 10. I don't know, do you want to bring that up there? I need a visual aid. I don't make sense without one. Let's go to proposed. The first area of concern deals with land which is just north of . . . and it's proposed as B-5, and what I want to say here is that B-5 zoning is not completely consistent with our vision of that property. Our vision of that property includes single or perhaps two story office development, which has really been the only kind of office development we've seen in LakeView Corporate Park today. Our vision also includes perhaps an R & D campus. I think of companies that are in Lake County like Abbott or Baxter, and not that I'm guaranteeing they're coming here, but that possibility exists in my mind, and we'd like to have the flexibility to accommodate that kind of use. So it could be an R & D campus, it could be largely single story, it could be the kind of facility that requires intense security and also perhaps loading docks. And all those things are not consistent with the B-5 zoning so I just want to mention that to the Plan Commission.

The second area of concern involves land that's east of Prime Outlets in LakeView Corporate Park. Peggy, can you just for a moment flag that one? I think that most of the people in the Village and the Plan Commission know that that property has been contemplated in the past as a possible future expansion of Prime Outlets. That's one of those deals that was on, it's off, it's on, it's off. Right now it's off, but I still think that that possibility exists, and B-5 zoning is not really accommodating to future retail use, which I think is consistent with the market demand and also consistent with the development that's occurring in that neighborhood today. So that's something, again, I wanted to point out.

The third area of concern deals with a triangular piece of property which is at the northeast corner of 165 and I-94, which I think is B-4 now, and it's proposed as continuing as B-4. And that is something that we consider to probably be our most prime major office development site, and B-4, as you know, is more consistent with hotel and gas stations and retail uses, so from our perspective we would rather see that parcel as B-5 zoning, again, because we view that as a site of a major, major office development. Those are really all the things I wanted to mention. In closing, I would just respectfully request that you delay making a decision on these particular properties until we have a chance to think about it some more. Thank you.

Jean Werbie:

I can comment on his three points. The first one of which was that if WisPark is looking for an office use that has an R & D type component as a principal component, we can develop that as part of a planned development which would be from a scratch ordinance that can allow for that percentage of R & D to be modified within that district area. So I think that can work depending on the type of office related use with R & D facilities that they are proposing. The key here is that as a staff we felt that the highest and best use at this intersection, immediately adjacent to this intersection, are high profile professional offices. That doesn't mean one story. We think that this is very valuable land, and so we want to see that look that you see down south or up north of Milwaukee. We want to see the high profile offices, and one story offices isn't going to do it. We

feel that it's valuable land and we'd like to 44: those buildings up higher, at least to three stories. So that was our thought process with respect to that professional office right clustered at the Interstate. We'd like to see that kind of look for the welcoming into Wisconsin, the welcoming into Pleasant Prairie. So we don't want to see loading docks. And, again, the planned development could be used for R & D facilities.

With respect to the area east of Prime Outlets, Gary is correct. It was on again, off again, on again, off again, and as a staff we felt that if they want it to be on again, then they need to bring it back and petition to have it changed, otherwise we don't want to bring it into that regional retail at this point, but we'd like to see them present it back, present a PUD or whatever they're proposing to do. If it's going to be Prime that they interconnect those elements of the shopping center, and then we start from there. We've been more than willing to work with them in the past, and I think we're more than willing to work with them in the future, but we didn't want to pre-zone that particular area.

Then finally with respect to that triangular piece of property at the northeast corner of 165 and the Interstate, the staff would be okay if that would be identified as B-5, Professional Office. I guess the only question we have is much professional office do we need at this intersection? You know, if we can develop this whole area as professional office and they want to come, they want to be here putting high profile offices that generate good employment, high paying jobs, we would love to see it. So the staff would recommend that the B-4 at the northeast corner go to B-5. We have no objection to that. But the other two we would leave alone.

Tom Terwall:

Thanks, Jean. I think the Plan Commission concurs, Gary, that you come with a plan and you bring a name like Abbott or somebody, we're going to sit down and talk. I think history bears out that that's exactly what we've done in the past. We're trying to set a plan in place here, but as Jean said in her introductory remarks, the plan's not set in concrete, and we're willing to work with the developer.

Gary Rosecrans:

I appreciate that, but I just have one other question. If you think about the office building that we occupy which is just east of Culver's along 165, it's a two story building. Personally I like it a lot. I think it's a pretty slick building, but it's not three stories. Does that comment mean anything to you? Is that the kind of thing that would be precluded from development that's visible from I-94?

Mike Pollocoff:

I think when we took a look at our inventory and the land use plan, this is the only spot that Pleasant Prairie has for corporate office development. Once we use this bank of land up and if we put it in one story buildings where it looks like say the 8400 Center on 165, a nice looking building, but it just doesn't generate the same value, so I think that I agree with you. That two story building that the current corporate offices are in now is a very nice building, but we felt that given the fact that this is all that the Village has available and this is where we're locating it, we

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should hold out for the very best. It's 45t just WisPark. I think anybody who is doing development in the Village we'll sit down and if they've come up with an alternative that would bring value to the Village and quality to the Village, if it's like a high two story or something that's different I guess we could look at it. As I said, in this area here, given the surrounding conservancy areas and the things that we're having to work around, this is the Village's one shot at getting the kind of corporate office development that a lot of communities really want. Maybe it won't happen as fast as everybody likes and that land will always be there, I guess to the extent that the Village is committed to a quality professional office to plan, that's what should be there. I think my recommendation to the Board is doing one story development in such a high traffic profile area, I think then at that point we've missed the mark.

Imtiaz Kachri:

Imtiaz Kachri, 9801 Sheridan Road. My concern is about it has been already . . . some people . . . high traffic area, and I have noted that on the north side and south side of me there are a couple of houses on sale, and it has been on sale for years and years and I don't know what happened to them. So people are not really interested in buying the property as a residence in that area. Also, the . . . as a family . . . for 15 years, and I just acquired a couple of years ago, and we've been doing pretty good with this. Since September 11<sup>th</sup> the business has been going down. There's no other motel from the State line all the way down to the north end of the Kenosha like around . . . so I strongly urge you guys not to change my zone and keep it as a business zone because that will give me more freedom to do the business, expansion. Also if any damage happens due to natural disaster, I have the freedom to rebuild it, so it is my request to everyone to please consider that.

Tom Terwall:

Thank you.

Bruce Spangler:

Good evening, Bruce Spangler, 12408 Sheridan Road. Looking at map 22, my property directly abuts it looks like parcel 313-0302. It's currently zoned R-4 APO. It's going into a 230 foot section of C-1, and there wasn't any designation left. Is it still going to be the R-4 APO for the rest of that parcel?

Jean Werbie:

Can you tell me what your parcel number was again?

Bruce Spangler:

My parcel is 314-0035. It was the 230 foot parcel of C-1. The remaining parcel to the west of the C-1 is that going to remain the R-4 APO?

Jean Werbie:

Yes.

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Bruce Spangler:

Okay, being the R-4 APO, what kind of use would that allow in there since it is all low wetland?

Jean Werbie:

The area that's designated as Lowland Wetland Conservancy, and the map kind of trails off here, so the area that's been identified as wetlands would be zoned into the C-1, Lowland Resource Conservancy District, so no development or building or filling can go in that particular area.

Bruce Spangler:

In that first 230 feet.

Jean Werbie:

Right and beyond that. That's not shown on here because we didn't look at the C-1 District. So if there's other wetlands on this property that are low and wet, they would also be zoned into the C-1 based on a wetland staking, and those areas would not be able to be developed. Only those upland areas could be identified for Residential 4 which is 90 foot wide lots, minimum of 15,000 square feet in area. It has an APO overlay, which is an agricultural preservation overlay, so if it's being farmed right now and there's agricultural uses on the property right now, that those continue on the particular property.

Bruce Spangler:

The only other question I have is in your talks with the DOT, has there been any proposal to widen Sheridan Road between 128<sup>th</sup> and 93<sup>rd</sup> Street to a four lane?

Jean Werbie:

The long-range transportation plan identifies at some point that Sheridan Road would be widened to a four lane or some type of wider cross section. There is nothing identified in their six year or ten year plan to do that, and I think that what they do is they evaluate community need, traffic congestion, capacity of the highway, funding sources. So there are a number of things that they will look at before they consider a future widening of a State highway. The Village has no plans to do any widening of the State highway.

Bruce Spangler:

Okay, thank you very much.

Todd Hansen:

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Todd Hansen, two properties, again, at 45047nd 4506 75<sup>th</sup> Street. I have two concerns that deal with loss of use. The one property, 4500, is a two unit, and there's been no mention of a two unit multi-family usage in an R-4 rezoning. Will I need some kind of special nonconforming permit to continue as a two unit?

Jean Werbie:

No, it would continue as a legal nonconforming two unit as it is today.

Todd Hansen:

Good, thank you. Then secondly some of my clients could be business renters. So would I be able to get a permitted use permit to allow for business rental use, low traffic operations like maybe professional office use, assisted elderly housing, maybe even a tenant to operate a daycare where there isn't a lot of traffic but it would be a commercial use?

Jean Werbie:

Depending on the use, it could either be treated as a professional home occupation, depending on how much space area it takes up in the building, or he might be able to apply for substitution use. If it's more intense than the residential, that's where it would be a problem for the substitution use, but otherwise professional home occupations are allowed in the residential district like for home daycare or somebody's home office or something to that effect. It's where they're going to need parking, exterior parking, road street parking, big signs, those are the things that will start to cause a problem. So if you wanted to sit down with us, we can talk through individual uses that he's proposing.

Todd Hansen:

Thank you.

Alan Early:

Hello, I'm Alan Early, 2322 Springbrook Road. We have a property that's going to go from B-3 to R-6, and I can kind of understand that in a sense. What I would like to know is we have a 60 foot by 28 foot permanent building of a greenhouse, and with the R-6 zoning what are we going to be able to do with that greenhouse? Are we going to have the option to be able to grow and provide for outside wholesalers, or be able to rent a space? Now the space then when we rent it, the greenhouse normally has an operation say from April to say July on one year growth. If we need to say elect to use the greenhouse for now one year, like for me I have a disability and have maybe a problem being able to run it or manage it, I would lose the possible permit for the year. Now, I would like to know what could we use or what kind of permit we could get with the property on the rezoning so we'd be able to use the functional space of the permanent building?

Jean Werbie:

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If the property is being used as a greenhouse<sup>48</sup> it can continue to be used as a greenhouse, and the key would be to continue some type of greenhouse operation in that building and not to cease that operation for more than a year, because the legal nonconforming use would go away if he stops using it for that particular purpose and nobody is using it for that particular purpose. Then that building would probably cease its useful life for commercial purposes and then he'd have to come up with some other residential use for that building or take it down. So the key is to continue that use in that building of some type.

Alan Early:

Right, but the growth period on a normal greenhouse in this particular area is only four to six months.

Jean Werbie:

That's okay.

Alan Early:

Right, I understand that, but like with me I have herniated discs. What am I going to do if I can't functionally run that greenhouse for one season? I would lose my permit, correct.

Jean Werbie:

Oh, rent it out?

Alan Early:

Unless I could use it as a rentable space.

Jean Werbie:

For a greenhouse.

Alan Early:

Now, if . . . decides not to use that particular building for that year, will I automatically lose the permit on it even though it's growth within the lease that whether you use it or not you still have to pay for that space? But the Village is going to look at it as the building not being used. Now, how can we work this to a point where if . . . decides not to make use of that building that year? If I decide to keep it on . . . because physically I'm no longer able to use the building.

Jean Werbie:

The burden of proof is going to be on the property owner to use that building for a greenhouse-related use, whether he's storing pots there or fertilizer or for his next year's use or he's got plants



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hanging in there, but the burden of proof w49 be on you to continue to use that so that you don't lose that.

Alan Early:

So as long as I can prove that it's still being used on an agricultural basis with the greenhouse I don't have a problem. Now, how are we going to be able to tag the R-6 to this, because it is an agricultural building. Would it be an agricultural use like you explained on one of the other pieces of property?

Tom Terwall:

It will just be a legal nonconforming use. The business will continue just as it is now even with an R-6 zoning.

Alan Early:

So then even with the temporary building that goes along with the permit, as long as it's all used under the same provisions we have now we don't have a problem?

Tom Terwall:

Correct.

Alan Early:

Alright, would we be notified then from the Village with this legal use under nonconditional, or are we going to have to be coming into another hearing?

Tom Terwall:

No. He's already legal nonconforming. He doesn't have to have a public hearing to continue that use, no.

Alan Early:

We're under B-3 now, but once this is proposed then we won't have a problem?

Tom Terwall:

No.

Jean Werbie:

I guess I have a couple of quick questions. Are you currently using it for greenhouses right now and retail sales of plants and things like that?

Alan Early:

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Normally the building is used for--we have it leased out. It's a short period of time. They come in, they use the building, they use it as a full greenhouse, and then at the end of the growing period it's empty, and it's empty for the rest of the year then. So if they sue it from April to May just for the holding period to come in as a vendor as a lessee after that particular time it's usually emptied after that, unless you want to take another growing period out of it which can be done.

Tom Terwall:

As long as it gets used again within 12 months for that same purpose, that's the only requirement. We don't have a zoning cop that drives around and--

Alan Early:

I realize that, but I'm just saying even with the futural use of the property itself when we decide to resell the property, this is going to be able to be granted--

Tom Terwall:

It's still a legal nonconforming use, yes.

Alan Early:

Then it's up to the new owner for proof then.

Jean Werbie:

I guess I would recommend we put his property into the R-6 AGO similar to what we did for Hansen's and for Anton's and the other greenhouse/residential. So I would recommend that we do that so that's not a question for him.

Tom Terwall:

Fine, thank you.

Richard Loewen:

My name is Richard Loewen. I live at 3505 18<sup>th</sup> Street. My son runs an excavating business on 18<sup>th</sup>, and I understand he can stay there as long as he's running the building until he retires. But the improvement is what he was wondering about. He wants to put up a metal building. And then if the metal building isn't allowed, what can he do?

Jean Werbie:

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Under that district he's nonconforming right now in that business district just so that you know, and we don't allow the metal buildings, and he would not be able to put up a metal building on the property at this time or expand anything on the site because it's a nonconforming use.

Tom Terwall:

What's the current zoning, Jean?

Jean Werbie:

B-1, Neighborhood Business District. So that use is not allowed in that district now.

Tom Terwall:

Since he's already there he can continue.

Jean Werbie:

Sure, just like he was before.

Tom Terwall:

However, he can't expand it.

Jean Werbie:

That's correct.

Richard Loewen:

We can improve on the building? We can paint and things like that?

Jean Werbie:

Yes.

Richard Loewen:

What's the UHO stand for?

Jean Werbie:

Urban Landholding Overlay District. That typically means one of a couple things. It doesn't have sewer or water available to the site, or there is a need for a neighborhood plan that needs to be put together to decide how the balance of the vacant land might be developed in the future.

Richard Loewen:

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There's water there.

Jean Werbie:

Right, but it may be missing any one of the elements, whether it's sewer, water or neighborhood plan.

Richard Loewen:

Okay, thank you.

Tom Terwall:

Anybody else?

Tom Peterson:

Hello, my name is Tom Peterson and I own the old Mr. Rib building as you probably know it at 9042 39<sup>th</sup> Avenue. I bought that in September of 1996 and it was very run down, pretty much dilapidated. It needed a lot of work. The main reason I bought it is because of its commercial availability. Right now it currently houses Quality Electric, and up until a few months ago it had a tenant in there along with me. I put a lot into this building looking for some resale out of eventually when I went out of business or move it on, and I think as you drive by you can tell there's been a lot of work done there. It looks a lot cleaner than it did. If rezoning that is going to limit my potential buyers for a building like this, and I understand I could go on and try and find another electrical contractor or go for an appeal for someone similar but, again, it depreciates, the value of the property. I think Pleasant Prairie is very limited to the number of small opportunities they've got. That corner has high visibility, easy access. That building has always been a commercial building from . . . Contracting to a couple restaurants. And I think it's a good opportunity for someone that wants to be aggressive in Pleasant Prairie, a young business person, to just get going in some direction. It's got some parking, it's got a nice clean building, some storage, and I think there's an opportunity there, and I think it would be somewhat eliminating that for Pleasant Prairie to rezone that to residential. So I'd like to urge the committee to leave that business potential on that corner open to a B-1 zoning as it stands right now, at least consider it, for an opportunity for someone to take advantage of that someday and leave it open. Thank you.

Tom Terwall:

Thank you. Comment, Jean?

Jean Werbie:

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It's in the middle of the highway. It's now 53 feet near any other commercial uses. He does have a legal nonconforming use, so he could continue that business, or he could substitute a use. He's done a tremendous job in cleaning it up, but the property is only 53 feet wide by 180 feet in length, so it does have some substantial limitations with respect to parking and things like that that would allow for a higher intensity use to come in under the B-1 District. That's why with a legal nonconforming lot like this, we would rather see him keep the existing uses that are there or substitute with an equal or less intense use just because of the size of the lot and the area and the proximity to the surrounding residential area.

Tom Terwall:

I would agree that is a residential area, and as long as we're not depriving the owner of its current use or rendering it unusable in the future, I think that's important. I would agree with you, Jean, I think that for the protection of the overwhelming residential in that area, we have to make sure that it doesn't become more commercial than it is now, and by rezoning it to a residential zoning with the existing nonconforming use, I think we protect the current owner as well as the abutting property owners. Anybody else?

Ray McClosfsky:

Ray McClosfsky, 1501 116<sup>th</sup> Street. We talked about my property before and I think, Jean, I saw you write down on the board to rezone it to A-3?

Jean Werbie:

R-4 AGO, and that would allow for agricultural uses on the property to continue.

Ray McClosfsky:

I thought we said A-3 when we were up here.

Jean Werbie:

From the Village's perspective the AGO is a pretty open agricultural district, and I guess that is the district that we've been bringing all the other agricultural related uses into and preserving the residential use of the property as well.

Tom Terwall:

So any agricultural use is permitted on that.

Peggy Herrick:

Any general agricultural.

Ray McClosfsky:

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It just doesn't to me that it lends itself to residential where it is. I'm trapped by business one way or another.

Jean Werbie:

But all the ag uses would be permitted in that district in the AGO overlay district, so he can have both. He can have residential and he can have the ag uses. Can't do that in just the ag district.

Tom Terwall:

You have more opportunities with residential with ag holding than he would if he went to agricultural.

Jean Werbie:

Correct.

Ray McClosfsky:

So you're telling me I can keep my--I run between two and ten horses on there.

Tom Terwall:

Not a problem.

Ray McClosfsky:

I've got the barn and I've got everything--well, 34 years I've been doing it.

Jean Werbie:

Yes.

Ray McClosfsky:

So I'm not going to have a problem?

Jean Werbie:

Shouldn't. We can give you copies of the ag district--

Ray McClosfsky:

The only thing I'm going to have a problem is when I go to sell it I won't be able to get the money I could if it was zoned business, and that's what I was counting on for many years now that when my time came to leave this area I'd have a piece of business property which it's been. I

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don't want to say you guys did it but you g55s did it. Back in 1990 you told me you were going to rezone it to ag as soon as you come up with a plan. That never happened so I just sat there fat, dumb and happy, and then you put the subdivision in across the street and I said, well, now it's time for business over here. Now I'll be able to sell it.

Tom Terwall:

My recommendation would be take the residential with ag holding, and if you ever get to the point where you want to petition for a rezoning for commercial--we would not give you commercial now anyhow--

Ray McClosfsky:

I know you guys rewrote all the rules.

Tom Terwall:

That's not the point. We won't rezone any agricultural land to commercial, for example, without knowing what the business is that's going in there. So if it came to that point and you decided you had a potential customer for that, that would be the opportunity to come in and request a rezoning.

Ray McClosfsky:

I just figured as long as it's commercial already, I'm commercial to east, commercial to the west.

Tom Terwall:

Is Jackie Thompson commercial or is he institutional?

Ray McClosfsky:

I don't know what you're going to call it--

Jean Werbie:

His zoning is Park and Rec.

Ray McClosfsky:

--but he makes a living at it. No matter how you cut it, call it what you want. Across the street Mills is putting in something commercial on the corner.

Jean Werbie:

He's got about a one acre right at the corner.

Ray McClosfsky:

So I'm counted in that 20 acres all the way down the road to wherever, but I can't be.

Tom Terwall:

No, but you can come in and request that. With your current use you can't.

Ray McClosfsky:

But it's not a given.

Tom Terwall:

That's correct.

Ray McClosfsky:

If I would have sold it last year it would have been a given, boom, it was B-3 then.

Tom Terwall:

Yes.

Jean Werbie:

We're going to make copies of the district so that he can take those with him.

Tom Terwall:

Anybody else?

Bill Cameron:

My name is Bill Cameron, 11605 Old Green Bay Road. With changing that to an R-4 and us working there on a nonconforming business, can you then put a house up with that business at the same time or no?

Tom Terwall:

If it's zoned residential, yes.

Bill Cameron:

So a house could go up on the property while we're still working there?



Tom Terwall: 57

As long as the parcel is big enough, yes.

Bill Cameron:

Okay.

Jean Werbie:

Is there enough room to do it? We'd still have to maintain setbacks.

Bill Cameron:

I'd have to check on that.

Tom Terwall:

If you were zoned commercial you couldn't. But if you are zoned residential with legal nonconforming use for the business and you have adequate space to build a house, you can build a house.

Bill Cameron:

Okay, thank you.

Tom Terwall:

Anybody else? Thank you. I'm going to close the public hearing. We've been here almost three hours. I can tell you that the Plan Commission has another six hours invested in this process with staff and the Village Attorney who, by the way, is here with us tonight, Jim Baxter, who has been very instrumental in the development of the ordinance. Staff has got probably hundreds of hours in getting us to this point. I want to thank the people for their input, and now I'm going to open it up to comments and questions, and since I've got the floor I'm going to go first.

Jean, I said before I was going to raise the issue about is it State Statute or Village Ordinance that sets the percentage of damage before something can be rebuilt. Is it the State Statute that says that if it's more than 50% destroyed you can't build it?

Jim Baxter:

State law.

Tom Terwall:

Oh, that is a State law. Can a municipality override that? For example, can we say that--sorry to make you get up, Jim, but this has got to go on the tape. If the Village wanted to adopt an

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ordinance that said as long as there's 25% of the value remaining that they could rebuilt? Is that legal?

Jim Baxter:

Tom, that's a very sophisticated question, and I'm about 93% confident that the answer would be no. The possibility would be of a charter ordinance that would locally take precedence over the statute. My supposition is that the zoning statutes are intended to be applied state wide. The courts have held that the procedural aspects carry that sort of intent. I'm not aware of a court holding with respect to the nonconforming use provisions, but I think the answer would be no, that you would not have that sort of flexibility to vary the 50% rule.

Tom Terwall:

Because my concern I guess is I think of the Neihaus's for example. The Village Restaurant has been there, any idea how many, Pete?

Pete Neihaus:

Since the '30s.

Tom Terwall:

I can support the rezoning, but I just don't have a problem saying that if something happens to that building he shouldn't be allowed to continue. And I guess what you're telling me is the only way you can make it legal is to keep him zoned in the business district then.

Jim Baxter:

The case law in Wisconsin is quite strong in not perpetuating nonconforming uses. A nonconforming use is necessarily a compromise between the interest of the Village in changing the zoning and the interest of the individual landowner in maintaining the use. In Wisconsin that compromise is on the fairly liberal side of the possible spectrum. In many jurisdictions nonconforming uses are subject to what's called amortization where there is a specific often fairly short period of time that the use can be continued. After that period of time is over, the remaining life of the use has been amortized and then it has to go away. In Wisconsin so long as the facility doesn't burn down or blow down or something like that, it's allowed to continue indefinitely. The statute and the Village's ordinance as well does impose the 50% rule on rebuilding.

Tom Terwall:

Thanks.

Don Hackbarth:

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I have a couple thoughts here or comment<sup>59</sup> In regard to view number 20, again, the Sheridan Road, on the bottom of 20 you've got the R-4 UHO overlay and then the two R-4's, and then you've got the institutional in there, the church. My question is do we have any ordinance that specifies the acreage necessary to build a church, because that piece is kind of small?

Jean Werbie:

Yes, we do.

Don Hackbarth:

Does this piece of property fit that criteria then?

Jean Werbie:

No. It would be legal nonconforming with respect to the area.

Don Hackbarth:

Then why didn't we include that in the R-4 and just say if they gave up the church use, because everything is R-4?

Jean Werbie:

We could do that, but I guess what we were trying to do is those institutional uses such as churches that are alive and actually used for that particular purpose we felt that we should bring all those I-1 uses into that particular district as institutional uses. It could stay as R-4, but we felt it would be appropriate to move the institutional uses into that district, some of which are nonconforming because of their area. This one is not nonconforming with respect to its width but its area. Do we know what the area of that property is?

Don Hackbarth:

The reason I'm saying that is it puts a burden on other churches if they want to build. I'm going to give Lamb of God as an example because they had to go through a lot of things in order to fit parking, etc., to make it work.

Jean Werbie:

That's a brand new use.

Don Hackbarth:

I understand, but I'm saying what we're seeing is with businesses, and I don't want to push them out and I'm not saying that at all, but what I'm saying is we're pretty restrictive on conditional uses or nonconforming uses, and here's an area where we're--

Jean Werbie:

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We're just doing a quick calculation to see if it meets the minimum requirements.

Tom Terwall:

Jim, you had a comment?

Jim Baxter:

Jim Baxter, Village Attorney. Distinguish between a nonconforming use and a nonconforming parcel. We've been talking about nonconforming uses, and a nonconforming use can't be rebuilt if it burns down and there's a 50% limitation on structural alterations. That's not the case with a nonconforming parcel. A nonconforming parcel or nonconforming building is not nearly so serious as a nonconforming use.

Don Hackbarth:

But, Jim, I see the same principle applying here, because whether it's a business along Sheridan and you're using a residential thought on that property and you come across this, I don't see the distinction. I really don't. Because if we've got an antique shop that's practically across the street and down a little bit and we're seeing the same thing and we're going to put that into a residential area, is that whole area stripped to be residential, and all of a sudden here's this use, what's the difference if it's institutional or commercial antique shop?

Jean Werbie:

First of all, this is a legal conforming lot, because it's a little over an acre in size, and the district requires 10,000 square foot minimums with 75 feet of road frontage, and they have over 225 feet of road frontage and almost over an acre in size. So it's not a nonconforming lot. It meets the minimums. One of the things that we've talked about early in our land use planning process is that typically institutional uses, other than schools, through our long-range planning process, institutional uses are typically not set forth on the comprehensive plan. We don't typically plan out where a new church is going to go because we don't know what denomination may come in and who has got land and where they'd like to acquire land. So institutional uses usually come one by one and we evaluate with them where they need to be located based on traffic counts and availability and parking and proximity to residential areas, and we don't pre-zone institutional areas. What we're doing is going back and zoning all of those currently existing institutional uses into the I-1 District. We don't even pre-zone the school district sites. We wait until they acquire the land for that particular institutional use, the school use, and then we rezone the property. So it's a little bit different than commercial or industrial or residential because we don't necessarily know where they're all going to go, and depending on the size of the parish or the community or the church or whatever you want to call it, they may survive on a much smaller piece due to the size of their community versus a larger church that needs much greater area for parking or accessibility or visibility or access.

Don Hackbarth:

Let me understand that right then. So in other words if an institution comes in, let's say a church, they come in and they say we would like to build in this residential area, they could have it rezoned institutional?

Jean Werbie:

Then we need to look at it and evaluate it. They need a conditional use permit, but we have to evaluate whether or not it's appropriate based on the size of the church, the amount of traffic, the parking, the services. I mean there's a whole bunch of things that we'll look at and we'll make a recommendation whether or not this is going to have a positive impact on the residential neighborhood or a negative impact, and that's how we would evaluate it. Churches actually have some protections now under some new federal laws, but we would still evaluate it just like any other use as to what type of impact it has on the surrounding land uses and whether or not that will be a positive impact or a negative impact.

Don Hackbarth:

I'm sure you're aware of some of the things that are going on down in Illinois or the Chicago area, the churches that are building large tracts of land, even in Milwaukee, and the hassle they're getting from the community, and they're just forcing them out and they're saying, no, this is a residential area. I had another comment. On the part on B-5, it talks about daycare, that it has to be 10,000 square feet minimum. Will that have any impact on home or private daycare, or is that a consideration that should be put in here, because obviously a home daycare does not have 10,000 square feet for daycare.

Jean Werbie:

I can understand that, but this B-5 District is at the freeway, so it's going to be adjacent to these very large, professional offices. What we're finding in other communities, as well as in our own community, that daycare facilities are often needed to help service the high intensity of employment by industrial parks and professional offices. So this is where this size of a daycare is required. Daycares in other districts, in the B-2 District or the B-1 District, the size isn't 10,000 square feet. It's much smaller to accommodate the needs of the service area.

Don Hackbarth:

I'm applying it particularly to residential like private daycare.

Jean Werbie:

It doesn't apply, because in residential you can have in-home daycares as home occupations, or you might come into an area where you're requesting an institutional use, or you might be in a B-2 District, but there isn't a size limitation other than the very minimums that are stated in each of those districts.

Don Hackbarth:

Two more comments. The one-year limit on existing businesses that are zoned R or residential, the way I look at that if we go past 12 months and we'll let them be a nonbusiness for five years, you know dog gone well what they're going to do with that property is it's going to sit and rot, and so somewhere you have to put a limit on it so that if you're not going to use it after a year you're not going to be able to go back in and start using it after three years because it's going to rot and it's going to deteriorate the community.

The last thing I'd like to say is we had a lady stop by today, and she and her husband pretty quickly are going to be moving from Tennessee up here for Jockey. They had a lot of questions. And she said she was the scout to kind of look for someplace to live. She said she had looked across the border and that wasn't satisfactory. She said to her amazement and to her horror she drove through Whitecaps. She was ready to call her husband and say we're not moving. Then she moved through Pleasant Prairie and she became all excited, and she said this is a community that has it on the ball. The development and the way it's developed, she said this is where we want to live and we're comfortable moving into this area because of Pleasant Prairie. So I think we're doing the right thing.

John Braig:

Earlier, Jean, you made reference to the Kohlmeier's on Harrison Road. I see no marking on the map. Were you referring to that property in particular or do they own other property? For that matter, if you're referring to that property as being business, is the used car lot immediately east of their property in the Village?

Jean Werbie:

It's not the entire property. It's only a portion of their property. Again, for some reason it got missed in the notice, but it's shown accurately on the map. Is that correct?

John Braig:

No, I don't see it on the map.

Peggy Herrick:

I'll show you. Let me pull the map.

Jean Werbie:

Do you know what area that is?

John Braig:

No, I don't recall that.

Jean Werbie:

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We can pull it.

Peggy Herrick:

Their property actually exists--I'm going to draw it as blue on this map. Their property currently exists like this. Their house is on Harrison Road. They have a portion that's adjacent to Highway 50. This portion adjacent to Highway 50 is currently zoned B-3, and when we put together the notice, it was missed with all these connections of all these parcels. The portion that is currently zoned B-3 is proposed to be B-2. The portion that their house is on, which actually has the address on Harrison Road, that is proposed to stay residential.

John Braig:

Okay, thank you.

Peggy Herrick:

So this area right in here of their property that's currently zoned commercial B-3 is proposed to go into the B-2 classification.

John Braig:

Thank you.

Tom Terwall:

Anybody else? Any other comments or questions?

Jean Werbie:

I just wanted to mention one thing as a follow up to Don's comments. That is for the legal nonconforming uses that we've been talking about this evening, the burden of proof is on the property owner to prove to us that they're continuing to use the property. We're not going to be running out looking for these, but if it's brought to our attention that it's been sitting vacant for three to five years, then we're going to go back to that original property owner and say present to us the burden of proof that you've been using it actually for a particular use that you have there. So as long as they continue to use it for that particular use as previously zoned, then there shouldn't be a problem.

The staff is recommending approval of the Zoning Text and Map Amendments as presented this evening. Can I back up for just one minute. We did receive two other letters and the Plan Commissioners have them, and I don't see anybody here representing them this evening, and I just wanted to make them as part of the public record. The first one is from Bud DeBoer. It's dated April 24, 2002. They are objecting to the rezoning of their property. They're on Springbrook Road, 91-122-134-00070. I have not had a chance to talk to Bud. I'm not sure if

anyone on my staff has talked to him with respect to his particular property, but the property has basically been sitting vacant on and off for the last several years. It's my understanding there are renters maybe upstairs on his property, but the back pole barn and the front building had been sitting vacant, and he doesn't live here in Wisconsin. He kind of travels around in his RV and most of the time I think he's in the southwest, but he had some concerns and objections to the downzoning of his property.

The second one is from the Wokwicz Law Offices. They're representing John Cina who has property at 2518 Springbrook Road, and they had also some concerns regarding the downzoning. They have a commercial unit with two apartment units as part of it, and they are concerned that the grandfathered use would be lost if the owner was unable to rent the unit for one year. They are concerned about the downzoning to R-6 and that he's relying on this property for his uses. He goes into a great deal of explanation regarding property values and things like that. You've all seen this and it's been in part of your packets, so I just wanted to bring that to your attention as well.

Mike Serpe:

I feel good about the way the hearing went tonight. I want to compliment staff and Jean and Jim for a job well done. Two things that just stick with me and bother me a little bit. One I know will be resolved and that's the Webb's. I think we'll be able to come to resolution as to where their business is going to locate. The other is the Village Restaurant. That does bother me. Through no fault of theirs a semi could be going down southbound on Highway 32, lose control or maybe some deranged driver driving and just end up going right through that building and that person is out of business now for the rest of his life. I just think there has to be some way that if something happens through no fault of their own or whatever that the Village could work with these people to put them back into business or keep their business going.

Tom Terwall:

I've been thinking about the same thing. I guess the only thing they could do is they could petition for a variance to rebuild that building, is that correct?

Jean Werbie:

Not for use. Jim, can you help me out on this one?

Jim Baxter:

No, if the facility is a nonconforming use and a wayward truck driver destroys the building, that's it. Their recourse at that point would be to come to the Plan Commission or the Village Board and seek a rezoning.

Don Hackbarth:

So that's the option.



Tom Terwall:

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I'm not sure we're going to be on the Board forever, but I can tell you I would look very favorably in a situation like that. Anything else? What changes did we make?

Jean Werbie:

That's what I was just about to read. First of all I'm recommending that all of the edit changes that Peggy read into the record early on this evening with respect to the districts, I'm recommending that all those edit changes be made and clean copies of all the ordinances be forwarded onto the Board. With respect to the map, the property at 1501 116<sup>th</sup> Street identified as 934-123-312-0011 owned by Mr. McClosfsky, we're recommending that that be put into the R-4 AGO District. The second one is address of 2322 Springbrook Road, Tax Parcel 914-122-134-0120, Mr. Early, was the property owner, we're recommending that that be R-6 AGO. The next is 924-122-193-0161 owned by WisPark LLC, we're proposing that that go into the B-5 District as opposed to the B-4. Then there were two other changes that we had mentioned early as part of the staff comments, and that was the property owned by Charles and Sharon Bishop with respect to the B-2 areas, and I read all those tax parcel numbers into the record. Then the second one is the one that Peggy just talked about with Alan and Judith Kohlmeier on Harrison Road, that the property adjacent to Highway 50 be put into the B-2 and the balance of their land in the back still remain in the residential classification. So those are all of the changes we recommended as we discussed this evening.

Tom Terwall:

If there's no further questions, I'll entertain a motion.

**SERPE MOVED THAT THE PLAN COMMISSION APPROVE THE CONSIDERATION THE FOLLOWING ZONING TEXT AND MAP AMENDMENTS: TO AMEND SECTION 12.11, RELATING TO SITE AND OPERATIONAL PLAN REVIEW; SECTIONS 12.22-1, 12.22-2, 12.22-3, 12.22-4 AND 12.22-5, RELATING TO THE B-1 THROUGH B-5 BUSINESS ZONING DISTRICT REGULATIONS, RESPECTIVELY; SECTION 12.28-5, RELATING TO NON-CONFORMING USES, LOTS AND STRUCTURES; SECTION 12.29, RELATING TO CONDITIONAL USES; AND APPENDIX A, RELATING TO DEFINITIONS; AND TO REPEAL OF SECTION 12.26-3 ENTITLED AEO, ADULT ENTERTAINMENT OVERLAY DISTRICT; AND TO CONSIDER EXTENSIVE AMENDMENTS TO THE VILLAGE ZONING MAP SUBJECT TO THE EDIT CHANGES AS MENTIONED EARLIER AND SUBJECT TO THE FOLLOWING CHANGES: THE PROPERTY AT 1501 116<sup>TH</sup> STREET IDENTIFIED AS 934-123-312-0011 OWNED BY MR. MCCLOSKEY, WE'RE RECOMMENDING THAT THAT BE PUT INTO THE R-4 AGO DISTRICT. THE SECOND ONE IS ADDRESS OF 2322 SPRINGBROOK ROAD, TAX PARCEL 914-122-134-0120, MR. EARLY, WAS THE PROPERTY OWNER, WE'RE RECOMMENDING THAT THAT BE R-6 AGO. THE NEXT IS 924-122-193-0161 OWNED BY WISPARK LLC, WE'RE PROPOSING THAT THAT GO INTO THE B-5 DISTRICT AS OPPOSED TO THE B-4. THEN THERE WERE TWO OTHER CHANGES THAT WE HAD MENTIONED EARLIER AS PART OF THE STAFF COMMENTS, AND THAT WAS THE PROPERTY OWNED BY**

**CHARLES AND SHARON BISHOP WITH RESPECT TO THE B-2 AREAS, AND I READ ALL THOSE TAX PARCEL NUMBERS INTO THE RECORD. THEN THE SECOND ONE IS THE ONE THAT PEGGY JUST TALKED ABOUT WITH ALAN AND JUDITH KOHLMEIER ON HARRISON ROAD, THAT THE PROPERTY ADJACENT TO HIGHWAY 50 BE PUT INTO THE B-2 AND THE BALANCE OF THEIR LAND IN THE BACK STILL REMAIN IN THE RESIDENTIAL CLASSIFICATION. SECONDED BY KOESSL.**

Jean Werbie:

As part of that recommendation, the conditional uses section, Appendix A definitions and Site and Operational Plan section of the text would need to be tabled until a subsequent meeting with notices to be sent after we've made our final staff recommendations and revisions.

Tom Terwall:

I think we should take a separate motion on that item. So there's been a motion and a second to send a favorable recommendation to the Village Board to approve the General Zoning and Floodplain Zoning Ordinance Amendments as presented at the public hearing, including the amendments that were read tonight.

**MOTION CARRIED TO APPROVE.**

Tom Terwall:

Then finally, we need a motion to table the items related to proposed amendments for Site and Operational plan and amendments for Appendix A related to definitions and conditional uses.

**SERPE MOVED THAT THE PLAN COMMISSION TABLE THE ITEMS RELATED TO PROPOSED AMENDMENTS FOR SITE AND OPERATIONAL PLAN AND AMENDMENTS FOR APPENDIX A RELATED TO DEFINITIONS AND CONDITIONAL USES. SECONDED BY BRAIG. MOTION CARRIED TO TABLE.**

Jean Werbie:

We also have to make sure that there's a motion that it's clear that we're repealing Section 12.26-3 entitled AEO Adult Entertainment Overlay District, and to amend Section 12.28-5 relating to nonconforming uses, lots and structures. So I'm not sure if your first amendment included those two sections as well, so I'd like you to do that.

**BRAIG MOVED THAT THE PLAN COMMISSION REPEAL SECTION 12.26-3 ENTITLED AEO ADULT ENTERTAINMENT OVERLAY DISTRICT, AND TO AMEND SECTION 12.28-5 RELATING TO NONCONFORMING USES, LOTS AND STRUCTURES. SECONDED BY SERPE. MOTION CARRIED TO REPEAL SECTION 12.26-3 AND TO AMEND SECTION 12.28-5.**

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

Jean Werbie:

Under such other matters, I would like to take the opportunity personally thank Peggy on my staff and Jim Baxter for their tireless efforts in going back and forth and going through these amendments/ I just want to personally thank them both for that effort, along with Tom Shircel.

Tom Terwall:

Thank you.

James Bandura:

I agree with you and I agree with the staff and the way you put it together as far as it was presented to us for our decision here. I think it was excellent. Thank you.

Tom Terwall:

I also want to thank the Plan Commission both for tonight but also for the many hours that you've put into this.

**5. ADJOURN**

Tom Terwall:

I'll entertain a motion to adjourn.

**HACKBARTH MOVED THAT THE PLAN COMMISSIO ADHOURN THE APRIL 29, 2002 PLAN COMMISSION MEETING. SECONDED BY BANDURA. MOTION CARRIED TO ADJOURN.**