

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
PLEASANT PRAIRIE SEWER UTILITY
9915 - 39th Avenue
Pleasant Prairie, WI
January 16, 2017
6:00 p.m.**

A regular meeting of the Pleasant Prairie Village Board was held on Monday, January 16, 2017. Meeting called to order at 6:00 p.m. Present were Village Board members John Steinbrink, Kris Keckler, Steve Kumorkiewicz, Dave Klimisch and Mike Serpe. Also present were Michael Pollocoff, Village Administrator; Tom Shircel, Assistant Administrator; Jean Werbie-Harris, Community Development Director; Kathy Goessl, Finance Director; Dave Smetana, Police Chief; Doug McElmury, Fire & Rescue Chief; Matt Fineour, Village Engineer; John Steinbrink Jr., Public Works Director; Dan Honore', IT Director; Sandro Perez, Inspection Superintendent; Craig Anderson, Recreation Director and Jane M. Romanowski, Village Clerk. No citizens attended the meeting.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

Mike Pollocoff:

Tonight we have Martin Luther King Memorial Day, and we have a short presentation that we'd like to start the meeting with.

[Martin Luther King Speech Played]

Mike Pollocoff:

That was a speech that Martin Luther King made in the City of Memphis. It was the night before he died, and he was making that speech on behalf of the city's sanitation workers who were on strike. And it seems being a municipal government it would be an irony or something we live with every day as far as the history of the sanitation workers and municipal rights and municipal labor unions were that was being addressed at that time in history. So that's all I have for the memorial tonight.

John Steinbrink:

Thank you, Mike.

3. ROLL CALL

4. MINUTES OF MEETINGS - DECEMBER 5 AND 19, 2016

Dave Klimisch:

Move approval.

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Michael Serpe:

Second.

John Steinbrink:

Motion by Dave, second by Mike. Any discussion?

KLIMISCH MOVED TO APPROVE THE MINUTES OF THE DECEMBER 5 AND DECEMBER 19, 2016 VILLAGE BOARD MEETINGS AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY SERPE; MOTION CARRIED 5-0.

5. CITIZEN COMMENTS

Jane Romanowski:

One signup tonight, Dan Szczap.

Dan Szczap:

My name's Dan Szczap. I'm with Bear Development. And we have two items on the agenda tonight, A and B. And I just want to offer some clarification before there was too much discussion per Jean's recommendation. The Plan Commission approved our request with the condition that we incorporate into the neighboring subdivision Tobin Creek. I've done some research, and we have zero objection to meeting and complying everything in the declaration. However, our property was specifically excluded and to amend the declaration involves a tremendous amount of legal maneuvering. And I'm not sure it really gets the goal of the project done which is to comply with the building restrictions which, as I said before, we have zero objection to doing that. We would voluntarily put deed restrictions on the property that would comply with the declaration of Tobin Creek. It's just that we cannot -- the mechanics of incorporating are extremely difficult. That's all I have.

John Steinbrink:

All right.

Jane Romanowski:

No other signups tonight, Mr. President.

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John Steinbrink:

Anyone else wishing to speak under citizens' comments? Hearing none I'll close citizens' comments.

6. ADMINISTRATOR'S REPORT

Mike Pollocoff:

Mr. President, tonight we have with us Craig Anderson in the back here with the hand up. I'm glad he's back there because he was contagious last week. Craig is our new Director of Recreation. And he comes most recently to us from the Rock up in Franklin in Waukesha. And previously you were in Mukwonago or Muskego? Muskego. He has a long record of municipal government and recreation in Wisconsin. And we look forward to having him working with us at RecPlex. Welcome.

John Steinbrink:

Thank you.

7. NEW BUSINESS

A. Receive Plan Commission recommendation and consider Ordinance #17-01 to amend the 2035 Comprehensive Land Use Plan for the construction of a single family home on vacant property located at the northwest corner of STH 32 (Sheridan Road) and 116th Street.

John Steinbrink:

And do you want to take B with that, too, Jean?

Jean Werbie-Harris:

Yes, please.

B. Receive Plan Commission recommendation and consider Ordinance #17-02 to rezone the vacant property located at the northwest corner of STH 32 (Sheridan Road) and 116th Street from B-1, Neighborhood Business District to R4.5, Urban Single Family Residential District, for the construction of a single family home.

Jean Werbie-Harris:

Mr. President and members of the Board, this is a request of Dan Szczap from Bear Development. And it's on behalf of the vacant land that's at the northwest corner of Highway 32

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and 116th Street. There are two requests this evening. The first is the Comprehensive Plan Amendments, Ordinance 17-01 and the Zoning Map Amendment Ordinance 17-02. Specifically, the property in question is identified as Tax Parcel Number 93-4-123-303-0223. What they are requesting to do is to develop one single family home on this particular property. In order to do that, they are requesting to amend the Comprehensive Land Use Plan Map 9.9 to change the Park, Recreation and Other Open Space land use designation to a Low-Medium Density Residential land use designation, and to rezone the property from the B-1, Neighborhood Business District, to the R-4.5, Urban Single Family Residential District.

This property is identified and known as Outlot 3 as part of the Tobin Creek Subdivision and initially was intended to be developed as a neighborhood commercial property. However, the developer is requesting to modify that request and has felt that this is not really appropriate from a marketing standpoint, but rather a single family home on this particular lot is what they would like to market it for. There is an existing substation, a telephone substation, that's located on the west side of the property, and that would remain in an existing easement. And many of the trees on the property would remain as well, again, to help create some of that buffer from the adjacent Highway 32.

There are wetlands to the north of this property and then Conservancy and outlot further to the north. To the west of this property is that single family Tobin Creek Subdivision. A separate driveway would be allowed to the property for the new single family home. However, there would be no direct other access to Highway 32. And there would need to be a separation spacing between the driveway and that nearby intersection.

As Mr. Szczap had indicated and at the Plan Commission meeting there was some discussion with respect to whether or not the Tobin Creek Subdivision Declaration of Restrictions, Covenants and Easements would be incorporated or be a part of this particular property. And after discussion with not only the developer's representative but also our Village attorney, we find that it would be best if this particular outlot would not be included in that original set of declarations. Again, there were some amendment restrictions that may likely prohibit as the majority of the folks that live in that development would have to approve of this lot and then sign off as well as their mortgage companies so that they would have to bring that lot into that association.

And what we discussed is that if the overall declarations with the restrictions and covenants regarding building and land use and storage and all the things that are a part of those regulations are incorporated as separate deed restrictions that get recorded on this property, I think it would serve the same purpose. Bear Development actually acts like the ACC initially until that home is built on that particular property.

So this is a matter that went before the Village Plan Commission at its last meeting. There was some discussion with some of the neighbors in the association so that they had some comfort that the building would occur similar to those that are restrictions that are allowed in the Tobin Creek Subdivision. The staff and the Plan Commission recommended approval subject to the comments

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and conditions, one of which is this modification that these separate deed restrictions be recorded on the property for its future use and building setbacks and so on and so forth.

Michael Serpe:

Dan, this is going to be a spec home on Bear's part?

Dan Szczap:

Dan Szczap, Bear Development, 4011 80th Street, Kenosha. At this point I don't know. I think it's going to be marketed as the owner would probably -- the assumption is that it would just be marketed as a vacant home site. Bear Homes may want to take that and build a spec, but I'm not involved with that.

Steve Kumorkiewicz:

I've got a question. Where is the access to the property going to be? It's definitely not going to be on Sheridan Road, it's going to be on 116?

Dan Szczap:

It's going to be on 116th. There's an existing culvert and curb cut that accesses that acre, 1.3 acres that is used by the utility to access their substation. We are planning on using the same access point because that's an open ditch. I might be just as easy to use the same access point.

Steve Kumorkiewicz:

Okay, thank you.

Dave Klimisch:

I've got two questions. Jean had indicated that there'd be a line of trees left up as a buffer between Sheridan and the property. Is that by regulation, or is that just something you're going to do? Are we passing an ordinance that a certain amount of trees have to stay on property?

Jean Werbie-Harris:

We are not. In my discussions with the developer and his agent they indicated that since it's abutting to a state trunk highway it would be in everyone's best interest if there would be some type of buffering adjacent to the state highway as opposed to putting a fence along that particular area. The shrubbery, the trees will provide a better opportunity for the filtering of noise, dust, debris, everything that's coming from that state highway.

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Dave Klimisch:

A future property owner could clear those if they wanted, or is that part of the deed restrictions?

Jean Werbie-Harris:

Unless we put a deed restriction with respect to that, and I can discuss that with the developer.

Dan Szczap:

We'd volunteer to a reasonable restriction to tree clearing. I mean it's to our benefit to keep them, a thick cover between 116th and Sheridan Road. Our vision was a single family home in the middle of the lot in the middle of that parcel thus opening everything else [inaudible].

Dave Klimisch:

Then a follow up. Do we have plans for a roundabout at that intersection at some point? That's a different site that might be a rotary?

Mike Pollocoff:

I think if the state was to, and they don't have any plans within this six year period. They plan in six year increments. If they make improvements to Highway 32 they'll be required to do a roundabout analysis of that intersection before any improvements would be made I think. And if that analysis indicated one should be considered that then they would have to take steps to do that. One hasn't been identified.

Dave Klimisch:

Thank you.

Steve Kumorkiewicz:

Mike, you're talking about a roundabout. I would be opposed to a roundabout in Highway 32 because a roundabout in those areas with high traffic it's pretty hard to get in.

Mike Pollocoff:

I think if a roundabout works on 165 and 39th a roundabout would easily work at 32 and 116th Street. I don't think the traffic counts would be similar at all. I think maybe a lot less. But that's what that analysis would show.

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John Steinbrink:

If you go to Milwaukee in that area they have multiple lane roundabouts with a lot more traffic than this highway area.

Mike Pollocoff:

Right. Look how much traffic there was at H and C or at H and Bain. I mean I don't think it's similar.

John Steinbrink:

Jean, will the neighbors be notified that were in attendance with the change that's going to be here with the homeowner's association not included?

Jean Werbie-Harris:

I will be notifying the association president. But I don't know all the neighbors that were here, but I will notify the association.

John Steinbrink:

Because the opinion I had sitting in the audience was the Planning Commission had kind of asked that the wishes of the neighbors be granted as far as making this lot part of the homeowners association and would be paying dues into them and everything.

Jean Werbie-Harris:

I think that would be a little problematic with respect to how this property drains as it does not drain that way so they're not responsible for the stormwater management. It's up to the Board if they want me to do any further investigation. But know that 75 percent of the property owners would need to approve an amendment to the declarations. And that may also include the mortgage companies as well as there would need to be a correction and an amendment to the declarations at the Register of Deeds and removal of the Outlot 3 as a business area and then put it into those declarations. I got the impression from the two people that I talked to they were more concerned about what could be done on that property so that it doesn't diminish property values for their properties.

John Steinbrink:

Okay. Steve?

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Steve Kumorkiewicz:

You know, I still feel that regardless what procedure you're going to follow that property should be added with the covenants in the neighborhood.

Dan Szczap:

In speaking with the neighbors that approached me after the meeting it seemed the intent was and the cause of concern was that we'd follow the building restrictions that were declared in the covenants and restrictions for Tobin Creek. We're completely fine with that. I mean we can copy and paste the building restrictions and all the covenants that have to do with use and design and what have you. No issues there. It's more the mechanics of incorporation and the fact that this property is very much independent from the rest of the subdivision as far as stormwater, common areas and whatnot.

So it's kind of a different animal. I mean, as I said, if the concern is design requirements or setbacks or minimum home size or fence design or barns, anything like that, no animals, we're good with all that. It's just we want to avoid negotiating with 75 percent of the people in the subdivision to build a single family house that would meet the requirements of the declarations. So it's a matter of how we get this done. If the intent was to abide by those restrictions we can do that.

Michael Serpe:

I think that's part of it, Dan. But I think also the homeowners may be thinking about enforcement of some of the covenants that they may have in their association with maintenance to the property and everything else. They would have some control over seeing that that's taken care of. I agree, I don't think you're going to build a home that's going to be objectionable to the neighborhood. I don't think that's going to happen. But I think it's everything else that goes along with the association. I don't know what the dues are, if they're monthly, annual, I don't know what they are. I don't know how much they are either. And I don't know that that's a big concern of theirs. But I think some of the concern is, like you said, about the architectural thing and also future control over things happening on that property that would be objectionable.

Dan Szczap:

With that not only the building design and the building requirements but also the restrictive covenants on everything else we can incorporate it into a deed restriction that mirrors this outside of like the operations of the association. We don't contribute necessarily to any of the common areas or benefit from any of the common areas. And if it is an HOA fee I'm sure it's negligible, and it's not really the concern of us that we're trying to avoid dues. It's just that the way this is written we actually have to go and get approval from 75 percent of those people, and I just don't see that happening anytime soon.

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Michael Serpe:

If it doesn't happen then it's to your advantage. But if they do approve it then you're going to be a part of it, right? If you have to get a vote of 75 percent of the people in the homeowners association to get you a part of this and they approve it you'll do it, is that right?

Dan Szczap:

I can't make that on behalf of the owner. What I'm worried about is the process of gaining those 75 percent of the homeowners in Tobin Creek and whatever mortgage holders that we have as far as 75 different banks. As I understand it that's a requirement of changing the declaration. So if I could X out a few of these paragraphs that I feel like I'm very concerned about just getting this done I would do that. I mean there's nothing in there as far as a land use or a design requirement that we have any issue with at all. It's just that I don't think getting this incorporated is really feasible.

Michael Serpe:

If it comes down to that it's virtually impossible to do or difficult to do, I'd like to be able to take you at your word. But we kind of left these people in the audience on Monday night with the assumption that this was going to be a part of their association. Jean, if it's not too much work I just would like to make sure that what Bear is saying is going to happen, that it's too difficult or can't do it rather than just -- you know what I mean?

Steve Kumorkiewicz:

I'd like to table this [inaudible] next Board meeting and get a chance to get it right.

Michael Serpe:

I don't -- well --

John Steinbrink:

Jean, let me ask a question. When this was a commercial property what were the restrictions on it?

Jean Werbie-Harris:

There were none.

John Steinbrink:

Nothing tying it to the homeowners association?

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Jean Werbie-Harris:

No, they would have just followed the Village rules and regulations.

John Steinbrink:

So what they're saying is they're offering to abide by all the restrictions and whatever else would be in the homeowners association on this lot less the paying of the HOA fees. But then they wouldn't get any of the benefits of being a part of the association. I'm not sure what those benefits are, but.

Jean Werbie-Harris:

That's correct.

John Steinbrink:

Okay.

Dave Klimisch:

With a future property owner would they be able to change the restrictions like an HOA could change their own restrictions, and who would enforce it at some future date?

Jean Werbie-Harris:

What they could do is similar to what the general provisions state is that the restrictive covenants could be changed but only with the approval of the Village. So if there's some type of restrictive covenant from that perspective so they would need the original developer's approval, but they'd also need approval by the Village before they could be changed. So that way a property owner couldn't just change those restrictions.

Dave Klimisch:

Okay, and at some point the developer may not be here but then it would fall to the Village?

Jean Werbie-Harris:

Correct.

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Dave Klimisch:

Okay. And then so if that property was not being held to the standards of the restrictions then either Bear or the Village would serve as the enforcement agent?

Jean Werbie-Harris:

The Village has the right but not the obligation now to enforce those restrictions in most of the subdivisions in the Village. And that's how these are written as well.

Dave Klimisch:

Okay, that makes sense. So in reality we don't enforce it because there's an HOA underneath us?

Jean Werbie-Harris:

Right.

Dave Klimisch:

Is there any other property in the Village that's like this that has restrictions without an HOA?

Jean Werbie-Harris:

Many properties in the Village, but not all of them have the Village as the enforcer.

Dave Klimisch:

Okay.

Dan Szczap:

If I could add. This might be a stretch, but one other thing I was concerned about reading the declaration is that when the developer owns one or more lots in the subdivision we have the right of the ACC. Saying if Tobin Creek Ventures owns one of those parcels we take control of the ACC. I don't think anyone wants that. We certainly don't want it. So as the developer I'd have to go to the subdivision and say we are the developer of the subdivision, we want to be in your HOA. But guess what in your HOA when the developer owns one lot he is now the ACC. So I find that's a tough argument to make, 75 percent to ask people, hey, let me part of your HOA and then I also take over control of the ACC. So as I said there's a lot of moving part here. But at the end of the day if the intent is to comply with those restrictions and covenants we're all good with it.

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Dave Klimisch:

There's probably about 120 houses in Tobin Creek. So if I understand this right you're saying in order to make this property part of the HOA you'd have to get the 75 percent approval, open up 100 and some odd mortgages, get all those lenders to say yes, refile at the county. They'd have to change the deed that's filed on all the properties that have a mortgage.

Dan Szczap:

All for the purpose I think of the general intent and the concern of folks is that we comply. So we'd like to comply with it. We volunteer to comply with it. We simply want to build a home here. It's just that this declaration creates a fairly significant hurdle in that end goal.

Dave Klimisch:

In my opinion it does seem like a fairly high burden to incur to develop a lot to modify 100 and some odd mortgages.

Kris Keckler:

Is there any chance that this would be replicated by any other adjacent properties - this situation could present itself to any other new developments that may come along would find themselves in the same situation?

Jean Werbie-Harris:

Well, for the most part the existing developments that we have in the Village incorporate all of the outlots. In this particular case, this particular outlot was expressly prohibited because it was intended to developed as commercial.

Kris Keckler:

So this is the only at least for this particular area?

Jean Werbie-Harris:

I can't think of another one we have that is similar to this right now. We have others, like I said, that have other outlots intended to be developed for residential purposes and are subject to the covenants and restrictions. But this one expressly prohibits it.

Michael Serpe:

Jean, did I understand last Monday night that this parcel was a part of Tobin Creek?

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Jean Werbie-Harris:

It is part of Tobin Creek, it is. In fact, it was developed as an outlot on the subdivision plat to be developed for commercial purposes. But it's expressly prohibited in the restrictive covenants as being included and a part of the restrictive covenants and the association. Again, the intent was they were looking to develop it initially as commercial.

Michael Serpe:

I'd move approval of Ordinance 17-01.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Mike, second by Steve. Any further discussion?

Jean Werbie-Harris:

So to clarify you're looking for the developer to prepare restrictive covenant language that mirrors or is identical to the existing language that restricts items such as land use, development, building size, all of the areas that are covered with the declarations that pertain to general purposes and conditions with respect to the development.

Dave Klimisch:

Including a tree buffer on Sheridan.

Michael Serpe:

And Bear made that offer anyway, is that right?

Jean Werbie-Harris:

I'm sorry?

Michael Serpe:

Bear made that offer anyway to do that.

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Jean Werbie-Harris:

Correct.

Kris Keckler:

What would be a reasonable time line to have that at least filed in some manner that would be binding so that it could be expressed to the homeowners association?

Dan Szczap:

If I could have in a Word document it would take five minutes.

Kris Keckler:

Copy and paste, got you.

Dan Szczap:

I just want to clarify that we'll comply with the declaration covenants, restrictions that are from Tobin Creek without the requirement of incorporating. That's the motion?

--:

Mm-hmm.

Dan Szczap:

Okay. If I had the Word document it's just a couple sections.

Kris Keckler:

That's fine. I just didn't know if you had to take it back to Bear.

John Steinbrink:

We have a motion and a second. Since there's no further discussion, a roll call vote is requested.

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SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDTION AND ADOPT ORDINANCE #17-01 TO AMEND THE 2035 COMPREHENSIVE LAND USE PLAN FOR THE CONSTRUCTION OF A SINGLE FAMILY HOME ON VACANT PROPERTY LOCATED AT THE NORTHWEST CORNER OF STH 32 (SHERIDAN ROAD) AND 116TH STREET, WITH THE INCLUSION OF THE CURRENT TOBIN CREEK SUBDIVISION DECLARATIONS, COVENANTS AND RESTRICTIONS; SECONDED BY KUMORKIEWICZ; ROLL CALL VOTE: KECKLER – AYE; KLIMISCH – AYE; SERPE – AYE; STEINBRINK – AYE; KUMORKIEWICZ – AYE; MOTION CARRIED 5-0.

Dan Szczap:

Thank you very much.

Dave Klimisch:

I move approval of 17-02.

Michael Serpe:

Second.

John Steinbrink:

Motion by Dave, second by Mike. Further discussion?

KLIMISCH MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #17-02 TO REZONE THE VACANT PROPERTY LOCATED AT THE NORTHWEST CORNER OF STH 32 (SHERIDAN ROAD) AND 116TH STREET FROM B-1, NEIGHBORHOOD BUSINESS DISTRICT TO R4.5, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, FOR THE CONSTRUCTION OF A SINGLE FAMILY HOME, WITH THE INCLUSION OF THE CURRENT TOBIN CREEK SUBDIVISION DECLARATIONS, COVENANTS AND RESTRICTIONS; SECONDED BY SERPE; MOTION CARRIED 5-0.

- C. Receive Plan Commission recommendation and consider Ordinance #17-03 to amend the 2035 Comprehensive Land Use Plan to change the Community Commercial land use designation to the Low-Medium Density Residential land use designation on properties located at 1100 and 1106 126th Street.**

Jean Werbie-Harris:

I'd ask that the next item, Item D, be taken up at the same time with separate action.

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D. Receive Plan Commission recommendation and consider Ordinance #17-04 to rezone the properties located at 1100 and 1106 126th Street from B-2, Community Business District to R-6, Urban Single Family Residential District.

Jean Werbie-Harris:

I think that might be a typo. I think it might be 17-04. Jane could check that. 17-04, yes. Thank you. So the two items before you are the request of Attorney Piero Bertolotto of Rizzo & Diersen on behalf of Gary Leindecker and John Pickerd, owners of the properties at 1100 and 1106 126th Street. They're requesting two items, a Comprehensive Plan Amendment, Ordinance 17-03, and ordinance for a Zoning Map Amendment Ordinance 17-04. Specifically then the owners of the properties identified as Tax Parcel Numbers 93-4-123-314-0095 and 93-4-123-314-0100 are requesting the amendments so that their existing homes will be considered legal conforming uses, therefore allowing the homes to be expanded or to be rebuilt pursuant to the R-6 Single Family Residential District.

The existing single family homes are considered legal nonconforming since the residential uses are not allowed in the B-2 District that they're currently in. Being a nonconforming use there are limitations as to the amount of structural alterations, additions or repairs which can be made to these nonconforming uses. With any nonconforming use if the buildings are ever damaged or destroyed or the cumulative amount of the structural alterations exceeds 50 percent of the assessed value, then residential buildings would need to revert to a conforming commercial use.

The two property owners got together and were represented at the Plan Commission meeting by an attorney that has made this request on their behalf. The first change, again, is to change that last use designation on Map 9.9 by adding an Urban Reserve Land Use designation over the existing Commercial Land Use designation. So what we're saying is that the ultimate use on this property some day could be a Commercial Land Use designation. However, at this point we are looking to rezone these two properties out of the B-2 District and put them into the R-6, Urban Single Family Residential District with a UHO Overlay District.

This is a matter that was before the Village Plan Commission at their last meeting. And the staff recommends approval as presented. As you can see there's quite a bit of vacant land to the north and to the east and to the south of these two single family homes. All of this land primarily is in a wooded designation and is also covered by wetlands. So the areas in those directions would likely not develop.

Dave Klimisch:

Jean, the properties to the west -0085 and -0090 --

Jean Werbie-Harris:

Yes.

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Dave Klimisch:

They're not part of this?

Jean Werbie-Harris:

No, they are not. And they're zoned currently commercial, and they are serviced by municipal sanitary sewer and water on Sheridan Road. And they are not within a Conservancy designation. Again, what we intend to do is leave that underlying Commercial Land Use designation in the Land Use Plan for this. But by placing an urban reserve area over it and rezoning it, we're allowing these two homes to be legal conforming uses, understanding that at some point in the distance future that these homes could be modified and placed into that commercial designation again.

Dave Klimisch:

And then if they were destroyed they could be built back as residences.

Jean Werbie-Harris:

Correct.

Dave Klimisch:

I move approval of 17-03.

Steve Kumorkiewicz:

That's 17-03 or -04 because the other one is -05.

John Steinbrink:

We're starting with -03.

Steve Kumorkiewicz:

Okay.

John Steinbrink:

Motion by Dave, second by --

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Steve Kumorkiewicz:

Second.

John Steinbrink:

Steve. Question, comment?

Mike Pollocoff:

Jean, what was the status of the road that we're -- we'll be leaving the road in whatever condition it is. Or are we saying that there's going to be another house or structure put on there that -- I mean right now I'm not even sure it's gravel. I think it's probably just dirt or old gravel there. And it's in a public right-of-way. I mean in most cases we would require that somebody make some improvements to this before they be turned loose, especially that one new lot that we're creating for a house.

Jean Werbie-Harris:

So we're not creating any new lots. The two lots that currently exist are combined as one, and it has the single family home and garage on it. That's the first two. And the second lot to the east has a second family home on it as well. So we haven't changed anything with respect to the use or purpose or designation of 126th Street. If they intend to apply for some type of building permit to try to subdivide that parcel off, at that time we can identify that there needs to be some additional improvements to that road. But at this time there is no land division proposed and no third house that's proposed at that location. And certainly if they choose to do a land division we can trigger the land division ordinance so that there is a substantial enough road for additional traffic.

Mike Pollocoff:

The zoning ordinance doesn't require that they have an accepted roadway in front of their property?

Jean Werbie-Harris:

Currently there is an existing 126th Street road there.

Mike Pollocoff:

It's a right-of-way. It's not a Village accepted road.

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Jean Werbie-Harris:

I guess I can't respond to that. I can tell you that it's in the road right-of-way. I don't know that it's a road. I think we maintain it and plow it. I'd have to ask John about that. But at this time they're not asking for any type of land division. At the time if they would ask for a land division at that time we could require additional road improvements.

Steve Kumorkiewicz:

But there are wetlands east of 126 [inaudible].

Jean Werbie-Harris:

Correct there are some wetlands to the east.

Mike Pollocoff:

They've motioned to go ahead with this, and I think that's probably okay. But at some point -- these are things that just catch up with us. And if we perpetuate substandard condition to keep going on these are the ones that end up like 109th where we can never get them resolved in that we grant some entitlements to a property owner without having to bring things up to spec. So at that point it ends up being the public's problem. Just from looking at this I'm not sure it gets a lot of maintenance to be honest with you other than clearing the snow out of there. I'm not sure if we throw some gravel down now and then.

Michael Serpe:

I'm relatively sure that somebody is going to be coming forward with some plans for building a couple houses over there.

Jean Werbie-Harris:

So the rezoning or the action taken by the Board could address that currently 126th is considered a substandard roadway. And if any future land division should occur or any change in land use is proposed then this road would have to be brought up to Village standards.

Mike Pollocoff:

Or additional permits. I think if someone is going to pull a permit for a house I'd be hoping that we wouldn't issue a permit for a new house on a dirt road.

Jean Werbie-Harris:

Well, they wouldn't be able to because there are two homes there now and there's two lots.

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Mike Pollocoff:

But if they took one down and put one up.

Dave Klimisch:

The properties on the south side are those able to be developed or is that wetland? 156, 154, 152.

Jean Werbie-Harris:

At this time there's no wetland delineation directly to the south of these lots. The wetlands are to the east and south of those lots as well.

Kris Keckler:

Do we know what the little substructure is on the lot just to the east of that, 01, 02 on the upper left corner, the northwest corner?

Jean Werbie-Harris:

It looks like a shed.

Kris Keckler:

That's part of that entity so it's not part of another lot?

Jean Werbie-Harris:

It could be part of another lot. I don't know that. Or it could be just that it was constructed on somebody else's property.

Kris Keckler:

Okay, because the road in question ends before that so I don't know if that's an issue. But I do like Mike's suggestion that we proceed with this approval, but the notion that we need to address the road as well.

Jean Werbie-Harris:

Again, they're just asking for a land use change and a zoning change to make their properties legal conforming. They're not asking for a land division. They're not asking to build a new home. They're not asking for any other changes in land use, just to bring their homes into a conformance status.

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Kris Keckler:

Certainly.

Steve Kumorkiewicz:

Anything that we can do so we don't have another 1099th Avenue situation here in the future.
[Inaudible]

Jean Werbie-Harris:

Again, the land division ordinance is the ordinance that triggers new improvements to existing roads. Whether this is a driveway or road it's been accepted by the Village or the Township for years. It's a pre-existing situation.

Kris Keckler:

Is this outside an agenda item because we're worried more about the zoning of the existing properties and not so much the road structure?

Mike Pollocoff:

Whether or not the zoning ordinance permits us to approve a zoning for a property that has substandard improvements and maybe it does. But I think it's just something that needs to be culled out so the subsequent buyers or development owner knows that this road is substandard and the Village is maintaining it to the extent that we plow it or needs some gravel. But it needs more than that.

Kris Keckler:

So we could pass the motions or approve those as stated then ask for an upcoming agenda item to address the road specifically?

Mike Pollocoff:

Not only that. I'm just thinking that approving the zoning and putting the property owner on notice that the current road is in substandard condition. And any modifications or changes are going to require roadway improvements. So if we don't approve this and give them entitlement, and then this owner or a subsequent owner comes and says, well, nobody told me. You gave me zoning on this to make it residential. And now that I want to do it you're saying I can't do it. Or I'm going to make a land division and now you're telling me it's doing it. That's my concern is we give them an entitlement and then they feel like they're on their way to doing what they've

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got to do, and we haven't notified them formally that this is a substandard -- I mean they should see it's substandard when they drive on it, but as far as our purposes it's a substandard road.

Kris Keckler:

And I'm assuming, Jean, nothing has come up in the whole communication going back to the summer with the attorney representing them regarding the road maintenance or quality?

Jean Werbie-Harris:

No. But any approval letter that we send I would outline the conditions of approval with what Mr. Pollocoff just talked about.

Steve Kumorkiewicz:

The question is we don't know how wide the road is right now and that's what we need to have to have the road over there. So [inaudible] area given to the Village as an easement.

Mike Pollocoff:

The right-of-way is defined. The issue of the right-of-way is defined. That's there. It's just that there isn't an improved roadway there.

Steve Kumorkiewicz:

[Inaudible] improve the road to the normal Village road over there right now?

Mike Pollocoff:

I doubt it. But at least it's got to be -- it can be something more substantive than what we have here. A rural profile road with asphalt.

Steve Kumorkiewicz:

My concern is the road.

John Steinbrink:

So with your added comments into there does that cover us now?

Mike Pollocoff:

Yup. I think we've at least given an entitlement to the property and put him on notice that so you know this road is not --

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John Steinbrink:

Just like we put a sign on these dead end streets that some day this is a future street so everybody is aware of it, okay.

Mike Pollocoff:

Yeah. We'll put on a sign on this that says when you go to your home some day you've going to have to pay for this.

John Steinbrink:

It ain't paid for yet.

Mike Pollocoff:

Yeah.

John Steinbrink:

Okay.

Dave Klimisch:

And when that paving happens who bears the cost?

Mike Pollocoff:

They do.

Dave Klimisch:

So the developer pays the first round of costs.

Mike Pollocoff:

Yeah, they get the first round, we'll take it after that, but they haven't done that here.

Steve Kumorkiewicz:

Do they have Village utilities over there or not, water and sewer or no?

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Mike Pollocoff:

I think there's sewer there but I don't know about water. I doubt there's water. I'm certain there's sewer but there's not water.

Steve Kumorkiewicz:

That should be corrected before a road is [inaudible].

John Steinbrink:

Okay, we have a motion and a second with the stipulations. Any further discussion, and this is a roll call vote.

KLIMISCH MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #17-03 TO AMEND THE 2035 COMPREHENSIVE LAND USE PLAN TO CHANGE THE COMMUNITY COMMERCIAL LAND USE DESIGNATION TO THE LOW-MEDIUM DENSITY RESIDENTIAL LAND USE DESIGNATION ON PROPERTIES LOCATED AT 1100 AND 1106 126TH STREET, WITH NOTICE GIVEN TO THE PROPERTY OWNER THAT IF ANY FUTURE LAND DIVISIONS OCCUR, A CHANGE IN LAND USE AND/OR BEFORE ANY PERMITS ARE ISSUED FOR THESE PARCELS THAT 126TH STREET MUST BE BROUGHT UP TO VILLAGE STANDARDS AS IT IS CURRENTLY IN SUBSTANDARD CONDITION; SECONDED BY KUMORKIEWICZ; ROLL CALL VOTE: KUMORKIEWICZ – AYE; SERPE – AYE; STEINBRINK – AYE; KECKLER – AYE; KLIMISCH – AYE; MOTION CARRIED 5-0.

John Steinbrink:

Item D?

Michael Serpe:

Move approval of 17-05.

John Steinbrink:

Item D is going to be changed to 17-04.

Michael Serpe:

I'm sorry, 17-04.

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Dave Klimisch:

Second.

John Steinbrink:

Motion by Mike, second by Dave. Any discussion?

SERPE MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND ADOPT ORDINANCE #17-04 TO REZONE THE PROPERTIES LOCATED AT 1100 AND 1106 126TH STREET FROM B-2, COMMUNITY BUSINESS DISTRICT TO R-6, URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, WITH NOTICE GIVEN TO THE PROPERTY OWNER THAT IF ANY FUTURE LAND DIVISIONS OCCUR, A CHANGE IN LAND USE AND/OR BEFORE ANY PERMITS ARE ISSUED FOR THESE PARCELS THAT 126TH STREET MUST BE BROUGHT UP TO VILLAGE STANDARDS AS IT IS CURRENTLY IN SUBSTANDARD CONDITION; SECONDED BY KLIMISCH; MOTION CARRIED 5-0.

E. Consider an amendment to the Woodland Preservation Protection, Access and Maintenance Easement for Lot 24 in the Bain Station Crossing Subdivision.

Jean Werbie-Harris:

Mr. President and members of the Board, this is the request of John Potente, owner of Lot 24 in the Bain Station Subdivision to amend the Woodland Preservation, Protection, Access and Maintenance Easement for Lot 24 in that subdivision. The petitioner is requesting to amend the Woodland Preservation, Protection, Access, and Maintenance Easement in Lot 24 to allow for a home to be built on the property.

Due to the existing narrow lot frontage, pie-shaped configuration of the lot, and the Woodland Preservation Easement, the proposed home to be constructed would encroach into the woodland preservation easement. Therefore, the petitioner is requesting approval for the adjustment of that easement from the existing straight line that would be extending from the intersecting adjacent properties to more of a curvilinear boundary similar and consistent with the front property line. With the adjustment of the Woodland Preservation Easement, the petitioner would be requesting to approve about 50 to 60 percent of the shrubbery, six to eight trees of two to three inches in diameter, and two to three trees of six to eight inches in diameter in this area.

Again, some areas of the Village when the subdivisions are platted it's not necessarily the nicest stand of trees that are being protected but more of a tree conservation area and a lot of overgrown trees and brush and shrubbery in order to create more of that buffer area between the lot and the adjacent local arterials for sound and for noise and for a number of other reasons. And that was all explained to John with respect to this. And he's actually willing to plant some additional trees in this particular area.

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And as you can see by looking at the aerial photograph that's actually on the slide, you can see that some of them have taken a few liberties in getting rid of some of that overgrown shrubbery. Some of planted some new trees within the easement areas. But the low level shrubbery some of them have removed some of that in order to have backyards of about 25 feet or so. And that's what he's intending to do.

I specifically met with him out on the site. I explained to him that, again, keeping as many trees as possible or planting new trees would be rather important just because this is an area that's adjacent to him that's going to have a future roundabout. And there's more and more traffic on Bain Station Road. And he understood all that. And he just wanted to be able to build a home and then, like I said, have at least that 15 to 25 foot backyard in order to be able to get his patio and his deck in that particular area. This is a matter that went before their homeowners association, and they have approved the request. And the staff recommends approval as presented.

Steve Kumorkiewicz:

I make a motion to approve.

Kris Keckler:

Second.

John Steinbrink:

Motion by Steve, second by Kris. Comments or questions?

Dave Klimisch:

Jean, I have a question. You said the property owner offered to plant trees in that area. Is he offering or is he required to?

Jean Werbie-Harris:

That's up to the Village Board. I am asking him to plant some additional trees and he's agreed to do that. So if it's part of the motion that some additional trees be planted in that area he will be required to.

Dave Klimisch:

But we're changing it to his backyard where he's the owner.

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Jean Werbie-Harris:

This would be in the easement area because then there's like a row of shrubs and bushes and trees, and then all of a sudden there's a little bit of an opening. So he could still plant them in the easement area, but there would be more trees rather than just -- and some more attractive bushes and such instead of what's out there.

Dave Klimisch:

I'm okay.

John Steinbrink:

Jean, just so they're aware the former when the parcel was one parcel there was some dumping of materials back there, maybe like washing machines and other. I'm not sure what grading took place there, but it may have covered them up. So they may want to be careful going into that area.

Jean Werbie-Harris:

I'll advise the homeowner.

John Steinbrink:

It was a very old time sort of landfill.

Jean Werbie-Harris:

I'll advise the owner.

John Steinbrink:

That's my remembrance as a child.

Michael Serpe:

If anybody should know you should.

John Steinbrink:

That's right.

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Dave Klimisch:

Just washing machines?

John Steinbrink:

Things like that. They used to be exposed. Maybe they rusted away, who knows.

Jean Werbie-Harris:

Well, everyone along this stretch is required to put in an exposed basement.

John Steinbrink:

It's an old railroad right-of-way.

Jean Werbie-Harris:

So they'll be putting in an exposed basement, and they'll be taking out quite a bit of that extra fill that was kind of pushed there. So he may uncover some of those things.

John Steinbrink:

Sure. Other comments or questions? We have a motion and a second. Those in favor?

KUMORKIEWICZ MOVED TO GRANT AN AMENDMENT TO THE WOODLAND PRESERVATION PROTECTION, ACCESS AND MAINTENANCE EASEMENT FOR LOT 24 IN THE BAIN STATION CROSSING SUBDIVISION AS REQUESTED; SECONDED BY KECKLER; MOTION CARRIED 5-0.

F. Consider Ordinance #17-05 to amend Chapter 285-18 of the Municipal Code relating to Sewer Waste Sampling.

John Steinbrink, Jr.:

Mr. President and members of the Board, this evening I ask for your consideration of Ordinance 17-05. It's an amendment to Chapter 285-18 of the Municipal Code relating to solid waste sampling. Specifically F (5) in that section which is just a clarification of our split samples that we have with some of our industry and non-residential discharges. The additional language would be, and I'll quote: "Samples must be tested at a lab certified by the State of Wisconsin Department of Natural Resources using the same testing methods as the lab contracted by the Village of Pleasant Prairie."

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We've had a couple of businesses that have wanted to do some split samples with the Village. And they haven't used the same testing procedure or their lab hasn't been certified. So it's just verification of the split sampling process that we have in our Section 285-18.

Michael Serpe:

That makes sense. I'd move approval of 17-05.

Kris Keckler:

Second.

John Steinbrink:

Motion by Mike, second by Kris. Further discussion?

Kris Keckler:

I just had one question. Are there a plethora of labs already certified? I mean we're not going to make it hard for them to find somebody --

John Steinbrink, Jr.:

Plethora is a pretty broad term. But there are plenty of --

Kris Keckler:

Okay, we're not making it harder for them to --

John Steinbrink, Jr.:

No. I mean there's definitely enough labs that are certified. And I believe any samples that we would want to verify the results would want to be a certified lab, not just some guy that does sampling in this garage.

Kris Keckler:

I fully support that, I just didn't know how many certified labs there were.

John Steinbrink, Jr.:

Yeah, we went out to an RFP probably back eight years ago or something like that. And I noted over 20 of them in the immediate area.

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Kris Keckler:

Okay, thank you.

John Steinbrink:

Further discussion?

SERPE MOVED TO ADOPT ORDINANCE #17-05 TO AMEND CHAPTER 285-18 OF THE MUNICIPAL CODE RELATING TO SEWER WASTE SAMPLING; SECONDED BY KECKLER; MOTION CARRIED 5-0.

G. Consider an Award of Contract to replace the Personnel Logic Computers (PLC) to support the Supervisory Control Data Acquisition (SCADA) software which manages the activity at all sewer lift stations, water distribution pumps and storage facilities.

John Steinbrink, Jr.:

Mr. President and members of the Board, the public works department manages all sewer lift stations, water distribution pumps and storage with the SCADA software which you had defined. SCADA stands for Supervisory Control and Data Acquisition. The SCADA system is what controls our water and sewer operations as well as notifies the Village staff when there is system failures. The programmable logic computers or PLCs in place at each site, the current ones that we have most of them are manufactured by a SCADA pack. These PLCs were the original ones that we had when we started SCADA back in the late '90s. They're almost 20 years old, and they really don't support any upgrades. There's only a few contractors in the state that can work on them which really increases our maintenance costs.

So almost like Trustee Keckler talked about with the last agenda item, not having that many contractors it's really raising up the price. We're kind of running into that with our PLCs in our lift stations. So funding was approved in our TID 2 budget for the amount of \$105,000 to just replace the programmable logic in all of our panels that we have in all of our sites. It's just one of the small components within. It's actually the brain box that you can see in the top right of your screen. It's one of those components in the right hand side in the top left I guess you could say that really monitors everything that happens out there. Then there's radios and other items we're not looking to change. Just really that PLC we're looking to upgrade so that we can actually do some of the more monitoring features that we like to do to make the utilities more efficient.

So we did put out some quotes, and we had three companies that put in. Control Service for just over \$90,000, AE2S for \$462,000 and Ruckert Mielke for \$192,000. The AE2S and Ruckert Mielke were both turnkey proposals that they had submitted. AE2S is out of state so there's a lot of transportation costs. And I just really don't think they understood the scope of what we were asking them to do. Control Services is a company that we have worked with in the past and

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actually is doing all of our SCADA programming right now for the Village utility. They're a local company I believe based out of Union Grove.

So they would just provide the service and the contract. And then Tom Hupp, our manager of technical support, would actually manage that program. So we should be able with the combination of the bid from Control Services plus the management in-house be able to complete this project for under budget. And I guess I can answer any questions that you may have at this time. And staff does recommend, obviously, entering into a contract with Control Services, Inc., for the amount not to exceed \$90,296.68.

Steve Kumorkiewicz:

So moved.

Kris Keckler:

Second.

John Steinbrink:

Motion and a second. Any questions? Trustee Serpe was just asking me about this yesterday. No further questions?

KUMORKIEWICZ MOVED TO AWARD A CONTRACT TO CONTROL SERVICES, INC., FOR AN AMOUNT NOT TO EXCEED \$90,296.68 TO REPLACE THE PERSONNEL LOGIC COMPUTERS (PLC) TO SUPPORT THE SUPERVISORY CONTROL DATA ACQUISITION (SCADA) SOFTWARE WHICH MANAGES THE ACTIVITY AT ALL SEWER LIFT STATIONS, WATER DISTRIBUTION PUMPS AND STORAGE FACILITIES; SECONDED BY KECKLER; MOTION CARRIED 5-0.

10. VILLAGE BOARD COMMENTS

Michael Serpe:

I have one. Yesterday's *Kenosha News* and the *Milwaukee Journal Sentinel* had a front page article about the dark store assessing problem that Wisconsin is experiencing. And if you read the article it sounds like they may be making headway in the state addressing this problem. But at the last Council of Governments meeting that we had a few weeks ago I would say that they're nowhere near, anywhere near addressing the problem. What troubles me is that if we don't address it relatively soon the people that are going to make up the difference are the homeowners of the Village.

And it's going to be significant if the process continues as it's going right now. I'm going to make a plea again, Chris, that we educate the people through the newsletter because this is going

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to hit us. And when it hits people are going to scream at us as we're the problem, and the problem is not with this Board. It's with the state not recognizing and addressing the problem as far as I'm concerned quick enough. Indiana has it in place. Michigan has it in place. It seems to be working for them. I don't see what's so hard about copying that law for Wisconsin.

Steve Kumorkiewicz:

[Inaudible] Senator Van Wanggard [inaudible]. And he's pushing more of elimination of the property tax [inaudible]. I wonder are they working with us or they're working against us.

John Steinbrink:

One other thing. Wednesday is Trustee Serpe's birthday. He's going to be a young 72. He already did get a tweet from President Elect Trump. The tweet read many candles, large flames, very warm. So if you see Mike wish him a Happy Birthday.

Steve Kumorkiewicz:

You know, Mike, I was 72 once.

11. ADJOURNMENT

**KLIMISCH MOVED TO ADJOURN THE MEETING; SECONDED BY SERPE;
MOTION CARRIED AND MEETING ADJOURNED AT 7:05 P.M.**