

CITY OF DELAFIELD PLAN COMMISSION MINUTES

PUBLIC HEARINGS

Mayor Craig declared the public hearing open at 7:03 p.m.

1. CONDITIONAL USE PERMIT FOR ACTION MARINE, W63 & W73 E. WISCONSIN AVENUE.

M. Czubkowski read the notice.

Mayor Craig asked three times if there were any citizens who wished to speak. There were none.

M. GARDNER MOTIONED TO CLOSE THE PUBLIC HEARING. F. WELCH SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE PUBLIC HEARING WAS CLOSED.

2. ORDINANCE TO AMEND CHAPTER §18.72, §18.73 AND §18.74 OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD WAUKESHA COUNTY, WISCONSIN RELATING TO MUNICIPAL UTILITIES, SANITY SEWERS AND SEWER DESIGN, STORMWATER DRAINAGE FACILITIES AND WATER SUPPLY AND WATER DISTRIBUTION REQUIRED FOR ALL PROPOSED SUBDIVISIONS (ZONING AND SUBDIVISION CONTROL ORDINANCES).

M. Czubkowski read the notice. F. Welch explained this ordinance and stated that it was a housekeeping change in order to bring the codes up to date.

Mayor Craig asked three times if there were any citizens who wished to speak. There were none.

M. GARDNER MOTIONED TO CLOSE THE PUBLIC HEARING ON THIS ITEM. D. CURTIS-COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. THE PUBLIC HEARING WAS CLOSED.

CALL MEETING TO ORDER

Mayor Craig called the meeting to order at 7:07 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

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Present

Mayor Paul Craig
Chrys Mursky
Fred Welch
Marilyn Gardner
Diri Curtis Costa
Roger Dupler, City Planner
Tom Maney, Building Inspector
Matt Carlson, Zoning Administrator/City Administrator
Marilyn Czubkowski, City Clerk

Absent

Phil Schuman
Robert Transon

1. APPROVE MINUTES OF FEBRUARY 26, 2003

C. MURSKY MOTIONED TO APPROVE. M. GARDNER SECONDED. D. CURTIS-COSTA STATED THAT THERE WAS SOME VERBIAGE THAT WAS NOT INCLUDED ON PAGE 11 OR 12 PERTAINING TO VILLAGE SQUARE. THIS HAD TO DO WITH WHEN SHE ASKED WHAT THEIR INTENTIONS WERE AS FAR DEVELOPING AND SELLING PARCELS OR SELLING CHUNKS BEFORE THE DEVELOPMENT ACTUALLY OCCURRED. SHE REQUESTED THAT THE TAPE BE REVIEWED AND THAT THE MINUTES BE BROUGHT BACK AT THE NEXT MEETING. C. MURSKY WITHDREW HER MOTION. M. GARDNER WITHDREW HER SECOND. D. CURTIS-COSTA MOTIONED TO TABLE THE MINUTES UNTIL THE CHANGES WERE MADE. M. GARDNER SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.

2. DELAFIELD CITIZENS' COMMENTS PERTAINING TO SUBJECTS ON THIS AGENDA.

Mayor Craig stated before he opened it up to Citizen's Comments that he wanted to make it well known that there was an article in the past few days stating the he had an inkling on how this body (the Plan Commission) and he wanted like to state that he has never stated how this body would vote or the City Council or himself before the vote occurs. These bodies along with the Common Council are totally independent bodies. He also wanted to make the statement that he reserves the right to vote one way in this body and then change and go to another direction with further information at that time. He wanted to make all aware of this statement.

Sherry Myers, 4447 Vettelson - Spoke regarding Village Square. She stated that they have not been given all the information that was required. This is too large of a development for the area. The three story elderly housing will dwarf all of the adjacent housing. She wanted to ask that the Plan Commission say "no". There is not enough information at this point in time. She was against the development.

Larry Schouten, 4518 Vettelson Road - He was not able to attend the hearing. He is opposed to the development as it was presented. Items that were given to the developer by the Common Council were: 1) reduce total footage and eliminate or substantially reduce the anchor store, which they did not do. In fact, they increased the size of the development. 2) Improve compatibility with current land use. In L. Schouten's estimation, the huge grocery store is not a neighborhood store, and the elderly housing

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unit adjacent to Vettelson is a 3- story building and there isn't a 3-story building anywhere along the entire length of Vettelson Road. He also felt that this was far too dense to put 56 units on a 2.7-acre parcel of land. 3) The Council stated that the developer should supply more in-depth studies on stormwater, agreements, retention, environmental, and economic issues. To the best of L. Schouten's knowledge, they have not done that either. He thought that the developer has chosen to ignore the City's directives and is attempting to force this plan on the people. He did not think the City should allow any developer to dictate what the City can or cannot do in the City.

Jaci Bowman, 4449 Vettelson Road - She stated that this would be poor planning to allow anything to be put on this property until 83 is up and running and is four lanes. It is too difficult of an area to not have better traffic flow and until this can be done, nothing should be put on this property.

James LaFore, 1441 Genesee Street - It doesn't appear that the contractor is here. One question he had was if he was trying to force this issue by a lawsuit and try to intimidate this body along with the Council? The second question is it seemed to him that he is disregarding the health and welfare of both citizens and children of this community because by putting out this type of development on Vettelson you could have an awful lot of traffic at the time the schools are let out. Now you have busses, parents picking up children. Now you throw 400 more cars per hour more over there - it could be horrendous. Especially from what he saw at the meeting where what looked like a nice broad pathway from 83 down to Vettelson in the back of the building; it looked like it was kind of easy an easy access right straight through. It doesn't seem like it is compatible with the neighborhood at all. If you are putting in 3-story buildings, it doesn't seem like the developer is even trying to work with the City. He hoped that the City would not be intimidated by the lawyers.

Jim Zahorik, 1948 West Shore Drive - Item 5a, Village Square. The subject that he wanted to reiterate was the fact that the developer in his latest proposal has increased density instead of abiding by the wishes of Common Council in reducing density. His concern with the density is the impact it has on the current water situation. As he mentioned at the public hearing, the City of Delafield doesn't have opportunity to buy water from Milwaukee because of covenants that currently exist. The City must depend on the resource that is beneath us and the shallow aquifer and the deep aquifer. We now know that it will be very costly to make the water on the corner of I94/83 abide by the requirement that has been established in the lawsuit that Waukesha took to Washington DC failed, so the City of Waukesha will have to comply and it will be many millions of dollars (\$60,000,000 - \$72,000,000) to bring their water in line. His concern is that if we continue to allow high-density development in the City of Delafield, the only water that is available is from the shallow aquifer. That only gets replenished with precipitation. As you create more impervious surface, rooftops, sidewalks, parking lots, asphalt, and concrete, it doesn't get down to that shallow aquifer. When we run out of that water, nobody so far has come up with a solution. In closing, they are seeking approval of a general development plan. He knows of no one on this board who is intimidated by anyone. He respected that. He would say it would be a disapproval of the application.

Mayor Craig asked twice if there were any further citizens' comments.

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James LaFore, 1441 Genesee Street - Asked if they are going to have sewer and who is going to provide the sewer? Mayor Craig responded and said they would be putting in all of the infrastructure. J. LaFore asked if they would be hooking into Delafield or into Hartland's sewer system. Mayor Craig stated that it would be the joint main that is running down 83. M. Carlson stated that the property is in the Hartland service area according to the SEWRPC maps. It is possible that it would go through the Hartland system.

Mayor Craig asked three times if there were any further Citizens Comments.

D. CURTIS-COSTA MOTION TO CLOSE THE CITIZENS COMMENTS. M. GARDNER SECONDED THE MOTION. C. MURSKY CLARIFIED THAT THE MOTION REFLECTS THAT IT WAS CITIZEN'S COMMENTS AND NOT A PUBLIC HEARING. ALL WERE IN FAVOR. MOTION CARRIED.

3. CONSENT AGENDA

C. MURSKY MOVED TO APPROVE THE CONSENT AGENDA. D. CURTIS-COSTA ASKED TO TAKE OFF B, C, AND D. C. MURSKY MOVED TO APPROVE A & E. F. WELSH ASKED TO TAKE OFF E.

M. Carlson stated that the reason that the City creates and uses the Consent Agenda is so that the Plan Commission can spend the greatest amount of your time as a Plan Commission on the most important issues. If the Plan Commissioners have questions about issues that are on the consent agenda, he would appreciate it if they would call him ahead of time so that they can address their issues and use the time as a Commission in the most productive fashion that they can use it in.

Mayor Craig stated that he would like to say that if the Plan Commission has a question he would like the Plan Commission to address it, but if there is something further, then withdraw. The only one left is A.

- a. **Tax Key 804-994-017, 2810 and 2814 Heritage Drive, Delafield.** Owner: Kensington Development, Applicant: Scott LaTulipe (Aurora Health Care). Applicant seeks approval of Signage for Aurora Pharmacy.

D. CURTIS-COSTA MOVED TO APPROVE A. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 784.973. 1100 Highway 83, Hartland.** Applicant: Westbrook Church, Paul Carter, Director. Applicant seeks approval of amended Business Plan of Operation for May 18, 2003 for outdoor service to be held on Westbrook Church grounds.

P. Carter was present. D. Curtis-Costa asked if there was enough parking? Yes. She also asked that they were assuming that the rental agency would take down the tent on the 19th and asked if that was for sure. P. Carter stated that they are

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still working with the rental agency. They wanted to make sure they could get it first, but they are going to rent it for that one day so it will be taken down as quickly as possible. D. Curtis-Costa asked if there would be parking anywhere near 83. P. Carter stated that there would not. F. Welch asked about the amount of traffic and the concern about the traffic on 83. He asked that the police department and possibly the county be notified that they will be having this large number of people in case they want to provide an officer to direct traffic. P. Carter stated that they would do that.

F. WELCH MOTIONED TO APPROVE. M. GARDNER SECONDED. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. **Tax Key 743.999, 120 Nashotah Road, Nashotah.** Applicant: St. Joan of Arc Church. Festival Committee Chairman, Terence Cahill seeks approval of Business Plan of Operation for Parish Festival on Sunday, July 27, 2003.

T. Cahill was present. He stated that he was the Chairperson of the Festival Committee. This is the first year that they are asking for permission to have a festival at the site of their new school and church because this is the first year that they have a completed school and now they have grounds in which to handle it. Previously they had been at Okauchee Lions Park. He did not believe there would be any parking problems; they can accommodate a full service of 600 parishioners. He had a site plan available for the commissioners. They anticipate around 250-300 people to show up. They plan on putting up a couple of tents the day before the festival (Saturday) and have the festival on July 27, and will take them all down the following Monday. They are hoping to sell, as part of their concessions, beer and wine coolers, and he knows that they have to make formal applications for that. They do not have all of the names of their bartenders to submit for approval and will do this relatively soon. D. Curtis-Costa asked if they plan on having live music. T. Cahill stated that they will not have a band, but they will have a talent show for a couple of hours with some amplifiers starting at noon and end with the drawing of a raffle at 7:30 p.m. then the festival is over. They will not be having rides. They will have non-mechanical type games only.

D. CURTIS-COSTA MOTIONED TO APPROVE. M. GARDNER SECONDED. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- d. **Tax Key 804.994.002 and 804.994.006, 2863 Heritage Drive, Delafield.** Applicant: Waukesha Shrine Club, Robert McQuillan representing Tripoli Temple. Applicant seeks approval of Business Plan of Operation for selling Vidalia onions for Shriners in Wal-Mart parking lot April 25-26, 2003. Hours of Operation: Friday and Saturday, April 25 and 26: 9:00 a.m. to 5:00 p.m.; 2 part-time employees.

R. McQuillan was present. D. Curtis-Costa stated that the question she had was with Wal-Mart -- the grounds being a mess again. She stated that there is

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garbage all over and this is generally the time the City asks them to make sure that it is cleaned up. Mayor Craig suggested leaving this question for Item e. D. Curtis-Costa agreed to the suggestion and stated that she just wanted to make sure that it got addressed. R. McQuillan stated that this is their biggest fundraiser of the year. This will be their third year at Wal-Mart. The Wal-Mart Stores are cooperating very nicely with them. The Delafield citizens have purchased onions. It is getting to be pretty popular.

D. CURTIS-COSTA MOVED TO APPROVE. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- e. **Tax Key 804.994.002 and 804.994.006, 2863 Heritage Drive, Delafield.** Applicant: Wal-Mart. Applicant seeks approval to open outdoor Lawn and Garden Greenhouse Compound for spring/summer 2003. Monday through Sunday, 7:00 am. to 10:00 p.m. 10 full-time, 10 part-time employees.

B. Barrett from Wal-Mart was present. F. Welch stated that his concern on this was there was not a time frame for the operating setting up and closing. B. Barret stated that they usually run through July 4th, which is their take down date. They are usually off of the lot by the weekend after July 4th. They would start as soon as they get their approval, usually April 1. D. Curtis-Costa wanted to make sure that the grounds are cleaned up, as there is garbage all over. Mayor Craig stated that he and B. Barrett spoke about one month ago and that was one of the issues mentioned. B. Barrett at that time mentioned that he was sending employees out. Mayor Craig has been monitoring them and the theater quite closely for the last year. He stated that, in their behalf, they have improved but there is definitely a non-stop issue there. That is nothing against the Wal-Mart Corporation; they just have to talk to the customers.

F. WELCH MOVED TO APPROVE. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

4. **PLANS OF OPERATION, SIGNAGE AND SITE PLAN**

- a. **Tax key 900.003.943, 524 Milwaukee Street, Suite 180, Delafield.** Owner: Robert Lang. Applicant: Lake Country Health Center, Dr. Daniel Murray. Applicant seeks approval of Signage and Amended Business Plan of Operation to Town Center location. Monday through Friday: 8:30 a.m. - 6:00 p.m.; Saturday: 8:30 a.m. - 12:00 p.m.

Dr. Murray was present. R. Dupler stated that the signs are in complete compliance in regards to their size and their location. There has been a letter submitted from Lang Corporation approving the use of the sign. He had some information that was not in the Commissioner's packet to help visualize the signs. He displayed the north elevation showing the existing sign currently being used on the other side of the street; he is just relocating. The second smaller sign is actually going to be employed on the east elevation and is not unlike the Prickly

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Pear where they have the sign oriented towards the pedestrians. It is compliant with the Historic District regulations. The third is on west side of the building. It will be a small sign, just a direction sign more or less for those people who will be using the municipal lot immediately to the West. This is a ground floor tenant and as such they have most square footage available for them. Everything is fully compliant, the font, the color, it has all been pre-approved.

D. CURTIS-COSTA MOVED TO APPROVE. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 808.985.002, 501 Maple Avenue, Waukesha**. Owner: C. Scott Tanis. Applicant: Jeff Names. Applicant seeks approval of Business Plan of Operation for retail sales of construction services, sporting goods and firearms. Hours of operation: Monday - Friday, 9:00 a.m. - 4:00 p.m. One full-time employee.

J. Names was present. R. Dupler stated that J. Names has submitted for consideration a business plan of operation. He is intending to take space in the tennis building. The tennis building is approved for multi-tenant spaces. He will have interior space without a unique entrance within the building. The business plan of operation includes retail sales of construction services, sporting goods and firearms. R. Dupler has checked with Chief Taubel and at this point he does not have any concerns in regards to the firearms. The actual application is something that is applied through the State Alcohol Tobacco & Firearms. There is paperwork on the back for sign-off if the business plan of operations is approved. Mayor Craig asked if the Plan Commission had to be the first step. M. Czubkowski stated yes. It says that the City has approved this business plan of operation. D. Curtis-Costa asked about the kind of firearms. J. Names stated that it would be collectibles. D. Curtis-Costa asked if they would be storing them there. J. Names stated that they would not be stored there. It was clarified that no ammunition would be there. J. Names stated that 3% of the business would be the sales of firearms. There would also be bow hunting equipment. There will not be product inventory. He deals with several mail order vendors. Mayor Craig asked how much retail is out of that building. J. Names stated that he did not know if there was any, but he was not that familiar with it. Mayor Craig stated that the closest retail that he could spot would be the Delafield Brewhouse. There would be the Brewhouse, an office complex, then J. Names in a residential surrounding other than the freeway. The Town is surrounding it which would be the residential part and the Town Sports Center would also be there. He was not tickled pink about expanding the retail in that area. J. Names stated that it is not high volume retail. He is presently doing it out of his house. Whenever he writes an order for a city park bench, technically that is retail sales and the County has said absolutely no exceptions as far as the zoning on that. Any time he writes up a retail sales order for anything, technically he is violating the rule. He needs a retail space to write a retail order for anything. Sporting goods will consist of 2-3% of his business. The majority of his business (95%) is construction business. He installs sports equipment, basketball hoops, city park equipment, as well as residential and commercial remodeling. There is no outside storage needs.

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M. GARDNER MOTIONED TO APPROVE. C. MURSKY ASKED IF THEY COULD SPECIFY NO HAND GUNS. M. CARLSON ASKED IF THE QUESTION WAS CAN YOU ATTACH CONDITIONS TO THE BUSINESS PLAN OF OPERATION? IF SO, THE ANSWER IS YES. F. WELCH SECONDED THE MOTION. MAYOR CRAIG STATED THAT HE WOULD LIKE TO DISCOURAGE THE OPEN RETAIL ASPECT OF THIS BUSINESS. J. NAMES REPLIED THAT IT IS NOT OPEN DOOR RETAIL. MAYOR CRAIG UNDERSTOOD, BUT STATED THAT ON THE FACE OF IT, HE WAS ASKING FOR RETAIL BUSINESS AND THAT IS WHY HE WANTED TO DISCOURAGE THE WALK-IN TYPE OF BUSINESS IN THAT TYPE OF ENVIRONMENT. THEY ARE EXPANDING INTO A DIFFERENT AREA. HE UNDERSTANDS THAT HE IS ENTITLED TO THAT REQUEST. J. NAMES STATED THAT HE HAS NO INTENTION TO EXPAND OR RENT ANY ADDITIONAL SPACE. IT IS GENERALLY FOR WRITING ORDERS AND HE DOES NEED AN OFFICE AREA FOR THAT PURPOSE. MAYOR CRAIG SYMPATHIZED WITH THAT REQUEST AND HE UNDERSTOOD WHERE HE WAS COMING FROM. HE WANTED TO MAKE IT CLEAR TO J. NAMES THAT HE DID NOT WANT TO SEE THAT AREA EXPANDED IN THAT CAPACITY. HE WAS VERY CONCERNED ABOUT THAT. THE GOOD NEIGHBORS TO THE EAST WOULD ALSO BE OF THE SAME THOUGHT. J. NAMES STATED THAT IF HE WERE TO ESTIMATE TRAFFIC, HE WOULD ESTIMATE 3-4 CARS PER MONTH. MAYOR CRAIG CLARIFIED THAT MOST OF THE BUSINESS WOULD BE MAIL ORDER, J. NAMES INSTALLING THE SPORTS EQUIPMENT OR THE INTERNET, OR THAT SORT. IT WAS CLARIFIED THAT THERE WOULD BE NO SIGNAGE. F. WELCH ASKED HIM TO EXPAND ON THE QUESTION ABOUT HANDGUNS AND ASKED IF HE WOULD HE LIMIT THAT TO ANTIQUE HANDGUNS? J. NAMES STATED THAT HE COULD, BUT DIDN'T KNOW THAT THERE ARE HUNTING HANDGUNS ALSO. C. MURSKY STATED THAT THIS WOULD BE LIMITED TO COLLECTIBLE HANDGUNS. J. NAMES STATED THAT THERE ARE HUNTING HANDGUNS THAT ARE COLLECTIBLE. MAYOR CRAIG STATED THAT HE WAS NOT LOOKING FOR NEW FIREARMS, THESE WOULD BE USED THAT ARE COLLECTIBLES? J. NAMES STATED THAT SOME ARE NEW - THERE ARE SOME LIMITED PRODUCTION ITEMS. M. GARDNER ASKED HOW THE PLAN COMMISSION COULD LIMIT HIS INVENTORY ON WHAT HE COULD AND COULD NOT SELL. WHERE DOES THE DIVISION OF THE DEFINITION TAKE PLACE TO ONE PERSON THAT IS COLLECTIVELY BRAND NEW, TO ANOTHER PERSON, IT'S NOT. MAYOR CRAIG STATED THAT HE WAS PROBING. M. GARDNER STATED THAT THERE ARE THINGS ON THE MARKET RIGHT NOW THAT COME OUT TODAY THAT ARE CONSIDERED COLLECTIBLES IF YOU BUY THEM RIGHT NOW. SHE THOUGHT THEY NEEDED TO BE REALLY CAREFUL IN THE DEFINITION OF THAT. M. CARLSON STATED THAT ANY CONDITIONS ASSIGNED WHETHER IT IS A LIMIT ON THE HOURS OF OPERATION, DAYS OF THE WEEK, NUMBER OF EMPLOYEES, THERE MUST BE A RATIONALE BASIS FOR THE REGULATION THAT YOU ARE TRYING TO IMPLEMENT. IF YOU CAN MAKE A CASE FOR A PUBLIC POLICY REASON WHY YOU WANT TO ADOPT A CONDITION OR A REQUIREMENT, AS PART OF THE BUSINESS

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PLAN OF OPERATION OR A CONDITIONAL USE, OR AS PART OF A DEVELOPMENT AGREEMENT, IF YOU HAVE RATIONALE BASIS FOR THAT ARGUMENT, THEN HE THOUGHT THAT GENERALLY THOSE ISSUES CAN STAND UNDER THEIR OWN WEIGHT. THERE IS A TEST OF REASONABLENESS. IS IT REASONABLE TO ATTACH THAT KIND OF CONDITION? AS AN EXAMPLE, IN THE 83/94 CORRIDOR THERE HAS BEEN A GENERAL PROHIBITION AGAINST 24 HOUR ESTABLISHMENTS. HE RECALLED THAT WALGREENS AT ONE TIME WANTED TO HAVE A 24 HOUR OPERATION. THE PLAN COMMISSION SAID THEY WERE NOT REALLY INTERESTED IN HAVING THE WALGREENS OPEN 24 HOURS A DAY, IT STRETCHES THE CITY'S RESOURCES FROM A POLICE PROTECTION POINT OF VIEW AND IT PUTS THE CITY IN A MORE DIFFICULT POSITION FROM RESPONDING TO CALLS, ETC. SO THERE IS A RATIONAL BASIS FOR ASSIGNING A SHORTER TIMEFRAME. ANY CONDITION THAT YOU ATTACH, YOU OUGHT TO DISCUSS WHAT THE RATIONAL BASIS IS AND IF YOU FEEL COMFORTABLE WITH IT AS A GROUP, THEN ASSIGN IT AS A CONDITION. D. CURTIS-COSTA ASKED IF BACKGROUND CHECKS WOULD OCCUR. J. NAMES STATED THAT EVERYTHING THAT IS REGULATED GETS A BACKGROUND CHECK. ON HANDGUNS THERE IS ALREADY A MANDATED 48 HOUR WAITING PERIOD. D. CURTIS-COSTA STATED THAT HE WOULD BE SELLING RIFLES, SHOTGUNS. J. NAMES STATED THAT EVERYTHING GETS A BACKGROUND CHECK. HE STATED THAT HE DID NOT SELL ANY KNIVES. F. WELCH POINTED OUT THAT A SKETCH OF THE LOCATION INDICATES ONE OFFICE AND IF HE EXPANDED HE WOULD HAVE TO NOTIFY THE PLAN COMMISSION. J. NAMES THOUGHT THE SQUARE FOOTAGE WAS APPROXIMATELY 80-100 SF. C. MURSKY ASKED THAT THE MOTION BE READ BACK. AT THIS POINT, THERE WERE NO CONDITIONS IN TERMS OF SALES. SHE STATED THAT IT WAS A SAFETY AND WELFARE ISSUE TO THE COMMUNITY. THE APPLICANT HAS STATED THAT HIS INTENT IS TO SELL COLLECTIBLE ITEMS. BECAUSE OF THE NATURE OF OCCURRENCES BASED ON OTHER TYPES OF WEAPONS, SUCH AS HANDGUNS THAT HAVE NO SPORTING OR COLLECTIBLE USE, SHE BELIEVED THAT IT IS AN ISSUE FOR THE SAFETY AND WELFARE OF THE COMMUNITY TO LIMIT THE SALES OF THESE ITEMS. MAYOR CRAIG ECHOED THE COMMENT THAT THERE WERE BE NO STORAGE ON THIS FACILITY. P. NAMES CONFIRMED THAT THERE WOULD BE NO STORAGE. MAYOR CRAIG CALLED THE MOTION. TWO WERE IN FAVOR. TWO WERE AGAINST (D. CURTIS-COSTA, C. MURSKY). MAYOR CRAIG VOTED IN FAVOR. MOTION CARRIED.

It was asked if they could attach another condition. M. Czubkowski stated that there were no conditions on the approval. The motion was to approve.

- c. **Tax Key 807.987, 3562 Hillside Road, Delafield.** Applicant: Thomas Falcone. Applicant seeks approval of amended signage for Delafield Motorsports, Inc.

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T. Falcone was not present. Mayor Craig stated that in the past they have had tradition of not dealing with the item if people were not there. It was suggested that just in case he anticipated a longer session, to postpone this until after 5b and if he was not here to then table it. Mayor Craig stated that without objection he would allow that. After proceeding with Item 5b, Mayor Craig asked if there was anyone present from Delafield Motorsports, Inc. There were no representatives present.

5. FINAL CONSIDERATION, APPROVALS, PREVIOUS APPROVALS

- a. **Tax Key 773.990.003 and 773.998. SW corner of STH 16 and STH 83.** Owner/Applicant: Michael Schutte and Jonathan Spheeris. Approval of General Development Plan for Village Square.

There was no one present. Mayor Craig stated that he would do like what was done on Item 4c, and if somebody did come in they would proceed, otherwise it would be postponed. After proceeding with Item 5b, Mayor Craig asked if there was anyone present from Village Square. The representatives were present.

M. Carlson commented that there has been a comparison made of the Village Square Shopping Center to the Shoppes at Nagawaukee. He just wanted to point out that there are two basic differences between these two projects. One is the adjacency of other land uses with respect to the Shoppes at Nagawaukee - that property is surrounded by the Interstate and other commercial properties. The Village Square on the south side has residential. There are business uses planned on the north side of Vettelson Road, but the adjacencies are different with those two properties. Secondly, the Shoppes at Nagawaukee was an amendment to a recently approved plan for hotel and convention center on that property at 83 and the Interstate. The Village Square project is not an amendment of the recent project. There are those two major differences between the two projects. The second thing that he wanted to raise before the Petitioner began his presentation, that it seemed to him that there is a threshold issue that the Plan Commission needed to address and that is the question of the site plan. The Commissioners received a lot materials tonight. The Commissioners received a highlighted excerpt from the Plan Commission minutes from the last Plan Commission meeting wherein there was a lot discussion about the kinds of things that the Plan Commission was taking into consideration and thinking about in considering the Village Square project. Things like updated traffic numbers, level of service analysis, things that needed to be placed in both the conditional use agreement and in the development agreement, the whole issue of the square footage -- at the last Plan Commission meeting, the February meeting, the developer's attorney indicated that the Developer was not prepared to address the issue of the reduction of square footage for the property, other issues in terms of the hours of operation, noise, lighting, screening, those kinds of things, Plan Commissioner Schuman suggested referring those items to staff. M. Carlson stated that they have not been requested to hold a staff meeting with the Developer. "Plan Commission member M. Gardner talked about developing the project in phases and provided (page 15 of 21) a list of the items that were being considered" or things that the

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she thought were important. In addition, the Plan Commission asked for some further indication of what the size of the isolated natural area was. SEWRPC has staked out the area. He checked as late as about 3 p.m. this afternoon (March 26, 2003), SEWRPC did not have it in their files, nor did the City have it in theirs. A survey that indicates what the boundaries of that isolated area are. One of the last items was the fiscal impact analysis. He stated that today about noon he received a copy of the draft fiscal impact analysis and the Commissioners were provided a copy of that. The conclusion of the fiscal impact analysis is basically the same as the first time around. The net fiscal impact on behalf of the entire community is a positive impact; it would result in reduction of the tax rate for Lake Country School District at about 21¢, but the City of Delafield would incur the cost in the ballpark of \$20,000 - \$25,000 annually. He stated that that can be an issue that the Plan Commissioners would address as part of language in a conditional use permit and development agreement that could require the Developer to make the City whole on any net fiscal impact that the City can prove as a result of the Development. In other words, if the City incurs a cost to provide service, that the property would reimburse the City. The Commissioners also had a letter that was written by Mike Schober dated March 21, 2003 and provided some background information. There was a one-page letter from Mr. Spheeris dated March 10, 2003. They were basically raising the whole issue about the dilemma we are in terms of providing additional information on contours and stormwater management plans based on a new site plan when the site plan hasn't been agreed to yet. He read a sentence "The costs for plans in review have been extremely high, therefore previous to an agreed site plan, it is just too costly to have our team of experts create and have the City review a site plan that may again change." The Commissioners had a copy of this one-page letter. The Commissioners also had a copy of a letter that was faxed to the City on March 26, 2003 from the Zietlow family regarding the development. There were seven additional letters regarding the development. Also included in the Commissioners packets was a summary memo from Bruce Woods who is serving the City as the Plan Reviewer on behalf of Roger Dupler and Fred Welch, given that Roger and Fred have recused themselves from any reviews and from participating in any aspect of this development. These were the documents that the Plan Commission had in front of them. He stated that the threshold issue seems to be the underlined question, when petitioner made the presentation to the Plan Commission, they submitted a full complement of drawings that included the landscaping plans, contours, stormwater management plans, architecture, the site plan, the whole host of plans and documents. At the last Plan Commission meeting they submitted, based on information that they had gathered from the public hearing and things that they have heard the Commissioners talk about, they reflected those or some of those in their site plan, provided a new site plan. There is a question that needs to be dealt with as a Plan Commission and that is what do we do from here? Where do we go from here?

J. Spheeris stated that he has a copy of the study done by SEWRPC dated August 9, 2002. He gave this to M. Carlson. M. Carlson stated that they were looking for a property boundary survey. He stated that SEWRPC went out and staked it. J. Spheeris stated that it was on the last page. M. Carlson stated that

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this is something that the Developer must survey. SEWRPC will stake it, but the Developer must create a plat of survey for the isolated area. The Spheeris rep stated on the second set of document was part of the submittal from September 10, 2002. M. Carlson stated that that was a tree inventory. The rep stated that the back page indicates the isolated natural area as delineated by SEWRPC. There was a legal description on that. M. Carlson stated that neither SEWRPC or the City of Delafield had this in their file. The rep stated that that was part of a submittal they made dated September 10, 2002 - it was part of that submittal package. M. Carlson asked how many acres were determined to be in that boundary. The developer thought that they did not give acreage; they just gave a legal description of it. M. Carlson stated that the basic issue is that SEWERPC says that if that isolated area drops below 5 acres it loses its designation as an isolated area. This seems to be a big issue that the Plan Commission is struggling and dealing with. The rep stated that it showed just the legal description of that isolated natural area that affects this project only. It doesn't go into the adjacent property owner's property. He believed that the isolated area encompasses quite a few of the adjacent properties. M. Carlson stated that they were looking for a survey that shows the boundary of the isolated area. The rep asked if that would be possible to get from their surveyors considering that they are intruding on adjacent property. M. Carlson stated that SEWRPC staked it, but they are asking the Developer to provide the survey. They don't provide the survey. Don Reed told him that this afternoon. The rep did not know if it was legal for them to have their surveyor go onto adjacent owner's property. M. Carlson asked F. Welch a question, not about Village Square, but about how you obtain rights to survey a piece of property. F. Welch stated that you normally ask permission to go on the property. It was his understanding that you have a right to trespass, but if you were ordered off you must immediately leave and then you would have to get a court order. The rep stated that they did have a survey on their property. From a general look, what they are now proposing to eliminate would not drop it below the five acres. M. Carlson stated that the survey would prove that. Mayor Craig clarified that the developer stated that they were proposing that it would not, on their acreage alone. The rep believed so. They are eliminating only right now about one-third the area that is on their property.

Mayor Craig asked if there was anything the Developer would like to say before getting into the nitty gritty. He stated that they missed the Developer last week.

J. Spheeris made a presentation: Once again they were here to present Village Square of Delafield. There are several important matters that I would like to address, explain this evening. First, please understand that I am only one of the principals of this project and can only present information that has been decided on by all of the principals. Secondly, we did not make a presentation at the public hearing on March 19, 2003 based on legal counsel. I cannot fully explain the reasoning of that legal advice, but we abided by our legal counsel. Tonight we are asking for approval of the general development plan of the Village Square of Delafield based on a plan presented on February 26th. As you know, it is not the first we brought before you. Contrary to public perception, we have made countless changes to the general plan based on meeting with the City staff, comments from you, City Council, and the public. Not all of these various stages

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have been brought before you. We tried to give you only what we believe to be an acceptable plan based on the many comments and suggestions. Based on the staff discussions and comments, we moved the pond which was on the south side of the property to the north side of the property, we downplayed Vettelson Rd. and enlarged it for safety vehicles. We keep getting conflicting reports. First we were told to downplay it, but then we talked to the DOT and the DOT says you can't downplay it. The DOT says it has, if nothing else, to appear as a road. Then we reduced it now to what appears to be a drive entrance for residential housing. We originally had commercial buildings on the southern leg of the property, which are no longer here. Originally discussion took place about the viability about placing residential units there. Then we were asked to put the pond there as a buffer to the neighbors. And again I went back to residential as an alternative to more commercial. Our early plans indicated only a small service road behind the southern retail building. However, the DOT requested this area to be a street and at their direction we redesigned it to their requirements. Now again we are hearing that this is an issue and we should reduce the width of the street. So one person tells us one thing, I think it is Foth & Van Dyke that made this recommendation, but the DOT says no. Who is going to make the decision on this? We've reduced the number of buildings and moved the buildings in an effort to save more trees. That's the map. If you take a look at the map, in fact the pink area is originally where the road was going to be, and so now the road has moved further to the west saving at least an additional 53 trees. In addition, we are planting almost 400 trees on the property. We've reduced the retail square footage, we've reduced the parking to the minimum required by the code, we presented landscape and lighting plans that essentially will not change with the current revisions except to add additional buffer to the adjoining properties. We've provided more than adequate stormwater retention facilities. We've provided you with expensive traffic studies and revisions. At our previous presentations we have provided numerous reports and evaluations conducted by our experts in their respective fields. Because we are asking for general development plan approval, we will not again be presenting the detailed information for several reasons. First, we have spent in excess of over \$100,000 to prepare information that the commission has reviewed before and by the City of Delafield. Again, we revised the plans. Secondly our previous reports and studies were far above and beyond what was required by the zoning code of the City of Delafield for the general development plan submittal. Tonight we will present all of the information as we believe to be required by the zoning code and we will address all concerns raised by the review of this plan by Foth & Van Dyke, the City hired review agency. I'm sure that there are many questions that will still be unanswered and issues that still won't be resolved, but I believe the purpose of the two-stage approval process as indicated in the zoning code is to approve the general development plan first. The second stage is to approve the detailed plan. The second stage is the specific implementation plan. It at the second stage that details of the plans are to be approved. In addition, the zoning code does allow or have room to amend the general development plan should the general development plan need to be altered. Therefore, based on this two-stage process the City has instituted through the zoning code, we are asking for approval of the general development plan. We will provide further details based on an approved plan as we move through the second stage of the specific

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implementation plan. In addition to providing additional details at the next approval stage, the owners have asked me to present you with the following information: protection of the trees and the isolated natural areas impeded on this plan before, can be protected further through deed restrictions. We are talking about this area here, however, there are a lot of trees over in this area too and would be part of the isolated natural area. I should point out to you that protecting the area, will not allow future development of roads to the property to the south. This may limit the value of these properties as commercial properties in the future. So that is something you should also take into consideration. An issue which was raised is the cost to the City for this development. We do not believe that it would be an excess cost to the City or if you have a template such as the one that we pulled from the Told Development on the 83/94, we would be happy to look at it. There is concern that our plan does not include a dual water system. We are confident that our system, including a back-up generator, is adequate. Traffic is understandably a large concern of the body of citizens. We will agree not to open any retail establishment until lights are installed at Capitol and Highway 83 and at Highway 16 and 83. The cost of these lights would be covered through the \$400,000 that we had previously offered to the City. Any remaining funds would be used by the City to litigate the portion in the event to widen Highway 83 by the DOT. Also we will agree not to develop the residential portion until Highway 83 is expanded. Installation of these lights - even after full build-out, it will provide better traffic flow than exists there today. I would like to point out that with the addition of stop lights, the anticipated traffic meets the requirements of Wisconsin DOT. This was verified by the review conducted by Foth & Van Dyke. Mr. John Bieberitz of Traffic Analysis and Design, Inc. is here this evening and can further review his studies which we have previously submitted.

J. Bieberitz explained the results: There are three things that I would like to point out in summary of our traffic study. The changes that occurred since the last submittal as far in change in the site plan results in about 170 trips per day less than the December site plan. That was confirmed by Foth & Van Dyke's letter of March. Secondly, regarding the recommended improvements, as Jon stated, we are looking at signals at Capitol Drive and the two ramps as well as some turn lanes added at those intersections. Even without the widening of Highway 83, with those improvements, operations at those intersections would improve over levels that exist today - they would drastically improve, in fact, especially at the ramps. From a DOT perspective, it meets their requirements for improvements, and being that this is the design of the neighborhood center, from a traffic standpoint, it will be pulling a lot of traffic that already exists on 16 and 83, so we are not seeing a huge generator of new trips to the area. Some of those trips will be contained with those that already exist to surrounding it. Another big issue at the last meeting was the Vettelson Road issue. This was studied extensively by us and also by Foth & Van Dyke. In their September letter to the City, they did a worst case scenario with their calculations and determined that even assuming a worst case scenario of traffic intervention assignment to Vettelson Road, that Vettelson Road would still operate at 39% of capacity. It would still operate fine without any need for improvements. That's a quick summary of the traffic and I can entertain questions now.

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M. Carlson stated that one of the issues that was raised at the last Plan Commission meeting was the level of service analysis; he asked that they talk about the existing levels of service at the key intersections that serve this property and what the levels of service would be at full build-out.

J. Bieberitz replied that he thought that the existing conditions at ramps everyone knows that when you try to turn left off ramp they are sitting there for several minutes trying to turn left, that level of service has Level F conditions over capacity. That would be the westbound off-ramp. The eastbound off ramp with a left turn also operates at Level service E/F conditions, so borderline overcapacity. With the development in place, with the traffic signals, and with the lane additions, without the widening of 83, the levels of service at the ramps and at Capitol Drive would improve to Level of service C/D conditions, in other words, at the DOT acceptable levels. What that means is that your stops at intersections for about 30-40 seconds which is considered to be acceptable levels based on peak hour traffic conditions. The next part would be the ultimate year 2013 full build out conditions which includes the widening of 83, additional development to the north and to the south, addition of road and background traffic, and full development on the site. With these improvements in place everything would still get to operate at a Level service C/D conditions.

Mayor Craig asked what the level of service on Vettelson is. J. Bieberitz said it currently operates at Level Service A/B conditions. Build out with the center in place and fully developed, it would remain at Level B conditions. In 2013 with a build out of 83 to four lanes, Vettelson Road, even assuming Foth & Van Dykes worst case scenario traffic loading, would operate at 39% of capacity which would put it level B/C conditions. Still well at acceptable conditions. Vettelson and Capitol, it has been thought that as Vettelson hooks up to Capitol that it would be a kind of short-cut for vehicles to enter that site without traveling across 83. That is what Foth & Van Dyke looked at when they looked at the 39% value. As far as that intersection itself, an increase in the peak hour, they expected a basic observation to Level C conditions. That was not in their traffic study that was based on field observations. They have not analyzed that in detail. When a train occurs, it is a different story because it is not a consistent thing that happens every minute or every hour. Typical for traffic impact analysis for DOT's you are not required to look at train operations because the impact from a train varies drastically. It is hard to get a handle as far as how it will operate with a train. From a school standpoint, they did traffic counts both in the morning and evening peak hours, so they've addressed the school when they start and when they end. Peak hour times are initially from 3pm - 6 pm to capture the school peak hours and also during rush hour. From that avenue they could determine what the traffic is on that street. In the morning they counted from 7 a.m. - 9 a.m. This is data driven. The only thing that was not analyzed in detail and is based on field observation is the intersection of Vettelson and Capitol. That was pointed out by Foth & Van Dyke's letter.

M. Gardner asked that if you are at Level C, at what level is it decided that it jump from C to D and the road needs to be improved? What is the criteria? J.

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Bierberitz stated that as far as at what point are improvements needed, that is going essentially from D to E. E is considered to be at capacity. The DOT basically states that at peak hour conditions, Level service D is acceptable. No improvements are needed at Level service D. M. Gardner clarified that it was being guessed at the levels at Vettelson and Capitol. He replied that they need to do some analysis at Vettelson and Capitol.

M. Carlson asked if J. Bierberitz has studied the amount of traffic that is generated from the business and industrial park development on the east side of 83 between Cardinal Drive and KE. J. Bierberitz stated that they did study Cardinal Drive, the traffic that is coming out of that intersection in the morning, but they have not studied KE. M. Carlson asked if they have studied the business parks already developed over there. J. Bierberitz stated that they have not studied that in detail. They have only studied the traffic that is going on 83 and the intersection with Cardinal. M. Gardner asked if this was taken into consideration as a feeder into the traffic pattern. J. Bierberitz stated that as far as what feeds it, based on national standards, they project how much traffic is going to be generated by this and design a roadway system based on the correct traffic volumes and the current development patterns. M. Carlson asked what the levels of service would be if the east side of 83 was not developed as a business park. He was asked them to do an autopsy on the traffic that is being generated from the existing development on the east side of 83. J. Bierberitz stated that as a guess, primarily the biggest peak would most likely be the morning, that's when things tend to surge the most. It might drop to Level C at most.

C. Mursky stated that she was confused by the table just distributed. She asked if she was understanding correctly that there is no square footage added in for the senior apartments. All it says is 56 units. J. Bierberitz stated that this was correct. It is based on national standards, what they use to generate traffic for apartments and senior living. They use the number of units instead of square footage. C. Mursky stated that the square footage is not accurate for the development. The rep stated that that was the square footage only for the commercial. This was strictly just traffic generated based on the criteria that they used. C. Mursky stated that in reality this should say 158,000 square feet plus 56 units. J. Bierberitz stated that this was correct.

Mayor Craig asked if there were any other traffic questions.

Mayor Craig had a general question. It was basically his impression that they were under contract for the land until November. He asked if J. Spheeris was the owner of the land, are they under contract for the land. J. Spheeris stated that they are under contract for the land. They received an extension.

Steve Gartman, architect, of the Albion Group was present and summarized the zoning code. He stated that he would answer the questions that Foth & Van Dyke may have had in their report. He reported that under the B6 zoning requirements as well as the requirements for conditional use approval of this type of development, they have met or exceeded every criteria in the zoning code. For example, the proposed floor area ratio - they are at 14.8% when the code

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allows as much as 50% utilization. Their impervious surface is 61.7% and that is being generous, not including all of the tree wells that are going to be in the walkways and pedestrian areas. Where the code allows 65%. In the stormwater management area, they have met the requirements there and exceeded that. The green space area proposed is 38.2% when the code allows a minimum of 20%. They have land banked 50 parking spaces so they have come in underneath at this date. Minimum parking requirements for a center of this size would be 812. They are projecting to put in 768 spaces. As far as the setbacks, they have exceeded setbacks considerably for buffer area and building setbacks from a minimum of 10 feet for the building. They are in excess of 30 - 40 - 50 feet in most cases. They have provided a 30 foot buffer from any drive lanes that are adjacent land ownership where the minimum is 10 feet. They are keeping in contact the original plan they submitted, trying to buffer and screen all adjacent properties with a high density of evergreens and berms and fencing, if required. This plan, which moves the buildings considerably away from the adjacent properties will still have that level of screening for their adjacent properties. From the previous submittal for lighting and photometrics, they will adhere to the .5 foot candles at the property line in all cases. In terms of the overall generic grading plan, for intents of purposes, it would be the same idea of taking all interior flow into interior catch basins and then piping it to the stormwater retention area whether it was in that area or they have proposed on the west side of the property. As far as the traffic, at full build out of this center with the signal improvements, the conditions will be substantially better than they exist today - they will be improved. He believed that with the submittal that they previously submitted, and the modification, taking into consideration downsizing the retail aspect, eliminating the office of this project, and adding some residential units which look like a great deal of square footage, but when you equate the square footage to per person usage, where retail is anywhere from 1 person to every 30-50 square feet, for residential the occupancy load is going to have 2-3 people and they are going to be 600 sf per person. The density and volume of the human traffic, which generate vehicular traffic is substantially smaller. Therefore, he believed that in reviewing all of the conditions for B6 zoning and the requirements for approval criteria, they have met or exceeded all of the zoning code ordinances. He was open to questions.

C. Mursky was looking for the general development plan. R. Dupler stated that he does not have a copy of the general development plan. M. Carlson asked her if she was looking for where it was in the code. She was. R. Dupler stated that it was 17.29. Mayor Craig stated that it was the location of the code item within the City's code book that was being sought, not that input was being received from someone who had recused themselves. M. Carlson stated that the B6 commercial zone describes the general development plan requirements - it was on page 17.58 in chapter 17.39 - in the B6 zoning designation description. It was stated that 17.75 is for conditional use and 17.39 is for B6 zoning. C. Mursky stated that 17.29 is also part. It was stated that the 17.75 is for this specific type of conditional use it would be B6 zoning. M. Carlson stated that the code said: In B6 it describes a general development plan, a specific implementation plan, but it also says that the uses are approved as planned developments through conditional use process described in 17.75 - 17.84. Then if you turn to that

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chapter, there is also a reference back to 17.29. C. Mursky asked if everything in all of those ordinances must be submitted. M. Carlson stated that that was a reasonable interpretation. She stated that when you are citing the requirements in the site plan in B6 zoning, you are only meeting one of the ordinances which require approval in this whole process. S. Gartman stated that he did not believe so for a general development plan. It goes on further, the SIP also does that and he believed it has been just recently brought in developments of this particular zoning also has the minimum requirements that they met here tonight. C. Mursky asked if they had a discrepancy in interpretation. M. Carlson stated that he stood by his interpretation. 17.75 - 84 applies and when you turn to 17.75 3-4 it also references 17.29. C. Mursky noticed a reference to 18.73 for stormwater management requirements also, specifically in that B6 zoning. M. Carlson stated that it gives him the opportunity to reiterate the point that even though a development site plan gets approved, let's say the Plan Commission says "okay, fine, the site plan will be recommended to the City Council. The City Council approves the site plan." The development still must meet all requirements in the subdivision code, Chapter 18, along with every other section of the City of Delafield's municipal code dealing with development, plus they have to meet all requirements from DNR and DOT. He gave an example of the City approved a project and then they seek a permit from the DOT and the DOT says "no, we're not going to give you a permit. We're going to require you to change your site plan to get our permit." They are going to head right back to the City of Delafield Plan Commission to amend their site plan because now they have a new requirement that the DOT's placed on them. What he was saying was the City's approval is not a blanket approval for them to begin construction and start moving earth. They still have to require with the City's subdivision code, our erosion control code, DNR requirements, permit requirements from DOT, there's a lot of other pieces that have to fall in line. T. Maney stated that after they turned a spade of dirt that doesn't let them off the hook for their specific implementation plan, building for building they are still coming back here. C. Mursky stated that at the GDP level, she was trying to find what the City should be expecting for submittal documents in order to approve a GDP. M. Carlson stated that the general development plan submittals are spelled out on page 17:90, Section 17.75 paragraph 7a. J. Spheeris stated that he believed that they had met all requirements. M. Czubkowski had a summary sheet on submittal requirements for B6 zoning. M. Carlson stated that that is where we get into this catch-22. The question if they submit all of the stuff in their original submittals, including landscape plans, grading plan, stormwater management plans, all of those things still have to go through different layers of approval. For example, the stormwater management stuff still has to have approval of the Public Works Committee. So if they are submitted, all of those documents, all of those drawings as part of their development review process - let's say they have, and then they change their site plan. The question that they are raising is "does it make sense to go out and spend another \$50,000 to update the plans" if they don't have an approved site plan from the Plan Commission and City Council. It is a dilemma. There is no clear answer to it.

D. Curtis-Costa stated that the Common Council directed them to reduce square footage and reduce the size of the anchor store. What we have in the zoning

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code is the maximum on that and seldom do they go less than that. S. Gartman stated that in no case have they exceeded any maximum on the building area for the site - they are substantially under the maximum allowed for floor area ratio. They are asking for approximately 14% of what the code says is allowable for this site based on the B6 zoning. For how much building area they could actually put on the site as a maximum per the code, they are asking for 14% of that - this substantially under utilization of this site. D. Curtis-Costa stated that the Common Council directed them to reduce the square footage and instead they increased it. The location of this proposal is mainly in a residential area. J. Spheeris stated that it was brought up earlier about the adjacent properties being zoned B6 and residential. He stated that this area is zoned B6 and some of the adjacent property is zoned B6. Some of the other properties are zoned B1a, they could put up a grocery store without coming to the Plan Commission with a conditional use. He believes that this whole area will be commercial eventually. He doubts that it will be residential. Especially with the different zones. B1a would allow for a grocery store tomorrow. As far as the square footage, he stated that they decreased the square footage of the retail, which is what the Council requested, but they were also asked to add senior housing by staff. M. Carlson stated that when he suggested senior housing as a transitional use between the commercial development on the north and the residential use on the south side of Vettelson Road, he did not recommend any specific densities, any number of units, any heights, the suggestion made was senior housing, perhaps in a congregate care context with different level of care, and a very high quality setting, would make a good transitional use. He still believed that from a planning perspective. He sincerely concurred with B. Woods remarks with respect to the three story configuration and that the density of the senior density on that particular site. D. Curtis-Costa stated that they have really tried to discourage multi-family housing. M. Carlson stated that 56 units on the entire section of that commercial area from Highway 83 over to the extend, maybe that would be, in a campus setting, maybe the Plan Commission would find that acceptable in the right type of a mix and a transition, but not 56 units on that parcel.

J. Spheeris stated that they are proposing a first class development for the City. He stated that he could show the Commissioners their other developments, other projects, and you can ask any builder, any of the people who live in their developments, that are aware of their projects. They are first-class and they are highly sought after. This is what they are proposing for the City of Delafield. Probably one of your higher architectural standards than you have seen in your commercial property compared to what he has seen. He wanted to know if there were any other questions or points of information that they could explain. Mayor Craig stated that he would like to hear from B. Woods.

B. Woods, of Foth & Van Dyke stated that he did not have anything other than what is in the report. He stated that if there were any questions in regard to the report, he could answer those.

M. Carlson asked B. Woods if there was anything that he heard while he was observing, anything that raised a red flag in his mind, something that he

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disagreed with, a point that he would like to make for the Plan Commission's consideration.

B. Woods stated that basically what he did after going through the ordinance is use the City's conditional use planned development application guidelines. When you go through this, this is what they looked at for what was submitted and what was not submitted. So when their report says this was not submitted, it was asked for in this report. That's where their conclusions came from. As far as having the landscape plan and all, they can't assume that everything is going to stay the same, because it is not front of them. That's asking a little bit more than he thought that they should do. He thought that architecturally it was a quality development from what they saw before. He thought that there were aspects of it that are a quality development also. But there are a lot of other questions that the Commissioners have that relate to the size of the development, still the size of how many trees are coming down, and a lot of other aspects.

M. Gardner stated that the initial thing that caught her attention during the presentation was that they felt that their single water system was adequate, that there was no need for a dual water system. She asked if this was correct. It was. She asked them to tell her the reasoning behind that. S. Gartman stated that simply because the proposed well installation will have a generator back-up for a pumping station. If anything goes wrong with the water source the way they think they are going to design it, there will not be any interruption of service or pressure. M. Gardner stated that one of their concerns also was dealing with the aquifer level and the draw that this particular parcel will have on the surrounding wells. She stated that they are asking to have them possibly hook-up to Hartland. J. Spheeris stated that what is commonly done with a well for a commercial well is that it is a deep well, but it is dug in addition to a shallow well. The reason for that is to reduce the radon level. That is normal for most communities and that's why the deep well would have a larger source of water. S. Gartman commented that as far as submittal for plans as far as landscaping and general grading plans, they believe that their original submittal covered their intent as far the landscaping and the general nature of the grading plans and how the utilities would service the center. The revision plan is not substantially different in its configuration from the original plans submitted and they are offering this as a substitute submittal for the overall plan. They will be keeping in context all of the amenities and everything as far as the intent of the landscaping and everything would be revised to specifically meet this plan already approved site plan in the future. Mayor Craig asked him how he could say that when they are changing dramatically from the pond in the southern part to the northwest corner, they are eliminating buildings, they are moving buildings closer, they are changing the usage of that south - he couldn't accept that statement. S. Gartman stated that basically the landscape is a perimeter landscaping plan and the configurations; all they've done is implode the site plan a little bit keeping more of the existing trees and tree lines that are there. With the circulation of the site, it is essentially the same. The only thing this does is actually add buffer space to it. The quality of the buffer and landscaping presented on the other one would be met in the same context as this plan, if not greater. C. Mursky stated that for the grading has to be significantly impacted by the... but we don't have any indications of that because

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you made a significant change in the stormwater management plan and we haven't received any data showing how grades are going to change. Mayor Craig stated that their intent is well accepted. He did not deny that they had good intentions, but he stated that the proof is in the drawing and we wouldn't have any evidence other than your intent. S. Gartman stated that he believed that under the general development plan it is the ideas, the concept of how the drainage in the site will work. What he was saying was that given the configuration of this site, basically in a circular with all of the parking and the majority of the parking lot in the center, both plans are the same. With the intent there, if you look at that grading plan that we had, it was all interior catch basins, it would catch all of the water and pipe it to the location of the stormwater retention, whether it is on part of the property or the west part of the property as currently shown. The only difference there is the location of the pond. The pond will be screened the same way or better. The perimeter landscaping along here with the evergreen trees will stay essentially the same adjacent from the property owners. In concept the grading plan is essentially the same. It is just less area. C. Mursky quoted from the ordinance: "Conceptual grading plan showing general site drainage, the location of on site stormwater management facilities and any modification in existing topography." She stated that unless she was missing something, she didn't recall the topography changes being submitted or the conceptual grading. Mayor Craig added along with the northeast corner and the difference in the buildings. You are moving closer, you moved the grocery store. You have moved some buildings around quite a bit and eliminated some buildings also which has got to affect what we are asking for. S. Gartman stated that he understood the question, but he believed that the way he interpreted the code that the general concept of a grading plan versus the SIP level where you have the contours, all of the catch basins, all that development, is where that type of situation comes in. The existing natural flow of this site goes from southeast to northwest. Mayor Craig stated that they could go around and around about the merits of that report and not merits. He stated that it is missing. C. Mursky stated that there was a significant shift in the site plan, with that stormwater management change. Should there not have been an upgraded conceptual grading plan, we have a location of the stormwater management and modifications of existing so those two aspects of that part of the ordinance, should they not have been revised and submitted at the time the site plans changed in order for us to review it? S. Gartman stated that according to ordinance, yes. That was his interpretation

Mayor Craig stated that going back to the water issue of the two sources, he asked Mr. Spheeris, "Didn't you put in another development on the other end of our city, the development is actually in the Town, but next to it, that does have this joint connection." J. Spheeris replied that they put it in, it is in the Arbors, a private well that they put in and when the City brought their water lines down they connected to. Mayor Craig stated then that what the City is asking really isn't out of the ordinary that Mr. Spheeris has done himself. J. Spheeris replied that they put in the private well and the City connected municipal water to it. Mayor Craig stated that the City has the same type of agreement with Wal-Mart Center. They have a private well and the City has water pipes there also. There is a third one. This request that the City is doing is not out of the ordinary and J. Spheeris has

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already done it in one of the cases. The other point that he wanted to make is it is not necessarily the water level, totally, it isn't necessarily a power structure, but there is also a mechanical aspect here too. If you have mechanical problems with your pump, with your well, for whatever reason it may be, you would have this back-up, this safety, this emergency source that you could operate with, or the people in that area could operate with also. J. Spheeris stated that this was correct. He stated that where he is coming from is that this is what the principals have all agreed upon. Mayor Craig stated that he had to realize that water in the City of Delafield is always a major issue and this is a major concern to this area, just so that he is aware that it is in that emphasis.

Mayor Craig stated that J. Spheeris made in his opening statement that he would not open any stores until lights on Capitol Drive and Highway 16 would be put in. J. Spheeris stated that this was correct. Mayor Craig asked if that is taken out of the \$400,000 that he is putting forth. J. Spheeris stated that it was part of it. Mayor Craig stated that there is another development (Lutheran High School) going into that corner that he understood the DOT wouldn't do anything with until they come up with a conclusion to what they are going to do. J. Bieberitz responded that where DOT is at with the Traffic Impact Analysis that was conducted for that development - it is in the review stage, comment stage. That has not been approved and accepted by DOT. Mayor Craig asked if they were just going to install the lights there despite what goes on in that other development. J. Bieberitz stated that the recommendations from the Lutheran High School were to install signals at the westbound off ramp. Mayor Craig stated that there is also some widening of the off ramp and adding ramps, all that would be taken off of the \$400,000? J. Bieberitz stated that the turn lanes, striping, a lot of the turn lanes they are creating is basically re-striping on Highway 83. Mayor Craig stated that in talking to Carl Pierce from the DOT before he got the gag order with this section, he was giving him the impression, with strong words like: "there's going to be 4-6 lanes, 2 of them brand new lanes on that ramp", so it isn't just striping, it is additional asphalt, it's additional. J. Bieberitz stated that the first issue is without the widening of 83, that's what they are talking about as far as adding turn lanes. The second issue is, what you were talking about with Carl Piece, is ultimate improvement conditions for adding three to four lanes on top of that. Mayor Craig stated that that was where he was going. He asked if they were going to be doing all those and the lights out of that \$400,000. J. Bieberitz stated no. The intention was that do the signals and improvements until the DOT improvements are made. But the signals will be placed in such a way that when the improvements are made on 83 that all that will not be lost. M. Carlson stated that his understanding was that the \$400,000 was going to be applied to any of the City's expenses or credited on behalf of the City for our expenses to widen Highway 83 from 16 south to Mariner Dr. M. Gardner stated that they said extra dollars would be mitigated to any additional lanes. How do we know that? Mayor Craig stated that he is hearing a shift of money. D. Curtis-Costa stated that the City will have to pay again if it is all ripped out and widened four to six lanes. M. Carlson stated that he wants the \$400,000 to go 100% to the City's benefit for the final product. Mayor Craig stated not temporary. J. Spheeris stated that the thing you have to realize is that when they do the widening of 83, any work that they will do, will probably all be ripped up,

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other than the lights. Mayor Craig stated that the lights have to change if you are changing the lanes. J. Bierberitz stated that there is underground equipment and there are poles. The underground equipment would be located far enough away so that when the road gets widened that would not be ripped up or lost. The poles themselves would be relocated or pulled back when the widening occurs. Mayor Craig stated that the wires under the ground are going to change when the roadbed changes. M. Carlson stated that the conduit would not. J. Spheeris apologized to M. Carlson and stated that if there was some confusion they would go back and look at what the original offer was and come back.

M. Gardner stated that she wanted to interject at a high risk with the comment that by putting this on the agenda for final consideration, she had several concerns. 1) is with the magnitude and the degree of level of intensity that this has become it is very hard to expect us to have a final consideration when we had nothing until we got here this evening. There were a lot of things that were put on it that we didn't even know about that you had decided that you had gotten at 3 or 3:30. The other aspect that she had to address is also expecting that when they came here since we didn't receive anything until this evening, that our concerns that we mapped out would be addressed and met. She thought that one of the biggest things was the dual water system. She has a whole issue with the timing and things that were not met that we asked to have been met for final consideration. C. Mursky stated that she agreed with her and she wanted to propose a motion.

C. MURSKY MOVED TO CONTINUE THE MATTER OF VILLAGE SQUARE UNTIL THE NEXT PLAN COMMISSION MEETING WITH THE REQUEST THAT THE APPLICANT SUBMIT THE FOLLOWING DOCUMENTATION AS REQUIRED BY THE FOLLOWING ORDINANCES, 17.75.7A4, TWO ASPECTS OF THE CONCEPTUAL GRADING PLAN SHOWING GENERAL SITE DRAINAGE, MODIFICATION OF THE EXISTING TOPOGRAPHY SINCE THERE WAS A SIGNIFICANT CHANGE IN THE SITE PLAN THOSE MODIFICATIONS AND THOSE ASPECTS NEED TO ALSO BE SUBMITTED FOR REVIEW, 17.75.8B WHICH DEALS WITH DESERVING EXISTING MATURE VEGETATION AND NATURAL TOPOGRAPHY WITH SPECIAL EYE TO THE ISOLATE NATURAL RESOURCE AREA AND THE SURVEY NEEDS TO BE DONE IN ORDER TO DOCUMENT THE PRESERVATION OF THAT ISOLATED NATURAL AREA, 17.75.8C THERE ARE STILL QUESTIONS REMAINING ABOUT WHETHER OR NOT THE CHARACTER AND INTENSITY OF THE PROPOSED DEVELOPMENT IS COMPATIBLE WITH EXISTING AND PLANNED LAND USES ON NEARBY AND ADJOINING PROPERTIES, AND 17.75.8E EXISTING OF PLANNED STREET AND HIGHWAY IMPROVEMENTS BEING ADEQUATE TO HANDLE THE PROJECTED VOLUMES OF TRAFFIC GENERATED BY THE PROPOSED DEVELOPMENTS CONCERNS HAVE BEEN RAISED HERE TONIGHT INCLUDING, BUT NOT LIMITED TO, DATA FOR CAPITOL DRIVE AND VETTELSON ROAD AND THE IMPACT ON THAT INTERSECTION. M. GARDNER ADDED TO THAT TO TAKE INTO CONSIDERATION THE TRAFFIC THAT IS ALREADY BEING GENERATED ON THE OTHER SIDE OF HIGHWAY 83. M. GARDNER SECONDED THE MOTION. M. GARDNER

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ASKED C. MURSKY TO STATE BACK 17.75.8B. C. MURSKY STATED THAT THE ORDINANCE READS "EXISTING MATURE VEGETATION AND NATURAL TOPOGRAPHY WILL BE PRESERVED TO THE GREATEST EXTENT POSSIBLE" AND WE STILL DON'T HAVE DOCUMENTATION REGARDING THE ISOLATED NATURAL RESOURCE AREA AND THE SURVEY THAT THE DEVELOPER NEEDS TO DO. MAYOR CRAIG STATED THAT WE DO HAVE SOME OF THE INFORMATION. C. MURSKY STATED THAT WE DO HAVE SOME, BUT IT IS NOT COMPLETE, THERE ARE STILL ASPECTS OF THAT THAT NEED TO BE SUBMITTED, SO WE DON'T HAVE ENOUGH INFORMATION AT THIS POINT IN ORDER TO REVIEW THAT ASPECT OF THE ORDINANCE. M. GARDNER ASKED WHAT ADDITIONAL INFORMATION WE NEEDED. M. CARLSON SUGGESTED THAT WE UPDATE THE STANDARD DOCUMENTS, THE CONDITIONAL USE PERMIT, THE DEVELOPMENT AGREEMENT, STORMWATER AGREEMENT, AND THE DEEDS COVENANTS AND RESTRICTIONS AND BRING THEM BACK SO THAT WE CAN PRESENT THEM TO THE PLAN COMMISSION FOR FINAL CONSIDERATION. MAYOR CRAIG ASKED THAT THIS BE IN A TIMELY MANNER, NOT THE NIGHT OF. M. CARLSON ASKED THE COMMISSIONERS WHAT SITE PLAN THEY WANTED THEM TO PREPARE THEIR EXHIBITS ON. MAYOR CRAIG STATED THAT HE THOUGHT YOU HAD TO RUN WITH THE ONE THAT THEY ARE RUNNING WITH THEMSELVES. M. GARDNER THOUGHT THIS ALSO. M. CARLSON THOUGHT THE COMMISSIONERS HAD TO GIVE DIRECTION ON WHAT SITE PLAN THE COMMISSIONERS WANTED THEM TO PREPARE. MAYOR CRAIG STATED THAT WE ARE LOOKING FOR THE DOCUMENTS ON THIS. HE THOUGHT WHAT M. CARLSON WAS LOOKING FOR AND THEY ARE ALSO LOOKING FOR THROUGH THEIR LETTER, ARE THERE ANY COMPONENTS ON THIS SITE PLAN THAT THEY PLANNED ON THE BOARD THAT THE COMMISSIONERS HAVE A VERY STRONG ISSUE WITH SO WHEN THEY PULL THESE DOCUMENTS THEY ARE NOT RE-DOING IT AGAIN AFTER WE TWEAK THEIR SITE PLAN. IS THERE ANYTHING? D. CURTIS-COSTA STATED THAT THE DENSITY OF SITE AND THE SENIOR HOUSING. MAYOR CRAIG STATED THAT WHEN YOU LOOK AT THE NEIGHBORS AND EVEN THE RESIDENTIAL ON THE NORTH SIDE, THE MULTI-FAMILY THAT IS IN THAT AREA, HE THOUGHT THEY WERE LOOKING AT ONE TWO STORY BUILDINGS, NOT THREE STORY AND NOT EVEN THAT CLOSE TOGETHER. D. CURTIS-COSTA STATED AND POSSIBLY NOT EVEN TWO DEPENDING ON THE LAY OF THE LAND THERE. MAYOR CRAIG STATED ONE STORY. HE ASKED IF THERE WERE ANY COMMENTS ABOUT THE RETAIL STORE. D. CURTIS-COSTA STATED THAT SHE WOULD PREFER TO SEE MORE OFFICE AND LESS RETAIL. THE IMPACT ON THE CITY ON OFFICE VERSUS RETAIL AND THE HOURS OPERATION OF OFFICE WOULD BE MORE COMPATIBLE WITH THE PRESENT LAND USES. THERE WOULD ALSO BE LESS LIGHT POLLUTION, TRAFFIC, DELIVERY TRUCKS AND IT WOULD MAKE IT MORE COMPATIBLE. MAYOR CRAIG ASKED IF THERE WAS ANY COMMENT ON THE BANK. THERE WAS NONE. HE THEN ASKED IF THERE WAS ANY COMMENT ON THE GROCERY STORE. D. CURTIS-

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COSTA STATED THAT THE COUNCIL DIRECTED THAT THE ANCHOR STORE BE REDUCED IN SIZE. MAYOR CRAIG STATED THAT BASICALLY THEY WERE ECHOING THE COUNCIL COMMENTS. D. CURTIS-COSTA STATED THAT THAT WAS CORRECT. ALSO THEY WANTED IT TO COINCIDE WITH THE 83 RESTRUCTURING AND SHE WAS SURE THAT WHAT THEY MEANT IS BY STATE, NOT SOMETHING THAT WAS TEMPORARY. M. CARLSON STATED THAT IF THE COMMISSIONERS WERE ADAMANT ABOUT THE ISSUE OF THE SIZE OF THEIR ANCHOR STORE, THE DEVELOPER HAS GONE ON RECORD AND REITERATED THAT THEY ARE NOT GOING TO CHANGE THE SIZE OF THE ANCHOR STORE. IF YOU ARE ADAMANT THAT THEY CAN'T HAVE OR THAT YOU WOULD NOT RECOMMEND APPROVAL OF THE STORE, KNOWING FULL WELL THAT THE CITY COUNCIL HAS THE FINAL APPROVAL AUTHORITY, BUT IF YOUR DIRECTION IS THAT YOU DON'T WANT TO SEE A GROCERY STORE THAT SIZE, GIVE THEM THAT DIRECTION NOW AND SAVE THE TROUBLE OF REDRAFTING THEIR DRAWINGS. D. CURTIS-COSTA STATED THAT SHE ADDED THAT BECAUSE IT WAS THE COMMON COUNCIL'S DIRECTION. M. CARLSON UNDERSTOOD THAT. HE THOUGHT THAT THE COUNCIL ALSO UNDERSTANDS THAT THIS WHOLE ISSUE THE GROCERY STORE AS THE ANCHOR, THEY STATED PUBLICLY THAT THAT IS AN ISSUE THEY CAN'T SHOW FLEXIBILITY ON. D. CURTIS-COSTA STATED THAT IF THE REST WAS CHANGED TO MOSTLY OFFICE, THEN WOULD IT ADDRESS THE STORE. MAYOR CRAIG STATED THAT KNOWING THE OWNER OF THE LAND, YOU ARE GOING TO HAVE A GROCERY STORE THERE, THAT'S A PRETTY SAFE BET. AS FAR AS THE COMPOSITION OF RETAIL VERSUS OFFICE, AS FAR AS THE BANK, HE DID HEAR COMMENTS ABOUT THAT. HE THOUGHT THAT THE MAIN POINTS HE WAS HEARING ABOUT THIS SITE PLAN ARE THE WATER AND HIGHWAY 83, THE DENSITY OF THE HOUSING, AND THE LACK OF REPORTS. MAYOR CRAIG STATED THAT THERE WAS A MOTION ON THE FLOOR AND ASKED IF THERE WAS ANY MORE DISCUSSION ON THIS MOTION. C. MURSKY STATED THAT SHE DID NOT SEE ANYTHING IN THERE THAT DEALT WITH WATER ISSUES. M. CARLSON STATED THAT FROM OUR PERSPECTIVE, HE THOUGHT THAT THIS IS AN ENGINEERING ISSUE AND FROM A PROFESSIONAL STANDPOINT HE MADE A RECOMMENDATION THAT THEY HAVE A REDUNDANT WATER SUPPLY VERY SIMILAR TO THAT THAT IS IN PLACE FOR THE ARBORS SUBDIVISION THAT WOULD REQUIRE TWO SOURCES OF WATER. M. GARDNER STATED THAT THIS IS WHAT WAS ASKED FOR AT THE LAST MEETING. MAYOR CRAIG STATED THAT THAT IS WHAT WE'VE BEEN ASKING FOR ALL ALONG. M. CARLSON STATED THAT TO PUT IT BACK TO THE DEVELOPMENT TEAM HERE, IF THAT FROM THEIR PERSPECTIVE IS A DEAL KILLER, THEN IF THE PLAN COMMISSION AGREES WITH THIS PERSPECTIVE THAT HE WAS TAKING, THEN MAYBE THE DEVELOPER NEEDS TO DECIDE WHETHER IT IS WORTH THEIR WHILE TO REDRAFT THEIR DRAWINGS. C. MURSKY STATED THAT SHE WAS SEEING THAT WATER SUPPLY AS PART OF THE SIP, SHE CLARIFIED THAT WHAT M. CARLSON WAS SAYING IF THAT WAS GOING TO BE THE CONSENSUS OF THE BODY

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HERE, THAT WON'T BE PART OF THE REQUIREMENTS OF THE SIP LEVEL THAT IT MAY BE IN THE APPLICANT'S BEST INTEREST IF THEY CAN'T LIVE WITH THAT NOT TO PURSUE. M. CARLSON STATED THAT HE WAS SUGGESTING THAT THE UTILITY SERVICE TO THIS PROPERTY IS OF SUFFICIENT MAGNITUDE TO BE REQUIRED AS PART OF THE GENERAL DEVELOPMENT PLAN. HE STATED THAT WE'VE ALREADY GONE ON RECORD SAYING THAT THIS WILL BE SEWERED; IT PROBABLY WILL BE SEWERED THROUGH THE HARTLAND SYSTEM. IT DIDN'T MATTER TO HIM WHETHER IT WAS THE HARTLAND SYSTEM OR THE DELAFIELD SYSTEM, AS LONG AS IT WAS SEWERED. FROM A WATER PERSPECTIVE, A WATER UTILITY STANDPOINT, HE BELIEVED THAT A REDUNDANT WATER SYSTEM IS NECESSARY. HE GAVE A PRIME EXAMPLE - WHEN THE CITY'S WATER SYSTEM WAS INSTALLED AT 83 AND 94, THE CITY LOST A PUMP, IT HAD NOTHING TO DO WITH ELECTRICITY. THEY HAD A BIG GENERATOR THERE ALSO. THE CITY HAD TO INITIATE A CONNECTION WITH THE ARBORS SUBDIVISION AND THE CITY WAS PULLING WATER FROM THE ARBORS SUBDIVISION FOR A TEMPORARY TIME PERIOD BECAUSE THE CITY'S PUMP WAS BAD. THAT KIND OF STUFF HAPPENS. FROM AN OPERATIONAL STANDPOINT, THE CITY IS IN THE BUSINESS SO THAT WHEN YOU TURN YOUR FAUCET ON, IF YOU ARE PART OF OUR WATER SYSTEM, SOMETHING COMES OUT OF THE HANDLE. THAT'S THE CITY'S JOB. IN ORDER TO HELP THE CITY DO ITS JOB, WE NEED THE BACK-UP SYSTEM. ONE OF THE REASONS WHY WE WANT TO PUT IN ANOTHER WELL IN AT THE 83 SYSTEM IS TO GIVE US THAT REDUNDANT SYSTEM BACK-UP. THE ORIGINAL SYSTEM WAS DESIGNED FOR A SECOND WELL OUT AT 83 AND 94. M. GARDNER STATED THAT SHE THOUGHT IT WAS MUTE POINT BECAUSE THAT IS WHAT THEY HAD ASKED FOR AT THE LAST COMMISSION MEETING. IT WAS THE DIRECTION THAT WE GAVE THEM. MAYOR CRAIG STATED THAT IT WAS GOING IN CIRCLES. MAYOR CRAIG CALLED THE VOTE. THE MOTION WAS TO CONTINUE THIS MATTER OF VILLAGE SQUARE UNTIL THE NEXT PLAN COMMISSION MEETING WITH THE REQUEST THAT THE APPLICANT SUBMIT THE FOLLOWING DOCUMENTATION AS REQUIRED BY THE FOLLOWING ORDINANCES, 17.75.7A4, 17.75.8B, 17.75.8C, 17.75.8E AND THAT WOULD INCLUDE THE DATA FOR CAPITOL DRIVE AND VETTELSON ROAD AND THE IMPACT ON THAT INTERSECTION, CONSIDERATION OF THE TRAFFIC BEING GENERATED ON THE OTHER SIDE OF 83 ALSO. A FRIENDLY AMENDMENT WAS MADE TO INCLUDE UPDATED STANDARD DOCUMENTS. MAYOR CRAIG ASKED IF THE MOTION MAKER AND THE SECOND AGREED TO THAT AMENDMENT. C. MURSKY STATED THAT IT WAS ALSO ASKED FOR A SURVEY OF THE ISOLATED NATURAL AREA. MAYOR CRAIG STATED HE BELIEVED THAT THIS WAS PART OF THE LANDSCAPING. C. MURSKY STATED THAT THIS WAS PART OF 17.75.8B, BUT ASKED HOW SPECIFIC DO THEY NEED TO BE, CAN THEY JUST TAKE IT FROM THE DISCUSSION NOTES OR DOES IT NEED TO BE PART OF THE MOTION. M. CARLSON THOUGHT THAT THE DEVELOPER UNDERSTANDS THAT THE CITY IS LOOKING FOR A SURVEY OF THE ENTIRE BOUNDARY. WHEN THE

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SHOPPES OF NAGAWAUKEE THAT WAS USED AS AN EXAMPLE, WHEN THEY CAME BEFORE THE CITY COUNCIL, AND EVEN WHEN THE WEISGERBER ORIGINAL DEVELOPMENT FOR THE HOTEL AND CONVENTION CENTER CAME BEFORE US, HE VIRTUALLY STOMPED HIS FEET AND HAD A HISSY FIT DEMANDING A SURVEY SHOWING THE GREEN SPACE CALCULATION PROVING TO US WHAT THE GREEN SPACE CALCULATION WAS. TO BE CONSISTENT, HE THOUGHT IT WAS CRITICALLY IMPORTANT THAT WE HAVE A SURVEY, A BOUNDARY SURVEY OF THAT ISOLATED AREA. THEY HAVE ONE PIECE OF IT. THEY HAVE THE ONE BOUNDARY LINE OF IT. SEWRPC HAS STAKED IT SO IT IS JUST A MATTER OF COMPLETING THE CIRCLE. ALL WERE IN FAVOR OF THE MOTION. MOTION CARRIED.

- b. **Tax Key 742.984 and 742.994.** Action Marine seeks approval of amendment to existing Conditional Use Permit.

J. Pfeil from Action Marine, W73 East Wisconsin Avenue was present and had no comments. R. Dupler stated that Mr. Pfeil was before the Plan Commission last month and it was the direction of this body that he work with him to create a parking solution for his patrons. The number of parking spaces that are required to satisfy the ratio unique to his zoning district, those seven spaces can be accommodated in the immediate asphalted area. Mr. Phiel has asked for the Plan Commission's consideration in allowing him to block off the remainder of that parking area for the exhibition or display of vehicles, both cars and boats. The function of the parking spaces as they are laid out is well enough to satisfy his requirements. There is ample turning space and more importantly, as a safety factor they have incorporated an area to back a trailer so as to be able exit to Highway 16 face forward. The plans are satisfactory and he recommended approval.

D. Curtis-Costa clarified that he was just looking for auto display and sales, not service or storage. J. Pfeil stated that they would have storage for the autos that they were planning to sell, but not storage for individuals.

D. CURTIS-COSTA MOVED TO APPROVE. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

6. Preliminary Consideration

- a. **Tax Key 798.030, 706 Main Street, Delafield.** Owner: Steve Reich. Owner seeks approval of the conceptual plan for addition.

S. Reich was present at the meeting. He stated that he is a Delafield resident. The subject property is 706 Main Street, on the southeast corner of Main and Oneida. They are proposing (they had documentation) to put an addition onto the building that is already existing. It would be a two-story building and they are looking for preliminary approval. Brian Ruffy, a representative from Allen Builders who was assisting S. Reich, was also present. T. Maney stated that S.

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Reich has owned the building for several years and wanted to put on an addition. He came to T. Maney preliminarily and informally and asked what was needed. T. Maney stated that the first thing that he needed was a plat of survey. They had never had a plat of survey on this property before. S. Reich had a plat of survey done and at that point found that the building was built 8.2 feet into the alley-way. He needs a variance to go to the board of appeals. The Board of Appeals cannot grant a variance when the building crosses a lot line (the City alley). He is going for an alley vacation to legitimize his building to at least get his building on his lot before he can go to the Board of Appeals. However, with a 15' wide alleyway, each side of the parcel, each owner of the parcel, gets 7.5'. His building is 8.2 feet. So even when it is vacated that building still sits on what now would be Mr. Lang's lot line. Mr. Lang has been good enough to agree to either sell or deed to Mr. Reich enough land to get that building on his land. S. Reich needs a formal vacation process and then to provide proof to the city that Mr. Lang has indeed deeded that land just in order to go to the Board of Appeals. He would need to go to the Board of Appeals for the addition on the nonconforming structure and would need a variance. He would not be increasing the amount of nonconformity. D. Curtis-Costa stated that on the concept drawing she saw the existing building at the bottom - T. Maney stated that she was looking at the after effect of the vacation of the alley. M. Czubkowski explained that the process of vacation is quite expensive, and of great length. She had contacted the City Attorney and there may be some other options available besides vacation. There may be easements, filing with the Register of Deeds a declaration that if the City ever wanted use of that alley again at any future time, that S. Reich would know that his building would have to come down. That is true right now also. He is in the alley, but it was clarified that it is not an active alley. There is not a grandfather clause. T. Maney stated that it has gone on more than just here. There are a lot of platted alleys that have never been built upon. M. Czubkowski stated that the alley has never been vacated and that S. Reich spent his dollars to have that all researched for the City. When he came to Plan Staff she pulled out the old records when this was approved, the question came up by the Plan Commission and Council about the alley, it never was answered, and it was never followed through. No one ever went through a vacation. S. Reich had asked M. Czubkowski to contact the City Attorney and see if there were some other ways to go about this. The City Attorney stated that there were other ways and that some may be more favorable than the actual vacation. When S. Reich vacates the alley, he needs to vacate a whole alley and anybody could object down the road. T. Maney stated that at this point he did not think anyone would object on that street to the vacation. The vacation would have to go from street to street which S. Reich would be paying for the engineering and all of the costs. T. Maney stated that the problem with not vacating that is that there is a major clout on the title. If anyone goes to buy the building and there is verbiage in there that if the City ever wants to enforce it, they would have to tear the building down, and that is why the vacation is the clearest way. It was clarified that this would be for the entire block from street to street. It would be S. Reich's expense. M. Czubkowski stated that a simple one would cost several thousand dollars. This is something that would have to be published three times. S. Reich stated that it was his inclination to get this done right now and get it cleared up as fast as he can to use the property for the addition. If he wanted to come back at a later date

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and take his time and vacate, he would like that option someday too, especially if he ever plans to sell it. Right now he would like to try the shortest route and get it done. T. Maney stated that this meant that they would need to ask the City Attorney, going back to the original reason for the vacation, if there isn't a vacation, can the Board of Appeals grant a variance where it crosses a lot line? It was T. Maney's understanding that they could not grant the variance. The building has to be on his lot. D. Curtis-Costa asked for verification of where S. Reich was on Mr. Lang's lot. T. Maney stated that he is not on Mr. Lang's lot yet. He is fully in the alleyway now. But when the alley is vacated, each side of the ownership splits it in half. S. Reich would get 7.5' and Mr. Lang would get 7.5' and at that point, the building would be .7' on Mr. Lang's property. S. Reich was directed to go to Mr. Lang. S. Reich reported that Mr. Lang would give him his 7.5' and that if S. Reich did the work, he would sign it. T. Maney stated that the clearest route, although it may be longer and more expensive, the clearest route to a clear title is a vacation because of the Board of Appeals. It was stated that this is CBD2 zoning. M. Carlson asked what CBD2 zoning says about construction on the lot line. It was stated that he needs to be 10' off of the lot line and that is where he would need the variance for the existing land, not the new. M. Carlson asked if he could do it through a planned unit development. T. Maney stated that he would not be able to do that, he would still need the variance from the Board of Appeals because of the rear lot line setback needing to be 10'. He could build a second building through a PUD and not touch this one. It was stated that the easiest way to solve this would be through vacation. However, it is the most expensive for S. Reich. It would be the cleanest and nothing would be on the title. D. Curtis-Costa wanted to know what he could do in the meantime and if so what. M. Czubkowski stated that he should send him a letter and he will put it legally to the Commissioners but he thought there were a couple of options might be possible; the City giving an easement until this work was vacated or declaration with the Register of Deeds clearly saying that if the City in the future would need this alley for a purpose, that the building would be required to be removed. Mayor Craig asked S. Reich that knowing what he just heard, did he want to proceed with the vacating of the alley or would he want another month to contact Attorney Chapman, see what the two of them could work out and then come back to the Plan commission next month. S. Reich stated that he comes back to the Plan Commission next month anyways. He would like to talk to Attorney Chapman and have his options explained to him clearly. Time is of the essence for Allen Builders, as they will be an occupant of the building, so he would like to get it going and address the vacation down the road. He has no plans to sell the building, but if he does sell it, he was sure it would come up. T. Maney stated that one of the first questions that needs to be asked of the City Attorney is we know he has to go to the Board of Appeals, can the Board of Appeals grant the variance in this case prior to that land being vacated and Mr. Lang giving him his portion of the land to make sure the building is on the land. It has to be made sure that he can do that. If he can't, it is all a mute point. Mayor Craig stated that what T. Maney was suggesting was to wait until next month to further this conversation. T. Maney stated that if he wants to investigate another alternative other than a vacation, he thought the City should find out from the Attorney if he can through the Board of Appeals without doing that. If he couldn't, this all becomes a mute point. He was not trying to push vacation on S. Reich,

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but by putting this off for a month, he may come back for a month and find out he needs to vacate it and he would have lost 30 days. S. Reich asked what if he would decide to vacate as he stood there right now. T. Maney thought that a public hearing had to be made. M. Czubkowski explained that the process is that she needs a legal description of the vacation from street to street. T. Maney did not think this would be a big deal, but it entails a public hearing. M. Czubkowski stated that it entailed a public hearing, 45 days ahead of time the Council has to consider it, it is a lengthy process. Mayor Craig asked if they could proceed with this process while that is going on at the same time so that the builder could get building. T. Maney stated that they could not without the answer from the City Attorney about the Board of Appeals. T. Maney stated that what S. Reich was going through could actually prove that he was going through a hardship in relation to the Board of Appeals. The fact that the addition was no more non-conforming, and the fact that the addition would actually meet the CBD, it tells you that in the spirit for a variance, he was doing the best he could.

R. Dupler suggested that in the interim as some of the legal hassles were being culminated he might want to give thought to a couple of things that came up with the review of the site plan. He stated that S. Reich brought the site plan in to the Plan Staff and they had given him ample advice a couple of months ago. The parking requirements are something that he questions at this time. The parking is a function of the bulk of the building and the square footage of the proposed addition and what it is adding. The requirements here are for 24 spaces and there are only 19 proposed on the site plan. There are however, head-in parking spaces from the Oneida Street side that would compensate for the balance of that. This being CBD2 it is not required of the developer to provide parking spaces on site, it can be offsite. He thought it might behoove everyone if S. Reich were to seek some other parking arrangement to compensate for those spaces. To further complicate this, he has a standing agreement with Mr. Gorski to the north that encumbers this parking lot even further. There may be some drastic issues here that will affect the performance of realization of developing that should be worked out before he got fully committed to the vacation. He could satisfy his parking with an offsite agreement or parking spaces like Mr. Gorski did. The other option is if he were to pursue with the City a fee in lieu in providing spaces to the ability to use offsite or on street parking. To date that has not been employed by the City of Delafield. Mayor Craig stated that he was going back to 5/15/00 and he stated that this issue of downtown parking was addressed at that workshop in which this party was saying that you had to provide the on-street parking. He stated that they needed to be careful with him just as they are trying to be careful with everyone else. This is what you asked us to do. S. Reich asked that this be explained. Mayor Craig stated that it was a downtown community parking workshop that S. Reich and his wife commented that they were in agreement to a letter that Mr. Aul put together stating that downtown parking is an issue and that the people downtown needed to supply their parking. S. Reich stated that the reason was that it was back when he bought the property in 1993, evidently something was passed that said that they wanted to look at parking spaces on his land and Gary Gorski's land and Tom's land. Mayor Craig stated that this was more general in the aspect of any development in that area that it had to be provided. It was a disagreement and debate on CBD1 parking

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and CBD2 was mentioned. Mayor Craig stated that he was not trying to pick on his parking issue, but if he was asking the Commission to address the parking problem downtown which he was part of right now, he needed to be consistent. He asked that S. Reich do what he asked the City to do also. M. Gardner asked if that was ever formally adopted. M. Carlson stated that it was presented to the Council. T. Maney stated that in keeping with what the Mayor started to say, what the CBD2 zoning, and only the CBD2 zoning is this parking offsite but, with 800' which is pretty much like the City just granted to Mr. Caston and Mr. Aul. They went to Mr. Lang and worked out that agreement for parking and that's basically what that option was. He could go to Mr. Lang as he is right in back of him and we have no idea, Mr. Lang may be six stalls over that he doesn't need, he could work out some kind of agreement right now. M. Gardner asked what if he didn't. T. Maney stated that then he would have to provide some kind of parking within 800' or in lieu of that CBD2 allows him to pay the City for parking. C. Mursky asked what domino effect this had on Gary. T. Maney stated that Gary has his parking. S. Reich stated that he has a contract with Gary, he has a lease with Gary and he would not touch that - it goes forever. Mayor Craig asked if the 24 plus the 25 he could supply. S. Reich stated that he was working on it. R. Dupler stated that there were 19 spaces illustrated on the current site plan that does not illustrate the area that is already committed to Mr. Gorski. M. Carlson stated that the greatest portion of that is in the public right of way. F. Welch stated that he needed 24 without any of Gary's vehicles being on this property. He only has 19 on there right now. What he has got here, he can't provide Gary with 24 spots. If he were to put this on, Gary wouldn't have 24 spaces. T. Maney stated that a lot of Gary's is double stacked and Gary is using part of the 80' wide right-of-way, which is Main Street. M. Carlson stated that this is permitted. T. Maney stated that when you look at the concept drawing, up on the top between the centerline of Main Street and the edge of the right-of-way, Gary's parking 10 cars. This will not affect Gary's parking at all. Mayor Craig stated that it would affect S. Reich's parking. F. Welch stated that if he went through this and the City said he couldn't park in the right-of-way any more (Gary). T. Maney asked why the City would go through this and take Gary's double stacking away when he has been doing it for years. Mayor Craig stated that if the City expanded for some reason in the future. This building is not going to go away 40 years from now. T. Maney stated that this was correct. If the City ever widens Main Street at that point, Mr. Reich and Gary both have a problem contractually because the City is going to take it. Now it is up to Steve to provide Gary with however they are going to work it out. Mayor Craig stated that he was hearing a second issue that he needs to go back and examine and see what he could work out. He asked S. Reich if he wanted to continue. M. Gardner stated that the vacation could be started as long as S. Reich is aware that there are other issues that he will have to address. S. Reich stated that he was not going to change his deal with Gary because he did not want to affect Gary's business - he would not do that to Gary and would not even ask him. F. Welch stated that he could not double stack cars in the right-of-way, you may get one vehicle in the right of way perpendicular by going to the City and if they agree to it. If he went by this, he could put 8 in the right-of-way, maximum, if that was approved. If he could get possibly 7 in the right-of-way, then to get 24, he had to get all of those on his property and that would leave none for the building.

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The other issue is stormwater and the potential need for storm water treatment. This is too close to call, there is a major grass area that will be paved over and put a building on, you will require some type of storm water treatment. With this program you are probably talking about underground. He thought there might be some hope in that if he took out the asphalt in Main Street, he could possibly get some credit for removing that asphalt for green area to offset the other. But the parking starts to play in this too. Basically, S. Reich will have a stormwater management issue with this design. He will need some underground detention. Mayor Craig asked if he would have left that asphalt in, would that still be an issue. F. Welch stated that it would have helped his cause. Mayor Craig stated that it didn't seem right to him. F. Welch stated that that may be an argument that he could make with the Public Works Committee. They are the ones that would ultimately look at this. Mayor Craig stated that if he remembered correctly, there was not any grass in the front of that building, there was only a little strip to the west of it. S. Reich stated that that land was designated for a City parking lot initially. Mayor Craig mentioned that he had to mention the parking issue not to throw it in his face, but to mention so that the Commissioners were all aware that they were trying to be even and fair to all. S. Reich stated that no offense was taken. T. Maney stated that in the same way that Gary is parking some of his cars on S. Reich's side of Main Street's right-of-way, right now S. Reich and his tenant are parking without paying the traffic problem at all along the Oneida Street side, probably 6-7 cars away. T. Maney asked if he went to get the approval, could he get credit for those 6-7 spaces. F. Welch stated that under CBD2 he thought so. T. Maney stated that he may want to work that into the calculations. On the Oneida Street side they park straight in by his building. Even though it is in the right-of-way, where his mailbox is. F. Welch stated that Mr. Lang has that perpendicular parking south. Mayor Craig stated that in the CBD2 that would help him. T. Maney stated that it may be applied to his parking problem; it would not solve it, but it is 6-7 cars. S. Reich stated that those spaces along Oneida all the way down are never used. Mayor Craig stated that it was because there was no establishment in that corner building. T. Maney stated that they were there to use. When the Delafield Inn was in operation for awhile, on a Friday night they'd be from S. Reich's corner down to Wells, there were about 12 cars. Mayor Craig asked if they were being reserved for that Delafield house at this time. F. Welch stated that he paid for that parking and storm sewer that is underneath. Mayor Craig asked if S. Reich could use these also. M. Carlson stated that he could not use all of them, but what T. Maney was saying that there is a portion of them that may be allocable. Mayor Craig stated that this would need to be determined. D. Curtis-Costa asked if this would be parking spaces that he would have to be paying for -- on-street parking. M. Carlson stated that it would be up to the Commissioners. He asked if he would have to make a contribution to the account, or do you give him credit for the on street spaces. One or the other. Mayor Craig stated that we need to find out what is available. M. Carlson stated that they already exist. They are already there. They are already being used. He suggested giving him credit for them. Mayor Craig said that some of those might be giving credit to someone else. This needs to be explored. S. Reich asked if it would solve the problem if they built a one-story building and cut the square footage. R. Dupler stated that it would. Mayor Craig

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stated that it might be an option that they might play with also. As much as he didn't want to limit the possibilities for his building, it would lower the requirement. S. Reich stated that if the lot doesn't accommodate 2400 sf more, it doesn't accommodate that. He understood that. C. Mursky stated that it would probably be wise to sit down with Staff and go through some of scenarios and figure out the options. Mayor Craig challenged the group here to find out what has been designated/reserved for other parking in that area first before you have that meeting. He thought it would be more beneficial to find the history out before you get there; otherwise you are going to ask more questions. R. Duper stated next Thursday, Plan Staff. M. Czubkowski asked about the architectural renderings, what is it going to look like. S. Reich stated that the way they plan on using these buildings they will never use all of the parking spaces. Mayor Craig stated that it was not necessarily a wave, but a bank, much like they have done in some other situations. Keep some of that green space that you have there potentially. S. Reich stated that the Allen Builder's employees park way away, his people come and go and they do not draw. Everything he does is out in the field. Mayor Craig stated that it was a definite possibility that the City has done in the past and would like to do.

T. Maney stated that for everyone's understanding at the Planning Staff, the two story rendering that Brian (Allen Builders) had was a beautiful building and was a tremendous improvement. He suggested talking to Mr. Lang about the parking. He may have excess parking that may be able to help him out. Mayor Craig stated that some research needed to be done. The City was willing to work with him. He also liked what he has done to his building in the last couple of years.

No action was taken. M. Czubkowski stated that the vacation hearing would be held in front of the Common Council. The Allen Builders rep asked about the submittal for the landscape design and the rendering - obviously the parking is going to be affected. He will re-do the landscape design and asked if the City wanted storm management. Mayor Craig stated that the City was not sure if he would need to. Once knowing that there was a parking lot a one time and it was all asphalt might be beneficial in working with working the group there might answer a lot of those questions.

- b. Presentation by Mark Moertl regarding the Boat gas Marine Refueling Service.

M. Moertl was present. He was seeking permission from the City of Delafield to operate a boat refueling service on Lake Nagawicka for moored boats. Earlier this month he sent a detailed copy of his plans to the City Clerk. The last time he addressed the Plan Commission a key consideration was Department of Commerce approval. M. Czubkowski state that it was not in the Commissioner's packets; she only received one of the books which she shared with R. Dupler. M. Carlson stated that the Plan Commission is familiar with the operation. They have talked about it when M. Moertl sent the letters; it was put on the agenda under Correspondence. He stated that M. Moertl and he talked last week and he mentioned that they are having a public hearing in the Town of Oconomowoc regarding Okauchee Lake. That would cover Town of Oconomowoc and the Town of Merton. It would be a joint public hearing between the Town of

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Oconomowoc and the Town of Merton because they have split jurisdiction over the lake and then both of those townships are overseen by the Waukesha County Park & Land Use, which is organizing the public hearing. The public hearing will be March 31 at approximately 7:30 p.m. at the Town of Oconomowoc Town Hall. During the last two years M. Moertl has been working with the Department of Commerce which was a major approval that he needed because they are in charge of gasoline storage and dispensing in the State of Wisconsin. In early March the Department of Commerce rendered approval. M. Carlson stated that given that Attorney Chapman is also the attorney for the Town of Oconomowoc, he had a brief conference with him where he asked the question and asked Roger to follow up with him. The question he asked him was if Mr. Moertl was operating this boat gas refueling, but he is not operating from any piece of land in the City of Delafield, very similar to delivery of home heating fuel, if you heat your house with home heating fuel you would call up the truck company and they would come and put the hose to the basement window and fill up the tank in the basement - very similar. The difference is the operation occurs on the water. The question was "Does the City have any regulatory authority on this issue? And if the City doesn't, should they?" R. Dupler contacted Attorney Chapman. R. Dupler stated that Attorney Chapman coincidentally is the attorney for both Town of Oconomowoc, Oconomowoc, and Merton so he is very familiar with the petition. The way they are addressing this in the other communities is that because they are able to employ the county shoreline jurisdiction in those areas, the County ordinances allow for an unspecified conditional use and that is what they are pursuing through that jurisdiction. That would allow them to place restrictions on the operation for use on the waterways. The City's ordinance is not that sophisticated. The City does not have that option available to them. M. Carlson stated that in their phone conversation M. Moertl indicated that it would make sense to have some layer of regulation to hold any other future potential operators to the same high standards that we would hold him to. You either do that by creating a license, a business license, or an unspecified conditional use. R. Dupler stated that the bottom line is whether or not it is in the City's best interest to actually develop a modification to the City's zoning ordinance to incorporate or create such a code allowing for an unspecified conditional use the mechanism for which would be a number of months and would not affect this for this season. M. Czubkowski stated the reason being is that if the City passes an ordinance which in anyway would affect the lake, that it would simultaneously have to be passed by the Village of Nashotah and then it has to be forwarded to the DNR and they have "X" amount of days to respond if they are opposed to it. Mayor Craig stated that if we got this going and talked to Nashotah as soon as possible and got them going on it simultaneously, it would be like 60-90 days for the DNR. M. Czubkowski stated that it could take the DNR up to six months, but licensing may be a shorter process. M. Moertl would like to start now. M. Czubkowski stated that licensing may be a shorter process because it would be licensing in the City of Delafield. R. Dupler stated that Attorney Chapman did not shed any light on licensing; he hadn't considered that as an option. P. Craig asked about a temporary permit. M. Carlson asked what kind of permit. T. Maney asked about the entry to the lake. M. Moertl stated that he would use the boat ramp; whichever one the City would want him to use. The County launch is a nice launch. He would be starting early. He surveyed the launch and at 6 or 7

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a.m. he has never seen it full. The boat is kept on a trailer and is launched and taken out each day.

The issue of zebra mussels was discussed. M. Moertl stated that there were zebra mussels in Nagawicka and Okauchee. He stated that there was a debate on how the zebra mussels were really transferred. He did not think that it was the zebra mussel itself that was being transferred, but he read an article in the paper that said it was the larva and the larva are typically being transmitted in bait buckets or live wells. His boat does not have a live well or a bait bucket. Mayor Craig stated that on the outside of the boat, too, they can attached and be washed off and sprayed down. He asked if they had facilities for him there. M. Gardner did not know how you would enforce that because that then means that she couldn't take her boat from one lake to another. C. Mursky stated that you are supposed to power wash it or let it sun for 48 hours. M. Gardner stated that you couldn't do that because you would have to restrict everyone boating on every lake. C. Mursky stated that this is a business. Mayor Craig stated that we can control it through the business license or through the unspecified conditional use. M. Carlson stated that the City would have to do a text amendment to the zoning code which requires the establishment of the language which requires a public hearing. C. Mursky stated that you would have to have that public hearing first before they could even consider this matter. Mayor Craig stated that that would be postponing him until next year also. D. Curtis-Costa that it would just be for the City of Delafield, the other municipalities already have that in place, so it's not like it's holding up his business. It would just be delaying Nagawicka Lake. M. Gardner thought that some language needed to be in place if the City was going to set precedence. Mayor Craig stated that as much as he would like to get him going, he didn't see the codes allowing it at this time and if M. Moertl gave the City the patience and gave the City the chance to get its language up to snuff the City would welcome him at that time. He stated that he did not have a date as to how long it would take to do that because we don't have a complete answer on DNR. M. Moertl had a statement from the DNR and they are not opposed to it. Mayor Craig stated that the City didn't have anything to allow him in at this time. He asked M. Moertl to give the City time to do the wordage to allow him in and then come back and they would run it through the procedure. M. Moertl stated that nothing would change from this year to next year. Mayor Craig stated that there would be a whole lot of wordage between now and then. Will have the hearings and get the language to run the business. The City will have the hearings and they will get the language to allow him to run the business. As far as his operation, nothing is going to change with the City with their knowledge. There might be something that comes up through Attorney Chapman that the City needs to tweak something, but he couldn't foresee that at this time. M. Moertl stated that there was not anything preventing the City from allowing it either. He thought that there would be a handshake deal for this year. Mayor Craig stated that he would love to do that but he doesn't have the right to do that. He has nothing to say "yes you may" and nothing to say "no I can't". He had nothing to give in regards to leeway. C. Mursky stated that the ordinances only permit them to do certain things. Right now they have no mechanism to permit him to run this business. Mayor Craig stated that it would be his recommendation to go forward in those other lakes. Get the background, the experience, and the success on

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that issue and then come back to the City of Delafield and expand his program next year. M. Carlson stated that he was saying we don't have anything in the code that prohibits you from doing it now. Mayor Craig stated that he didn't have anything to admit him either. M. Gardner asked where we were in legalities. She thought that was the biggest case there. We have nothing to prevent him and nothing to permit him. T. Maney asked if he went out and delivered gas this weekend, would someone arrest him. M. Gardner asked what parameters we have to stand on is what she was asking. Mayor Craig stated that if you are going to the county, he had nothing to stop him there either. That would be Mr. Finley and his prerogatives. He could not say "go for it." M. Moertl stated that there are approximately 20 people signed up on the lake that they have been waiting patiently for two years. Mayor Craig stated that he has heard from about five of those. R. Dupler asked Attorney Chapman if there was anything pro or con. Attorney Chapman's answer was "no". Mayor Craig stated that we are stuck. We are going around in a circle again tonight in the aspect that he was going to stop this and just say he hoped to see M. Moertl next year in front of this body. M. Gardner asked how we can stop it if we don't have a way to permit it. Mayor Craig stated that we can't. We can't allow it, we can't stop it. M. Gardner asked if he decides to go out and fuel people up... Mayor Craig stated that he could not tell him to do that and he can't enforce that he can't. M. Gardner stated that that is why she was asking what his consequences were if he went out on the lake and does this. Does he have any consequences? Mayor Craig asked if his licenses were in order with the DNR and Department of Commerce. Those would be the only ways that we could stop him. M. Gardner stated that probably what you are looking for is an answer is what is going to happen if you were to pursue this without the blessing of this body. M. Moertl stated that he would not go out without their blessing. M. Gardner thought that the City owed him that answer. C. Mursky asked if this would fall under solicitation? M. Moertl stated that this is not soliciting; there are people who have signed up on the lake. C. Mursky stated that she was thinking outside the box. M. Carlson stated that the best analogy that he could come up with is the home heating oil scenario. If he heated his house with liquid petroleum or LP and call up the firm and told them to deliver it, the City doesn't regulate that. C. Mursky stated that they are a licensed business of some community. Mayor Craig stated that he was licensed through the State. M. Czubkowski stated that he may be licensed in North Lake where he is keeping his boat. M. Gardner thought it would be like Schwans. M. Carlson stated that it would be in the community in which corporate headquarters are located. Mayor Craig stated that he was going to move this on. They were going around. There is nothing that they could do; there is nothing that they could stop him. Bottom line, as much as he would love to do something for this guy, there is nothing, our hands are tied. M. Moertl stated that there was no guarantee that he would be on the other lakes this year either. They are still in the public hearing stage. Mayor Craig wished him the best of luck. M. Moertl wanted clarification that he would most likely be here next month or the month after. Mayor Craig stated that he was hearing that we have to do it, Nashotah has to do it, and the DNR has to approve both plans. It will most likely be next year.

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R. Dupler added 7a to the agenda in that the City is lacking the ability to take action on the City's public hearing for the water line specifications. Mayor Craig stated that this needed to be put on the agenda for next month. M. Carlson stated that in the interim, if we've got infrastructure projects out there, before we accept these pipes underground, call the contractor.

8. HEARING DATES

a. Conditional Use for Lake Faire Commons -- April

9. ADMINISTRATOR'S REPORT

M. Carlson stated that two of the items that he wanted to talk about were informational/educational -- helping the Plan Commission better understand it's role, processes, how plan Commissions operate.

a. He downloaded from the web from the Center for Land Use Education, UW-Stevens Point a booklet called the "Plan Commission Handbook". He asked the commissioners to take it home and read through it. If they thought it would be beneficial to have someone come in and give a workshop or a presentation, maybe they could work with R. Dupler through the Stevens Point or through UW-Milwaukee to put on a community workshop that says this is what Plan Commissions do and this is what their responsibilities are. The commissioners thought that would be a great idea.

b. There is a seminar for land use impact assessments on 3/31 and 4/1. He gave the commissioners a handout. If anyone is interested in attending, let M. Czubkowski know and she will get them signed up.

c. Regarding Waterleaf Subdivision, he had conversations with Plan Commission member Curtis-Costa about the Waterleaf Subdivision and the process that the subdivision is going through with the DNR. It dovetails to what he was saying earlier about how the Plan Commission and City Council can approve like, for example, a PUD for Waterleaf Subdivision, but lays out the subdivision and says "here are the lots, here are the streets, this is where the storm water goes, etc, etc." Then that plan goes through other layers of approvals. Public Works Committee, the DNR, and when they go through that process, they may change the grading plan, they may have to do some soil borings along the pathway. The DNR may require them to plant taller grass or to leave the grass higher in certain areas. So there are maps traded back and forth, or plans that are traded back and forth to seek permission from DNR and the Public Works Department in arriving at those conclusions. What doesn't happen is they don't change their site plan from the layout of that neighborhood without having to go right back through the process with the Plan Commission and the City Council. He talked this morning with Gerry Urban from the DNR. She confirmed that they are not changing their site plan; they are changing grading plans and filtration strips and that kind of stuff, but no site plan changes at all. Also the documents, Conditional Use documents, the four standard document that go with the Planned Unit Development and Conditional Uses; he has the versions from Waterleaf and the

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cover letter that came with them from the Attorney representing the Developer suggested that they wait until all of these final plans are submitted before executing the document. He thought that was a fine strategy for the City to follow. That's where we are with Waterleaf Subdivision and the process. D. Curtis-Costa stated that to answer her prior question; we did specify in the PUD document the conditional use permit that the building pads and all of the buildings are out of the environmental corridor. We had asked for the building envelopes actually to be shown. M. Carlson stated that it was not part of the motion that the Plan Commission made. D. Curtis-Costa stated that it was omitted accidentally. C. Mursky stated that she recalled that discussion and she recalled that they were very specific and they were not. M. Carlson stated no structure improvement, this is part of the conditional use permit, no structure improvements including docks, piers, and boardwalks may be constructed and no ground altering activity including the addition of fill may be undertaken in the area of lots 19-24 designated as primary environmental corridor. It's in the document of the Conditional Use. That would be that entire primary environmental area.

10. BUILDING INSPECTOR'S REPORT

Total numbers of permits to date are 13. New construction two new single family homes. There was one occupancy permit issued.

11. BOARD OF ZONING APPEALS

There haven't been any Board of Zoning appeals cases.

12. CORRESPONDENCE

- a. The Lang Companies letter dated February 25, 2003 announcing their spring 2003 events.

Not all members of the Plan Commission received copies of this. Those members without copies will be provided with one.

13. ADJOURNMENT

M. GARDNER MOTIONED TO ADJOURN FROM THE MEETING. C. MURSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 10:08 PM.

Respectfully submitted:

Minutes Prepared By:

Marilyn Czubkowski, CMC
City Clerk/Treasurer

Accurate Business Communications LLC

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