

CITY OF DELAFIELD PLAN COMMISSION MINUTES

PUBLIC HEARINGS

- a. CONDITIONAL USE PERMIT - PLANNED DEVELOPMENT - GENERAL DEVELOPMENT PLAN FOR III DOG DEVELOPMENT, LLC, AND DEVELOPER FOR FAIRE LAKES COMMONS.

M. Czubkowski read the notice.

Mayor Craig: Is there anybody that would like to speak on this issue?

M. Carlson: Would you like a presentation from the developer first?

Cindy Pollegin, Campbell Trace - I guess I am just curious as to if there is any intent... The way I understood it is that development kind of, I guess my concern is is there ever any plan for that to eventually to intersect the road or anything that would go all the way to Hwy. 83?

Mayor Craig: It is on the map to do that.

C. Pollegin: It is on the map to do that. Has that been cut through - there's a private drive that runs off of Campbell Trace that goes up to the top of the hill with three homes up there; does that road intersect that or is it?

M. Carlson: I don't believe so. I believe it intersects with Highway 83.

Mayor Craig: It goes straight out to Highway 83.

M. Carlson: Fred and I had a discussion about that road issue. It seems that the City's Master Plan says one thing but the official map says something different. This is the official map of the City of Delafield and this map does show a road that connects Nagawicka Road with Highway 83. Roger, when we checked our Master Plan, the Master Plan Transportation Plan does not include this?

R. Dupler: It does not identify this road. No. So obviously the map post-dates the comprehensive plan.

M. Carlson: So we have to work through this disconnect. The Map that governs is the official map. That's the one that spells out what your street alignments are.

C. Pollegin: Where does it come out on Hwy 83, I guess is my question.

Mayor Craig: I spot it by Daybreak? Cardinal Lane.

M. Carlson: That's what it looks like.

C. Pollegin: They don't show... like on this map, they don't Campbell Trace on here. So I was trying to...

CITY OF DELAFIELD PLAN COMMISSION MINUTES

F. Welch: That's the one that's basically the length, two lines is Campbell Trace. It's west of the dark line. The dark line is Highway 83. This is the old 83.

Mayor Craig: Do you understand? But again, with Hwy. 83 being redone, to know what Campbell Trace is going to be is not known at this time.

C. Pollegin: It is my understanding that most of the property then up into here is owned or belongs to Mr. Morris.

Mayor Craig: Correct.

C. Pollegin: So that road then will cut through his property?

Mayor Craig: I personally, I can't speak officially...

M. Carlson: That's what it looks like.

Mayor Craig: But it wouldn't be done until he would be developing out.

C. Pollegin: So up until this point when those homes are going to be built now, that road is going to stop at some point.

Mayor Craig: That is shown on the subdivision map, yes, that it stubs out.

M. Czubkowski: It would become a cul de sac at the end of the five lots. There's three on one side and two on the other and you would have a cul de sac for a plow truck to turn around and then if the other land was ever developed, then the road would be extended. That is what the official map shows.

C. Pollegin: So that's dependent upon him selling his property?

Mayor Craig: Who is he that you're talking about?

C. Pollegin: Mr. Morris.

M. Czubkowski: Mr. Morris, yes for development.

Mayor Craig: We wouldn't put a road through a farm field just to put a road. I don't think so at this time. Okay?

C. Pollegin: Yes. I just came for information.

Mayor Craig: Did you want, the developer. Does the developer want to make any statements?

Developer: Not at this time.

Mayor Craig: Sir?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Bob Hamilton, 3410 Nagawicka Road - I wanted to note for the record and bring it to the Commission's attention that there could be safety issues with respect to vision in that area. When you do your deliberations on whether or not to allow that road to go through into the plans that are currently, as you note, owned by Mr. Morris, those concerns, I think, have to be taken into consideration.

Mayor Craig: Would you like to elaborate more on that? So that we know specifically what concerns you are looking at.

B. Hamilton: Vision.

Mayor Craig: Vision on Nagawicka Road?

B. Hamilton: Vision on Nagawicka Road and vision into the proposed road and possible traffic interface problems if you allow a large subdivision. At some point in the future to the land to north and to the east it would increase the traffic significantly at that intersection.

Mayor Craig: Thank you.

B. Hamilton: I bring that up just for the record. Thank you.

Mayor Craig: Duly noted. Thank you. Is there anybody else that would like to address this body on Faire Lakes Commons? Any other comments? Final call, any comments? Looking for a motion to close.

R. TRANSON MOTIONED TO CLOSE THE PUBLIC HEARING. P. SCHUMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE PUBLIC HEARING CLOSED.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present

Mayor Paul Craig
Phil Schuman
Chrys Mursky
Fred Welch
Robert Transon
Beth Leonard
Diri Curtis Costa
Roger Dupler
Tom Maney
Matt Carlson
Marilyn Czubkowski

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: Before we really begin this meeting any further, I would like to make a statement if you wouldn't mind, please. Many have asked whom I'm going to recommend for the last Planning Commissioners position. Tonight is neither the time nor the place for that question to be answered. During Citizen's Comments at the last Council meeting, and in articles published in a particular paper in our community, it was implied that I've decided to support the Village Square project. I have not made that conclusion myself. So I do not know how anyone could make that statement for me. It should be noted that Phil and I have the right to vote one way at the Planning Commission and another at the Council meeting - the attorneys made me say that. I welcome both Diri and Beth to this meeting and I am sorry that the community has been subjected to this controversy over this appointment. I never intended to make an appointment while I was away since I do not dodge responsibilities. It was an unfortunate that the appointment was needed to be made when I was not able to answer questions. I do not mean to prolong this decision, but the Council has the final say and tonight is not the time to elaborate on this topic. One housekeeping note, actually two, during citizen's comments, I would appreciate it if you refrain from repeating previously made statements. I say this because we have a full agenda tonight and I do plan to end this session at 11:00 unless all the business is completed earlier. I will have a five minute break at approximately 9:00 and I ask that it be 5 minutes, please. Also you are going to notice that Bill Chapman will be coming in at 8:00. I am going to ask at that time, if I have a motion and it's the right of the body to disagree with me, that we move the Village Square issue to that time, save the City some money for attorney fees, but also that will give us a fresh, little more fresh mind to deal with this issue.

P. SCHUMAN MOVED THAT THE VILLAGE SQUARE BE MOVED TO COINCIDE WITH ATTY. BILL CHAPMAN'S APPEARANCE AT APPROXIMATELY 8:00 P.M. D. CURTIS-COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

1. APPROVE MINUTES OF PLAN COMMISSION MEETINGS ON FEBRUARY 26, 2003 AND MARCH 26, 2003

P. SCHUMAN MOVED TO APPROVE THE FEBRUARY 26, 2003 MINUTES. C. MURSKY SECONDED THE MOTION. D. CURTIS-COSTA STATED THAT THERE WAS A NAME, PAGE 2, B. BORSKI SHOULD BE B. BORKOWSKI. P. SCHUMAN AMENDED TO CORRECTLY STATE THAT NAME. C. MURSKY AGREED. THERE WAS NO FURTHER DISCUSSION. FIVE IN FAVOR. F. WELCH ABSTAINED. MOTION CARRIED.

C. MURSKY MOVED TO APPROVE THE MINUTES OF MARCH 26, 2003. F. WELCH SECONDED THE MOTION. D. CURTIS-COSTA STATED THAT ON PAGE 12, ABOUT HALF-WAY DOWN IT SAYS "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." SHE WAS NOT SURE IF THAT'S WHAT WAS SAID, OR... M. CARLSON STATED THAT IT WAS ACCURATE. THREE WERE IN FAVOR. P. SCHUMAN, R. TRANSON, AND B. LEONARD ABSTAINED.

APPROVE MINUTES OF PLAN COMMISSION PUBLIC HEARING ON MARCH 19, 2003

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. MURSKY MOVED TO APPROVE. R. TRANSON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. FIVE WERE IN FAVOR. F. WELCH ABSTAINED. MOTION CARRIED.

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

Bob Borkowski, 4521 Vettelson Road - Got two things I would like to talk about. The first one if Item 4a, I see Mike, how are you doing? My only concern, he is a neighbor of mine. He apparently wants to start some sort of a marine boat preparation service. And the hours look like it runs all week long from 8 a.m. - 6 p.m. I am just a little concerned about being open that long on the weekends in particular. The traffic. His property exists on a blind uphill or downhill curve and traffic coming in and out of his property could have some problems, especially if you're pulling trailers. So I'm concerned about for safety on the road and times of operation. I don't know what the other businesses on Vettelson Road where Redi-Gas, those guys, I don't believe are open on the weekend. That's the engineering firm now. And the green house, I don't know what their hours are either, but I don't think that they're as extensive as this. I would like to at least see things be in line as the same.

Mayor Craig: Duly noted.

B. Borkowski: The other item is 5B, Village Square. I just want to reiterate that again, I am not for this. You've heard all these things from me before in the past on many, many occasions. In fact we are coming up to a one year mark on this, so you know how long this has been going on. I hope that you guys have at least a long enough memory to remember all of the things that I've said, my neighbors, and the other citizens of the city and please vote no regardless of what the developer has to say or his attorney. In one respect, if the developer has given the City this much grief and hasn't even gotten a permit to have this development, what's going to happen once, if something like this were to be permitted in my backyard and I had a problem, or my neighbors, or somebody down the road and we wanted to come here and have something taken care of, how long would that take or how hard would it be to adjust? I don't think that they look like they're going to be good neighbors regardless of the outcome one way or another. So, I hope you all consider that. Thank you.

Mayor Craig: Thank you.

Alyce Schouten, 4518 Vettelson Road - I plan to speak on Item 5B, Village Square of Delafield. I guess I'm going to be repeating what Mr. Borkowski just spoke about. I don't know how to address this body anymore about all of the reasons that this particular plan and Mr. Spheeris and Mr. Schutte is just way too big for the neighborhood. It is not compatible in any respect. The traffic on Highway 83 cannot handle the present traffic, let alone the influx from the shopping center. Vettelson Road is a far worse road than Highway 83. Water, major problem. Both in obtaining it and of disposing of it. Pollution, run-off. Light. Noise. Traffic. Garbage. And who knows what else. It just goes on and on. No one in the northeast quadrant of this City wants or feels that there is a need for this type of development. Thank you.

Mayor Craig: Thank you.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Larry Schouten, 4518 Vettelson Road - Again, I would just like to point out that the vast majority of citizens of Delafield and the surround communities who have spoken out at these meetings over the past year have said no to this development. The Plan Commission in the past has said no to this development as proposed. The Common Council told the Developer to downsize his plan and work with the Plan Commission. The Developer has not downsized his plan, in fact he has increased the size of it. It is apparent that this Developer has no intentions of working with the City. Please tell the developer that there is no place for his development within this City now or in the future. We do not have to put up with anyone who does not consider the rights and wishes of the citizens who will be directly and adversely affected by his development. It is far too massive to be compatible with the surrounding area. Thank you.

Mayor Craig: Thank you.

Julie Platz, 703 Milwaukee Street - I live across street from the Prickly Pear Restaurant. I am glad that they are extending their hours and I hope that they will be open again for lunch. I feel that anything that is bringing some activity to downtown Delafield right now is good. I don't have a problem with the outside dining in theory, but I feel that the hours are too long. Tuesday through Saturday from 11 a.m. until midnight is too long for people to be outside talking and eating. I feel that it should be vacated completely by 10 p.m. on all nights. People live over every business in downtown, except for the church. They should not have to listen to other people's conversations. People talk much louder when they are outside. Also, no outside music please. With activity during the day we go back to the same problem, parking. Employees and tenants must park in the rear of the buildings or in the City lot. Three hour parking should be enforced as well. Downtown parking is tight and will be even more so this summer with the road construction. Business groups are trying very hard to keep people coming to Delafield and everyone must work together to leave parking for retail customers. Please enforce the existing ordinances. Mr. Dupler in his attached letter recommends a 10:00 cut-off time for the Prickly Pear Restaurant's hours and I am in favor of this. Also, I would like to address Kuhlenbecks. The music such as at the Carpenter's Pub was not a problem. Rock music and large bands would certainly be inappropriate. I believe the Carpenter's Pub music stopped at 11 p.m. Twelve is too late. I believe we have a noise ordinance that extends from 11 a.m. - 7 a.m. I am not sure, but that's we believe from years ago. Also, outside music during week, to me, is totally unacceptable. Thank you.

Mayor Craig: Thank you.

John Platz, 703 Milwaukee Street - I guess I have to concur with what my wife said with a couple of exceptions. That is, we had seen about eight years ago a similar thing going with the Colonial Inn Restaurant. Having alcohol outside was an issue and so was music. I don't think we should have outside eating. Other than that, I agree with the other things she said. Thank you.

Mayor Craig: Thank you.

Ellen Restock, 4527 Vettelson Rd. - Village Square shares the back lot line of my family's residential property. It is my opinion and that of my husband, that the Village Square plan should be approved tonight by the Planning Commission because the Developer

CITY OF DELAFIELD PLAN COMMISSION MINUTES

has failed to make any attempt the numerous safety and environmental issues raised by the citizens and city officials. Nothing has changed since the commission unanimously voted no on this approval last fall. You will set a dangerous precedent if you allow the Developer's lawsuit to sway your opinion. We do not want to send the message to future developers that the way to get things approved in the City of Delafield is through the courts, or we would rather attract developers who care enough about the communities that they do business with and that they would at least make an attempt to address the issues raised by the citizens and the city officials. Perhaps the good first step would have been that the Developer at least have attempted to attend the public hearing on his own development. His regard to this public's opinion was clearly demonstrated on his absence at the public hearing. There are too many unanswered concerns to proceed with this development. Until the developer addresses the issues, do the right thing and vote no to the Village Square. The citizens of Delafield, whom you represent, are counting on you. Thank you.

Mayor Craig: Thank you.

Barb Rambadt, 3440 Nagawicka Road - I pretty much agree with what has been said. Actually I was going to speak to the lawsuit problem because I really feel the Plan Commission has done a great job looking at all the issues and raising points that are of concern and I think t be intimidated by a lawsuit, we would be bankrupt by now because I've heard you deny hours of operation and signage and noise from a couple, and I just hope the same consideration is given here regardless of the lawsuit problem. And also, I would just like to comment that it is really hard to express ourselves before they know what is going to be presented. I know in the essence of time, we have to do it that way, I really wonder what the proposal is tonight.

Mayor Craig: I will let you know, we're back to square one with initial as we were ordered to review by the Courts.

B. Rambadt: Okay. Well, then hopefully you'll consider all of our complaints that we have stated over and over again. Thanks much.

Mayor Craig: Thank you. I am out of slips. Is there anybody else that chooses to speak?

Bob Borkowski, 4521 Vettelson Road: I understand that, Mr. Carlson, had asked the court for an extension of 60 days on this Village Square question and I haven't heard what the answer was. Could you enlighten us?

M. Carlson: Sure. The Court granted a 30 day extension for a final decision from the City of Delafield.

Mayor Craig: It wasn't Matt that asked for it, it was the Common Council that asked for that.

B. Borkowski: I saw his name and the City Attorney's name in the paper.

Mayor Craig: It's fine. Not even going there. So that you're aware, it was a Council direction.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Borkowski: So, can you translate that to me in realistic terms as to what that means.

M. Carlson: It means that the City Council in Delafield has to make a final decision by June 11th.

B. Borkowski: Okay. Now we've got how many Common Council meetings between now and then?

M. Carlson: Well, the Council meets the first and third Mondays of every month. So we've got two in May, unless one is canceled. And there is one in June before June 11th.

B. Borkowski: And which one are you planning on doing this at?

M. Carlson: Our code requires that the City Council take up the issue at the next council meeting after the Plan Commission makes its recommendation. So if the Plan Commission makes a recommendation tonight, it would be on the agenda for the City Council meeting on May 5th.

B. Borkowski: Okay. And after that?

M. Carlson: Well, I can't prejudge what the Council.

B. Borkowski: Okay. I mean is there another variable to this because every time I open up the paper there seems to be a little twist to the story. So I am just asking the answer man here. That's all I'm trying to figure out.

Mayor Craig: He left his crystal ball in his office.

B. Borkowski: Okay, that's all I needed to know. Thanks.

Mayor Craig: Thank you. Anybody else care to speak? Now they're popping!

Diane Fobian, 624 Milwaukee Street - I just want to say that I agree with Julie Platz on the hours for the Prickly Pear and eating outside at Kuhlenbecks. Thank you.

Mayor Craig: Thanks.

Jackie Bowman, 4449 Vettelson - I just want to say I hope that the Plan Commission follows their own lead and disapproves of the Lake Country Crossing.

Mayor Craig: How about Village Square?

J. Bowman: I get confused. You keep running the same gambit here all of the time. But my question is if that after they were just speaking of the next three Common Councils, then there would be one more Plan Commission before another Common Council then, correct? In other words, could you table that until then?

Mayor Craig: Potentially.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

J. Bowman: Potentially. Okay, I'm saying that you will, but I'm just saying that's another option. That's all I wanted to know.

Mayor Craig: Thank you. Anybody else? Is there anybody else that cares to speak? Final call, looking for a motion to close.

R. TRANSON MOVED TO CLOSE CITIZEN'S COMMENTS. DIRI CURTIS-COSTS SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. CONSENT AGENDA

Mayor Craig: We have a staff request that remove 3b from the Consent and just deal with it afterward right away in Plans. It would be a new 4A. If there is no objection. Is there anybody that would like to remove 3a. Then I'm looking for a motion to accept 3a.

F. WELCH MOTIONED TO ACCEPT 3A. R. TRANSON SECONDED THE MOTION. D. CURTIS-COSTA: WAS THIS DIFFERENT AT ALL FROM WHAT WE GOT LAST MONTH? MAYOR CRAIG: NO, I THOUGHT IT WAS. AND IT'S THE SAME AS WE HAVE THE HEARING ON ALSO. IF THERE WAS A CHANGE WE'D HAVE TO HAVE A WHOLE NEW HEARING IN THERE. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- a. RECOMMENDATION TO ADOPT ORDINANCE 515 TO AMEND CHAPTERS 5.06, 13.25, 13.29, 18.72, 18.73 AND 18.74 OF THE MUNICIPAL CODE OF THE CITY OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN, RELATING TO FIRE PROTECTION, MUNICIPAL UTILITIES, SANITY SEWERS AND SEWER DESIGN, STORMWATER DRAINAGE FACILITIES AND WATER SUPPLY AND WATER DISTRIBUTION.

Mayor Craig: For those that are not aware of what we just did, we had an updating on the water verbiage within our ordinances. Nobody is here to speak on that, but.

- b. **TAX KEY 754.999.001, 3410 NAGAWICKA ROAD, HARTLAND.** APPLICANTS: BOB AND LINDA HAMILTON. OWNER SEEKS APPROVAL TO BUILD GARAGE ADDITION.

M. Carlson: Actually I would like to ask Tom Maney to give us a summary of this issue. We neglected to put a staff memo in your Plan Commission packets about this issue and as a result, we didn't believe it was fair to ask you to approve something that we hadn't fully staffed. So we thought we'd pull it off of the consent agenda and give you an explanation.

T. Maney: In Section 17.38/10 it addresses buildings that are larger than 1200 sf as far as detached garage and pole/garage type building. This has come before us. Mr. Hamilton has between 3-5 acres is tearing down a rather unsightly, I don't want to insult you now, tearing a rather unsightly 24x30 garage and wants to build a 1352 sf detached building. It meets the set-backs, it meets the height, but Section 17.38/10 says it must come before the Plan Commission for review of

CITY OF DELAFIELD PLAN COMMISSION MINUTES

the elevations, which he has, and the site plan. That's what he's doing. It says that he is going to be taking down the existing 30x24 garage and replace it with a 52x26 garage which is 1352. Colors will match his existing garage and he does have some pictures here.

Mr. Hamilton: I'm sorry, no I do not. I thought I had pictures with me, but it will be exactly the same color as my existing garage. The shingles will match the house and the paint will match the house and garage too will be the same.

T. Maney: Those who don't know where Bob lives, it's directly to the north of the development that is coming before us tonight and you probably don't see his detached garage anyhow because of the row of trees that sits in the front. It is directly north of the new Faire Lakes Commons.

Mayor Craig: While you are the microphone, is there anything you would like to say?

Mr. Hamilton: No.

D. Curtis-Costa: Is this a pole barn height, basically?

T. Maney: It's a combination pole building; it's a garage looking building that would fit ...

P. Schuman: Is there a need for a larger garage then?

Mr. Hamilton: Yes, there is.

P. Schuman: What would that need be?

Mr. Hamilton: A boat, a tractor.

P. Schuman: I can relate to those things.

Mayor Craig: If you build it, you will fill it.

Mr. Hamilton: Mr. Mayor, you are correct. My wife does that with closets.

Mayor Craig: Done that myself. Any other comments? Do I have a motion then?

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

Mayor Craig: I thought I saw Bill. Without objection, we did ask that we move it if Bill Chapman, Beth could you stick your head see if Bill Chapman? Is he here?

B. Leonard: He's here.

Mayor Craig: Thank you.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

4. PLANS OF OPERATION, SIGNAGE AND SITE PLAN

- a. **Tax Key 733.989, 4439 Vettelson Road, Hartland** . Owner: Michael D. Gatzow. Owner seeks approval of Business Plan of Operation for Summer Fun Marine, a seasonal boat preparation service. Hours of Operation: Monday - Sunday, 8:00 a.m. - 6:00 p.m. on an as-needed basis and spring/summer. 2 full-time and 1 part-time employees.
- b. **Tax Key 793.016.001, 603 Genesee Street, Delafield** . Owner: Mike and Tammie Kochevar. Owners seek approval of an amended Business Plan of Operation at Kuhlenbeck's Pub & Eatery to allow outside band music starting in May 2003 during the summer months. Days of operation for the outside music are Friday and Saturday until midnight and 1 night during the week until 11:00 p.m.
- c. **Tax Key 807.978.007, 363 Austin Circle, Delafield.** Applicant: Craig Dretzka. Applicant seeks approval of amended Business Plan of Operation and outdoor display signage. Hours of Operation: Monday through Friday, 8:00 a.m. - 7:00 p.m.; Saturday, 8:00 a.m. - 5:00 p.m. Holiday shopping, 8:00 a.m - 8:00 p.m. 4 full-time, 3 part-time employees.
- d. **Tax Key 830.348.544, 2728 Heritage Drive, Delafield.** Owners: Tom Cardella, Ryan Goralski, Wendy Goralski. Applicant: Matthew Hahn. Applicant/owner seeks approval of Business Plan of Operation and signage for Footprints. Hours of Operation: Monday through Friday, 10:00 a.m. - 8:00 p.m.; Saturday, 10:00 a.m. - 6:00 p.m.; Sunday, 12:00 p.m. - 4:00 p.m., 2 full-time and 2 part-time employees.
- e. **Tax Key 807.978.003. 350 Austin Circle, Delafield** . Owner/Applicant: Tom J. Smith. Applicant seeks approval of amended Business Plan of Operation for Austin Plumbing Co. Hours of Operation: Monday through Friday, 7:00 a.m. - 5:00 p.m.; Saturday, 8:00 a.m. - 12:00 p.m.
- f. **Tax Key 807.978.003. 350B Austin Circle, Delafield** . Owner/Applicant: Tom J. Smith. Applicant seeks approval of Business Plan of Operation for All Star Heating & Cooling. Hours of Operation: Monday through Friday, 7:00 a.m. - 5:00 p.m.; Saturday, 8:00 a.m. - 12:00 p.m.
- g. **Tax Key 783.991, 801.999.007 , 651 Highway 83, Hartland.** Applicant Jason Wilke representing the Waukesha County Parks seeks approval of signage at Nagawaukee Park.
- h. **Tax Key 807.987.005, 3562 Hillside Road, Delafield.** Applicant: Thomas Falcone. Applicant seeks approval of amended signage for Delafield Motorsports, Inc.
- i. **Tax Key 804.994.003, 2840 Heritage Drive, Delafield.** Owner: Kensington Development. Applicant: Greg Hughes. Applicant seeks approval of signage for the Wal-Mart Center.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

- j. **Tax Key 787.079, 621 Milwaukee Street, Delafield** . Owner: Philip Haseker. Owner seeks approval of amended Business Plan of Operation and Site Plan approval for outdoor dining at The Prickly Pear. Hours of Operation: Tuesday through Saturday, 11:00 a.m. - 12:00 p.m.; closed Sunday. 3 full-time and 10 part-time employees
 - k. **Tax Key 742.015, 4719 Vista Park Court, Nashotah** . Owner: Scott Blake. Owner seeks approval of building color change for Parquelynn Village.
 - l. **Tax Key 742.015, 4719 Vista Park Court, Nashotah** . Owner: Scott Blake. Owner seeks Site Plan approval for a privacy fence and residential boat storage at Parquelynn Village.
5. FINAL CONSIDERATION, APPROVALS, PREVIOUS APPROVALS
- a. **Tax Key 754.999, 18 acre parcel Nagawicka Rd.** Approval of General Development Plan, Preliminary Plat, Conditional Use Permit, Developers Agreement, Deeds, Covenants & Restrictions and Stormwater Management for Faire Lakes Commons.
 - b. **Tax Key 773.990.003 and 773.998. SW corner of STH 16 and STH 83.** Owner/Applicant: Michael Schutte and Jonathan Spheeris. Court ordered General Development Plan review for Village Square.

Mayor Craig: We'll move at this time before we really get into the swing of things and that. Welcome, Bill. Bill, what we've done is adjusted the agenda so that we can deal with Village Square at this time dependent upon your arrival. I'm going to give you the floor to begin this discussion. For those that are not aware, this is Bill Chapman, he's our City Attorney. He has been working with the staff and working with also our insurance attorney and is here to guide us a bit.

Attorney Chapman: Okay, I've made some notes for the purpose of the Plan Commission meeting so that I can summarize what sections of the zoning ordinance we are dealing with this evening with your permission so that we can start at the beginning. We are dealing with 17.39(27) which is a B6 commercial holding zone, you are dealing with another section of the zoning ordinance, section 17.40 - 17.43 which is the conditional use section of your zoning code and that includes the permitted uses that are set forth in Section 17.46. Subsection 14 refers to planned developments, so that's where we are starting. The next section that you're involved with, makes three total, one the B6, second the conditional use, the third is Section 17.75 - 17.84 which covers a planned development as a conditional use. In 17.39(27) the B-6 zoning district, the general development plan is required as the first phase. The intent is that the GDP be conceptual. That's what you have before you tonight. A specific implementation plan required detailed information will follow as development progresses. In the B6 there are certain requirements that have to be satisfied. First the Floor Area Ratio, impervious surfaces, landscaped green space ratio, prohibition on construction on steep slopes, public street requirements, land use compatibility, set-back and yard requirements, stormwater management. Those are required. In your Section 17.40 - 17.43, there is a list of factors that have to be considered. It should be considered by you in making a decision on any conditional use including a planned development conditional use.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Conditions may be required by the Plan Commission in that section. That's part of your job is to create conditions for a conditional use permit should the council decide to grant that conditional use permit. Sub-section 14 of that section states Planned Developments are conditional uses. In the planned development as a conditional use section, there are certain criteria. And it's labeled criteria, so you have factors in the conditional use section and you have criteria, they're not all that much different, in the planned development conditional use section. We organized the procedure, and that was distributed to you, I believe last Friday, in a manner that we thought appropriate for your making a decision. If you decide to make a decision this evening. The document that distributed to you sets forth certain recommended conditions. Under the conditional use as I mentioned, that's part of your job, is to set forth conditions should a conditional use be granted. Those conditions start on page one and they go to page 14. They can be modified as you go along. You could move to approve them after you consider each one and there is a motion that's just draft motion on page 27 with regard to the conditions. It was felt that you should consider and recommend the conditions before acting on Findings of Fact in order to make an informed decision. You can remove the conditions if you don't believe they are necessary or inappropriate conditions, you can add conditions that you might feel appropriate. If you approve the conditions are then recommended to Council. If you vote yes on this project, if you vote no, they should still go to Common Council for their assistance in making the decision. If you deny, as I said, they still go to the Common Council. Starting on page, and there is no need to act on the conditions individually, I would recommend we go through the conditions that I have drafted and have the commission discuss them, modify them, strike them, and then at the end add to them if they feel there are any more valuable conditions that should be attached. Findings of Fact start on page 15. That I would recommend handling a little differently. There I think you should act on each Finding of Fact individually. The Findings include the basic requirements of the B6 district that I referred to before, the floor area ratios, stormwater management, etc. The factors to be considered in the conditional use sections and the criteria set forth in the planned development conditional use section. Generally, the requirements, the factors and criteria are split for specificity. The ordinance is rather general. It will have a paragraph or a criteria or a factor and it's rather general. It might relate to the neighborhood, it might relate to the City and what I tried to do in these Finding of Fact is divide those up so that you can take each individual part of the required factors and required criteria for action. There, of course, should be discussion after each motion before you vote. It should be noted that the vote on the individual Findings of Fact is not the final vote on whether to approve the general development plan and grant the conditional use. And I did have a comment similar to this in the back of the document that was distributed. The final vote is not a simple mathematical computation as to the number of findings of fact that received the majority vote. The weight that each of you places on the respective finding is an individual decision. In addition, the conditions may be changed in certain respects by the Council should the Council determine that the Conditional Use should be granted. Also, with regard to the Common Council member of the Plan Commission, I guess that's Commission Schuman, is it not?

P. Schuman: Yes.

Attorney Chapman: And the Administrator has already told me that you have on occasion stated that this is a recommended, this is your decision, whatever is to be and it is a preliminary decision.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: And it could change at the council level.

Attorney Chapman: And you could change it when you act as an alderman.

Mayor Craig: I told you the attorney told me to tell you that. I read that statement already.

Attorney Chapman: So, that's what's we've prepared. There are three motions that would be appropriate this evening. One is to approve the listed conditions. And again, I don't think it necessary that you act on those individually. But I think you should have some input on the wording. If you disagree with some, if you think some should be modified, or if you have conditions that you think are appropriate, then you should take actions on those individually. Second is to approve the above findings of fact and the general development plan of the developer subject to the following revisions. The only revision that I think, as I went through file in preparation of this document, was that the GDP, the actual site plan itself that was considered first was denied and that is what is before you this evening, but if you go back to the first condition, it's a revised GDP for Village Square of Delafield that I have in that condition. And that is the last plan that you saw. So, that's where we are. Chairman?

Mayor Craig: Thank you. Matt, do you want to say anything?

M. Carlson: No, I think we would like to get some feedback from the Commissioners.

C. Mursky: Can I ask a question? Bill, can you help me understand this? In my line of thinking the way I would approach it is to go through the Findings of Fact first determine whether or not where that leads us and if it does lead us to either an approval, conditional approval, then go back and consider the conditions. Wouldn't be an exercise of futility to go through all the conditions, then go through the Findings of Fact and determine that we're going to deny it?

Attorney Chapman: No, because the conditions should go to Council regardless of whether you grant it or deny it. And we talked about this at staff as to which would come first, the findings or the conditions. You may find, and if you read them, you probably noted that there are some things in the conditions, in fact most of the conditions relate to the decisions that you have to make with regard to the Findings of Fact. So if you know that they're going to be in a condition, you may consider a finding a little differently if you had no idea that that condition is going to be there. So I hope you understood why we decided that it might be better to act on the conditions first. You might decide one way on a Finding with the condition or without the condition and another way if you see that that condition is in there and it solves the problem that you foresee with that particular finding of fact. I understand what you are saying, and normally I would say, yes, that you're right. In the usual case, I'd say do the findings because certainly the findings are not as extensive in most cases as you'll find as they are in this one.

C. Mursky: Thanks.

D. Curtis-Costa: I had a question also and that was that if the first condition of approval is based on the second plan and we didn't have the additional documents that we felt

CITY OF DELAFIELD PLAN COMMISSION MINUTES

that we needed in order to properly assess the second plan, doesn't that leave us kind of with...

Attorney Chapman: I think the only way I can answer that this is conceptual general development plan and it's a basic site plan, it has the location of the buildings, the second plan has the location of the stormwater management pond, it has the parking lots, the specific implementation plans that have come before you will address more definitive issues as I see your planned development conditional use section playing out. There are no stormwater calculations at this point in time. Maybe further Roger can help me on this, it is conceptual only.

Mayor Craig: They've excused themselves from this project. It's a conflict of interest there.

Attorney Chapman: I heard that. They can't answer a question at all?

Mayor Craig: They've removed themselves. Sorry.

Attorney Chapman: Regarding GDP and SIP?

Mayor Craig: No. Generally, yes, but not with this.

Attorney Chapman: Alright.

D. Curtis-Costa: We did ask them and with the first plan we got most of the documents, but the second plan being what we felt was substantially different that we needed fiscal impact study and some of those documents updated which we don't have now to use to determine.

C. Mursky: But the plan before us is the first one presented, right?

Attorney Chapman: As I understand the court order was the first one, but as I believe you've been advised by the attorney handling the lawsuit, you do not have to say yes or no on that first plan. You can make recommendations and set conditions that modify that plan.

P. Schuman: And it can be modified so that parts of the second plan that we like and parts that we don't like assuming that we want to go ahead and approve something for that area.

D. Curtis-Costa: Well, I guess that's kind of what threw me was one of the first recommended conditions was to go to follow the second plan, rather the first, so that's...

P. Schuman: Well, part of what we have here is a way of finding out what we will approve for that corner. I think that's one of the exercises of lawsuit. I don't know, do we have the developer here to speak or not?

Mayor Craig: No we do not.

P. Schuman: Okay.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: I do recall that we did get a letter stating that they would not be here.

P. Schuman: So one of the things I guess they're trying to find out is what we will approve. So they're asking us what you will approve. So I guess we have not a blank piece of paper, but two pieces of paper, one plan A and plan B and as I understand it we can take parts of Plan A and parts of Plan B. Our challenge is kinda remember what was in Plan A and Plan B from a while ago. We don't have copies of those?

M. Carlson: We have them here is you'd like to refer to them.

C. Mursky: But we're not limited to that, right?

P. Schuman: No, no.

C. Mursky: Not limited to the factors in either of those plans that were presented to us.

Attorney Chapman: You're not limited at all on this. This is an outline of what I think the minimum is that you should be deciding on separately. Separate issues.

P. Schuman: And this is just a footprint of what's there, so many times people are concerned with a footprint and I think they want a lot of information up front which is valid, but that usually comes in the second phase, the GDP should be the SIP.

Mayor Craig: So if I'm correct, you want us to follow 1, 2, 3.

Attorney Chapman: That's the way to do it.

Mayor Craig: There you go, there are your marching orders.

Attorney Chapman: One more thing, I might say if you look at the motion I had at the end I had with the following revisions, that if it's going to be approved, it's going to be approved with the following revisions. There were none that I was aware of or that I was advised of except that the second plan, site plan, with relocation of the stormwater and less square footage was more acceptable, so that would have been the only revision I could think of, so I put it in the first condition rather than as a revision.

Mayor Craig: Let's take #1. (see following)

1. The development of the property and the construction of the improvements reflected on the site plan and all appurtenances thereto shall be accomplished pursuant to the following plans which are on file in the office of the City Clerk, unless otherwise provided for and/or revised herein:

X General Development Plan - Village Square of Delafield dated April 29, 2002.

X Revised General Development Plan (PD-GDP) for Village Square of Delafield as represented by the "Proposed Development Plan" dated December 6, 2002, shall replace the General Development

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Plan (PD-GDP) Site Information titled "Preliminary Site Plan" dated April 26, 2002, and the property shall be developed in accordance therewith.

Mayor Craig: The development of the property. It's changing from Plan 1 to Plan 2. Any discussion on this?

C. Mursky: Say that again?

Mayor Craig: It's basically shifting, the following the rest of the document to 2.

M. Carlson: The one on the right was the original plan.

Mayor Craig: And Item #1 shifts our attention to #2.

C. Mursky: Okay.

P. Schuman: That's Plan A.

M. Czubkowski: This is Plan A with the retention pond on Vettelson Road and this is Plan B with the multiple housing on Vettelson Road and the retention pond on the west.

P. Schuman: What's on the back of that? Is it the same thing?

M. Czubkowski: Actually it's...

P. Schuman: Why don't you put Plan B on top up there.

Mayor Craig: Any discussion on this first item? Not only is this stormwater, but it is potential senior housing in the future, but it also is moving entryway, eliminating square footage, office space is gone.

B. Leonard: I have a question. On the road that goes out to Vettelson, the housing is along that road? You'll have to forgive me, since I'm new I don't... Would traffic, commercial traffic, use that roadway that goes past the senior housing to get out to Vettelson or is there, is it restricted?

Mayor Craig: It is not listed to be restricted at this time.

D. Curtis-Costa: Do I understand correctly that the DOT told them that they had to make that road ...

Mayor Craig: They made that statement, yes.

M. Carlson: The DOT has asked that road be a public dedicated for traffic. But one of the conditions that is described later is to make that intersection is what is called a right-in/right-out only. What that would mean is that traffic that is heading westbound on Vettelson Road could access the development by turning right. Traffic that is coming out of the development could only turn right. Thereby cutting down the amount of traffic that is on Vettelson Road. It would be a right-in/right-out only at that intersection.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: Did they require the Vettelson Road access before when the retention pond was down on the south end of this site?

M. Carlson: Yes, the DOT is telling us that the Vettelson Road access is a pre-condition.

P. Schuman: Didn't our own fire and police department have a preference for that too?

M. Carlson: That's correct.

Mayor Craig: Well they made the preference that there be a road, but the DOT enlarged the road to a regular road as opposed to a service road.

B. Leonard: And that means what in terms of the DOT's authority? What happens if the Developer didn't do that, they just, they can disapprove the development regardless of what the City of Delafield determines?

Mayor Craig: Yes. Because it enters onto their Highway 83.

B. Leonard: So they wouldn't give them access to the state highway if the developer didn't put in the southern road, the Vettelson Road access.

M. Carlson: The right-in/right-out would be constructed with a curve. So to violate it, you would have to physically drive over a curb to make a different kind of turn.

B. Leonard: Right, but I'm just asking, could that development take place without an access onto Vettelson Road or can the State stop them from having access?

Mayor Craig: The DOT would stop that.

B. Leonard: So, they wouldn't allow them to have access onto 83 for any commercial development unless the development had a Vettelson Road access?

Mayor Craig: I would assume, yes.

D. Curtis-Costa: But do we know that? I thought that was completely under our jurisdiction.

M. Carlson: The connection to 83 is a state jurisdiction.

D. Curtis-Costa: I meant the Vettelson Road access. I thought that was completely under our jurisdiction.

M. Carlson: The State is linking it to the permit to 83. So indirectly the answer is no. We can design it or require the developer to build the right-in/right-out, but the DOT wants the access through to Vettelson Road.

Mayor Craig: To take it to the absurd, if we eliminated that roadway whatsoever, altogether, they wouldn't get access to 83.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: Have we seen/gotten any official confirmation from DOT, letter or something that indicates that?

M. Carlson: No. This is in a meeting with the City Attorney and I met with the DOT at.

B. Leonard: And, no, we've never requested that in writing from them?

M. Carlson: Not requested that in writing from them.

C. Mursky: Bill, we're not acting on each of these individually, right?

Mayor Craig: I was going to through not looking for a motion for each one, but looking for discussion on each one.

C. Mursky: Okay.

Mayor Craig: When it starts slowing down, then we'll move on to the next.

C. Mursky: Okay.

Mayor Craig: Does that make sense?

C. Mursky: I'm just processing.

Mayor Craig: I understand. Ready to move to 2? Move to 2. Quite a few to go through here. It's dealing with buildings, structures, the stormwater. I'm not going to read it to you, you're big boys and girls. (number 2 follows)

2. The buildings, accessory structures, stormwater retention ponds and facilities, parking facilities, and any other accessory buildings or structures located on the site plan shall be located approximately at and constructed substantially in a manner reflected on said plans, with no material alteration or modification without having first obtained Plan Commission approval.

Mayor Craig: Any questions or discussion on number two?

Mayor Craig decided to read all of the items.

3. The replacement site plan referred to above is hereby approved, subject to the **requirements of §17.39(27) of the zoning code, which sets forth the B-6 District** requirements which are applicable to this conditional use permit and are incorporated herein by reference, unless specifically modified by the terms hereof. These provisions require the following:

X The floor area ratio of the proposed development is 0.50 or less.

P. Schuman: We've established that as a fact?

M. Carlson: We're saying that's a condition of the approval.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: Condition of approval, but what they've proposed, we haven't done the number on that yet?

M. Carlson: The Foth & Van Dyke analysis was consistent with that finding.

P. Schuman: Okay.

- X The maximum impervious surface ratio, i.e., the total surface area of all principal and accessory buildings, hard-surface parking areas, driveways, private streets, sidewalks, and other impervious surfaces do not exceed 65% of the total land area.

P. Schuman: Foth & Van Dyke also verify that it does not exceed 65%.

M. Carlson: We are looking for the report right now.

Mayor Craig: No further discussion there?

P. Schuman: I'm waiting to find out if we're just verifying that this does not exceed 65% of the total land area. Does it make sense to check these off as we go, or am I?

Mayor Craig: If that is your desire.

M. Carlson: What we're saying, Phil, is that by including these as conditions of the approval...

P. Schuman: Okay, doesn't make any difference...

M. Carlson: They must meet these requirements.

P. Schuman: All right.

M. Carlson: And if we do our calculations on whatever plan that results, if any, the resulting plan has to meet these requirements.

P. Schuman: So we don't need to verify that they've done it at this point?

M. Carlson: I don't believe so.

D. Curtis-Costa: For the Findings of Fact we do though.

Attorney Chapman: If there is something on there violating those conditions, those must be satisfied. It has to be modified somehow or another.

P. Schuman: We leave that up to our engineers who do the calculations and we don't have to sit here and do the calculations. Okay, so I waive my question then. That will be fine, we don't need to dig through that.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

X That 20% or more of the land area, exclusive of land required for stormwater management and parkland dedication and exclusive of wetlands and slopes over 25%, are landscaped open space.

P. Schuman: This is in our code, correct?

Mayor Craig: Yes.

P. Schuman: Okay.

X Any steeply sloped terrain with a natural grade of 25% or more shall not be regraded or built upon.

X The proposed public street rights-of-way must be consistent with the City's design standards as set forth in §18.48 through §18.64 of the Municipal Code.

X All yards within the proposed development that adjoin neighboring properties not part of the planned development and yards adjoining public street rights-of-way shall meet the following setback and yard standards:

X Minimum front yard: 30 feet.

P. Schuman: Okay.

X Minimum corner side yard: 30 feet.

P. Schuman: Okay.

X Minimum interior side yard: 30 feet

P. Schuman: Okay.

X Minimum rear yard: 30 feet.

P. Schuman: Okay.

4. All operations and activities of all uses on the property shall be conducted wholly inside a building or buildings. Any outdoor storage area other than those shown on approved plans shall occupy no larger an area than permitted by the Plan Commission and shall be screened from view by an approved solid wall, fence or hedge. "Operations and activities" and "outdoor storage areas" do not apply to vehicles and trailers.

P. Schuman: Do we permit temporary storage of trailers there? Is that part of our code?

Mayor Craig: I think that would basically be the trucks, I am assuming, loading and unloading that you're trying to address there?

Attorney Chapman: There is no overnight parking in there.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: That's further on down. I did read that.

P. Schuman: Okay.

D. Curtis-Costa: so is this where we would add things that we wanted? I would like to add by the setbacks a good 150' setback from adjoining properties as a buffer.

P. Schuman: We have line front corner interior and a rear yard.

D. Curtis-Costa: Just from adjoining properties. That wouldn't mean out towards 16.

Mayor Craig: So you are talking about the current residences.

D. Curtis-Costa: So the east and west end and also the southern.

C. Mursky: From the residences or from the property lines?

D. Curtis-Costa: From the adjoining properties.

P. Schuman: It has to be property line. If you say properties it could be existing buildings.

D. Curtis-Costa: Okay, property lines.

M. Carlson: 150' away?

P. Schuman: Any rationale behind that?

D. Curtis-Costa: Just to protect them from commercial, if in fact that's what's there.

P. Schuman: Do we have any other restrictions like this in the City of Delafield that you know of?

D. Curtis-Costa: The Arbors had 200' from the commercial.

Mayor Craig: What about, are you saying that the parking lot would have to be 150' back or the building is going to have to be 150' back?

D. Curtis-Costa: Well, looking at the lights from the cars and things like that, I would say parking lots as well.

Mayor Craig: So all development.

P. Schuman: That's pretty strenuous. The Arbors? That's not in the City of Delafield is it? It's Town of Delafield.

Mayor Craig: Town of Delafield. Correct.

C. Mursky: Yes, but the commercial development is in the City and abuts.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: Right.

P. Schuman: Do we have that with our development, 150' from the Arbors? Is that in our development?

D. Curtis-Costa: That's 200 actually.

M. Carlson: I believe that that is in the Arbors Subdivision requirement, not in the Nagawaukee Shoppes requirements.

Mayor Craig: It is my impression that the fence that borders the east side is the border of the City.

T. Maney: To answer Alderman Schuman, no we don't. We don't have that restriction at the Nagawaukee Shoppes.

Mayor Craig: So it is a Town requirement, then, that 200', but as far as our City code goes...

T. Maney: You are right.

Mayor Craig: That's what I kind of thought that was the border there.

T. Maney: Thirty foot setbacks is what is listed in these things.

Mayor Craig: It's one of the things that I looked at when the Concorde came through - I looked at where the difference in the pavement was and that was right on that fence line.

P. Schuman: Do we have any measurements currently what we have from the property line to the buildings in scale, what's proposed?

Mayor Craig: Do they have a scale on there?

B. Leonard: One inch equals 60 feet is the scale. This looks like about one-half inch. They are right up to the setback line on the senior housing.

C. Mursky: And on the parking too, it looks like.

(measuring took place)

Mayor Craig: So we're at 30', the current 30' that we're allowing. Go with 30? Or go with 150? What's the choice here?

R. Transon: I think it you would be hard pressed to set precedence, going to B6 area and you have nothing to go against if everything is 30', I think you have to keep it that way.

Mayor Craig: Consistency.

R. Transon: Consistency.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: But is the planned unit conditional use variable allow us to be more stringent than a straight B6? I guess I am very confused about what we are allowed to do and what we are not allowed to do.

Mayor Craig: B6 is pretty open in that aspect.

B. Leonard: So do we have a right to beyond 30'?

Mayor Craig: Yes, that we have a right, but also there is a precedence that you need to look at also.

B. Leonard: And we're thinking we've never gone beyond 30' with a B6?

P. Schuman: Sounds that way.

D. Curtis-Costa: But I don't know that we've have the compatibility issue like this before either.

M. Carlson: Marcus Theater is probably the best example of that. Marcus Theater was a B6 zoning development that backed up to a residential subdivision.

Mayor Craig: Just approved the ... on there.

M. Carlson: I don't know what the rear yard setback is and I don't believe the Plan Commission extended it beyond it the requirements.

Mayor Craig: Well, I can tell you, it's no 150' between the theater and the Town border there. I've walked that extensively. Not that I like the scenes behind the borders, but we're monitoring the garbage there.

P. Schuman: I think we have to be uniform throughout the City unless there is some major extenuation. It doesn't appear that there is this case.

D. Curtis-Costa: I think that the compatibility issue is what I'm thinking. That's where I'm coming from with.

P. Schuman: Well, behind the Marcus Theaters are also homes too.

D. Curtis-Costa: But did people come in and

C. Mursky: There is a difference in elevation.

D. Curtis-Costa: I wasn't on the Plan Commission at that time, but I don't know if there was...

P. Schuman: I wasn't here either. I don't think so. The compatibility is further down. The zoning adjacent to this is residential and business. Whereas the Marcus Theater it's all residential behind it. So it is more compatible with this because of the residential business nature on the homes and the places on Vettelson Road.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: You mentioned the elevation difference. If anything, the theater is higher and...

C. Mursky: Than the residences?

Mayor Craig: Yes. Standing in some of the people's backyards looking at it, looking at the screens, it's like holding it on a pedestal.

R. Transon: I just think you need to be compatible with what you're going, with what is currently.

P. Schuman: Consistent.

R. Transon: Consistent. If you are not, then we leave ourselves open.

P. Schuman: I say we keep it at 30'.

Mayor Craig: I've got two, one, and two now coming in here.

B. Leonard: My thought just is, I don't feel like you had to leave it at 30' because of past actions, it's just that some of the issues of compatibility, it looks like they're going to be addressed further down here in this listing of conditions that maybe, or in the findings of fact that we could address it at some other point rather than using the 30' versus 150'.

P. Schuman: We can come back to these things after we go through it.

B. Leonard: That's what I would hope is that...

P. Schuman: Why don't we move on then.

C. Mursky: Let's revisit it and make sure that it's talked about. Can we be picky about wording here though?

Mayor Craig: Feel free.

C. Mursky: At the bottom of page 2, "screened from view by solid wall fence..." or instead of "hedge" could we say "landscaping" so we don't limit ourselves to a hedge. I mean, that has a certain connotation.

P. Schuman: All right.

Attorney Chapman: So you're taking out solid wall?

C. Mursky: No, instead of the word "hedge" put the word "landscaping" so we have a little bit more flexibility.

Mayor Craig: Okay. Item #4, read it already. It's dealing with the outside storage area. Anything else? Moving on to #5.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: Some of these you can just summarize very quickly, we're pulling them right straight out of our code.

Mayor Craig: Well, we started.

5. No continuous or intermittent noise from operations on the property greater than the volume and range of noise emanating from vehicular traffic or its equivalent in noise shall be detectable at the boundary line of any adjacent residential district. This noise limitation does not apply to vehicular traffic.

P. Schuman: It's fine.

6. No toxic matter, noxious matter, smoke or gas, and no odorous or particulate matter detectable beyond the lot lines shall be emitted.

C. Mursky: How can you monitor that? I mean, I agree with it, I'm just curious as to the enforcement of that.

Attorney Chapman: It won't be an issue unless you have a complaint and then you can monitor it. Zoning is complaint driven, as you know. Violations of zoning is complaint driven, so when a noise complaint comes in you take care of it, see if it is a violation.

C. Mursky: Who pays for the monitoring in that case?

Mayor Craig: If there was a complaint, then that would be the guilty party.

M. Carlson: It would be the City of Delafield enforcement activity. So your taxpayers would pay for it.

Mayor Craig: But if there was a penalty, they would then pick up the bill.

M. Carlson: That's correct.

Mayor Craig: But if there was no penalty, and there was no problem, then the taxpayers would.

C. Mursky: And do we have ordinances which those issues and penalties?

Attorney Chapman: Well if you had noise and it was a public nuisance we could do it under the public nuisance section of the code which I suspect is a standard public nuisance chapter that we have.

C. Mursky: Thank you.

D. Curtis-Costa: Could I just make an observation here?

Mayor Craig: Sure.

D. Curtis-Costa: It looks to me like this is going to take us a while. And I am thinking about all of the people sitting there with brief things and I'm wondering if ...

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: That's why I made the statement up ahead that 11:00 we're cutting it off. But this is of major important that we deal with this and we've got the attorney here, we have the people on board to deal with it, I want to keep on moving with it.

D. Curtis-Costa: Okay.

7. No vibrations shall be detectable beyond the lot lines. This condition does not apply to vibrations caused by vehicular traffic.

P. Schuman: Okay.

8. Exterior lighting fixtures shall be shaded whenever necessary to avoid casting direct light upon any residential district or into public streets or parks, which lighting shall be shielded with a sharp cutoff luminary and concealed light source, and shall not spill over into adjacent lots in an amount exceeding 0.5 footcandles above ambient lighting. Prior to construction, a manufacturer's isobar printout shall be provided to the City Engineer for the approval of fixture selection. Permittee shall comply with the lighting plans on file with the City Clerk, or to be filed and approved as part of a Specific Implementation Plan.

P. Schuman: We have a lighting ordinance in the City?

Mayor Craig: That is in compliance.

P. Schuman: It is in compliance with that? Okay.

9. All waste material, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes and housed in a refuse enclosure or within a building. The developer, subsequent property owners, and operators shall exercise litter control.

Mayor Craig: Glad to see that in there.

10. The storage or use of chemicals, either solid, liquid or gas, shall be subject to the following conditions:

X The storage or utilization of materials or products ranging from incombustible or moderate burning is permitted.

D. Curtis-Costa: Could you expand on that a little bit? What is meant by that?

Attorney Chapman: It is insignificant burning.

D. Curtis-Costa: Okay.

Attorney Chapman: Versus significant which is the next bullet.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

- X The storage or utilization of materials or products ranging from free to active burning is permitted, provided the following condition is met: such materials or products shall be stored or utilized within completely enclosed buildings having incombustible exterior walls.

11. This conditional use is granted at the time of General Development Plan approval. Complete landscape plans for the development shall be submitted to and approved by the Plan Commission at the time of Specific Implementation Plan submittal. Landscape materials other than plantings which have deteriorated or been damaged or defaced shall be properly repaired or replaced. Plant materials which have deteriorated or died shall be replaced. Planting shall be kept watered, fed, cultivated and pruned as required for good forestry practices. Lawns and other landscaped areas shall be kept mowed and trimmed.

Mayor Craig: I have the note to myself "in a timely manner." We have other areas where we have this type of wordage. There isn't a... I would also like to see "natural fertilizers".

P. Schuman: We can add "in a timely manner."

C. Mursky: Can we also besides "natural fertilizers" make it "natural herbicides".

Mayor Craig: Is there a phrase that covers that whole thing, Bill?

C. Mursky: Pesticides and insecticides?

Mayor Craig: Pesticides and fertilizers, or is there?

Attorney Chapman: If I was into landscaping and plants, I'd tell you and I'm not.

P. Schuman: I think we're beyond our expertise with this. We may not have proven science on this.

Mayor Craig: Okay moving on to 12, natural fertilizers and pesticides.

Attorney Chapman: Is in?

Mayor Craig: Is in.

C. Mursky: Insecticides and herbicides just put everything in there.

12. Parking areas and the property shall be kept in good repair, properly marked and clear of litter and debris. Parking areas shall comply with the Americans with Disabilities Act. All parking areas and drives shall, within one year after the date of issuance of an occupancy permit, be surfaced with an asphaltic or Portland cement concrete pavement so as to provide a durable and dustless surface which shall be so graded and drained as to dispose of all surface water accumulated within the area and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: Okay with me.

B. Leonard: I have a quick question. It says within one year after the occupancy permit. Does that mean that, I mean, I don't think anyone with a commercial development would do this, but does that mean that could have gravel for their first year of operation?

Mayor Craig: In theory.

B. Leonard: And is that typically allowed?

M. Carlson: Doesn't the subdivision code require the first lift of asphalt to be put down?

F. Welch: I'm sorry I didn't hear the question.

M. Carlson: Doesn't the subdivision code require the first lift of asphalt to be put down on a new commercial development?

F. Welch: Before issuance of any building permits, yes. - Occupancy.

Mayor Craig: So if we said

Attorney Chapman: When you get to Section, when you get to paragraph 38, the developer shall comply with all provisions of the City's municipal code including specifically Chapters 18, that's your land division ordinance and 23.

T. Maney: They wouldn't get an occupancy permit because they wouldn't be able to mark if off their handicapped parking, so you know that the first lift would be put down prior to any occupancy permit being given.

B. Leonard: I'm just wondering if we should take out that within one year after the date of the occupancy permit and just....

C. Mursky: Or just modify it for the second lift. Because usually that's what you do. You let it sit for a while and then you put your second lift on.

T. Maney: You still have their bond anyway. You know they are going to do their second lift within a year anyway.

Mayor Craig: Chrys do you have a way that you want to modify that?

C. Mursky: The surface of the second lift of asphalt? Is the first lift asphalt or Portland cement concrete? Is that fair to say?

Mayor Craig: Well, first lift is generally asphalt.

T. Maney: Normally, the first lift is totally asphalt.

C. Mursky: So it would be okay to say, "be surfaced with a second lift of asphaltic or Portland cement concrete."

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: How about "final surface"?

C. Mursky: That's fine too.

Mayor Craig: We're all okay with that?

P. Schuman: Yes.

Mayor Craig: Any other comments?

13. Snow removal for the parking areas and drives shall be pursuant to the following program: snow shall be plowed, stored and transported from the property as needed. Snow shall not be stored on the stormwater detention pond.

14. Plans for signage shall be submitted to and approved by the Plan Commission. There shall be no modification to any approved signage plan without first having obtained Plan Commission approval.

C. Mursky: Can we just go back to parking, because we kind of had a parking section? Unless I missed it, do we have that the parking needed to be landscaped or screened from adjoining properties anywhere?

Mayor Craig: That's later on isn't it?

M. Carlson: The Plan Commission has to approve a landscaping plan.

P. Schuman: So that can come out in the SIP possibly.

Mayor Craig: I'll make a note, parking landscape.

C. Mursky: I think somewhere we need to be real specific so they know.

Attorney Chapman: Paragraph 11 covers the landscape plan.

C. Mursky: Do we need to say somewhere that parking shall be screened from adjoining properties? That's my purpose.

M. Carlson: If you'd like.

C. Mursky: I would like.

Mayor Craig: Do you want to put that in 13 or do you want to put that in 11.

C. Mursky: Probably a separate item.

Mayor Craig: Okay. New item, 30...

P. Schuman: 13b maybe.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: Can we re-number?

Attorney Chapman: We'll modify.

Mayor Craig: We'll modify...

Attorney Chapman: You're recommendation....

C. Mursky: I think, stick it in with the parking section.

Mayor Craig: Okay.

Attorney Chapman: Which would include berming and/or landscaping.

Mayor Craig: They did propose landscaping this that had that..

15. Permittee shall design a stormwater management plan and submit the same to the City for approval. The stormwater management plan shall have a stormwater pond as shown on the approved site plan. Roof drainage and parking lot drainage shall be separated, and ultimately directed to the detention pond. Construction of the stormwater management facility shall be pursuant to plans prepared by permittee and submitted to and approved by City staff and the Plan Commission.

P. Schuman: This is also covered in item 21. We have hired Hey & Associates to do a regional stormwater management plan for the City. We want to make sure those two are linked together. Because I don't know what's going to come up with this regional plan.

Mayor Craig: It would be better for that one in 22 if I recall correctly.

P. Schuman: That was in 21.

B. Leonard: Couldn't 21 become part of 15 instead of having a separate 21?

Mayor Craig: 21 reads for those that are interested, "A. The City has retained a consultant to prepare a regional stormwater management plan for the City of Delafield. At the time of the grant of this conditional use permit, the regional stormwater management plan has not been completed. The ultimate stormwater management system and plan for this development must be consistent with and complementary to that regional stormwater management plan."

Mayor Craig: Excellent to put the two together. So we're going to combine 15 and 21.

Attorney Chapman: That was your suggestion the other night.

P. Schuman: Yes. Because we are spending some good money to this study, so we don't have the problems we have with the other end of town.

Mayor Craig: No objections? Let's move on to 16.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: Can I just ask a question? Roof drainage and parking lot drainage shall be separated from each other or from something else?

Attorney Chapman: From each other - that's the Administrator's idea and it's a good one. The roof water is a lot purer than the stuff off of the parking lot.

Mayor Craig: It's got a future implication with ...

M. Carlson: The SEWRPC guidelines for removing pollutant loadings. If you discharge the rooftop drainage right on to the parking lot, all that water serves as a flush in the parking lot. Whereas if you separate it, if you direct the rooftop drainage to the stormwater facility before hitting the pavement, it's cleaner. You don't have as much flushing of that parking lot.

16. Upon completion, permittee shall own, maintain and operate the stormwater pond, provided, however, that the City shall have the right to inspect all on-site stormwater management facilities at reasonable times and with reasonable frequency. The City shall give permittee written notice of its intent to inspect three days prior to such intended inspection. The inspection may not interfere with the operation of any of the occupants of this development. If upon inspection the City determines that the stormwater management plan is not being complied with in any material aspect and that maintenance is required, the City shall provide permittee with written notice stating with specificity the maintenance activities the City deems to be required with respect to the on-site stormwater management facilities and system, and permittee shall have ten days after receipt of such written notice to perform such maintenance, provided that the ten day period shall be extended if permittee has commenced such maintenance work within said ten day period and is diligently proceeding to complete the same. If permittee fails to take remedial action as required by the City, the City may enter the property and accomplish the required remedial action and charge permittee the cost thereof. Permittee shall be billed for the cost, and in the absence of payment the City shall place said charge on the real estate tax roll for the following year. Section 66.0627, Wis. Stats., shall apply so far as applicable and is therefore incorporated into this conditional use permit by reference.

P. Schuman: Question here. One of the things to help keep pollution from lakes and other waters is having the parking lot swept periodically. Is there a provision to add to our parking lot code that requires them to sweep their parking lots say twice a year?

M. Carlson: Item 12, on page 4.

P. Schuman: We can add that in there. Sweep the parking lots twice a year usually in the spring and before the winter.

Attorney Chapman: Wouldn't hurt to put that in your code.

Mayor Craig: Actually I think we've got the storm sweeping of the roads in the code, don't we?

M. Carlson: But not parking lots?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: Right. Any other questions?

R. Transon: Can we add aeration to the pond?

C. Mursky: Is it detention or retention?

D. Curtis-Costa: It says retention.

Attorney Chapman: Do you want that to be an amenity to the park, to the development. I couldn't put everything in the conditions from the B6 commercial holding zone, but there are provisions here. Stormwater management areas are a permanent water feature designed with sufficient flow of water and aeration to maintain aesthetic quality. So they have to comply with that under your B6 zoning. I couldn't put everything in these conditions.

M. Carlson: On page 8, item 21B, addresses the natural plantings around the stormwater facilities. We may want to incorporate that notion of aeration and using that pond as an amenity in that paragraph 21B.

Mayor Craig: Any objections to that?

R. Transon: No.

M. Carlson: Which again will be moved in its entirety to item 15.

17. Highway and Street Improvements

A. The developer shall contribute to the City the sum of \$400,000.00 to offset the cost to widen State Trunk Highway 83 ("STH 83") to four lanes, which is a project planned by the Wisconsin Department of Transportation ("WisDOT").

P. Schuman: A question of the timing of this \$400,000 - has there been any discussion on when?

Mayor Craig: Every time I ask I get, "we have no idea when the development is going to be done, and it's going to be development driven."

P. Schuman: When is the developer going to give us \$400,000 and whose bank account, so to speak, will that be? I would like to see once to see once the SIP is awarded, shortly thereafter, they have a sum of \$400,000 to the City of Delafield.

M. Carlson: How about upon approval of the first building, the first SIP?

P. Schuman: Okay. Because I don't want this contingent upon when the State has Highway 83 because there may be some other uses that come up for this, not that it would be side-tracked for something else, but I...

Mayor Craig: Any problems with that?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: Just the notion of the \$400,000 as opposed to the suggestion of a percentage - what percentage of the total estimated cost does \$400,000 represent and wouldn't that be better off with a percentage of the final, that same percentage of the final cost?

P. Schuman: I don't know that we know what the final cost is going to be and what our share is going to be?

D. Curtis-Costa: If they have to tear up temporary improvements when they do the

Mayor Craig: I was going to deal with that with Item B in the aspect that I don't want this to be applied to the temporary; I want this to be applied to the final.

M. Carlson: The total estimated cost of widening Highway 83 for the whole stretch that the State is talking about, which is from near the County Park all the way up to the intersection of Highway 16, the total estimated cost, is around \$15 million. Of that \$15 million the State has indicated that local communities that benefit from the improvement will pick up 25% of the total. That's \$3,750,000. Of that percentage, my recollection was that the City's portion of it was 25%.

P. Schuman: Twenty-five percent of \$3,750,000?

M. Carlson: Right. Which is roughly \$937,500.

Mayor Craig: And that's from the park north.

M. Carlson: Correct.

Mayor Craig: This is only dealing with like Vettelson Road.

M. Carlson: It's 43% of the total.

B. Leonard: So would we put in 43 or 45% versus a strict dollar amount in case the project costs change dramatically?

M. Carlson: I'm not sure I'm following your question.

B. Leonard: Well, the \$15 million that this is all starting from; is that a cost that they are sticking with for the next few years before it happens, or is that going to change on an annual basis as they adjust their budget every year?

M. Carlson: Well, it could change, depending on what is included with the scope of the work. So, yeah, it has the state accepted bids on the project and awarded contracts, and assigned specific cost responsibilities, no they haven't.

B. Leonard: So is there a reason not to put a percentage in here as opposed to a dollar amount?

P. Schuman: Could be less than \$400,000 if you put a percentage in and the costs are down.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: We just saw that on Genesee this past year.

M. Carlson: You could say 43% of our total expenses or \$400,000 whichever is greater of.

B. Leonard: Yeah. That seems like that would cover.

C. Mursky: Again, because the suggestion was brought up to consider that, that would mean that we wouldn't get the money until the time that Highway 83 was actually improved.

P. Schuman: Well, one of my first questions was when are we going to get the \$400,000? We can get that when the first building is approved.

C. Mursky: That's why I bring that up, Phil, because of that comment that you just made, which be more desirable to us to get the \$400,000 right away or if we are asking for a percentage of the final cost, we won't know that until it's actually built.

P. Schuman: Right. So we put the money in our reserves. We earmark it for this highway. There's some investment earnings on that money.

Mayor Craig: Okay. So we have both, percentage and dollar approval on first SIP.

B. In addition thereto, the developer shall install traffic signals at the entrance to the proposed development from STH 83 and at the State Trunk Highway 16 ("STH 16") off-ramp to STH 83. All traffic control signals installed by the developer shall have preemption capabilities. Cost-sharing for the STH 16 westbound off-ramp to STH 83 with the developer of the northeast corner of the intersection of STH 83 and STH 16 is possible by developer arranging for such cost-sharing.

Mayor Craig: My concern here was, I don't want us to be buying temporary lights.

P. Schuman: That makes sense.

Mayor Craig: So these are final installations applied to this.

M. Carlson: Developer is responsible for both temporary and final.

Mayor Craig: I'm saying that the dollar amount that is mentioned in A would not be applied to the temporary lights.

M. Carlson: The \$400,000 is in addition to their requirement to install the temporary...

Mayor Craig: I wanted to make sure.

P. Schuman: We should say install the temporary signal at the entrance because they could say, well we'll just wait to the final and then put them in. I think we need to be specific.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: If they want to open their store, they're going to have to have traffic control devices.

P. Schuman: Is this the paragraph which controls that or the condition?

Mayor Craig: I think that the State DOT has said that also.

P. Schuman: Well, we can say here, shall install temporary and permanent traffic signals.

M. Carlson: In addition to the requirements outlined in Paragraph 17A.

P. Schuman: Yes.

Attorney Chapman: It says in addition there too.

C. Mursky: Can we just back track a second. For clarification purposes, and at the State Trunk Highway 16 off ramp to State Highway 83, is that one or both? Off ramps.

Mayor Craig: That would be the eastbound, would it not? We're not going to require them to do the westbound.

R. Transon: You're talking about the exit ramp that's going eastbound as you get off from 16 to 83?

C. Mursky: I'm asking which ramp does this refer to? To one, both?

M. Carlson: This reflected the one. This was, as you heading westbound on 16, getting off at 83.

Mayor Craig: Do we want to specify that as State Trunk Highway 16 eastbound off ramp to 83?

Attorney Chapman: That is westbound.

B. Leonard: Then what does the last sentence mean? I'm confused about the last sentence too - cost sharing for the 16 westbound off ramp. If that a different off ramp.

R. Transon: That's the one of the north side.

D. Curtis-Costa: That's the one where there is so much trouble right now.

R. Transon: Where you have the back-up trying to get onto 83.

B. Leonard: So who... Is that a different ramp than the one referred to in the previous sentence?

R. Transon: Yes.

Mayor Craig: That's what I'm hearing. That they're talking about only the westbound.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: The intention in 17B was to address the issue of the westbound off ramp.

C. Mursky: People heading west on 16 getting off on 83.

M. Carlson: Right.

B. Leonard: So it's all one ramp we're talking about here.

D. Curtis-Costa: And we don't wish to do anything with the eastbound?

Mayor Craig: That one the traffic count was marginal at this time.

R. Transon: But I think you have to do something with that because it's sight line there are terrible and you get a car going southbound, and a car going northbound, and that southbound car happens to be an SUV, you don't have any sight lines to find out when you can make that turn to go northbound.

Mayor Craig: I'm also worried about the stacking on the bridge.

M. Carlson: How would you like us to revise this? Do you want the Developer to install traffic signals at both?

R. Transon: That was my understanding, traffic signals at both.

M. Carlson: So we'll make this plural. It will say "off ramps to State Highway 83".

C. Mursky: Can we just be specific and say eastbound and westbound - let's leave nothing to the imagination.

D. Curtis-Costa: And what was the cost sharing part?

Mayor Craig: There was development that is supposedly going through.

Attorney Chapman: The development that was proposed for that site would have been required precisely what you are requiring to be done here. Another westbound lane on the off ramp.

D. Curtis-Costa: So what if that doesn't happen.

Attorney Chapman: Then the developer pays it all.

P. Schuman: He has nobody to cost share with.

D. Curtis-Costa: So do we need to put that language in here as well.

Attorney Chapman: No. The City's not involved here at all, that just....

Mayor Craig: I think that's mentioned "is possible".

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: Okay.

Attorney Chapman: That's to tell them there is an opportunity there.

D. Curtis-Costa: Okay.

P. Schuman: We're generous like that.

C. Appropriate deceleration lanes pursuant to WisDOT requirements shall be installed for southbound STH 83 traffic to decelerate and enter the subject development. In addition thereto, a left-turn traffic lane for northbound traffic on STH 83 to afford access across the southbound lane of STH 83 and into the proposed development shall be constructed by the developer. A deceleration lane shall also be constructed for westbound traffic on Vettelson Road at the entrance to the proposed development.

D. Curtis-Costa: Okay, so what do you mean by, in the first sentence, "install"? Do you mean simply striping or actual road construction?

Attorney Chapman: Well for the left turn across the southbound lane, they'll have to have a left turn lane constructed in the medium somehow or another with State approval. This is STH 83. We can't tell them how to do it. They'll tell them how to do it.

D. Curtis-Costa: Then also, the other lanes to be constructed for westbound traffic on Vettelson Road and across the southbound lane of 83 - so when you say constructed and installed, you don't mean just stripped?

Attorney Chapman: No.

D. Curtis-Costa: Okay.

C. Mursky: The deceleration lane in the westbound traffic on Vettelson presupposes D, right-in/right-out?

M. Carlson: No, you could have, if that was a full interchange intersection, if you don't agree with D, you still want them to put in the deceleration lanes.

C. Mursky: But you'd also want a left turn lane from the other direction.

M. Carlson: If it were a full access intersection.

P. Schuman: And it looks like we don't want it to be a full access intersection, it's a way of controlling traffic.

C. Mursky: That's why I'm saying that the reason that it's only a deceleration lane for westbound presupposes D.

P. Schuman: Right.

C. Mursky: Okay.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: And then also, are you going onto private property to do that, to put in a deceleration lane on Vettelson Road?

Attorney Chapman: I have no idea ...

Mayor Craig: That might be onto the right-of-way also. That would have to be explored.

Attorney Chapman: The road is a 66 footer?

M. Carlson: I don't know what the right-of-way is.

Attorney Chapman: If they can't put it in, they can't put it in.

D. Traffic control at the entrance into and the exit from the development at the Vettelson Road intersection shall be "right turn in and right turn out" only. In the event the City subsequently determines that "right turn in and right turn out" traffic control is not appropriate at this location, and in the event the Village of Hartland improves the intersection of Vettelson Road and Capitol Drive (within the Village), the developer agrees to cost-share the improvements to said intersection on a reasonable special assessment basis.

B. Leonard: I have a question again about the Vettelson Road access and that just is, again, in the first site plan, and I understand now that the Plan Commission is addressing the second site plan, but in the first one, one thing that I never understood is why that couldn't be an emergency access only road. Now I've heard that DOT is saying no, but I would definitely want an official word from DOT in writing saying no development on this site with Highway 83 unless a full access road is put down to Vettelson. I mean since it is such a concern for the surrounding uses it seems like we should have something official in writing saying that that can't be an emergency access roadway because many times commercial developments will have a second road way, but they will gate it off and it will only be used for emergency vehicles.

P. Schuman: We can do something like that here. I think there needs to be a road there. It's been consistent with our practice in the past of subdivisions have one in and one out in case there is an accident up there on 83, you can still get in there.

B. Leonard: The police could go over there and open the gate if it was a unique situation.

P. Schuman: Sometimes the keys are not handy, you have an ambulance sitting there, so you can do some things with that and I've talked about that before just by plantings and paintings and what have you and some signs. But it could be still there if an emergency vehicle needs to get in there.

Mayor Craig: I feel comfortable that our staff has been told by the DOT that this shall be.

B. Leonard: I'm sure that they've been told. I'm saying that to get something in writing.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: Even if we didn't get anything in writing, even if the DOT wouldn't send a letter to confirm our conversation with them, having another entrance in and out of that subdivision still makes sense from a planning perspective. We would still recommend it from a transportation planning system. Without it, that property, those 27 acres, is a ship in a bottle.

B. Leonard: Given the way it is proposed as development now.

M. Carlson: Given any development. If you don't have that back door entrance and exit out of that property, there is no relief valve for alternate traffic. It disbursts the traffic in that region. The right-in/right-out - if it's physically constructed with the curve as was suggested, it's going to be virtually impossible for people who are heading eastbound on Vettelson Road to make a left hand turn. They're going to have to go all the way...

B. Leonard: Then what would a fire truck from Nashotah, if they were responding in a multi-alarm fire, how would they get there?

M. Carlson: They've got lights and sirens.

B. Leonard: But they'd have to jump the curbs?

M. Carlson: They' either jump the curb or they go the wrong way on that lane of traffic.

P. Schuman: And they can do that being emergency vehicle.

B. Leonard: Well, sure, but they can open a gate too.

P. Schuman: Depends on how you open a gate. If it's locked to keep people out, go find a key. You know, you're not going to that.

B. Leonard: Well I guess, I'm just saying, it's possible to do, it's been done before, and I know of many commercial developments where I could never tell you how to get out of there other than the one highway access. Many, many commercial developments the only highway access is the one road. They don't have a back door.

Mayor Craig: I feel very comfortable that the Staff has been told by the DOT at this point that I don't see that as ...

B. Leonard: And that's not my issue whether they've been told or not, my issue would just be whether it is absolutely necessary to do it.

D. Curtis-Costa: I would like to see if we couldn't make that an emergency road as well because it is such an issue on Vettelson Road. With a break-away gate.

P. Schuman: I think that can be something that we can have the staff look at. I don't know that we need to make that decision here. I'm comfortable with the road...

M. Carlson: We're giving our recommendation. The recommendation is right-in/right-out is a reasonable way to limit the traffic on Vettelson Road. We do not recommend an emergency vehicle access only.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: Well you also have senior housing down there; you will need to have people going in and out of that thing also.

C. Mursky: Oh you may not have that... that is one of the conditions.

P. Schuman: Alright, I will concur with Staff's recommendation on that.

Mayor Craig: It's being split here. I need some more head.

D. Curtis-Costa: You know I'm guessing. I just see people, because I've done it at the post office, I'll confess, I've gone in where you're not supposed to because it's there and

Mayor Craig: But that isn't a right turn only.

D. Curtis-Costa: But I can see people coming from the west. They're not going to want to go all the way up to Hwy. 83, jump on 83 to go north to take the entrance in to the development.

Mayor Craig: Let me give you an example, ... aspect that you've got a straight driveway that you're just driving in and out as opposed to crossing the lane of traffic and going in and out lane.

R. Transon: I concur with Beth in the sense that we keep it emergency access, we keep it rural.

B. Leonard: It's a huge difference in terms of the type of traffic you have coming out there and I truly believe that there are many, many examples of shopping centers where they don't have that back public access road to another secondary road.

C. Mursky: Now let's project what Phil just said, even though I just jumped on him for it, if that indeed does turn out to be some sort of senior housing there,

B. Leonard: That's a whole different story. I would agree, how would they get out.

C. Mursky: Then, there's not emergency only and what does a right-in/right-out only do?

B. Leonard: That would be very problematic for the housing. I guess my comment is contingent on, somewhat iffy as to what happens on that southern area.

P. Schuman: What do you consider an emergency road versus what is there now? What is your idea of what an emergency road is?

B. Leonard: That it would be restricted access with some sort of gate.

P. Schuman: And who would control the gate?

B. Leonard: The emergency entities that would, every fire station and surrounding police department as well as our own would have the ability to control that gate.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: There is an emergency exist on Highway E just near the intersection of Golf of that condo association - they have a plastic chain across it. It's one of the things I always used to drive by before the new road of North Shore was there. I was always amazed that it stood, it didn't get broken.

B. Leonard: You see University Lake School across the street, Lake County School further down on Vettelson - to me that's not a high vandalism area. It can change, but I guess I don't necessarily think that people would, you can automatically assume that it will be messed with and it will be vandalized and it will be broken into. Then if it was, that the public would just start using it like a driveway into the shopping center. That could be controlled, I think effectively, but.

P. Schuman: Why don't we move on and see what we do with the senior housing. We have that there; you're going to have to have something for the senior to get in and out.

Mayor Craig: That's assuming.

C. Mursky: Can I just throw one other thing to kind of fester while we talk about this? There is no easy answer to that one. There is no good solution. So in my mind what we have to do is examine what is the priority issue. Is it keeping traffic off Vettelson or is it, as Matt points out, regional perspective of traffic and what happens to that traffic if there is only one access?

P. Schuman: Do you have a safety issue if there is only one egress and entrance and exit? I've seen it with other developments we've had and you need to have a way to get in the back door. How you control that going in the back door, you may have something with senior housing; you may have possibly a plastic chain across or something across, never heard of that concept before, between the senior housing and the shopping center. That's an easy thing to do. If the police or fire need to go through, they can just drive through the thing, the plastic will shatter. Certainly another car will do that, but they might break the chain and scratch up their cars and they may not want to do that.

B. Leonard: I think it's a whole situation if the senior housing is there I would think they don't, it would not be compatible to have the commercial traffic using that road.

P. Schuman: You can do that with signs leaving the shopping center.

B. Leonard: Telling people that they can't go out that way.

P. Schuman: Yeah. Emergency entrance only or exit only.

B. Leonard: I think the right-in/right-out makes a lot, if you have to have an access...

Mayor Craig: Are we now going to be seeing right-in/right-out?

P. Schuman: I would say yes.

Mayor Craig: Or are we going back to the emergency exit.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: I would say yes until we do something further down the road which may affect Item D, item 17D.

B. Leonard: I agree, you can't decide on this until you know about the senior housing.

M. Carlson: No matter what the DOT says to you, emergency access does not meet the requirement for a full interchange.

P. Schuman: If that's what they've told you, we need to go with what the DOT says. I don't necessarily need it in writing. I take them at their word on certain things. The worst case scenario, if you don't do it, and somebody can't get in, you open yourself up, I think, for a lawsuit as a City.

Mayor Craig: Could also say contingent upon written confirmation from DOT, we would like to see the emergency lane.

B. Leonard: I think it is important to the community. It's nothing, I'm not trying to imply anything, I'm just saying that it's that much more powerful for the City to say "we asked about that and this is the response we got." In terms of providing it - spread the blame. It makes sense to require them to do that.

M. Carlson: I would do it differently. The way I look at the issue is, you ought to make the right decision regardless of what the DOT tells you.

B. Leonard: We have a dispute about what the right decision is so we need all of the fact to make a decision.

M. Carlson: You may go head to head with DOT about entrances and exits off of Highway 83 all the way up and down there and for convenience we may say we want six or seven different access points along Highway 83. You are going to hear this. You are going to hear people who have property all along 83 argue for multiple curb cuts along Highway 83 and the DOT may say to you, "no we want one access." In fact, I've heard this at Oakwood Road.

B. Leonard: With frontage roads, then.

M. Carlson: Right. So the perspective is you don't just say to them, well, okay, we'll agree to your perspective on it and go away. No. We've got our concerns and those own concerns include access. So what's the alternative for dealing with the access issue? Maybe you come up with some kind of a service road or a multiple secondary drive that provides that. You don't just give up on the argument.

B. Leonard: I'm not giving up on the argument I'm just saying I'd like to have all our ducks in a row, or all our facts in terms of these are our limitations. And if DOT has placed some limitations on us, I guess I don't see any down side to saying put those limitations in writing. Especially if you have legal issues going on. Depending on whatever gets approved or not approved, it seems like to have as much information as possible documented is an important thing.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: We'd want to see it contingent upon written and if we do get written then it defaults back to this wordage?

D. Curtis-Costa: Do they know what our intention is with looking for a smaller emergency access road there rather than a full size road?

Mayor Craig: Looking at the very first drawing, I don't know how they could anything but, and it was their recommendation verbally to the Staff, which I still trust to make it a full-fledged exit/entrance.

M. Carlson: My concern is that they are going to say to us, "didn't you hear us the first time? We told you we wanted a full blown intersection. Forget about this right-in/right-out stuff on Vettelson Road. We want a full blown intersection."

Mayor Craig: And if we come in with the right-turn/right-lane, they might just accept that as opposed jerking around with the service road.

P. Schuman: Be careful with what you ask for, it may come true.

D. Curtis-Costa: So you're saying a right-in/right-out would allow this road to be down sized substantially, is that what you're saying?

P. Schuman: Reduce the traffic on Vettelson Road.

Mayor Craig: It's going to reduce Vettelson in the aspect that you're not going to get the people going the eastbound into the traffic.

M. Carlson: We're spending too much time on this issue.

Mayor Craig: Okay.

C. Mursky: Does Vettelson between this entrance and Capitol meet City standards? The construction of the road.

Mayor Craig: Ask that again.

C. Mursky: Between this intersection and Capitol Drive in Hartland, the part that belongs to the City, does it meet City specifications, the construction of the road? Because it seems really narrow to me.

M. Carlson: Isn't Vettelson Road on our resurfacing list?

F. Welch: Yes it is. It is being reconstructed this year.

C. Mursky: And will it be widened?

F. Welch: I believe so.

M. Carlson: Do you want to take a break now?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: Let's pause here. After 17D and take a five minute break. Please hold it to 5 minutes.

[BREAK]

Mayor Craig: I do have the 11 p.m. curfew. It looks like we are not going to be getting to the items that are on Items 4 and 5a, 6, 7, I do want to hear the Administrator's report and the Building Inspector's Report, but as far as the rest, I think it is a fair statement that we are not going to get to you this evening. We are going to have to reschedule. We will make notification of the 24 hour to make it legal. At this time I cannot say when it will be because we have to get our schedules together also. This document, this process that we're going through has begun, it is an important issue, we have the people here, we have our attorney here, and I think it needs to be done and done right. Need to make sure our "I's" are dotted "T's" are crossed. I apologize for having you come out in this weather but I think it is a fair statement to say that we will have to see you on another night. We're going to continue this.

[Discussion took place with the audience about rescheduling of the meeting.]

18. Southeastern Wisconsin Regional Plan Commission ("SEWRPC") has delineated an approximate 7.2 acre parcel in the far southeast corner of the subject development as an isolated natural area. Developer shall use its best efforts to avoid disturbing the isolated area. There shall be no infringement on that delineated isolated natural area that will cause the loss of that designation. The isolated natural area shall never be reduced to less than five acres in size.

D. Curtis-Costa: I would like to just change a little of language from "developer shall use to its best efforts to avoid disturbing the isolated area." To "no disruption of the isolated natural resource area will be allowed." I am thinking root systems. Even if they don't knock a tree, if they are within the root system of that tree and it is disturbed, they could kill that tree or any number of trees.

C. Mursky: I would just strike "use its best efforts." And say "developer shall avoid disturbing the isolate area."

Mayor Craig: That was my recommendation.

D. Curtis-Costa: Okay. Then also, there is a tree area on the western portion of the development as well, correct?

P. Schuman: That's not considered at isolated natural area.

D. Curtis-Costa: But to my knowledge they have not done a complete tree survey of trees 4" in diameter or greater. They've done trees 16" in diameter and greater, but not 4". I think that a complete tree survey of the entire site needs to be done of trees in diameter of 4" and larger.

M. Carlson: Of which site? Are you talking about the isolated natural area?

D. Curtis-Costa: The entire site.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: The entire isolate natural area is not on this parcel.

Mayor Craig: No, she is saying on the western and where the stormwater pond is now being proposed would be disrupting that. Am I correct?

D. Curtis-Costa: Right. I think we need to survey all of the trees on the site. Anything that they might disturb we need to know about.

Mayor Craig: But I think this particular item that we are dealing with is dealing with protecting that isolated aspect. The ordinances do what you are asking that.

D. Curtis-Costa: But I know that they didn't do a complete tree survey. They did 16" in diameter and up. They didn't do 4" in diameter and up.

C. Mursky: So we need another item for a tree survey.

M. Carlson: We can specifically call out in Paragraph 18, the requirements provide a tree survey identifying all trees on the site 4" or more in diameter.

D. Curtis-Costa: Okay.

M. Carlson: Let me go back to make sure that I understand this sentence: The developer shall avoid disturbing the isolated area. That's what you want it to say?

D. Curtis-Costa: Developer shall not.

C. Mursky: Shall avoid.

M. Carlson: Shall avoid disturbing the isolated natural areas.

B. Leonard: So take "use its best efforts" out.

D. Curtis-Costa: So that they take into consideration the root systems, not just how far they are from ... I'm not hitting the trunk of this tree, but...

Mayor Craig: But you're still disturbing the area.

D. Curtis-Costa: Right. And I want them that somehow to be in their mindset that we can't disturb the root systems either. So however you would do that.

Mayor Craig: I think you are saying that when you are saying "Developer shall avoid disturbing" the word "disturbing" is not saying "hitting tree, scaping the tree," everything is disturbing it. Running over the root system would be disturbance. So I feel comfortable.

D. Curtis-Costa: do you think that that's sufficient?

Mayor Craig: Bill?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Attorney Chapman: I have a problem with disturbing; I don't know what it is. I don't know what you mean by even cutting down trees.

D. Curtis-Costa: Cutting down or in anyway causing harm so that they will die.

Attorney Chapman: But what if the tree is dead? Can they go in and clean it out? That's disturbing the isolated natural area?

D. Curtis-Costa: Well, no. If ...

Attorney Chapman: Well, yes. So I don't know what you mean by disturbing.

C. Mursky: Damaging?

P. Schuman: There may be something that needs to be done with the isolated area. If you do have a dead trees, are they permitted to clear the dead trees out to keep the dead timber out of there so you don't have a fire hazardous.

Mayor Craig: What are we asking that they do, really? We don't want them to build in the isolated area.

B. Leonard: Asking them to preserve it.

D. Curtis-Costa: We don't want them to kill any trees either.

Mayor Craig: So if we just come out and say "you're not allowed to build in the isolated area" is that what you're asking?

C. Mursky: No, it's more than that, because that the root system extends quite a ways and if you compact the roots of certain trees, they die.

Mayor Craig: I understand that.

C. Mursky: So what about instead of using the word "disturbing" put "developer shall avoid damaging the isolated area"? Then if there is work to be done in terms of cleaning things up and rejuvenating, that's permitted.

Attorney Chapman: It's okay with me. We add another sentence in here that they can, isn't there like the DNR best practice methods for stormwater, is there not a best practice methods for forestry?

P. Schuman: I would think so.

R. Dupler: Nurseryman's Association.

C. Mursky: So say something about the Nurseryman's best practices.

Mayor Craig: We're all approving it?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: Let me read this back: "Developer avoid damaging the isolated area. There shall be no infringement on that delineated isolated natural area that will cause the loss of that designation. The isolated natural area shall never be reduced to less than five acres in size."

C. Mursky: Then something about using Nurseryman's best practice or whatever or wherever we should go for that resource. Matt, I have question related to what you said in that the isolated natural area is not contained wholly on the property. So when that last sentence says "It shall not be reduced to less than five acres in size" is that the entire natural isolated resource area or is that five acres on site?

M. Carlson: The intent of my statement was that the entire isolated natural area should never be reduced to less than 5 acres in size regardless of where it lands on property boundaries.

C. Mursky: And there is 7.262 acres or something like that?

M. Carlson: Approximately 7.2 acres.

C. Mursky: Something like that on this development property. No. In total?

M. Carlson: In total.

C. Mursky: And how much is on the actual property?

P. Schuman: About 5 acres or something?

M. Carlson: I thought it was about 5 acres.

P. Schuman: So if we're not going to let them build on it, are they responsible for it if somebody else decides to tear down these trees off their property?

C. Mursky: See, that's my question. I was going to that. If they decide to destroy 2.2 acres of that so it is reduced to 5 acres, what does that do to the adjoining property and the restrictions on that?

M. Carlson: But you've said in the sentence above, the developer shall avoid damaging the isolated area.

C. Mursky: Okay.

P. Schuman: So that means they can't build on it.

C. Mursky: They can't cut through it in order to put their drive through?

P. Schuman: Well, that's what you're saying.

D. Curtis-Costa: Absolutely not.

Mayor Craig: They've just changed it so they can't.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: Maybe we need to say "they cannot." Instead of just "avoid."

P. Schuman: Well, that's about where their driveway needs to go based on the plan.

C. Mursky: And that's just it, if you're not going to permit them to damage it, but you are giving them 2.2 acres leeway, how can that be interpreted?

M. Carlson: My intention was that it would never any of the designations. How we get there, ... but that was the intention.

P. Schuman: You know if you say you can't build in there or do anything, there's no driveway going through there. And that makes it a problem building the thing and you might get yourself in a world of hurt saying this is going to keep this whole area from being developed because of that. I think it is too restrictive to do that and it is too valuable of a piece of property to do that. I think the original wording will permit that or you could say you could reduce it by 2 acres and the 2 acres could be the driveway into it. Have we done any calculations on that?

B. Leonard: I don't see the point of preserving it at all if you're going to say you can cut out 2.2 acres and put a Wendy's or McDonald's there and that's okay.

M. Carlson: No fast food.

B. Leonard: Well, I guess what's the point of preserving it if you are going to allow for them to do whatever they want to do to 2.2 acres of it.

D. Curtis-Costa: Let them wind the road a little bit differently.

Mayor Craig: Bill, do you have some wordsmithing that you would like to cut us to the chase.

Attorney Chapman: We could struggle some more with it, we've struggled already.

D. Curtis-Costa: Let's just tell them they can't disturb it and that they're going to have to work around it.

P. Schuman: That means there's no driveway going into the development.

B. Leonard: So where their driveway is on it right now?

Mayor Craig: They can still move it further to the north.

D. Curtis-Costa: They can move it and then they can wind it if they need to.

B. Leonard: I thought it was in the green area down there. I didn't realize...

C. Mursky: The driveway goes through the natural, the isolated natural area.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: So neither of these plans really delineate where this natural area is? We don't have the exact boundaries of it.

D. Curtis-Costa: Do we see it on the aerial or not?

C. Mursky: So if that's our intent we should just strike the last sentence then.

D. Curtis-Costa: If they can't disturb it, how it could ever become less than 5 acres?

B. Leonard: Does that pretty much, is it pretty apparent than where we are?

D. Curtis-Costa: "Developer shall not damage the isolated natural resource area, there shall be no infringement on the delineated isolated natural area that will cause the loss of that designation." Take the last sentence out.

Mayor Craig: And then the Nurseryman's best practices remain.

D. Curtis-Costa: And do we even want to take out the wording, there should be no infringement on that delineated isolated natural area. Period. Because if it says that it will cause a loss of that designation, that's still kind of somewhere, there's two point some acres.

M. Carlson: Are you going to permit either the property owner of Village Square or the property owner on the south to cut down any trees within the 7.2 acres?

D. Curtis-Costa: No. We just as soon not, unless they're dead, diseased.

M. Carlson: Okay. What would stop the property owner on the south from doing it right now? They're not coming in for development plan approval.

B. Leonard: This is a window of opportunity to control that, but we don't have a window of opportunity to control of it for the owner to the south. If they came in trying to put in a big shopping center, then we'd have opportunity.

M. Carlson: So what I'm saying is that you've got to treat them in a similar manner. If you say no destruction or you can't cut down any trees within the 7.2 acres, you're also going to imply that same theory to the property owner on the south.

P. Schuman: What does an isolated natural area as far as the regulations of that go?

M. Carlson: They'll come in for site plan approval. Any development would trigger it.

C. Mursky: We can't control it until they come in for approval.

M. Carlson: Right. But what I'm saying is, you're expressing your public policy desires for that isolated natural area. What's good for the folks on the north is good for the folks on the south.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: But if we don't have control on the folks on the south right now, what we can say in this document is that: contained within this development, the isolated natural area, cannot be disturbed.

C. Mursky: You're just setting it up for the future.

M. Carlson: Yes, I am.

D. Curtis-Costa: So how do we do that? How do we do that so then when people come in that have part of this on their property...

B. Leonard: They should have a zoning designation that covers it. Wouldn't we have to zone these 7 acre, or these little spots that are conservancy areas as some sort of conservancy area in order to regulate it?

M. Carlson: They're not conservancy area right now.

B. Leonard: No they're not, but couldn't they be?

M. Carlson: They could if the Plan Commission, the City Council, or the landowner wants to initiate a rezoning for those properties, they could do that.

P. Schuman: What is an isolated natural area and what is the authority of SEWRPC on this? Is this just a recommendation? It's not law?

M. Carlson: That's true. However, we rely upon a good relationship with SEWRPC on a variety of other issues. I don't think that we want to go out of our way to do something that is out of compliance with one other guidelines.

B. Leonard: Do they tell communities, well these are the areas that we've identified. We strongly suggest you zone them appropriately?

M. Carlson: No. They don't necessarily you've got to take the step to zone them in accordance...

B. Leonard: So how do they expect us to regulate them?

M. Carlson: Through the regulatory process.

P. Schuman: What we're doing right now.

M. Carlson: Right.

B. Leonard: So when it straddles the property line, we can only do what we can do for the property that's come in for the approvals.

Mayor Craig: I think we got wordage. Diri, do you still feel comfortable with this what you last read?

D. Curtis-Costa: I think so.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: Chrys?

C. Mursky: What's the last line?

Mayor Craig: The last line that we had was the nurseymen's best practice.

D. Curtis-Costa: Also, there should be no infringement on that delineated isolated natural area.

Mayor Craig: Yes. Okay?

R. Transon: I was wondering on another side of this, would this be a time to add something like doing the study on the archeological burial grounds or whatever. Is that in there?

P. Schuman: Wasn't there a study done with Jim Behrends' development one time? That was ten years ago.

Mayor Craig: Fred, do you remember any studies.

F. Welch: I don't remember. It would have been normal that there would have been, but I'm not certain.

C. Mursky: Is the tree inventory included in here?

Mayor Craig: Right.

M. Carlson: Page 13, bullet point #39, The Developer shall, at developer's expense, retain a qualified archeological expert to inspect construction during mass grading of the site. (The word archeological was originally typed in the document as "architectural".) I've got on here, page #7, item #18, tree survey of 4" or more shall be surveyed on the entire site.

Mayor Craig: Quality trees?

R. Dupler: Ordinance requires quality trees and you can discount the lesser garbage trees.

19. The developer and any subsequent owner of the development property shall be responsible for treble damages for damaging or removing trees beyond what is permitted by this conditional use permit or any future Specific Implementation Plan, said damages to be determined by a certified tree valuation consultant retained by the City. In the absence of payment upon billing, the damages shall be levied against the subject property as a special tax.

D. Curtis-Costa: Do we want to put verbiage in here about our new tree ordinance when we are finished with it so that we know what the damage will be if in fact that happens?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: The City is looking at a tree ordinance and this would be in compliance thereof.

P. Schuman: But don't we have the catch-all later all with all City ordinances and things further?

Mayor Craig: But this is somewhat similar to the stormwater in the aspect that we are saying that we are exploring this at this time and we want it to be in compliance to that future also.

P. Schuman: This will be in compliance with the City's future tree ordinance?

Attorney Chapman: On the one hand, the stormwater was a plan, it was not a study, a plan. This is an ordinance. It is difficult to make them retroactive. So I have to tell you that. You can put it in here, but.

Mayor Craig: Knowing that, are you still wanting it.

Attorney Chapman: In fact, you can't make them retroactive.

P. Schuman: We'd better leave it out then if you can't enforce it.

D. Curtis-Costa: But if the ordinance is in place, if and when this gets approved, then of course it will.

Mayor Craig: Then it's going to have to.

Attorney Chapman: That's not retroactive.

Mayor Craig: We don't have to list that.

M. Carlson: So we're not going to list that?

Mayor Craig: No.

C. Mursky: Who pays for the tree consultant if we have to retain one?

M. Carlson replied.

20. The developer shall prepare, or have prepared, specific utility, site grading and other infrastructure plans, to be designed and submitted to the City's Public Works Committee for approval. Approval may be obtained at either or both the General Development Plan stage or subsequent Specific Implementation Plan stage.

P. Schuman: All right.

21.

P. Schuman: We incorporated that in the previous stormwater.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

22. Developer and any subsequent owner shall maintain all common areas, including landscaping. The City shall have the right to inspect all common areas and landscaping at reasonable times and with reasonable frequency. If upon inspection the City determines that the common areas or landscaping are not being maintained in any material aspect and that maintenance is required, the City shall provide permittee with written notice stating with specificity the maintenance activities the City deems to be required with respect to the common areas and landscaping, and permittee shall have ten days after receipt of such written notice to perform such maintenance, provided that the ten-day period shall be extended if permittee has commenced such maintenance work within said ten-day period and is diligently proceeding to complete the same. If permittee fails to take remedial action as required by the City, the City may enter the property and accomplish the required remedial action and charge permittee the cost thereof. Permittee shall be billed for the cost, and in the absence of payment the City shall place said charge on the real estate roll for the following year. Section 66.0627, Wis. Stats., shall apply so far as applicable and is therefore incorporated into this conditional use permit by reference.

D. Curtis-Costa: Is this suggesting that we will be inspecting the common areas now and then, or?

Mayor Craig: I think that kind of goes back to the original if there's a complaint, then's enforced.

D. Curtis-Costa: That's kind of how it's been with Walmart and the litter too.

Mayor Craig: Along with the theaters and there up.

23. The City may require a specific declaration of restrictions to be prepared, approved and recorded in the office of the Register of Deeds for Waukesha County, the purpose thereof to assure compliance with this conditional use permit. The developer shall enter into a development agreement and an agreement for stormwater management.

D. Curtis-Costa: I am wondering if this would be the point -- development agreement would not be transferable.

M. Carlson: What do you not to be transferable?

D. Curtis-Costa: Well, you and I had talked about that at one point and you had thought that was a good idea.

M. Carlson: No, I thought it was a good idea to require any subsequent assignees or transferees to be held and bond by this. I must have misunderstood your earlier question.

D. Curtis-Costa: It was a while back that we had talked about it.

Mayor Craig: So this agreement transfers along with.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: Maybe it was just the development agreement in general.

M. Carlson: I think you want to bind them.

B. Leonard: It should follow the land, right? Stay with the land.

Mayor Craig: Right.

B. Leonard: Regardless of who owns it.

D. Curtis-Costa: I think the intention was to not just give approval and then it sold off.

P. Schuman: Well, you don't want to hinder somebody's property rights to sell something. When you want to buy it, you want to know what you are buying and all this needs to be continued to the new owner. And that's subject to another meeting five years down the road if we approve this, whether we reinvent the wheel all the time. So you want it to transfer. And you want it to continue.

D. Curtis-Costa: You don't recall that conversation?

M. Carlson: I recall the conversation of the developer/property owner flipping the use to somebody else.

P. Schuman: That's they're property rights, isn't it?

Attorney Chapman: What if he died?

P. Schuman: Well, it's called an estate.

Attorney Chapman: I know. That's my point. You can't stop it.

D. Curtis-Costa: What was your thinking behind that, when you talked about making sure that it was not transferable.

M. Carlson: That was not my recollection of the conversation. My recollection is, do you want these requirements transferred. The question on whether you want them to have the ability to market the site and sell it somebody else, that question becomes how are the new owners of the property required to implement this plan?

P. Schuman: They are required to implement it as it is. They buy it with everything with it.

D. Curtis-Costa: Okay. I'll have to look back at it. Okay.

24. The developer shall obtain a site grading permit from the City. All stormwater facilities shall be constructed before any building permit is issued. "Constructed" is defined as graded, vegetated and appropriately mulched or protected by other erosion control measures.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: Is vegetated a verb? I didn't know there was.

Mayor Craig: Would you like "landscaped"?

C. Mursky: No, vegetated is fine, I like that, it's a unique word choice.

25. No 24-hour operation shall be allowed within this commercial development. All operators shall be required to submit a business plan of operation to the Plan Commission for approval. There shall be no overnight parking of semi-tractors or tractors and trailers on the subject parcel.

P. Schuman: How about just trailers themselves? To cover this as tractors and/or trailers.

C. Mursky: Campers.

P. Schuman: I don't know if you want to have that. It might be in the woods area.

Mayor Craig: Or trailers?

Attorney Chapman: And/or trailers.

Mayor Craig: And/or trailers, yes.

26. An anchor store is to be constructed on the west side of the subject property. This anchor store and all other buildings must be constructed to permit ease of adaptive re-use. The Specific Implementation Plan must illustrate the adaptability for re-use of buildings should the original user abandon the buildings.

B. Leonard: How do they do that? How do they show you that?

Mayor Craig: We've done that on Colders.

P. Schuman: Dotted lines.

Mayor Craig: From the aspect that they're able to show that they could be changed into an office.

B. Leonard: So they submit something that shows the interior of the building and how it could be reconfigured.

27. The development of the subject property shall be in phases. The construction of the anchor grocery store and all buildings on the north and east sides of the development shall constitute the first phase during which the deceleration lanes provided for above and the installation of traffic signalization shall be accomplished. The two 28,000 square foot proposed retail buildings along the south side of the parcel immediately west of the isolated natural area and the proposed multi-family residential development fronting on Vettelson Road shall not be constructed until STH 83 has been expanded to four lanes. The proposed multi-family use of that part of the development fronting on Vettelson Road is not

CITY OF DELAFIELD PLAN COMMISSION MINUTES

hereby approved. If multi-family housing is approved in the future, it shall be deed restricted for senior housing.

P. Schuman: So you don't want the senior housing in the lower area?

M. Carlson: Not at this time.

Mayor Craig: Potential future. It's not in the plan at this time.

D. Curtis-Costa: Where does the anchor grocery store fall into the phases here?

M. Carlson: Phase I.

Attorney Chapman: North side.

Mayor Craig: North side, and grocery store, Phase I.

B. Leonard: And then there are several buildings on the north and east sides that are also Phase I?

D. Curtis-Costa: Because the store is basically the west side. All of the west side. Really, all that would not be developed are, if we are crossing out the senior housing, then all that would not be developed are the two 28,000 sf retail buildings.

B. Leonard: On the south side.

M. Carlson: It would be a dividing... All of these properties would be in Phase I and these would be in future phases, Phase II.

C. Mursky: And is that to protect the residences, as long as possible?

P. Schuman: But also traffic. They'll grow when the traffic, when the roads are able to handle it.

C. Mursky: Is the parking Phase I also?

M. Carlson: The parking lot would go along with, in other words, would they land bank this? I think that would be a reasonable assumption and we should include that in the conditions.

Mayor Craig: Should we mention it at this time since this is the phasing part? Appropriate phased parking corresponding with each of the buildings would be constructed, all others would be land banked.

D. Curtis-Costa: So how much of the center parking?

M. Carlson: They would have to add the square footage of the buildings and look at our code and say, okay our code requires three spaces per thousand for restaurant use and four spaces per thousand, they'd have to count those off. And attribute those spaces and build those spaces. The rest of them would be land banked and then the current proposal would suggest this would not be approved at all. The development down here

CITY OF DELAFIELD PLAN COMMISSION MINUTES

would not be approved. But if and when they were ready to move forward with development project, they would have to come back and amend their conditional use. And if it is multi-family housing, it has to be deed restricted for senior house.

D. Curtis-Costa: And at what point would the DOT require access to Vettelson Road?

Mayor Craig: They were telling the staff, even before even looking at the very first plan, that they wanted that to be major road.

D. Curtis-Costa: But when? When would that happen?

M. Carlson: But that assumption was that it would all be constructed at the same time. We didn't get into a discussion with the DOT, my recollection; we didn't talk to them about breaking the project up into phases.

B. Leonard: So Phase I might require just an emergency entrance on Vettelson.

P. Schuman: What would the difference between an emergency entrance and a standard road, what would that be?

B. Leonard: With access, gating, controlled. It wouldn't be right-in/right-out. There wouldn't be... basically would only be for emergency vehicles. And we talked about this an hour ago. They'd have some sort of gating.

M. Carlson: Part of what we will ask the DOT for is to weight in on the issue of phasing of the development. Because that's a new piece of the equation. The original discussion was full build out of the center. Maybe they'd take a different view of the timing of that construction if the square footage lags.

B. Leonard: And the senior housing too, ultimately would affect what kind of road you... I guess, without knowing whether that senior housing would go there, it doesn't seem wise to build, to overdevelop that road with the assumption that on either side of it you are going to have this multi-family housing, when that may never occur. So then you are going to have this full width public road there that you didn't really need to have. More paved area.

Mayor Craig: So going back to Item 17D, page 7, just remove the paragraph.

C. Mursky: Do we need something in there about checking with the DOT on the access to Vettelson? Do we need to cover that entrance in the conditions in any way?

Mayor Craig: Do you want to put the phrase something like, creating on the fly here...

M. Carlson: Something the lines like, the City will seek the advice of the Department of Transportation in the configuration of the intersection of Vettelson Road.

Mayor Craig: But would prefer a service road over any...

M. Carlson: Let's be clear about what you want us to do. Put in the minutes of the meeting what direction you are giving us.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: So the big concern is how much traffic goes into Vettelson Road. Is that your major concern? A full service road versus an emergency road?

B. Leonard: Yes, how it is used. How that access road, or driveway, or whatever it ends up being is used. If it is used as an emergency versus the second entrance.

P. Schuman: You do have other businesses on Vettelson Road. Isn't that healthy to have a little more traffic there, not too much, but you know, just right so those people can survive as businesses?

B. Leonard: They are surviving now.

Mayor Craig: This development is not trying ... we've got to keep to this one.

D. Curtis-Costa: The other question too, Phil, is if this is done in phases, when would we be required to put access to Vettelson Road in? It might not be required right away.

Mayor Craig: But our fire department would like to see a second access.

B. Leonard: Right, for emergency.

Mayor Craig: I think that if we put into the condition, contingent upon DOT's approval, a service road would be put on Vettelson for at least Phase I.

P. Schuman: No, I think what we need to tell them, that we'll put in a service road. We can just make that statement now, which could be expanded in the future.

M. Carlson: Who pays for it when it becomes a full service intersection?

D. Curtis-Costa: Depends on where they are in the build-out of this.

Mayor Craig: Any future build-out would be developer's responsibility.

D. Curtis-Costa: They'll have to come to us. If they want to put anything down there, if we don't approve the senior housing, when they come in and say this is what we want to do. Say okay, now we have to put in, if the DOT requires it, now we have to put in a full service road and have them do it then.

Mayor Craig: I think Matt's point is if in Phase II those two stores are built out and DOT says, hey, you've got it built out now, who's going to pay for it?

B. Leonard: Why wouldn't it be the developer?

D. Curtis-Costa: The Developer.

Mayor Craig: That's what needs to be specified.

C. Mursky: Bill, how vague can we be without having all of the information? A lot of what we are saying, we can't decide until we hear from the DOT. And I guess maybe the other question is, could we have an answer from the DOT by the next time we meet?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Attorney Chapman: They'll have it be noon tomorrow.

B. Leonard: Well, are we approaching them as, Phase I looks like this, the City wants to know if they can put in an emergency access only service road. Or are we saying, here's Phase I, you tell us what we need to do? I guess, are we being more proactive and telling them we'd prefer to do it this way for Phase I?

D. Curtis-Costa: I think that's a good idea.

B. Leonard: As opposed to just saying, you tell us, what do you want to see here? You know, give them a blank check and tell us whatever they want to tell us.

M. Carlson: Staff is not recommending an emergency access intersection there under any development scenario. That is not staff's recommendation.

Mayor Craig: Got that message.

P. Schuman: I would concur with staff. We've gone through this with other developments. I think we'll be hurting ourselves in the access of fire engines and things like that if we make too skinny of a road in there.

D. Curtis-Costa: If it is made to allow for that very thing, I think it would be okay. I think we need to find out from DOT what they have to say about that and then at our next meeting...

Mayor Craig: Why don't we just say, we want a service road unless DOT mandates a driveway.

C. Mursky: Are we going to finish this tonight?

Mayor Craig: I'm hoping to, yes.

M. Carlson: You've got another whole hour yet.

Mayor Craig: Piece of cake. Let's move.

P. Schuman: Let's just do it that way, then Paul.

D. Curtis-Costa: Let's tell them that that's what we want to do.

Mayor Craig: We want a service road.

P. Schuman: That's a minimum a service road and then...

Mayor Craig: At such time DOT requires

C. Mursky: Is that just for the first phase that you want a service road?

Mayor Craig: Period.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: For any phase.

Mayor Craig: When it becomes a second phase, then the DOT comes in and says second phase you have to have that, then that's there.

C. Mursky: Then we need to tell them that they're going to have to pay for it at that point in time.

D. Curtis-Costa: At such point DOT requires a full service road, the expense will be borne by the Developer. And then we'll look to the right turn in/right turn out rather than... Something that would deter traffic.

Mayor Craig: Okay.

M. Carlson: Can you read back that Paragraph D? We're taking out this Paragraph D in its entirety and replacing it with this?

Mayor Craig: Yes.

M. Carlson: Okay, go ahead and read it.

S. Hildebrand: We want a service road unless the DOT requires it full blown and at such time the DOT requires a full service road, then the expense will be borne by the developer.

Mayor Craig: Capture the essence here, folks.

D. Curtis-Costa: Right, but they will pay for a service road, first, if that's what we can get.

Mayor Craig: Yes. That's it. Okay.

28. No more than 150,000 square feet of building development shall be permitted on the site. Of that total square footage allowance, retail users shall occupy not more than 75% of the total square footage of the buildings to be constructed on this site.

D. Curtis-Costa: I would like to change that to 50% retail.

P. Schuman: Why would you want to do that?

D. Curtis-Costa: Because if we can get more office in there, that's much more compatible as far as noise, I mean, you name it.

P. Schuman: Isn't the assessed valuation of retail more than office?

D. Curtis-Costa: It's the service. The amount of services required by office is so much less than retail that I don't think...

P. Schuman: We get more taxes too with retail than we do with office.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: But we also get more costs.

P. Schuman: Not necessarily.

Mayor Craig: We're 25% difference here, folks.

P. Schuman: Have we allowed, had that standard any other place in our B6 zoning?

Mayor Craig: No.

P. Schuman: It's always been 75?

M. Carlson: You've always responded to what the developer has brought in.

T. Maney: We have some that are 100% retail.

B. Leonard: But, for the attorney. Is it fair to say we can put in any range percentage here? What would be reasonable? 50 - 100, 75 - 100.

Attorney Chapman: Those are words that lawyers use, reasonable, substantial, and they don't know what they mean.

Mayor Craig: You need to keep in mind at this time we are proposing that this is a retail center. Seventy-five percent, if this plan does go through, seems reasonable for a retail center. Twenty-five percent office. I understand what you're saying. But ...

D. Curtis-Costa: That's where the incompatibility issues come in. So that's why I'm...

P. Schuman: I think this is a joining of B1A and all around it, so the compatibility is not the same as you have with the Marcus Theater with it all residential behind it.

D. Curtis-Costa: But this isn't Marcus Theater and the B1A, I mean we're talking a mink farm, we're talking a nursery. We are talking very low impact, what people do extra for income.

M. Carlson: The permitted uses in a B1A include a grocery store, a drug store.

D. Curtis-Costa: Right.

P. Schuman: And some of the people on Vettelson Road may well decide that they want to sell their property and they may want to put in another type of retail store there.

D. Curtis-Costa: But the compatibility issue in our ordinance speaks to current land use, not zoning, it's current land use. And that's what we have to look at.

P. Schuman: Well we've got two businesses there already. And we've got another business that wants to be proposed there.

D. Curtis-Costa: But those aren't high impact, high service requirement.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: I guess I'd like to know what's the retail vacancy rate like in our community and the surrounding communities, versus the office vacancy rates. What's been more successful in the area and what are we... that's our competition, or the developer's competition is going to be surrounding developments such as the Pick'n Save at Capitol and 16 or that further east and there's the Pick'n Save in Oconomowoc. I mean, how successful have they been on that type of use versus various office developments that have happened?

T. Maney: The retail vacancy rate in Delafield is almost nil.

B. Leonard: What about other areas?

T. Maney: Let's just stay with Delafield right now. The retail rate is almost nil, the office, there's more vacant office space in Delafield, I'm sorry, than there is retail right now. I think Hartland, as you tour through Hartland, is looking at the same. I think the retail vacancy in Hartland is very low. But I think the office space being offered is higher. Again, I don't want to disagree with you, but the higher end use of our community seem to, and I think Oconomowoc is going to face the same thing. Retail is the higher end use and the higher taxes. You're going to have more office space available because you've got to have people coming from some office to come out. That's the difference. So on our end, the entire City of Delafield, not just this corner, 83 & I94, and even downtown, there's very little retail space.

B. Leonard: Just perceptually, it seems like they're floundering along Highway 16, the retail. I don't mean Delafield, again, our corridor that we're drawing from.

T. Maney: Again, you're talking 16 and I'm going to talk 83/I94 or downtown which is the majority of our use. The retail vacancy is very, very, very low.

B. Leonard: But I don't think we relate this site to that retail as an accessible as I am along the whole 16 corridor.

T. Maney: I'm not disagreeing with that. I think if you took the Delafield, Hartland, and now you can include the Wales area, you're going to find those three communities. Those are the ones we know the most. Those are the ones that probably have a very, very low retail vacancy.

B. Leonard: But that's all I94...

T. Maney: Wales is 83/18 right now. And that's a growing area, if you've been down there. The vacancies that are down there are office related. That's a fact. I'm not disagreeing with you on use. I think that's just a normal fact.

D. Curtis-Costa: Again, as I'm sure you've all heard a million times from me, I'm looking at compatibility issue. How do we do that? How do we address the compatibility issue when you are looking at it.

T. Maney: In the past we've done it as a zoning. And Marcus Theaters is the greatest example because when ... came before the City, we had tons of people in this room with

CITY OF DELAFIELD PLAN COMMISSION MINUTES

the residential use, remember that to the south? And back then, I think legal might have said at a meeting, this is City of Delafield, it is a B zoning, we're addressing this use. Compatibility at that point, it's always been a zoning issue. And the Arbors is another issue. We didn't stay, that bank and Sentry store didn't stay off that lot line, that feet because of the Arbors. We stayed off that lot line because of parking and the drive through for the bank, that's the only reason it's there. The fence was put up as a condition that the City wanted to protect those people in the Arbors, but it had nothing to do with setbacks or staying 150 or 250 feet. They met the zoning. The compatibility, I'm going to go back and agree with Phil, the Marcus thing was much more controversial compatibility because it was totally residential. This one is a little bit mixed because of the B1A.

D. Curtis-Costa: So you had a lot of people come in from the residential? Speaking out against the Marcus?

T. Maney: Oh, sure. ...

Mayor Craig: I still get calls for that.

T. Maney: Remember when they built those two 60-unit apartment complexes there, the same people came in, same issues. You can't blame those people. That's straight residential. I mean there's no B1A zoning, nothing like that. But again, our, correct me if I'm wrong. Our theory's always been to address that developer as he comes in with that use. Does he meet the setbacks, does he meet the floor area, and does he meet the parking? And then from there, yeah we can help fence, we can help do some landscaping.

D. Curtis-Costa: Because right in our zoning, it talks very much about compatibility.

T. Maney: Can't argue with that.

B. Leonard: I guess I look more in the larger area too.

Mayor Craig: That can be dealt with the buffering also.

T. Maney: I'm not disagreeing with you about compatibility.

B. Leonard: But the theater, to me, was just a continuation of a trend in a very intense development that was already there in terms of Highway 83 and I94. I don't know when Target went in, but in terms of this area I see more in terms of looking at the surrounding uses to the north, south, west, of the area and that's where my compatibility issue comes in. You have conservancy area, you have University Lake School, and another public school. We're really setting a trend. We have to decide how much farther we want to go on that corner.

P. Schuman: There are buffers. You're not talking about not having anything as far as senior housing goes. You're talking about not putting on the southern half of that development until the highway comes in, so there's buffers, there's transition, called time. So people do get adjusted to it. Then also you can put in bufferings and berms and things like that as compatibility. I don't believe there's much in the way of say

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Marcus and the residential area up there. It's all flat.

T. Maney: It's just that existing tree line.

P. Schuman: Just an existing tree line.

Mayor Craig: There's also a tree screen.

T. Maney: That's basically what I'm talking about.

Mayor Craig: They added the screening also.

P. Schuman: But here you can have a berm which will cut the sound down and that's the main thing and the other elevation is higher than the surrounding homes. I think there's some things you can do with that.

D. Curtis-Costa: The whole idea, when this became zoned B6, it was during a time when this whole highway system was being reconfigured, because Nagawicka Road used to go right across 30 and 16 and there was no on ramp, off ramp, or anything, it was just kind of just one big...

P. Schuman: Well, Vettelson Road was the main road through Hartland.

D. Curtis-Costa: Wasn't that Highway 30?

P. Schuman: Highway 30 is Milwaukee Street.

Mayor Craig: It was 83.

D. Curtis-Costa: 30 from Milwaukee to Madison.

Mayor Craig: 30 is 94.

B. Leonard: Vettelson Road wasn't even there.

P. Schuman: That was a main highway.

B. Leonard: Not at Nagawicka Road it wasn't.

Mayor Craig: We're straying here.

P. Schuman: I don't think we should make the change to 75%. I think we're going to shoot ourselves in the foot because right now the primary need for things is retail and you want to not degrade your taxing building.

C. Mursky: Question is, what percentage is shown on the site plan for office for this plan.

Mayor Craig: None.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: I thought there was some office. Can we get ... is it handy? I don't want you to do a lot of digging. What percentage of office on the first plan and the second plan? Is that handy or not?

P. Schuman: Well, the first plan was 22,000 sf and the assessed evaluation of that 22,000 sf was \$1,650,000.

C. Mursky: 22,000 out of 182,000.

M. Carlson: The second plan shows 5,000 sf gross floor area of office.

D. Curtis-Costa: The first plan shows 27,000 knocked down to 5,000.

C. Mursky: Matt, do you have a calculator? Can you divide...

M. Carlson: Just a minute.

C. Mursky: Divide 27 by 182 - it's less than 25%.

M. Carlson: 15%

C. Mursky: Now divide 5 by 158.

M. Carlson: .03

C. Mursky: So 3%.

M. Carlson: Correct.

C. Mursky: So the first plan was only 15% and we're saying retail can't be any more than 75%. Correct in this?

P. Schuman: 15% was office space.

B. Leonard: And the second plan?

C. Mursky: Maybe we should do comparables here. In the first plan, they proposed 15% office. And what we're saying in these conditions that they have to have 25% office. No. No. No more than 75% can be retail. But that could be senior housing. The 25% could include anything but retail. Could that include senior housing?

M. Carlson: Theoretically, yes.

C. Mursky: So the total development, we're saying is 150,000 sf and no more than total can be 75% retail.

M. Carlson: I think the intent was that the 150,000 sf does exclusive of the senior housing parcel.

C. Mursky: Okay, that a question.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: But you may disagree with that.

D. Curtis-Carlson: Exclusive of the parcel meaning, we're just not going to count what might go there?

M. Carlson: That's correct.

P. Schuman: At this time.

M. Carlson: Come back at a later date and ask for it at a later date.

D. Curtis-Costa: I think it should include that parcel.

M. Carlson: Well, that's what I just said. And you may disagree with that.

D. Curtis-Costa: Do we know what the figures were for Lake Country Crossings lowest?

M. Carlson: I don't have them in front.

P. Schuman: I think we can micromanage the market forces. I think the developers going to come in with what they think will make money for them and if we start micromanaging it, planning it, I think it's not appropriate.

B. Leonard: So you don't think we should a percentage in here at all?

P. Schuman: I think if 75% works.

R. Transon: 75% is fine with me.

P. Schuman: You don't want 100%. Some people want 50. I think this is what...

C. Mursky: By asking those questions I was trying to get a feel for what plans we had, what percentages those were, so I had an image of...

Mayor Craig: Beth? 75%, 50%

B. Leonard: And you're talking north of that line now, are you including the senior housing part?

P. Schuman: They're not including the senior housing.

M. Carlson: It should say that.

Attorney Chapman: It should exclude that site, not the senior.

B. Leonard: So you're asking what percentage I would be in favor of commercial versus retail?

Mayor Craig: Retail versus office.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: Retail versus office. Just one question before I answer that. Is there anything besides retail and office, Matt, that falls as non-retail, but it's not office? I'm guess I'm trying to think, what other uses are there? Restaurant would retail wouldn't it? Bank would be office? Because if you could give me examples. Non-retail is what I'm trying to find out. What would be non-retail?

T. Maney: Office use, banks, multiple housing, ...

M. Carlson: Children's museum.

D. Curtis-Costa: They have restaurants not included in retail in there.

M. Carlson: Restaurants are retail.

D. Curtis-Costa: Okay, then we need to change those figures.

B. Leonard: My concern is I just want to know what's on one side and what's on the other. What's not retail?

T. Maney: Restaurants will also increase the parking.

B. Leonard: I'm hearing banks, offices, ...

T. Maney: As our planner always harps on us, restaurants always increase parking, versus retail. There is a 20% difference.

B. Leonard: Roger, can you think of any non-retail? I'm trying to get examples of what could go there.

M. Carlson: Museum.

B. Leonard: Museum.

Mayor Craig: Do you have verbiage here that you would like to recommend?

B. Leonard: I'm just trying to note for myself, for my own knowledge, what's that percentage of 25% is.

P. Schuman: I think we're trying to micromanage the market and we have no basis for that.

B. Leonard: Then we shouldn't put any percentage in there, because that's micromanaging.

Mayor Craig: Hold it. What do we have recommendation here? Matt?

M. Carlson: Excluding the portion of property on Vettelson Road, no more than 150,000 sf of building development shall be permitted on that site. Of that total square footage allowance, retail users shall occupy not more than 75% of the total square footage of the

CITY OF DELAFIELD PLAN COMMISSION MINUTES

buildings to be constructed on the site.

C. Mursky: We are not specifying the buildout for that Vettelson parcel at this time.

M. Carlson: That's correct.

D. Curtis-Costa: I think we need to come up with a square footage for the entire site. I don't understand why we are leaving out that parcel.

T. Maney: How can you when you don't know what the parcel use is going to be?

P. Schuman: They may want something in there other than multi-family.

D. Curtis-Costa: Such as?

Mayor Craig: Single family.

Unknown: Office.

D. Curtis-Costa: I think we need to put a maximum square footage on that whole development.

M. Carlson: Why wouldn't you make them come back and ask you for it again? Go through the process to amend the conditional use?

D. Curtis-Costa: Because we'll probably end up with a lot more square footage later than we would right now.

P. Schuman: Maybe it's after the road is done, situation could change.

Mayor Craig: Neighborhood complexion can change. I think in 27 we've eliminated the multi-family use in that area up above. We've isolated this to be that line up in 27 in my mind.

P. Schuman: I'm comfortable with 28. It's okay with me if we move on.

Mayor Craig: With the modified verbage?

P. Schuman: What modification do you want?

Mayor Craig: Of the... say it again?

M. Carlson: "excluding the portion of the property on Vettelson Road."

P. Schuman: That's fine with me.

C. Mursky: I'm okay.

R. Transon: I'm okay.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: I want 50%.

B. Leonard: I'd probably favor 50%.

P. Schuman: Three at 75 and two at 50.

Mayor Craig: Four, myself, I can count on this one. For 75.

P. Schuman: I don't want to erode our tax base.

Mayor Craig: Let's go on.

29. Appropriate language addressing the possible presence of tax-exempt entities within this development shall be negotiated by the City and the developer and shall be incorporated into this conditional use permit by way of written modification thereof. A fiscal impact provision shall likewise be negotiated by and between the City and the developer and incorporated into this conditional use permit by way of written modification thereof. The fiscal impact condition shall compare revenue from the development with the cost of extending services to said development, and require the property owner to pay the City for any costs the City incurs to provide municipal services to the property as a special charge.

D. Curtis-Costa: Can we go back to 28 please? There are a couple of things that I wanted to add that I didn't. And that is, two story maximum on retail buildings, actually on all buildings with the possible exception of office building.

Mayor Craig: Why not just make two stories all together?

D. Curtis-Costa: Well, because I guess that's an area where I would be willing to bend a little if there was more office space.

B. Leonard: It makes more sense to me to cover less ground and build a couple stories up than sprawl it out in terms of offices. I don't know why they'd have to be only two story offices.

D. Curtis-Costa: I wouldn't want that near the residential.

B. Leonard: You have to look at how many stories you want.

P. Schuman: Do we have any other regulations in the City on how many stories we have.

M. Carlson: Is there a height regulation in the B6 category. No height regulation in the B6 category.

B. Leonard: So theoretically, they could put a skyscraper there in the B6 zoning.

Mayor Craig: That was my thought and that's why I'm say....

M. Carlson: One building of 150,000 sf?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: I don't know.

M. Carlson: Think about this. If their grocery store is the anchor store, is going to be 50,000 sf, they've got 100,000 sf to use elsewhere on the site, right? You're limited them through other means other than a height restriction, or a limitation to put the number of floors they can have.

B. Leonard: Do we have other ways to control the configuration of the height of the buildings, besides putting it in here in terms of approving the site plan. Do we have to actually specify how many stories.

Mayor Craig: I think we have to approve square footage. The point that Matt just made.

B. Leonard: Okay, so what are you saying, Matt, that we don't need to put in a height restriction?

M. Carlson: I'm saying that you don't need it.

Mayor Craig: That the higher you go, the more square footage you're going to eat up and they're going to be spreading out as it is already.

B. Leonard: The higher you, the open space you leave. Because if you can only have 150,000 sf, then that's more unused or....

P. Schuman: We already give them their foot print, here, that's what we're doing with the GDP. The buildings that are there. To modify it, they would have to come in and amend it.

B. Leonard: That's what I am saying. Isn't there another way to regulate this or catch them.

P. Schuman: That's the footprint of what they've given us, that's what they use with and if they want to change it they have to come in. Then that's where we catch them, or that's where we can regulate it.

Mayor Craig: Do we feel comfortable with...

M. Carlson: It doesn't specifically have a height limitation in the B6 category, but that doesn't mean that it's not in here.

Mayor Craig: But I think we've limited it with their footprint in addition to the square footage. I don't think we need it.

M. Carlson: If you want to refer to it in the paragraph above, I think that's maybe where you....

D. Curtis-Costa: Well that was certainly a concern when the multi-family housing was proposed.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: That's where you want to get at it.

C. Curtis-Costa: There's just no way that would have been...

Mayor Craig: But they have to come back anyways for that area, so I'm not going to...

D. Curtis-Costa: Let's just make sure that there isn't anything really tall.

C. Mursky: We might as well express our intent at this point in time if they come back in for super multi-family housing, they should be deed restricted to senior housing and be limited to two stories in height.

Mayor Craig: Two stories?

D. Curtis-Costa: Or a story and a half. Because the....

P. Schuman: Story and a half?

Mayor Craig: Two stories, a cap cod.

M. Carlson: And shall not be more than two stories in height?

Mayor Craig: Right. You had something else, Diri? You said a couple things.

D. Curtis-Costa: I just wanted to make sure that we don't allow anything any higher than that near the residential area, not just the Vettelson Road parcel.

Mayor Craig: We've got that controlled now. 29. There were no problems with that?

B. Leonard: I just have a question. Does this mean that they have to pay the City for municipal services if they allow tax exempt entities in their development?

P. Schuman: Yes. Payment in lieu of taxes.

B. Leonard: Okay, so it's only the case if they rent out a space to a non-profit or something and then they have to allow us to re-coup that cost by paying us extra?

M. Carlson: That's one piece of it. The second piece of it is we will do a determination of fiscal impact that development has on our operations and we can show that it costs us more money to serve the development than what we take in they have to make a payment to us to make us whole.

P. Schuman: Can that be expanded to any development as a whole? Because we've had some fiscal studies done which shows that...

M. Carlson: I can tell you that it's the same language that I am pursuing in the Shoppes of Nagawaukee Development Agreement and Conditional Use Permit.

Mayor Craig: I think it's good wording...

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: Just for not-for-profits though or tax exempt?

M. Carlson: For both.

P. Schuman: For both. Do we have that in here for this development?

Mayor Craig: I just read that, #29.

P. Schuman: It says tax exempt entities.

D. Curtis-Costa: But then a fiscal impact provision shall likewise be negotiated.

Attorney Chapman: Two separate.

Mayor Craig: Right, it's there.

P. Schuman: All right.

30. The Village of Hartland has agreed by way of separate intermunicipal agreement to provide this development with municipal water from the Village of Hartland municipal water system. The aforementioned intermunicipal agreement has a deadline for connection to the Village of Hartland municipal water system which, if not met, may prevent connection. Accordingly, it is required that permittee provide for a connection to the Village of Hartland municipal water system within six months of the date this conditional use permit is granted.

31. The developer shall, in addition to providing a connection to the Village of Hartland municipal water system, install a community well and potable water system to serve as either a primary water system or a redundant water system. The community well shall be constructed according to State of Wisconsin requirements for community wells; shall be built to municipal water well standards; the water system shall be privately operated and maintained for not less than ten years, or a shorter term at the option of the City; and after the first ten years, or at the City's option at an earlier date, the water system shall be dedicated to the City and become a separate public utility at no cost to the City. The developer and/or subsequent property owner and the users of the community well and potable water system shall accept all responsibility for costs associated with their water consumption and shall create a private water utility for purposes of managing said water system. Management shall include appropriate user charges and the payment of any penalties which may accrue as a result of the City's agreement with the Village of Hartland.

P. Schuman: Very good.

D. Curtis-Costa: I have a question on 30. What is the deadline?

M. Carlson: I believe the deadline is 2007.

D. Curtis-Costa: And that is just a blanket deadline for anything?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: For any connection to the Hartland system.

32. A. The developer shall, upon obtaining permission from each property owner within ___ feet of the exterior boundaries of the proposed development, test all private wells. In the event the private wells become contaminated or fail to provide sufficient water for acceptable service to a single-family residence, a homeowner may connect to the community well and potable water system at the developer's and/or subsequent property owner's cost. If the property owner refuses testing of the property owner's well, the property owner may still connect to the community well and potable water system, but the cost of connection will be the homeowner's responsibility.

D. Curtis-Costa: I'm sorry, I'm going back to #30 again. My only concern with 30 is if you are giving the developer six months from the date of this permit being granted. I would just hate for six months for whatever reason, you know if something took that long, if 6 months went past the deadline, I don't imagine that it will in this case, that's 2007, if this actually happens, but do we want to limit ourselves that way?

M. Carlson: Would you prefer that the six months be extended, you're suggesting that the possibility that the six months could be extended?

D. Curtis-Costa: That the six months might go into after the deadline.

Mayor Craig: You think this might drag out to 2006.

D. Curtis-Costa: I don't know. I'm just saying that...

Attorney Chapman: She wants a limit.

C. Mursky: This has to be granted within 30 days.

Mayor Craig: Yeah, we got the time limit that this is not going to go to 2006.

C. Mursky: So six months in there, it's going to happen within 7 months.

D. Curtis-Costa: Okay.

Mayor Craig: 32A - We have blank to fill in boundary. How many feet to the exterior boundaries? 32? How many feet? 150? 200?

C. Mursky: What is the farthest residence that adjoins?

Attorney Chapman: I didn't know the property, so I could put a figure in there.

C. Mursky: 500 would do it, don't you think, Tom?

P. Schuman: All right, 500 feet.

Mayor Craig: 500 feet has been recommended by the building inspector. Beth? Are you okay with 500 feet?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: Sure.

Mayor Craig: 32 okay with the application of 500. B.

32. B. A letter of credit shall be posted with the City for purposes of privately owned wells should replacement become necessary by reason of the construction of the community well and failure or contamination resulting there from. The letter of credit shall expire when the community well and water system is accepted by the City.

P. Schuman: Does the letter of credit have a dollar amount associated with it usually?

Attorney Chapman: I think you'd have to figure out how many wells are within that 500' and multiply it by \$4500 probably.

C. Mursky: Does that need to be specified?

Mayor Craig: If we specify in the item before that it's within 500', I think that goes to be said. Am I correct? If we specify 500' in Item 30A, it would be a given that that letter of credit would be that dollar amount.

Attorney Chapman: Or close to it. I recommend you leave that to staff.

P. Schuman: All right. Move on.

Attorney Chapman: I don't know how many wells there are.

D. Curtis-Costa: So do I understand by A & B that if a homeowner's well is contaminated or dries up they will have a choice of A connecting the water system from Hartland?

M. Carlson: No, they will have a choice of hooking into the Developer's water system that's being constructed or construction a well.

D. Curtis-Costa: Okay.

M. Carlson: The pre-condition that has to be in existence is that they Developer's actions would have had to have caused the contamination or the drying up of the well and the way the determine that is prior to any construction activity going on up there, we have them test the wells. And then the proof of whether the Developer's activities have led to a contamination or drying up of that well then becomes the determining factor on who pays for it a new water supply for that homeowner.

D. Curtis-Costa: So who will make that determination? And who will do the testing? Will it be somebody the City hires?

Mayor Craig: Do you want to have a State recognized..

D. Curtis-Costa: I think the City should hire someone and the developer pays for it.

Mayor Craig: Independent State recognized lab?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: Yes.

M. Carlson: So you're saying now that the City has to do the testing.

D. Curtis-Costa: No, we just do the hiring of the testers and the Developer pays for it.

T. Maney: The Developer pays them.

D. Curtis-Costa: For the testing of the wells ahead of time, yes. Definitely.

Mayor Craig: I'm looking at the end of the first sentence in 32A, test all private wells by an independent State...

M. Carlson: Why don't you just say, the City hires the inspectors and the Developer pays.

Mayor Craig: Okay. We're okay now?

D. Curtis-Costa: Yes.

M. Carlson: But also if someone within that 500' refuses the water testing they are not eligible.

D. Curtis-Costa: Then they're on their own.

33. The developer shall, as part of its internal sanitary sewer collector system, provide a stub to the north right-of-way line of Vettleson Road. If any property owner in the adjacent areas connects to the developer's wastewater collection system, the City will construct said sewer extension and levy a special assessment therefore. The cost of any oversizing of the sewer system shall be reimbursed pursuant to terms of the development agreement.

C. Mursky: Doesn't therefore have an "e" on the end?

P. Schuman: We can hit spell check on this.

C. Mursky: No, okay.

34. All buildings constructed within the proposed development shall have architecture on all four sides with stone, brick, cedar, or City-approved replacement material, and slate roofs on 75% of the roof tops within the development. Wherever slate roofs are installed, copper downspouts shall also be installed. In the event the anchor grocery store does not have a slate roof, a slate roof shall be provided on 75% of the roof tops on all other principal buildings.

Mayor Craig: It's got your fingerprints all over that!

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: Matt, you're going to have explain your math to me, because it doesn't jive. Okay? Seventy-five percent of the development has to have slate roofs, right? But, if the grocery store doesn't, then 75% of the rest of the buildings have to.

M. Carlson: I think that my intention was 100%. The last sentence should say 100% of the roof tops on all other principal buildings. The fact that the grocery store does not have a slate roof, slate roofs shall be provided on 100% of the remaining.

C. Mursky: That makes sense, because then you were down to 75% less of 75%.

Mayor Craig: That's what I was thinking too.

M. Carlson: That was part of the parcel with the next paragraph.

Attorney Chapman: I want you to know he told me 75.

Mayor Craig: You want to run 35 right away?

M. Carlson: ... they're in combination with another... it doesn't have to be slate. But you retain the right to change that material, not the developer. And so, paragraph 35 says there will be no substitute to the approved building materials without Plan Commission approval.

Mayor Craig: Okay.

M. Carlson: So if they can live with slate and copper downspouts on the roofing materials, and the stone, brick, and cedar, that kind of stuff, then great. But if they want to change it, they can't change it, only you can change it.

Mayor Craig: Beth?

B. Leonard: Just a question in terms of I know we were talking earlier about water run-off from the roofs being separated from the parking lot and all that, is there any big difference, I don't know the answer to this, between a shingle roof and a slate roof in terms of the amount of water absorbed versus running off?

Mayor Craig: Engineers are shaking their head no.

B. Leonard: So a slate roof absorbs as much water as a shingle roof.

R. Dupler: All roofing materials designed to be impervious.

B. Leonard: So there's no difference. Okay.

D. Curtis-Costa: But an asphalt shingle roof, the little pieces come off.

T. Maney: Only the first couple rain storms.

Mayor Craig: The first year.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: Can I just go back and make sure that I understand what we just did with that store, we don't make them put slate on there, we've reduced the rest of it to only 63% of the development having slate roofs, Matt. Are you okay with that?

Mayor Craig: The question is are you okay?

M. Carlson: Yes, that's the question. When I looked at the site plan I didn't see how you could put a slate roof on the entire grocery store. You can put it on elements of the grocery store and still contain some elements of a slate roof, but not, probably not on the entire structure.

P. Schuman: Or a ... roof or something like that, fake roof.

R. Dupler: Not unlike what you just approved for the Hillside Terrace where they have the manser type...

C. Mursky: So maybe it should say, in the event the anchor grocery store does not have an entire slate roof, or something like that. So that there is the expectation there that maybe some of it.

M. Carlson: I guess what I was trying to communicate was that the grocery store doesn't have to have slate.

C. Mursky: At all?

M. Carlson: At all.

C. Mursky: Copper?

B. Leonard: But if it

P. Schuman: You can have a flat roof on it and nothing is going to happen.

C. Mursky: If it doesn't, then you've reduced the total to 63% instead of 75%.

Mayor Craig: I think it's more of an architectural statement than a numerical.

M. Carlson: the buildings themselves.

C. Mursky: Okay, I just want to make sure that...

B. Leonard: So it's 100% of the other buildings then?

Mayor Craig: Correct.

C. Mursky: But it reduces it to 63% of the entire development.

Mayor Craig: But it's an architectural look as opposed to mathematical.

C. Mursky: You know, logical, sequential, math and science.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: She's playing language and she's playing math on us. 36.

36. The developer shall pay all outstanding bills and expenses incurred by the City resulting from this development and the processing of this application for a planned development/conditional use. This reimbursement shall include the costs of any legal defense incurred by the City in defending any action that has previously or that may be commenced by the developer.

P. Schuman: Works for me.

37. The developer shall dismiss any pending lawsuits and provide the City with a covenant not to sue based upon objections to the B-6 Zoning District and/or the granting of this conditional use permit.

P. Schuman: Okay.

38. The developer shall comply with all provisions of the City's Municipal Code, including specifically Chapters 18 and 23 thereof.

C. Mursky: Is it okay to say included that everything else in there, do you need to say including, but not limited to?

Mayor Craig: I want to make sure...

Attorney Chapman: It says municipal code.

Mayor Craig: Including specifically.

Attorney Chapman: That's everything.

C. Mursky: Okay.

39. The developer shall, at developer's expense, retain a qualified archeological expert to inspect construction during mass grading of the site.

D. Curtis-Costa: Do you want it to say to be on site during, instead of calling for a random inspection. To have them on site during grading.

T. Maney: Full time archeologist.

M. Carlson: The intent to have them on site during on-site during mass grading full-time.

D. Curtis-Costa: Okay, the developer shall, at developer's expense, retain a qualified expert to be on site during mass grading.

C. Mursky: Be on site to inspect construction.

Mayor Craig: Okay, say that again Diri?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: I just put, the Developer shall, at developer's expense, retain a qualified archeological expert to be on site during mass grading.

Mayor Craig: To inspect construction during mass grading. Just insert, be on site. Okay?

40. Developer agrees to comply with the April 29, 2002, General Development Plan with regard generally to the architecture, landscaping, and integrated signage program set forth therein unless otherwise modified by provisions of this conditional use permit.

D. Curtis-Costa: I would like to add that no signage be allowed on Vettelson Road.

Mayor Craig: Am I hearing any objections?

M. Carlson: I think their original development plan included a monument sign, brick entry way sign.

P. Schuman: If you're going to have emergency vehicle only, don't, doesn't that include signage?

D. Curtis-Costa: Not a monument sign.

B. Leonard: That would be, I suppose a sign that's on the gate.

D. Curtis-Costa: That's basically a sign saying, development here, this way, come here, and that's what we're trying to avoid.

B. Leonard: Does it matter what they had on, I guess, are we saying on the original plan they had a sign on Vettelson?

Mayor Craig: This is the Vettelson monument.

M. Carlson: Didn't we have language that the Plan Commission approved some of this. Where is that at? Page 5, paragraph #14.

D. Curtis-Costa: Does this paragraph void that, or does that void this? Integrated sign program set forth therein unless otherwise modified by provisions.

M. Carlson: They have to comply with both provisions. The Plan Commission in Paragraph 14 still has to approve the signage.

B. Leonard: But they couldn't say, you can't have a sign there period. They just get to approve what the sign would look like.

M. Carlson: Why couldn't they?

D. Curtis-Costa: Let's just put the language in here so that our bases are covered and we don't have to worry about that part.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: I think we are covered.

Attorney Chapman: The intent was, because I had no idea how much of this carried over to the second site plan, and I wanted them to bound to every good thing in here.

Mayor Craig: Okay?

Attorney Chapman: That's why that paragraph is in there.

Mayor Craig: Are you okay with that now?

D. Curtis-Costa: Well, I would prefer to see that language in there just so that we don't have to worry about that later.

Mayor Craig: Let's move on.

M. Carlson: Well, I was going to say, what does the Plan Commission want to do. Do you want us to analyze it, leave it as is, what do you want us to do?

P. Schuman: Leave it as is, we can deal with it at the time. You may want to put a sign out there that says no entrance.

C. Mursky: I guess I'm a little confused. This is saying in general with that plan, we're fine with it, right? But then there were other things about landscaping plans needed to be submitted, lighting plans, signage and all that. So that supercedes any conceptual kind of things here?

Mayor Craig: Any signage, landscaping or the sort, they have to still come back to us and make sure that we're all in compliance. Because the landscaping that they've proposed in the first one doesn't necessarily jive with the second plan. And we need to approve that.

M. Carlson: Bill, there's one way to look at this, Paragraph #40 outlines the minimum standards that they have to meet. And that doesn't mean that you couldn't add additional requirements as these things go through the process. But at a minimum, they're going to do what they said they were going to do on the 29th of April.

D. Curtis-Costa: Okay, but one of the first conditions was that we replace the general development plan, the original plan with the new plan.

Mayor Craig: And we never got the landscaping plan with the site plan.

Attorney Chapman: That's the land, that's that, not the book. That's not the book. This references the book.

D. Curtis-Costa: So you're talking site plan then?

Attorney Chapman: In the first paragraph, yes.

C. Mursky: Is that clear to those who know?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Attorney Chapman: That's the way the plan is labeled, first plan that I had.

C. Mursky: But you said that this refers to the book. I wouldn't have known that. Do people who are more knowledgeable understand that that's what 40 refers to?

Attorney Chapman: Village Square Delafield general development plan. General development plan, Village Square Delafield, April 29, 2002. [loud noise].

M. Carlson: Let me clarify it. The Developer agrees to comply with their submittal, their submitted April 29, 2002 general development plan documents.

Mayor Craig: I feel more comfortable with the word documents.

B. Leonard: Or say submitted by the developer.

Mayor Craig: I feel more comfortable with the word documents added in there.

M. Carlson: General Development Plan documents?

Mayor Craig: Okay? I'm not hearing any complaints.

41. Lawful Operation. All uses on the subject property shall be conducted in a lawful, orderly and peaceful manner. Nothing in this conditional use permit shall be deemed to authorize any public or private nuisance or constitute a waiver, exemption or exception of any law, ordinance, order or rule of the City or other duly constituted authorities. This conditional use permit shall not be deemed to constitute a building permit, nor shall the conditional use permit constitute any other license or permit required by law or City ordinance.

P. Schuman: Works for me.

42. The developer shall arrange for a meeting with neighbors and any other interested party at a public forum to be held at a convenient time to discuss this development prior to the adoption of the development-related documents referred to in paragraph 23 hereof.

P. Schuman: What is the purpose of this? We've already had public hearings on this.

Mayor Craig: We want to get the final viewing of all the plans out to the neighbors.

B. Leonard: Isn't it also to give them input on the conditions that are set on the property? I mean, that's what 23 refers to, is that the specific restrictions that are going to be registered with the Register of Deeds in Waukesha. Would the purpose of this meeting be to allow them to see those conditions before they are filed?

Mayor Craig: Right.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: Okay. And should we have anything in here in terms of notice, or how do we, at a convenient time? How do people get notified of this meeting? I mean, do they have to publish it, notice in the Lake Country Reporter or something that says...

Mayor Craig: Through legal postings?

B. Leonard: Yeah, something so people know about the meeting. Otherwise if I were the developer, why would I want... unless he is required to put a notice in the paper or something.

Mayor Craig: Using ...

Attorney Chapman: Class I notice, one publication, the meeting 7 days thereafter.

B. Leonard: And a Class I notice is that again what you see in the back of a newspaper? I don't think people would see that.

Mayor Craig: I have a very strong, sneaky suspicion that the newspaper in this area will pick that up.

B. Leonard: And do a story on it. Okay.

P. Schuman: Probably.

Mayor Craig: Not that I'm saying that they will.

43. Acceptance. The applicant, upon the granting of this conditional use permit, shall agree to accept the same in writing.

[General discussion about the time it was getting to be]

Mayor Craig: What do you say, folks, do you want to keep on trucking here?

P. Schuman: Let's go for it?

B. Leonard: Are we supposed to vote on each one of these?

Mayor Craig: That is the intent. Well, we've done 99% of the discussion on the front part. We've got the chicken now.

Attorney Chapman: I'll give you an example of why I did it this way. Because it would be so difficult because you may agree with part of what people ... would be reading in a more general statement and not the other part. Here's what it says: Factors to be considered: The Plan Commission shall base its determination on the affect of such grant on the health, safety and welfare of the community and of the immediate neighborhood.

Now, there's a difference there. Community and neighborhood. So I'm sure that's where he split that. I'm sorry it's got to be 55, but I don't of any other way to do it.

P. Schuman: So you wouldn't recommend we have a motion approving 1-55.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Attorney Chapman: I'd recommend that, but I don't if it would be advisable. But I can tell you that the B6, the first five you can, because they're B6, so we went over that in the conditions.

Mayor Craig: Bob, willing to stick this puppy through?

R. Transon: Oh, yeah.

Mayor Craig: Beth? Can we rock'n roll here?

B. Leonard: Sure. I don't know the implication of what we're doing here. Is this going to then go forward to the Council? Whatever we vote tonight?

Mayor Craig: Yes. It's a recommendation to move it forth. Fred, you're a voting member, but you're abstaining on so you're not going to be able to. Okay. I just wanted to clarify that with everybody.

P. Schuman: All right. Let's move forward on this.

R. Transon: My question on this, is that we just vote on this, but then we vote whether or not we take this whole plan and recommend it.

B. Leonard: That's what I thought. I didn't think that we were specifically...

Mayor Craig: That's the last page.

D. Curtis-Costa: And when we go through the Findings of Fact, we're looking at the first plan, the second plan?

Mayor Craig: No, we just changed it.

M. Carlson: As amended.

P. Schuman: As amended.

M. Carlson: The conditions.

D. Curtis-Costa: All the conditions.

P. Schuman: All the stuff we've done, we've amended it.

D. Curtis-Costa: So this isn't asking us, my understanding that the Findings of Fact was for us to look at their original plans and no, or yes, for all of these. So now what we're doing with the Finding is that, is that the normal procedure?

Attorney Chapman: The basis, the reason for Findings of Fact is to support a decision one way or the other. Because you got two groups interested in this, the developer and those who have appeared in opposition to it. You better have reasons for whatever you do. There is no better reason than Findings of Fact. You're now acting like a quasi

CITY OF DELAFIELD PLAN COMMISSION MINUTES

judicial body, or like a board of zoning appeals would act. You are considering the conditions and everything else. You are considering the criteria and the factors, and the requirements of the B6 and you are saying, yes, they meet it. Now, I'll be the first to say that you can't say, for example, this now meet. This is a presumption because you didn't measure the roadway, we don't have specific stormwater information, you don't have a landscape plan. So you are saying, for example, the impervious surface ratio does not exceed 65%. You didn't measure that, but you know it's going to not exceed 65% because that's in your conditions. That's why we went through the conditions first.

Mayor Craig: I need to go back. I have a note that we did not finish the first part here, folks. On page two, I put my little note in, and we did not come to a conclusion on the setbacks.

P. Schuman: The setbacks are fine the way they are. They're a pattern with what we've all done on other areas in the city.

D. Curtis-Costa: We don't have to do that here.

P. Schuman: I don't feel we need to make it a 150' like you proposed. I think it makes it to ...

D. Curtis-Costa: Well, what you be agreeable to in between that?

R. Transon: I'm agreeable with Phil. I think that just a 30', to meet the consistency within the City.

P. Schuman: You can do modifications with berms and things like that to separate it from the other parts of the neighborhoods.

Mayor Craig: Any thoughts, Beth?

B. Leonard: Well, the DNR, or was it the SEWRPC area, that natural area, I mean that to me is one real important piece.

P. Schuman: We took care of that.

B. Leonard: No. I'm saying in terms of a 30' setback. We are now saying that they have to have a 30, or the maximum setback from that required is 30' so I guess I'd look at, for instance, at that aspect of the site and say, should we have a greater setback than 30' from that natural area?

P. Schuman: We're saying they can't disturb the natural area.

Mayor Craig: Can't damage.

B. Leonard: Right, but should we have a greater setback from it. That's a different issue.

P. Schuman: Than 30'? Probably not. From what I know about tree roots.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: if they're not going to damage the isolated area, they can't damage the isolated area. Is 30' enough? Is your question.

B. Leonard: In terms of just keeping it separated from a commercial development.

Mayor Craig: But that 30' from the isolated would stop the driveway even further. Now we just pushed their entryway further north. Now we're getting darn close to the Highway 16 off ramp. I think we're creating even a worse problem.

B. Leonard: And I don't know necessarily if I'm thinking north end as much as I'm thinking the west boundary of the isolated area. I don't know. That's just a thought to keep the development further away from that area than 30' or from neighboring homes.

D. Curtis-Costa: Would the nurseryman's recommendations, or what was that Roger?

R. Dupler: Nurseryman's Association, best practices. In regards to preserving the roots only. Is that what you're asking?

D. Curtis-Costa: Well, how far away you need to stay from certain kinds of trees to avoid.

R. Dupler: Typically its one foot per caliber inch.

Mayor Craig: From the drip line, or...

R. Dupler: From the trunk of the tree.

Mayor Craig: Trunk of the tree.

P. Schuman: You may not have too many 30' trees there.

R. Dupler: Very few I'm sure.

B. Leonard: I guess I'm just wondering what's the value of preserving the natural area period, if you're going to have a driveway right up against it. You know what I mean? I mean, it's...

Mayor Craig: It's not going to be right up against it if we say 30'.

B. Leonard: No. It will be 30'

Mayor Craig: I mean we have to look at this practical area aspect. You've got so much in the circle and you keep shrinking the size of the circle that they can build in also and let's be practical in that aspect?

D. Curtis-Costa: Does the 30' under this provision address that, the natural area being 30' from the boundary of the natural area?

T. Maney: No.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: I didn't think so.

T. Maney: That's almost to lot lines.

D. Curtis-Costa: Okay.

P. Schuman: They've already taken care of the natural area.

B. Leonard: So they could have a driveway right up against it then, as long as they don't destroy a tree.

Mayor Craig: As long as they don't damage it, yes.

B. Leonard: As long as they don't damage a tree, you could have parking right up into it, you know, a line and the parking goes right into it.

D. Curtis-Costa: Well, one foot per caliper inch, you said they would have to...

R. Dupler: To protect the root zone proper.

D. Curtis-Costa: And if we require that they follow that, ...

P. Schuman: We've got it covered.

D. Curtis-Costa: We should be okay.

B. Leonard: I guess I'm wondering how easy is that going to be to enforce as opposed to have a 30' setback from the natural area, you know. They're showing it anyway on their site plan, they've got about 30' there between the... Well actually, I don't know, it might be a road.

C. Mursky: That's road.

B. Leonard: So, I mean, to me, it's not a big tweak.

P. Schuman: I think it's covered with the nurseryman's standards. And I think the 30' is fine.

Mayor Craig: Chrys?

C. Mursky: What he said.

Mayor Craig: So we're four with 30'. Move it on. 30'. So be it.

Mayor Craig: Back to our Findings of Fact. This has got to come from the floor, folks.

1. That the floor area ratio of the proposed development is 0.50 or less.

MOTION BY P. SCHUMAN, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT. VOTE: YES - 6, NO - 0

CITY OF DELAFIELD PLAN COMMISSION MINUTES

2. That the maximum impervious surface ratio, i.e., total surface area of all principal and accessory buildings, hard-surface parking areas, driveways, private streets, sidewalk and other impervious surfaces do not exceed 65% of total land area.

MOTION BY P. SCHUMAN, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT. VOTE: YES - 6, NO - 0

3. That 20% or more of the land area, exclusive of land required for stormwater management and parkland dedication, and exclusive of wetlands and slopes over 25%, are landscaped open space.

MOTION BY P. SCHUMAN, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

D. Curtis-Costa: Actually I was checking for 2 to see if in fact that we made sure that the impervious surface did not exceed 65% and I don't see it in there.

P. Schuman: What we're going to do is have the standards and they will meet these standards. It doesn't matter what they put in their proposal.

C. Mursky: It's B6 zoning.

Attorney Chapman: Right, that's we said when we talked about the conditions. We didn't measure it, they have to meet it. There is no other alternative.

C. Mursky: And they have to meet it because it is B6 zoning requirements?

Attorney Chapman: Yes, right.

Mayor Craig: Any further discussion.

C. Mursky: I'm really baffled, can someone explain #3 to me.

Mayor Craig: You're on item #3?

C. Mursky: Yes.

P. Schuman: You can't dill around with slopes over 25%.

Mayor Craig: That's pretty much as what we've done in other projects.

P. Schuman: That's our code.

C. Mursky: The 20% or more of the land area are landscaped open spaces, is that the key phrase in there? Okay. Thank you.

Mayor Craig: Yes.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: According to this plan, their total proposed green space area is 9.36 acres or 38.2% of the total site.

P. Schuman: So they exceed our standards.

D. Curtis-Costa: With or without the housing?

M. Carlson: That's with the housing.

C. Mursky: Should that say open space or landscaped open space? I'm confused by the word landscaped.

Attorney Chapman: Take it out.

D. Curtis-Costa: It is in our zoning though, and so I wondered about that myself.

Mayor Craig: Our open space? Just leave it open space? Do you feel comfortable, Bill?

Attorney Chapman: The ordinance says landscaped open space.

C. Mursky: That's fine, if that's what it says, that's fine. I just hadn't seen it that way before.

VOTE: YES - 6, NO - 0

4. That the landscaped open space includes existing wooded areas and individual mature trees.

MOTION BY P. SCHUMAN, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

C. Mursky: Does that include the isolated natural area that figures into the open space?

P. Schuman: Yes.

D. Curtis-Costa: And we're going by their figures, correct? Because we don't have our own.

M. Carlson: This statement doesn't have anything to say about percentages or square footage.

P. Schuman: We're just including the open space includes existing wooded areas and individual mature trees. We're giving them credit for the trees we can't let them take down as open space. Am I right?

Mayor Craig: That's pretty much it.

P. Schuman: All right. We need a second I think.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: I think I did.

Mayor Craig: We had a second otherwise there wouldn't have been discussion.

VOTE: YES - 6, NO - 0

5. That steeply sloped terrain with a nature grade of 25% or more is not to be regarded or built upon.

MOTION BY P. SCHUMAN, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

D. Curtis-Costa: That's in our zoning as well, correct, Phil?

P. Schuman: Yes.

Mayor Craig: Yes it is.

VOTE: YES - 6, NO - 0

6. That proposed public street rights-of-way are consistent with City design standards as set forth in §18.48 through §18.64 of the Municipal Code.

MOTION BY P. SCHUMAN, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

D. Curtis-Costa: Do we know if that's true?

B. Leonard: I have a quick... are there public right-of-way streets within the site? Aren't those all driveways or?

P. Schuman: This is code.

Mayor Craig: Wouldn't the entryway would be considered.

B. Leonard: I want to know if the Vettelson Road access.

Mayor Craig: The entryway would be considered.

B. Leonard: What about Vettelson Road? Is that considered a public right-of-way?

M. Carlson: Could very well be.

P. Schuman: We're getting information on that.

B. Leonard: Okay.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: So how do we answer this one? If we're putting a service road in there, if we can.

Mayor Craig: Wouldn't the first part of this document supercede that?

Attorney Chapman: Specific would overrule the general.

Mayor Craig: Okay, so we're okay then.

VOTE: YES - 6, NO - 0

7. That the land uses proposed within this planned development in the B-6 Zoning District are compatible with other land uses within the proposed development.

MOTION BY C. MURSKY, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: You have a thought?

B. Leonard: I have no idea of what this is saying. I don't know what this means.

Mayor Craig: Bill, do you want to translate that into English for us.

Attorney Chapman: Well, I'll read your ordinance: Land use compatibility. All land uses ... land developments permit a variety of land uses allow applicants flexibility in land use planning. However, all land uses within a planned development in a B6 zoning district must be compatible with other land uses within the proposed development.

P. Schuman: Within?

C. Mursky: Within.

Attorney Chapman: And then the next one should say: And compatible with the land uses on adjoining property. That's your next.

C. Mursky: Okay. So this one's easy.

Attorney Chapman: That's what I mean by ... That's why I split these criteria and factors wherever I thought it was appropriate to split it.

B. Leonard: So we're saying then that this shall be done this way, not that the site plan we have looked at does meet this. We're saying it has to meet this.

Mayor Craig: Yes.

B. Leonard: Okay. Gotcha.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: What we're saying is if the Developer develops it as we set forth with the conditions we've set forth, then it will or will not meet these requirements. We have to answer yes or no.

D. Curtis-Costa: So we've asked for 25% less.

Attorney Chapman: The only way it makes sense is you can't have a noncompatible use within this development.

P. Schuman: It's all compatible...

Attorney Chapman: With other uses within the development.

C. Mursky: Which would be?

P. Schuman: Like a hog farm.

B. Leonard: So you have a list of permitted uses that is so wide that some of them are non-compatible with one another.

M. Carlson: Right.

B. Leonard: Okay.

P. Schuman: So everything is compatible within this development itself. Where you split hairs and maybe the one down below it. We'll get to that one in a minute.

C. Mursky: With our conditions.

Mayor Craig: With our conditions, yes. The first part's got to ... okay.

VOTE: YES - 6, NO - 0

8. That the land uses proposed within this planned development in the B-6 Zoning District are compatible with other land uses on adjoining properties.

MOTION BY C. MURSKY, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Unknown: If they're not compatible.

P. Schuman: Well, you have the B1A all around it.

D. Curtis-Costa: Not necessarily in use.

P. Schuman: Well, potential use. You've got two businesses, possibly three businesses to the south of there.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: I don't see the word "currently." Does currently have to be considered, or is it zoning?

D. Curtis-Costa: Current land uses, it's in the zoning.

Mayor Craig: That's why I'm....

Attorney Chapman: Compatible with land uses on adjoining property.

D. Curtis-Costa: Land uses, not land zoning, land uses.

P. Schuman: You got businesses south.

Attorney Chapman: Well, he's referring to land uses.

P. Schuman: Current businesses south. Somebody wants to do a boat delivery service, there is a...

M. Carlson: Directly west. Directly west to the Vettelson Road parcel.

P. Schuman: And there's also a nursery there and there is also a former Redi-Gas there, so there are businesses on that road.

C. Mursky: Is it fair to say that you can put the word "all" in there for interpretation? With all other land uses.

D. Curtis-Costa: It's whatever the zoning says.

Mayor Craig: This is straight from the code, isn't it?

Attorney Chapman: This is your ordinance, so I can't, shouldn't change the wording.

VOTE: YES - 2, NO - 4, FAILED.

9. That the land uses are compatible with other land uses within the proposed development and are compatible with the land uses on adjoining properties because the proposal has addressed lighting impact, screening of parking areas, outside storage and loading areas, the preservation of privacy, noise impact, and hours of operation.

MOTION BY D. CURTIS-COSTA, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

VOTE: YES -2, NO - 4, FAILED.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

10. That all yards within the proposed development that adjoin neighboring properties not part of the planned development, and yards adjoining public street rights-of-way, meet the following setback and yard standards.

X Minimum front yard: 30 feet
X Minimum corner side yard: 30 feet
X Minimum interior side yard: 30 feet
X Minimum rear yard: 30 feet

MOTION BY R. TRANSON, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF ACT. VOTE: YES - 4, NO - 2, CARRIED.

Attorney Chapman: This is a vote on whether they meet that requirement, not whether you prefer some other figure. I hope you understood that.

D. Curtis-Costa: And that's what we went with?

Mayor Craig: It carried. Yes.

11. That the planned development has an integrated stormwater management plan that considers potential runoff from all of the land within the proposed planned development.

MOTION BY R. TRANSON, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

D. Curtis-Costa: Do we have that?

P. Schuman: Yes.

Attorney Chapman: You will have.

Mayor Craig: We will if we say yes. Do you want to agree or disagree, Diri.

D. Curtis- Costa: Well, I just want to make sure that we were very specific of what we asked for.

P. Schuman: Yes.

Mayor Craig: If you, the majority says yes. So the motion is going to carry regardless even if you say no.

D. Curtis-Costa: Okay.

VOTE: YES - 6, NO - 0.

12. That stormwater retention and/or detention basins have been proposed to be constructed in areas which reflect natural drainage patterns.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

MOTION BY R. TRANSON, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

D. Curtis-Costa: Did we address that?

Attorney Chapman: The water runs west.

B. Leonard: They relocated it from down there to over on the west, right?

Mayor Craig: Right.

C. Mursky: But their stormwater calcs have to demonstrate that.

B. Chapman: They're going to come in with a full stormwater management...

P. Schuman: They'll have to do that because the one on the south was against the nature flow over on the western it is. It's still going to have to comply with the whole plans we're doing.

VOTE: YES - 6, NO - 0

13. That the proposed stormwater drainage facilities meet the minimum requirements set forth in §18.73 of the Municipal Code.

MOTION BY R. TRANSON SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

VOTE: YES - 6, NO - 0

D. Curtis-Costa: We're requiring that, are we not?

Mayor Craig: Yes we are with a yes. Yes wins.

14. That the health, safety and welfare of the City will not be adversely impacted by problems of fire and police protection.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

C. Mursky: And that's covered because we said if it costs us more, they have to pay.

Mayor Craig: Yes.

D. Curtis-Costa: But is that what this is saying?

Mayor Craig: It's saying that they're not going to cause any problems to us in the area of fire and police.

C. Mursky: Because we've required that if they have an adverse fiscal impact on it through this development, they have to pay to cover.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: But, this isn't just fiscal impact. This doesn't say fiscal.

Mayor Craig: They're not going to put City at harm also is being said.

P. Schuman: We provide fire and police protection. We have back-ups with the Village of Hartland or Chenquea.

VOTE: YES - 4, NO - 2 CARRIED.

15. That the health, safety and welfare of the City will not be adversely impacted by problems of traffic movement and control.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Show of hands. The health, safety and welfare of the City will not be adversely impacted by problems of traffic movement and control. They have to show that it is going to be okay. Am I correct?

Attorney Chapman: Yes.

Mayor Craig: So we're not saying that this is going to make it bad, it's worth telling them that they have to make it good.

P. Schuman: We're telling them to not be adversely impacted. It's not our opinion whether it be adversely impacted or not, but we're telling them they will make it so.

Mayor Craig: Do you understand that Diri?

D. Curtis-Costa: I do, but we don't know what's happen with the Vettelson Road access. I mean, we really don't know.

Mayor Craig: But we're telling them with this statement, that the health and safety and welfare of the City will not be adversely impacted by problems of traffic so we're saying that whatever you do, you're not going to cause us a problem.

D. Curtis-Costa: I mean, that can certainly be our hope, but I'm not confident that that won't still take place.

Mayor Craig: Then they're breaking that agreement.

P. Schuman: Maybe we can have a revote by hands since maybe it was a little foggy, Mr. Mayor as to what we were voting on.

Mayor Craig: I was going to look for the hands anyways. All those in favor saying yes, raise your hand. Opposed, nay.

VOTE: YES - 3, NO - 3, FAILED.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

16. That the health, safety and welfare of the City will not be adversely impacted by problems of water, sanitation and utilities.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: I'm not hearing any discussion, those in favor say yes, opposed no.

VOTE: YES - 3, NO - 3, FAILED.

17. That the proposed development will not affect the health, safety and welfare of the immediate neighborhood in which such development would be located.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Those in favor say aye, opposed, no.

VOTE: YES - 3, NO - 3, FAILED.

18. That the proposed development will not affect fire and police protection of the immediate neighborhood in which such development would be located.

MOTION BY B. LEONARD, SECOND P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Do you have a question?

D. Curtis-Costa: Isn't that pretty much the same as 14?

Mayor Craig: 14 is saying that they're not going to cause any problems towards the first and police. Here they're going to say the protection thereof.

C. Mursky: Well I thought 14 we talked about how what it meant was we will not be understaffed. We need to spend more fire and police because of their development, they won't be understaffed. Bill?

Mayor Craig: Bill, would want to distinguish between the two please.

Attorney Chapman: Which one are we on, 14?

Mayor Craig: Between 14 and 18. What's the difference?

Attorney Chapman: Well, let me read the general paragraphs and maybe we can get a better idea.

C. Mursky: There is a series of city impacts and then there is a series of immediate neighborhood impacts.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Attorney Chapman: In fact I'm going to read that whole paragraph. One paragraph which gives you the general overview of what they're getting at. The factor: Paragraph A: The Plan Commission shall base its determination on the affect of such grant on the health, safety and welfare of the community and of the immediate neighborhood in which such use would be located, including such considerations as compatibility with existing uses, problems with fire and police protection, traffic - you can't just say, I couldn't just draft this, do you think they'll be problems with police and fire protection - I don't think the police or fire department would appreciate me putting that in writing, so we're going to do what I did - Traffic movement and control, is the one you just answered. Water sanitation and utilities - I put those together. Impact, aesthetically or otherwise on surrounding property values - you're getting to that. Noise, dust, smoke, odor and such other factors appropriate to the granting of a conditional use - getting right back in the conditional use section again. So that's, if I thought that you could have answered with one motion that whole paragraph, I would have done it that way. It's very difficult to do it that way. So that's why it's split. Now, 14, I pulled out the health safety and welfare of the City - this is the City, not the neighborhood - will not be adversely impacted by problems of fire and police protection.

D. Curtis-Costa: So meaning if they're requiring a lot of services.

Attorney Chapman: To me, it means that police and fire can do their job. There or any other place in the City.

B. Leonard: With respect to this development.

Attorney Chapman: Yes. They can do what they have to do to serve this development. Now granted they're a ways away and everybody knows there's a distance issue here. The Village of Hartland is right there and you have mutual service so.

P. Schuman: We also have mutual service with Nashotah and the last time I heard we have a fire engine station there, don't we?

Attorney Chapman: Nashotah.

D. Curtis-Costa: We don't have an agreement with them.

Mayor Craig: No. We have an ambulance down there and we don't have the fire.

M. Carlson: We have an agreement with Nashotah.

Mayor Craig: For an ambulance.

D. Curtis-Costa: I thought they hooked up with...

Mayor Craig: For fire.

M. Carlson: No, we provide EMS services to the Village of Nashotah through contract.

D. Curtis-Costa: Right, but we don't have a fire agreement with them do we?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: We have a mutual aid agreement with them.

Attorney Chapman: The issue here in 14 maybe could have been said better. Will the problems of fire and police protection affect the health, safety, and welfare of the City adversely? Maybe if I had said it that way it would have been easier. So first you have to say, are there are problems with police and fire protection? If there isn't, then the answer is obvious.

Mayor Craig: Do you understand that?

Attorney Chapman: That's 14. What's the other one?

Mayor Craig: 18. That's more for the immediate neighborhood as opposed to the City.

Attorney Chapman: Same thing.

Mayor Craig: Same thing, but more closer to home.

Attorney Chapman: Right.

R. Transon: But if the police chief and fire chief come in here and say this is what I want from this development. This is what's going to adversely affect me, these are the criterias, or these are the things I need to effectively serve this development. That's what I think you saying, right?

Attorney Chapman: Yes.

R. Transon: And then they have to meet those things. Holdings tanks or whether it's fire hydrants in certain areas or whatever, they have to meet that criteria.

Mayor Craig: Okay?

D. Curtis-Costa: And did we outline, I know that we under the conditions, but that if the cost of providing services to this development created negative revenue for the City, that we would look to them for reimbursement.

Mayor Craig: That's correct.

D. Curtis-Costa: So if the fire department decided they needed a holding tank over there or something like, is that addressed in there?

Mayor Craig: They're going to have the water system to take care of it, but that would be in the normal plan anyways.

D. Curtis-Costa: Where did I see that a tower might be required for storage? Was that in this document?

P. Schuman: It's part of the community water system they're going to have in there. Maybe there's a tower or a holding tank. This is just the conceptual type of thing. We're not getting into specifics tonight.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Call question 18 please.

Mayor Craig: All those in favor say aye, opposed nay.

VOTE: YES - 4, NO - 1, CARRIED.

19. That the proposed development will not affect traffic movement and control of the immediate neighborhood in which such development would be located.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

B. Leonard: Quick question again. I'm really confused about what we're voting on here on Findings of Fact, but I guess what I'm thinking we're voting on is that when we say yes it means that we believe that the site plan could meet these findings of facts as proposed.

P. Schuman: With the traffic lights put in, the turn lanes, and everything else put in.

Mayor Craig: If the plan was implemented, would this affect the traffic movement, control in the immediate neighborhood.

B. Leonard: We believe these things would hold true.

Mayor Craig: You're voting yes or no on that.

B. Leonard: Okay, so if you vote yes, you're saying you don't believe the proposed development would adversely affect the traffic movement.

Mayor Craig: Correct.

B. Leonard: Okay.

Mayor Craig: And if you're saying no, then you're saying that it will. All those in favor say yes, opposed say no.

VOTE: YES - 2, NO - 4, FAILED.

20. That the proposed development will not affect water, sanitation and utilities of the immediate neighborhood in which such development would be located.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Now keep in mind that that water agreement is in place as with the potential sanitary sewers installed. So with this plan in mind, implemented, those that agree say yes, opposed no.

VOTE: YES - 1, NO - 5, FAILED.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

21. That the development will not affect the health, safety and welfare of the community and of the immediate neighborhood in which such development is located by impacting (esthetically or otherwise) surrounding property values.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Are we okay? I see a couple scratching heads. What do you need to answer this? Do you want Bill to put it in English?

C. Mursky: No, I think I understand it, I'm just processing here.

Mayor Craig: Going to call the question. All those in favor say yes, opposed no.

VOTE: YES -1, NO - 5, FAILED.

22. That the development will not affect the health, safety and welfare of the community and of the immediate neighborhood in which such development is located by reason of noise, dust, smoke or odor.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Those in favor say yes, opposed, no.

VOTE: YES - 1, NO - 5, FAILED.

23. That the planned development is proposed to be developed with a comprehensive and cohesive unified development plan.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: All those in favor say aye, opposed, no.

VOTE: YES - 4, NO - 2, CARRIED.

24. That the character and intensity of the proposed development is compatible with the physical character of the site.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Those in favor say aye, opposed, no.

VOTE: YES - 1, NO - 5, FAILED.

25. That the proposed plan preserves mature vegetation and natural topography to the greatest extent feasible.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Agree say yes, opposed, no.

VOTE: YES - 1, NO - 5, FAILED.

26. That the character of the proposed development is compatible with existing land uses on nearby and adjoining properties.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Agree say yes, oppose, no.

VOTE: YES - 1, NO - 5, FAILED.

27. That the character of the proposed development is compatible with planned land uses on nearby and adjoining properties.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: Isn't that the same thing we had before?

Mayor Craig: No, this is the plan. Now, Bill correct me if I'm wrong on Item 27.

B. Leonard: Future plan

Mayor Craig: This could be potential future. This will be dealing with the zoning as opposed to what is currently.

Attorney Chapman: Right.

Mayor Craig: Now you have to look at the zoning matter and realize that it's B1 all the way around. Also your Master Plan deals with the retail ...

B. Leonard: I wouldn't look, to me this says to look at your plan, not your zoning. Your zoning doesn't match the plan.

Mayor Craig: We don't have a second for this one by the way. Questions? Those in favor say aye, all opposed say no.

VOTE: YES - 3, NO - 3, FAILED.

28. That the intensity of the proposed development is compatible with existing uses on nearby and adjoining properties.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Bill, help me out, if this current or is this future?

Attorney Chapman: Existing and planned. So at ...

C. Mursky: Existing plan is the next one.

B. Leonard: The next one, yes.

Attorney Chapman: Okay, separated with the existing and then planned.

Mayor Craig: So this is just existing?

Attorney Chapman: Right.

Mayor Craig: In favor say yes, opposed no.

VOTE: YES - 0, NO - 6, FAILED.

29. That the intensity of the proposed development is compatible with planned land uses on nearby and adjoining properties.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: This is planned, this is future now.

B. Leonard: What does our, do we have a comprehensive land use plan?

Mayor Craig: Yes we do.

P. Schuman: We have a master plan.

B. Leonard: Or a master plan, does it show commercial?

P. Schuman: B1A.

B. Leonard: Lake residential or planned mixed use? It wouldn't be lake residential. So, it's planned mixed use whatever that definition... I mean it could be all residential.

Mayor Craig: Fred, do you have the text included ... the booklet.

F. Welch: No I don't.

B. Leonard: So the area north of 16 we have designated as central, local and highway business but on the south side of 16 this property we have planned mix use. So for some reason we didn't zone it in red as local and highway business.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: That's not zoning.

B. Leonard: I mean, not zoned, we didn't designate it on the plan.

Mayor Craig: But it's zoned that way. B1A

C. Mursky: B1A

B. Leonard: Zoning never caught up to the plan or did the plan not catch - usually the zoning follows the plan.

M. Carlson: It did not.

B. Leonard: Okay.

M. Carlson: The Master Plan recommendations for zoning were not implemented.

B. Leonard: Tail wag the dog. - This was not implemented or the zoning.

M. Carlson: Recommendations for the zoning changes as outlined in the Master Plan were not made as part of the process.

Mayor Craig: So we've got conflict.

B. Leonard: So for whatever reason, they didn't become coordinated.

Mayor Craig: Okay? Set?

C. Mursky: So mixed use for land use designated on there, right?

B. Leonard: What?

C. Mursky: Mixed use is the designation on the land?

B. Leonard: Right, but I'm not sure what that meant because we have red for highway and retail business and I don't know.

Mayor Craig: Set? Those in favor say aye, opposed no.

VOTE: YES -1, NO - 5, FAILED.

30. That the proposed development does not result in diminishment of property values of adjoining or nearby properties.

MOTION BY D. CURTIS-COSTA, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Those in favor say yes, those opposed say no. Wrinkled nose does count.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

C. Mursky: I don't know.

Mayor Craig: What do you need in assistance?

D. Curtis-Costa: Some of the nearby properties are zoned strictly residential.

C. Mursky: Is commercial property, business property generally more expensive than residential?

P. Schuman: B1A

M. Carlson: Yes.

C. Mursky: Then I would have to vote yes.

VOTE: YES - 4, NO - 2, CARRIED.

31. That existing street and highway improvements are adequate to handle the projected volumes of traffic to be generated by the proposed development.

MOTION BY D. CURTIS-COSTA, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: This would include the \$400,000, this would include the traffic signaling on both ...

C. Mursky: It says existing.

Attorney Chapman: This is strictly existing, not anticipated.

Mayor Craig: Oh, that's why I had to ask. Okay.

Attorney Chapman: The next one covers.

Mayor Craig: Any further questions. Those in favor say yes, opposed no.

VOTE: YES - 0, NO - 6, FAILED.

32. That the planned street and highway improvements are adequate to handle the projected volumes of traffic to be generated by the proposed development.

MOTION BY P. SCHUMAN, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: They've got traffic lights.

D. Curtis-Costa: Yeah, but there's Vettelson Road too.

Mayor Craig: With the service road potentially, with right-on/right-off.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: That would control it. You could put signs up there, emergency entrance only.

Mayor Craig: Assuming the DOT goes along with that.

R. Transon: And if they expand the four lane highway within some future way out there.

P. Schuman: Well, we're also limiting the development until that happens.

C. Mursky: I think Vettelson and Capitol is still an issue and they never did a traffic study on there.

P. Schuman: I thought we had a traffic study on Vettelson Road.

C. Mursky: They did not do one at that intersection.

M. Carlson: Not at that intersection.

Mayor Craig: Not at Capitol Drive.

P. Schuman: Not the intersection.

Mayor Craig: I'm not hearing any further questions. All those in favor say aye, opposed no.

VOTE: YES - 1, NO - 5, FAILED.

33. That there is adequate capacity in the public sanitary sewer to handle the projected demand.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: It's part of the Del-Hart system?

Mayor Craig: Yes. Thos in favor say yes, opposed no.

VOTE: YES - 6, NO - 0, CARRIED.

34. That there is adequate capacity in the public stormwater sewer system to handle the projected demand.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Can I ask a silly question? What public stormwater sewer system?

Attorney Chapman: No stormwater here?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: We have no stormwater.

Attorney Chapman: ...

Mayor Craig: Then I guess we're going to have to ... it's not going to.

P. Schuman: I withdraw my second.

The motion was withdrawn.

35. That the proposed traffic circulation system has taken into account existing and potential streets.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

C. Mursky: So this isn't saying that we necessarily think it's going to work, it's just that it's been taken into account. Okay.

Mayor Craig: All those that agree say yes, opposed no.

VOTE: YES - 3, NO - 3, FAILED.

36. That the proposed design and layout of utilities has taken into account utility systems on adjoining parcels.

MOTION BY B. LEONARD, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: What utility systems do we have?

B. Leonard: .. private wells?

M. Carlson: Stormwater utilities, potable water, sanitary sewer.

Mayor Craig: And this is with the proposed design.

M. Carlson: With the conditions.

Mayor Craig: Put all the plan in place.

C. Mursky: Again we're not saying that it's either not adversely or is adversely affected, it's just that it's taking it into consideration?

Attorney Chapman: Here's what it says that paragraph: The proposed circulation system and the design and layout of utilities has taken into account existing and potential streets and utility systems on adjoining parcels.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: To me we're voting, it's taking that into account and solved whatever issues there are.

Mayor Craig: I've just been informed we do not have a second.

C. Mursky: Second.

C. Mursky: Well now, does it say it solved it, or does it just say that it took it into account?

Attorney Chapman: Took it into account.

C. Mursky: Took it into account.

Attorney Chapman: Taken into account the existing and potential utility systems on adjoining parcels.

Mayor Craig: By saying taken into account are we saying, yes it will work then?

Attorney Chapman: Not necessarily.

P. Schuman: No, we've considered it.

Mayor Craig: I'm just clarifying.

D. Curtis-Costa: But it has been considered.

P. Schuman: Call the question.

Mayor Craig: Question's been called. Those in favor say yes, opposed no.

VOTE: YES - 5, NO - 1, CARRIED.

37. That the extent of paving, drainage, patters or topographical modifications will not disrupt natural drainage systems on adjoining or nearby sites or otherwise result in environmental damage to downstream areas.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: We do have it subject to our stormwater management plan in the Hayes studies too. So I think, yes, it would take care of that.

D. Curtis-Costa: But we didn't really look at nearby or adjoining site.

Mayor Craig: Well that's part of the stormwater ordinance and that they can't.

D. Curtis-Costa: Pardon me?

Mayor Craig: They can't with our stormwater ordinance.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: You can't run the water in your neighbor's property.

Mayor Craig: You can't flood somebody out. If there is a flooding existing already, this doesn't necessarily have to fix it, but it can't add to it. I'll take that as a yes.

P. Schuman: Call the question.

Mayor Craig: Those that say yes, opposed no.

VOTE: YES - 4, NO - 2, CARRIED.

38. That the proposed uses (commercial and multi-family housing) are appropriate for this site.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

R. Transon: My concern is I was wondering if you do separate?

Mayor Craig: You want to separate the commercial and multi-family?

R. Transon: Yeah.

Mayor Craig: Make a 38A and a 38B.

R. Transon: Yeah.

Mayor Craig: Is that kosher?

Attorney Chapman: Sure.

C. Mursky: Don't you need to withdraw your motions then?

M. Carlson: Split the motion.

C. Mursky: Split the motion.

C. Mursky: Does there have to be a motion to split the motion?

C. MURSKY MOVED TO SPLIT THE MOTION. P. SCHUMAN SECONDED THE MOTION TO SPLIT THE MOTION ON HIS SECOND. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR OF SPLITTING THE TWO. CARRIED.

Mayor Craig: Let's do 38A as commercial are appropriate for the site.

C. Mursky: First of all, what's appropriate? How do we define that? How do we define appropriate? Do we define it according to zoning? How do we interpret that word?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Attorney Chapman: There's a major highway going both directions, its zoned ... Is it appropriate?

Mayor Craig: Within the zoning and use of that area.

Attorney Chapman: Everything together. I'd consider everything together if I were you.

Mayor Craig: Okay.

C. Mursky: That's what I was afraid of.

Attorney Chapman: Talking use however, just use not on site issues.

Mayor Craig: All those in favor saying that commercial is appropriate say aye.

VOTE: YES - 4, NO - 2, CARRIED.

Mayor Craig: Second one. It's doing with multi -family.

P. Schuman: Call the question.

Mayor Craig: Those in favor say aye, opposed nay.

VOTE: YES - 1, NO - 5, FAILED.

39. That the projected traffic impacts are acceptable prior to planned STH 83 improvements.

MOTION BY B. LEONARD, SECOND BY C. MURSKY, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Discussion? Those in favor of this say yes, opposed no.

VOTE: YES - 1, NO - 5, FAILED.

40. That soil conditions are appropriate for this development.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: Do we have any soil boring tests that we know about?

M. Carlson: The .. soil borings are a part of their requirements to prove the drainage patterns work at the Public Works Committee level.

D. Curtis-Costa: So we don't know.

Attorney Chapman: So take that off.

C. Mursky: But they're required to prove that, right?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: They're required to get Public Works Committee approval.

Mayor Craig: We've been advised to strike the item.

Attorney Chapman: Then nothing done on the GDP that you've had access to so I'd say don't even answer it.

41. That noise, smoke, dust or dirt, or odorous or noxious gases will not be generated by the proposed development so as to be detrimental to adjacent areas.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Discussion?

P. Schuman: That was part of our condition we adopted earlier, they will not do this.

Mayor Craig: This is with the plan ... in place.

Attorney Chapman: And the use proposed for the site.

Mayor Craig: Correct. Okay. Those that say yes, opposed no.

VOTE: YES - 1, NO - 5, FAILED.

42. That the proposed stormwater management system provides appropriate levels of groundwater protection.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Discussion?

D. Curtis-Costa: Did we talk about what kind of liner will be in the retention pond and pros and cons of that? Clay was mentioned.

M. Carlson: That's what was proposed.

Mayor Craig: That's what was proposed.

P. Schuman: Isn't that an SIP topic as opposed to the GDP topic? We're getting ahead of ourselves again.

M. Carlson: Well, again, I mean, we required them to meet the Public Works Department requirements. In my mind, this issue goes to the whole issue of testing the ... within 500' of the development and providing the letter of credit. Are those things sufficient to guarantee that the system, the stormwater management system provides the appropriate level of groundwater protection.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: It also asks the question, begs the question, is the storm ordinance strong enough?

D. Curtis-Costa: Good enough, right.

Mayor Craig: Because they have to apply to that. All those in favor say aye, opposed nay.

VOTE: YES - 5, NO - 1, CARRIED.

43. That there is adequate provision for water.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

C. Mursky: For the development?

P. Schuman: That's what we're proposing here.

Mayor Craig: This is strictly for the development.

P. Schuman: Well we have water from Hartland, city water from there and they're going to be required to put in a municipal well.

Mayor Craig: It's a dual system.

P. Schuman: Dual system.

Mayor Craig: Similar to what they've done to the Arbors.

D. Curtis-Costa: But look at the next question.

P. Schuman: Well, let's take it one at a time.

Mayor Craig: What was the reasoning, Bill, for 43 and 44?

Attorney Chapman: Thinking back, I'd have to say the first is the well that you're talking about, and the next one is the Village of Hartland system.

Mayor Craig: Can we add wordage as to the that there is adequate provision for well water?

Attorney Chapman: Sure.

Mayor Craig: Will the motion maker accept that modification?

B. Leonard: Yes.

Mayor Craig: And the second accept it also?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

R. Transon: Yes.

C. Mursky: Can I just, point of order, if you look at 44, I think 44 addresses the well.

Attorney Chapman: Yeah, you're right. So the first one is Hartland.

C. Mursky: Actually it's the two systems together.

Attorney Chapman: 43 could be a combination of both and that's the way I'd interpret it.

P. Schuman: All right. 43 is a combo.

Mayor Craig: Can we made the wordage clearer so it is stating that there is adequate provision for dual system, water system?

Attorney Chapman: Sure.

Mayor Craig: Motion maker accept that?

B. Leonard: Yes.

Mayor Craig: Second?

R. Transon: Yes.

D.Curtis-Costa: I thought 44 was the combo. 44 is the combo.

Attorney Chapman: Let's review 44 - there is adequate provision for water only if there is an alternate and additional source beyond the water service from the Village of Harland.
- So 43's got to be Hartland to make that consistent.

Mayor Craig: So 44 must be the dual system and 43 is strictly Hartland.

D. Curtis-Costa: Okay.

Mayor Craig: Motion maker accepting that definition?

B. Leonard: Sure.

Mayor Craig: Second accept that?

R. Transon: Yes.

P. Schuman: Call the question.

Mayor Craig: All those in favor say aye, opposed no.

VOTE: YES - 2, NO - 4. FAILED.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

44. That there is adequate provision for water only if there is an alternate and additional source beyond the water service anticipated from the Village of Hartland.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Those in favor say aye, opposed no.

VOTE: YES - 6, NO - 0, CARRIED.

45. That the development plan mitigates potential adverse effect on property value of surrounding residential property.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: We're okay? You've got a wrinkled nose.

C. Mursky: The development plan - are those the documents?

M. Carlson: The documents and the site plan.
Attorney Chapman: Mitigate doesn't mean remove.

Mayor Craig: Solves?

Attorney Chapman: Some, somewhat I should say.

D. Curtis-Costa: This is with respect to property value. Some of the surrounding land is strictly residential, it is R4. So what they're saying is development mitigate.

Attorney Chapman: Without all the conditions, there'd be an adverse effect on the residential property, so does the development plan and you got to consider your conditions mitigate those potential adverse effects?

P. Schuman: It reduces the adverse effects, in other words.

Attorney Chapman: Right. I guess to turn it around, you'd say will it increase it, absolutely not. Does it leave it the same? No.

D. Curtis-Costa: Does it ensure their property value will stay the same or increase?

P. Schuman: Call the question.

Mayor Craig: Question's called. Those in favor say yes, opposed no.

VOTE: YES - 4, NO - 2, CARRIED.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

46. That there is a proper relationship between existing streets and highways within the vicinity of the project to assure the safety and convenience of pedestrian and vehicular traffic.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: Did we discuss pedestrian? There's not really a pedestrian...

Mayor Craig: There are no sidewalks in that area.

P. Schuman: We talked about widening the street with this widening project have sidewalks in it on Vettelson Road? There's no sidewalks on Highway 83.

B. Leonard: So not even a path.

M. Carlson: This is an existing. There is current existing proper relationship.

Mayor Craig: So this is without any plan implemented. So if we put this development in, would the existing roads handle it? Is that this is staying? Okay. We clear on that?

C. Mursky: So if someone wanted to walk from down the street to the shopping center...

Mayor Craig: With the current roads.

C. Mursky: ... with the current roads, is it safe? Is that what this is saying?

Mayor Craig: Either walk or drive. Okay? Thos in favor say aye, opposed no.

VOTE: YES - 0, NO - 6, FAILED.

47. That the proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effect upon owners and occupants of adjacent and surrounding properties by providing for adequate design of ingress/egress and interior/exterior traffic flow.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: Looks like the designs meet this requirement from what I can see.

R. Transon: I don't think so.

C. Mursky: I don't either.

P. Schuman: That's what we're going to vote on.

R. Transon: That's true.

Mayor Craig: I'm not hearing any questions. Those in favor say yes, opposed no.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

VOTE: YES - 1, NO - 5, FAILED.

48. That the proposed on-site buildings, structures and entryways are situated and designed to minimize adverse effect upon owners and occupants of adjacent and surrounding properties by providing for adequate design of stormwater drainage, erosion, and grading.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: We'll have to meet our stormwater controls. Call the question.

Mayor Craig: Those in favor say yes, opposed no.

VOTE: YES - 4, NO - 2, CARRIED.

49. That the proposed on-site buildings, structures and entryways are situated and designed by minimize adverse effect upon owners and occupants of adjacent and surrounding properties by providing for adequate design of lighting and parking.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: They'll have to meet our lighting ordinance and our parking ordinance. Is this adequate? I think so.

Mayor Craig: No discussion. Those in favor say yes, those no.

VOTE: YES - 4, NO - 2, CARRIED.

50. That any adverse effect of the proposed development and activities upon adjoining owners is proposed to be mitigated and minimized by appropriate screening, fencing and landscaping.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: They're supposed to have a landscape plan in at, what, the SIP level?

Mayor Craig: We're also requiring that it be screened off.

P. Schuman: Yes, so it should meet that.

C. Mursky: Does adverse affect include noise, light, smoke?

P. Schuman: Well, light you have our lighting ordinance, we just passed that.

C. Mursky: I'm asking Bill.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: Bill?

Attorney Chapman: Did you pass ...

P. Schuman: Well we have, I just said the previous one said something about lighting when we do have a lighting ordinance.

C. Mursky: But it's not specific about what adverse effect it is referring to.

Attorney Chapman: Obviously screening, fencing, and landscaping is not going to mitigate lighting. So it's parking...

C. Mursky: So adverse affect can be anything.

Attorney Chapman: Anything.

C. Mursky: Okay, that's what I needed to know.

Attorney Chapman: But this is the proposed ... are proposed to be mitigated and minimized. That's all it's really saying. Are they proposed to minimize and mitigate the adverse affect.

P. Schuman: They're proposing...

Mayor Craig: ... plans trying to be minimized.

Attorney Chapman: If they said, we're not going to put in a bush, we're not going to put in a berm, we're not going to put in landscaping, the answer's obviously, it doesn't mitigate at all.

C. Mursky: Okay.

Attorney Chapman: If they're going to do something, it's go to mitigate and minimize in some way, shape or form.

C. Mursky: Okay, thank you.

P. Schuman: Yeah, they're proposing to do it, so it looks like it will be yes.

Mayor Craig: Those in favor of this say yes, opposed no.

VOTE: YES - 4, NO - 2, CARRIED.

51. That the land, buildings and structures are proposed to be readily accessible to emergency vehicles.

MOTION BY B. LEONARD, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: No questions? Those in favor say yes, opposed no.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

VOTE: YES - 6, NO - 0, CARRIED.

52. That the land, buildings and structures are proposed to be readily accessible to the handicapped and will be in compliance with the Americans with Disabilities Act.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

D. Curtis-Costa: Do we know this?

P. Schuman: They will be.

C. Mursky: They have to be.

Mayor Craig: Yeah, they have to be.

D. Curtis-Costa: Okay. What's with the land, buildings, and structures.

Mayor Craig: Land, buildings, and structures.

D. Curtis-Costa: So, they have to grade it...

C. Mursky: Everything has to meet ADA standards.

Mayor Craig: All those in favor say aye, opposed no.

VOTE: YES - 6, NO - 0, CARRIED.

53. That the site plan is consistent with the intent and purpose of the B-6 Zoning District.

MOTION BY B. LEONARD, SECOND BY P. SCHUMAN, TO MAKE THE ABOVE FINDING OF FACT.

Mayor Craig: Question are getting hotter, folks.

B. Leonard: Is this saying it meets the requirements of B6 in our zoning code? Is that what this is?

P. Schuman: It's what they're saying.

B. Leonard: Okay.

D. Curtis-Costa: Well, this is intent and purpose. It doesn't meet all the requirements.

C. Mursky: Well, it has to meet...

P. Schuman: Planned unit development, that's what they're doing. It's due process.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: But, I mean, some of these we voted no on because they didn't meet them.

Mayor Craig: That's why you get to say this point blank. We were dancing around the issue, now we're there.

C. Mursky: Well, okay, so I'm confused. Doesn't B6 just include floor area ratio, setbacks,

Attorney Chapman: The intent and purpose is far from that.

C. Mursky: Okay.

Attorney Chapman: Intent, you want to know what it is?

Mayor Craig: Yes.

Attorney Chapman: Any development of this district must occur as a planned development, this is intent paragraph in your ordinance, planned development, conditional use under the terms of the ordinance. The intent of this zoning is to create a district which enable flexibility in terms of specific types of land uses, but will assure that any development occurring in this area will be planned and designed within the context of integrated planned development. Then it says, no uses are automatically permitted. I think it's presumed and if it had to b, it would have a B in front of it.

C. Mursky: And is there a separate purpose section.

Attorney Chapman: No.

P. Schuman: Looks like it meets all that to me.

B. Leonard: So if, if we are looking at these two phases, I mean we have to assume them with that intent of the ordinances that they are, they have integrated all phases, not just one phase. That phase I and II go hand, go together and make logical sense, you know, because I don't think it makes a lot of sense to have commercial traffic go through a senior residential area, but.

Mayor Craig: Senior residential is not included in this plan.

B. Leonard: But we're assuming it is.

Mayor Craig: But it's been specified that it's not.

B. Leonard: So what are we voting on? A vacant area where the senior housing is now being shown? We're assuming that we should... for purposes of this vote, are we supposed that that's all vacant?

Mayor Craig: Yes. Am I wrong?

P. Schuman: What was that again?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: That where the senior housing has been proposed, that that will become vacant land...

B. Leonard: See this is not the right plan, so I keep looking at it.

Mayor Craig: It they are going to want to build anything there, that they have to come back to us for a new conditional. So we are considering that that's vacant land. Open lot.

P. Schuman: Yes. Makes sense, we said no. They come in later.

Mayor Craig: Okay, Beth?

B. Leonard: Yeah. I still ... understand.

P. Schuman: Call the question.

Mayor Craig: All those in favor say yes, opposed no.

VOTE: YES - 5, NO - 1, CARRIED.

54. That the site plan is consistent with the intent and purpose of the zoning ordinance.

MOTION BY P. SCHUMAN, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

P. Schuman: This is supposed to be business. It is on a major highway, intersection of two major highways.

D. Curtis-Costa: But it doesn't meet all the zoning requirements of conditional use, planned development, B6.

P. Schuman: We went through a number of things for the zoning on B6 what it is and it met all of those earlier on a couple of hours ago.

Mayor Craig: I don't remember it meeting all of them.

D. Curtis-Costa: No. No. There were a bunch of them that it did not.

P. Schuman: Well setbacks I'm thinking of.

C. Mursky: Bill, zoning ordinance, those incorporate all of the questions that we just answered about compatibility and lighting and...

Attorney Chapman: Are they all in the ordinance?

C. Mursky: We're on number 54 right now.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: I guess I don't see the difference between 53 and 54.

C. Mursky: That's where I'm confused too.

Mayor Craig: What's the difference between 53 and 54.

P. Schuman: Zoning in B6.

Attorney Chapman: Zoning total and B6 is specific to the B6.

C. Mursky: So zoning is everything that we've considered, all the planned unit development, all the criteria for GDP.

Attorney Chapman: Everything. Your ordinance.

C. Mursky: Everything.

Attorney Chapman: If you are not able to answer that, don't.

Mayor Craig: Then strike it.

D. Curtis-Costa: Well, I think we can answer that, we just needed a clarification.

B. Leonard: So there are parts of the zoning ordinance that are not part of the B6 section of the zoning ordinance that this has to meet.

D. Curtis-Costa: Right.

B. Leonard: And we're supposed to know whether it does or not.

Mayor Craig: Or if you don't feel comfortable, we can strike it.

B. Leonard: I know I don't feel comfortable about a lot of these. I don't have the zoning ordinance in front of me and I haven't compared it point for point.

P. Schuman: This is a B6 zoning district and that's what we voted ...

B. Leonard: Well that's what number 53 was.

P. Schuman: ... as opposed to the ordinance itself, so.

Many voices:

Mayor Craig: ... zoning ordinances as opposed to the zoning district. There's a difference. This is more encompassing. More global.

P. Schuman: This is an area where business is supposed to be. It's the section two highways.

D. Curtis-Costa: Call the question.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: All those in favor say aye, opposed no.

VOTE: YES - 1, NO - 5, FAILED.

55. That the site plan is consistent with the public goals, objectives, principles, standards, policies and design criteria set forth in the City's Master Plan, or component thereof.

MOTION BY P. SCHUMAN, SECOND BY R. TRANSON, TO MAKE THE ABOVE FINDING OF FACT.

D. Curtis-Costa: What does the master plan say again?

B. Leonard: There is commercial designations which are red, and then there's mixed use which brown which is in the same shading as residential which is very curious. I don't really understand what the planned use meant in there, but there is a real separate designation between the southeast, I'm sorry the southwest quadrant which is this and the northwest which is all red. Why, I don't know why those two quadrants...

Mayor Craig: Northwest of Hwy. 16?

B. Leonard: 16 and 83. The northwest is colored red.

Mayor Craig: To the north of 16 is red, to the south is brown.

B. Leonard: The south is this brown mixed use which radiates kind of towards the residential since residential is also brown. So I don't know exactly ...

Mayor Craig: It's got a mixed use of businesses and residential in that area right now.

B. Leonard: I'm sorry, what was that?

Mayor Craig: It's got mixed use of businesses and residentials, multi-families..

B. Leonard: In the homes along Vettelson. The existing homes you mean?

Mayor Craig: Correct.

B. Leonard: So maybe that's how it got that designation?

D. Curtis-Costa: So, what are our goals? To have a development that works?

Mayor Craig: Do we have public goals listed?

Attorney Chapman: Not in these first sections. You are talking about the whole master plan.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: Okay. So is this plan, this is the question I'm asking Bill, correct me if I'm wrong, with the entire master plan, are we in compliance with that?

Attorney Chapman: Well in and consider this site.

C. Mursky: Can I just ask a question here because really we are coming down to the crux of whether or not...

Mayor Craig: Yes it is.

C. Mursky: We are going to have one more meeting, right? We're going to have a special meeting?

Mayor Craig: For the rest. I'd like to get this done. We have a seat that's in tonight.

C. Mursky: I'm just wondering, I would like the opportunity to look at all of this and try to digest the yeses and noes in order to make a reasonable decision and then vote on it next time. I understand we're under a time crunch, but ...

Mayor Craig: I don't want to try to jam anything here. I'm trying not to rush it, but yet I'm trying to accomplish it.

C. Mursky: I know what you're saying, but we're at, I know what you're saying. I think we've done a lot of hard but I'm really just at a point where now, I would like to ...

Mayor Craig: You're at burn-out stage.

C. Mursky: I'm at a burn-out stage and I really want to look at it and consider it carefully without feeling like I have to make a decision right now and then not feel like I really processed it.

Mayor Craig: How does the rest of the body feel?

B. Leonard: I can totally understand her point of view, but again I am, this is my first meeting, so that's why I think I'd favor confusion. You've been through so many times in so many different forms. I guess I would agree. If I had more time I would love to have more time to work it out.

Mayor Craig: Bob?

R. Transon: I am fine, but for the new commissioner I think I am totally respectful of her position...

Mayor Craig: Diri?

D. Curtis-Costa: I'm fine. I think if I were to go through any more I would be twice as confused...

Mayor Craig: Phil?

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: I think what we're doing here is setting a standard not just for this development but any other development. We can set the standards and we have done pages of this conditions and it could well be that the developer says I don't want to develop under these conditions and what we've done is set the standards for somebody else to come in and say, hey, I'll pick it up and I'll do it. So, I am prepared to make a motion tonight. I think I've learned enough and absorbed enough...

Mayor Craig: Before you do that, is it appropriate before we deal with 55 that we take a motion as a whole.

M. Carlson: You have a motion on the table right now.

Attorney Chapman: 55 is on the table.

Mayor Craig: Okay.

D. Curtis-Costa: Call the question.

Mayor Craig: 55. All those in favor say yes, all those opposed no.

VOTE: YES - 4, NO - 2, CARRIED.

Mayor Craig: Now then.

P. Schuman: I think we set a lot of work here on what conditions we want earlier, 1-43, of various things and part of that as I mentioned we're setting standards of what we want to see developed in this area. Everything is recorded and documented what we want to see and therefore...

Mayor Craig: I think you're looking for page 26.

P. SCHUMAN MOVED THAT WE APPROVE THE LISTED CONDITIONS FOR RECOMMENDATION TO THE COMMON COUNCIL ON THIS DOCUMENT AS AMENDED. R. TRANSON SECONDED.

P. Schuman: This area has been zoned B6 for years. The citizens of my district tell me that taxes get kind of high. What we're looking for is something to share the burden for the homeowners. It's not a hundred percent, but it will definitely reduce school taxes, we made provision that the developer will cover our cost, so it's not going to be a burden to the City to put this in there. I appreciate that the people on the Vettelson Road have some concerns, but should their concerns outweigh the concerns of the rest of the City? You say yes, I say no. That's why I made the motion. I've got taxpayers who say they're paying an awful lot of taxes and are looking for some relief; this is one way of doing this. There needs to be something there because it's been zoned that way for years. So if not this, what? We've told, we've made the motion of the conditions of which we will accept. We pass it forward to the Council and then it's up to the developer to decide whether they want to accept those conditions or not. We have stormwater management conditions which are extra territorial to the Town of Delafield. As Matt Carlson mentioned the other day at another meeting, there is a development there on Golf Road that did not meet our stormwater requirements, therefore they're not building until they

CITY OF DELAFIELD PLAN COMMISSION MINUTES

do. So when we pass this with the conditions, the developer doesn't build until they meet these conditions. Again, they may well decide not to build, that's their choice. But we're telling them what we want done and we spent a lot of time working on that already tonight. So I think we should pass this on to the Council with our recommendations with these conditions attached.

R. Transon: These conditions are irrespective of the development itself.

P. Schuman: We're telling the developer we'll approve it if you go along with these conditions. Am I correct?

Mayor Craig: Pretty much bottom line, yeah.

R. Transon: My understanding...

Attorney Chapman: Your motion is to approve the conditions.

P. Schuman: Yes.

R. Transon: Not the development.

Attorney Chapman: You're not recommending approval to the Council approval to CUP and GDP to the Common Council. That's the next ...

P. Schuman: All right. I'm ahead of myself.

Attorney: Now the second one is inappropriate because we did the findings individually so I would like to word a motion for you when you get to that if you do it. This is just to approve the conditions because as I said at the beginning, conditions are going to go to Council regardless.

P. Schuman: So what we're doing we're separating, I got ahead of myself.

R. Transon: The only thing we're approving to the Council are the conditions to assign the condition as modified to say that any way it comes in here, this is what we expect. It has nothing to do with this specific plan.

P. Schuman: Well, it has a lot to do with this plan.

Attorney Chapman: I specifically, these conditions were drafted to apply to that plan.

D. Curtis-Costa: Could I add another condition quick before we do that? Hours of operation 8 - 8, no later.

P. Schuman: I wouldn't agree to that.

B. Leonard: I know how I'm going to feel about the whole development but I can't imagine telling somebody 8-8 unless ... micromanaging the business. I understand not 24 hours, but to me, it's not going to make people feel any better that, well it's here but they close at 8 so now we're happy with it. It's not going to make a difference.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: You may want a restaurant in there and they want to go to later on.

Mayor Craig: Do I have a second to that motion?

R. Transon: I seconded.

Mayor Craig: You seconded?

R. Transon: Yes.

P. Schuman: I made a motion and it's been second to approve the listed conditions for recommendation to Council and we have a second on that.

Mayor Craig: But we have amendment to that motion? Is that what you're calling it? Cause you already had a motion on the floor, you cannot - okay. Alright. I have to stay with the motion that's on the floor first of all. With approval of the conditions to move them forward to the Council.

D. Curtis-Costa: And now we have discussion?

Mayor Craig: Now you have discussion, yes.

D. Curtis-Costa: Phil, you were talking about in the conditions how it's going to give us tax relief and that is not in there. The only thing that's in there in the Fiscal impact study show that it could very well be a loss to the City. And all we're asking in the conditions is that they, that we recoup the losses from them. We're not asking for anything additional which is what would give us a tax break.

P. Schuman: The fiscal impact also said there is a positive impact on school taxes.

D. Curtis-Costa: 24% in the Lake Country, or \$0.21 in the Lake Country School District only, but a net loss to the City itself so even in the Lake Country School District we're going to end up paying more on our tax bill to cover the loss of the City.

P. Schuman: No you're not.

D. Curtis-Costa: And even if they give us the money back, it's still not going to be a benefit and a break on our taxes.

P. Schuman: We just made an amendment here that they're going to pay us - there's no cost ...

D. Curtis-Costa: ... have any loss, but it's not going to give us revenue in order to give a tax break to the citizens.

P. Schuman: We get that with school taxes.

Mayor Craig: But then you're part of the City only.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: ... reduces the school taxes, it reduces the library part of that because that's in the fiscal impact statement we have.

D. Curtis-Costa: The school tax break is only for the Lake Country School District.

P. Schuman: That's where I live.

Mayor Craig: and the Kettle Moraine District.

P. Schuman: And that's where you live. When we get tax breaks for Kettle Moraine I don't get it.

D. Curtis-Costa: It's not substantial.

C. Mursky: It's not where I live.

P. Schuman: Well, you're voting for the District's in that area, so.

M. Carlson: The other perspective to bring to the table here is that every one cent on the tax rate generates about \$7400 in revenues for the City of Delafield. So if it did cost the City \$21,000 to provide services to that site, you're talking about three cents on the tax rate. You got language that protects the City for that three cents. But for those residents who live in that Lake Country School District, they're net is \$0.18 on the reduction of their property tax rate. So the big winners are the school districts and the residents who live in that school district.

P. Schuman: Which is the 1st and 2nd District and part of the other side of the lake. That's you.

M. Carlson: You also have to look at the entire City as somewhat like a stock portfolio and the land uses that make up your stock portfolio are different kinds of land uses and they're different in the different school districts that are affected. The Shoppes at Nagawaukee or the Nagawaukee Shoppes where the Kohls center is, that shopping center adds tax base to the Kettle Moraine tax payers, thereby reducing their tax rates, but it doesn't do anything for Lake Country District. If we have one school district that incorporated all of these properties, the tax rate benefits would be significant. We don't and so you have to look at it in the aggregate and what are the pieces that make up the full aggregate. Does that make sense?

P. Schuman: There is nothing commercial in the Lake Country School area that I know of that is going to reduce the school taxes. Basically what you're doing is shifting the tax burden from the homeowners to a development.

Mayor Craig: Within the City boundaries.

P. Schuman: Within the City boundaries. You have schools over there like Lake Country Schools, University Lake School, they don't generate any taxes. So this is a commercial development area. It should be developed as commercial with what we've done here to mitigate the effects on the neighbors. It's not going to be 100% for the neighbors.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: It's going to affect us all, it's not going to just affect them.

P. Schuman: There's trade-offs whatever you do.

Mayor Craig: I think you're coming to a question that I have in the aspect that I'm going to assume that this may pass, okay? And the conditions are moved forward to the Council. What if the project is denied? Which would be the next question.

Attorney Chapman: Then it goes as a denial, the motion ...

Mayor Craig: With the conditions.

Attorney Chapman: The conditions still hold.

M. Carlson: That's why, Bill is suggesting two motions. One motion on the conditions, and then as you would, read your suggested motion #2.

Mayor Craig: Well if you want to wait until we get through this one before we muddy the water.

M. Carlson: Maybe you'd like to know what direction we're heading from the procedural standpoint.

Mayor Craig: Okay, where we're going. Okay.

Attorney Chapman: Because you approved findings individually, which I think was appropriate, maybe they were a little bit too individual in certain cases, but maybe in other occasions they weren't. Motion to recommend to the Common Council that the Common Council approve the conditional use permit and the general development plan subject to the approved conditions.

M. Carlson: And then you can vote on that separately.

B. Leonard: Are you just restating our motion now or?

Mayor Craig: No, this would be the next motion.

B. Leonard: The next motion after the one we're currently ...

Mayor Craig: And that's assuming that it would be accepted, it could be turned in to deny also, couldn't it?

Attorney Chapman: Correct.

M. Carlson: You could vote it down.

Mayor Craig: Alright, just so that we're clear in that aspect.

Attorney Chapman: Well if it's defeated in effect, you don't need another one.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

M. Carlson: Right. By approving the conditions you are not approving the motion to recommend approval of the GDP. They are two separate issues.

Mayor Craig: You are approving these, this document for this particular ...

Attorney Chapman: The conditions are going to go Council anyway because they're entitled to what you did, which is pursuant to your charge by the ordinances to set conditions if you think they're necessary. You don't think any of these conditions were necessary, then vote no. You think that they are good, or they're acceptable as you reworded them, then they ought to go to Council regardless of what you do.

P. Schuman: You spent a lot of time working on them.

Attorney Chapman: Tell me about it.... Distributed by Friday.

Mayor Craig: Alright, is everybody clear with what's on the plate here? You look confused.

B. Leonard: Well, I guess I just heard Commission Schuman's speech and I'm more concerned about that than I about, you know I get, I don't see how this necessarily will mean lower property taxes and nothing that I've seen happen this evening results in lower property taxes.

Mayor Craig: This vote is to accept this document as we amended it.

B. Leonard: But our discussion was to discuss the merits, right?

Mayor Craig: Right.

B. Leonard: I mean that's what he just did. My concern is I take an opposing viewpoint.

Mayor Craig: We're straying a bit and that's why I'm trying to bring it back. This document, basically the motion has been made do you accept this document as amended or do you not. That's what this vote is.

D. Curtis-Costa: Is that the motion?

B. Leonard: Okay, but aren't we having discussion on that?

Mayor Craig: That's what the discussion is supposed to be. It strayed away and I apologize for that. But the discussion should be on this document as amended. We understanding?

B. Leonard: Well, I guess, to me it implies if you vote yes to this document you're voting to enable this development.

Attorney Chapman: I'm sorry, but the motion was to approve the above listed conditions for recommendation to the Common Council.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: As amended.

Attorney Chapman: The Commissioner there got on a tax issue.

Mayor Craig: Which is wrong.

Attorney Chapman: I'm talking about the tax issue.

P. Schuman: I apologize for that.

C. Mursky: Where I'm confused is because these refer to a specific site plan. These conditions. So I guess I'm just muddled and maybe it's...

M. Carlson: What if we reverse the motion? What if you rescinded the first motion he made, get this motion on the table, vote on this, then come back to the conditions?

R. Transon: That would be nice.

Mayor Craig: That would be a bit easier.

B. Leonard: Okay, so the motion now is...

Mayor Craig: Now wait a second. Does the motion maker rescind their vote?

P. Schuman: What is the rationale behind that? You're not comfortable with what we've done on the conditions? We just want to vote for the whole thing and then we do that then have the conditions?

C. Mursky: The conditions presuppose.

B. Leonard: I guess I want a discussion on the development. I know it's late, but are we taking some sort of vote on recommending the development to the Council?

P. Schuman: Yes.

B. Leonard: And that's not the one we're taking right now.

Mayor Craig: No. That's the next vote.

B. Leonard: Okay.

P. Schuman: Or can we incorporate the whole thing together?

Mayor Craig: No. It's been advised to the attorney that we separate the two.

Attorney Chapman: I can put it together if you want.

Many: No.

B. Leonard: I guess I'm unclear about .. and why we have to separate it.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: Because our attorney said so.

B. Leonard: He just said we could combine them.

Mayor Craig: That's why I just heard you trying to say both ways, I'm sorry I'm lost on that one also.

B. Leonard: To me, one implies the other and I don't, if there some legalese or reason why we have to separate them.

Attorney Chapman: Well if you send this to the Council without conditions, you are not doing your duty, quite frankly.

B. Leonard: So why can't we approve the conditions, or not approve them along with the recommendation on the particular ...

Attorney Chapman: Because if it fails, the conditions fail and then they don't go with your recommendation.

Mayor Craig: And all tonight's work is for naught.

P. Schuman: Okay. I've made a motion and it's a second to approve the conditions as amended for recommendation to the Common Council. Call the motion.

Mayor Craig: Motion has been called. All those in favor say aye, opposed no.

B. Leonard: Can I abstain? I don't understand this so I'd just rather abstain at least on this one. I mean if I consistently voted no on a lot of these conditions.

Mayor Craig: We've had rulings... on abstentions before and it's always been...

Attorney Chapman: Either financial or relationship reason for abstaining. It's a personal reason to abstain, it should be stated. People are entitled to know how you're going to vote on these things, just like a governing body. Your constituents are entitled to know. If you abstain, they don't.

D. Curtis-Costa: Isn't that why we asked for the extension is to get some

B. Leonard: That's my problem. I really don't understand what I'm voting on. I'm sorry to say that and I'm, I've worked many years as a professional planner...

Mayor Craig: Is that not allowed .. abstentions if she is a new member and is unclear?

Attorney Chapman: That's personal reasons, ... she can.

Mayor Craig: So that is allowed. Then you are allowed to abstain. Yes. We have just heard, yes, we have just heard, yes you may.

B. Leonard: Okay.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

P. Schuman: So what's the count?

VOTE: YES - 4, NO - 1, ABSTAINED - 1, MOTION CARRIED.

Mayor Craig: Now, we have another motion.

P. SCHUMAN MOVED THAT APPROVE THE FINDINGS OF FACT IN THE GENERAL DEVELOPMENT PLAN

Attorney Chapman: No.

Mayor Craig: No.

Attorney Chapman: No, we did those already. They were either approved or not. This is the way you have to handle it here. Motion to recommend to the Common Council that the Common Council approve the conditional use permit ...

Mayor Craig: Bill, can I say to make it perfectly fair, when you are saying accept, it could be deny also.

Attorney Chapman: It will be if it fails.

Mayor Craig: I understand. But the motion maker could make it to accept or the motion maker could make it to deny.

Attorney Chapman: Motion to recommend, I assume that you're going to make this motion...

P. Schuman: Yes.

Attorney Chapman: That's why I...Motion to recommend to the Common Council that the Common Council approve the Conditional Use Permit and the General Development Plan subject to the approved conditions.

**P. SCHUMAN MOVED TO RECOMMEND TO THE COMMON COUNCIL THAT THE COMMON COUNCIL APPROVE THE CONDITIONAL USE PERMIT AND THE GENERAL DEVELOPMENT PLAN SUBJECT TO THE APPROVED CONDITIONS.
C. MURSKY SECONDED.**

Mayor Craig: Discussion?

B. Leonard: Again, maybe this is the time when we talk about our overall feelings about the development?

Mayor Craig: This is the time, yes.

B. Leonard: I guess I'm very skeptical about this assertions that our property taxes will stay the same, go down, or somehow be, somehow we benefit from that standpoint if we allow development after development after development in Delafield. I mean, I don't

CITY OF DELAFIELD PLAN COMMISSION MINUTES

think it's been proven that that's going to reduce our taxes. I think the school district's drives our taxes so much more than any other entity and there is so many things that need to be addressed by other bodies when it comes to school district's budgets, but I don't want to feel pressured or anyone to feel pressured that they have to continue to approve development of this nature and to this extent simply because, well it might mean our taxes won't go up as much because I don't think that's been demonstrated. And if that was the case, why have my taxes gone up, you know, 30, 40, 50% consistently and so I'm very, I'm just not clear at all, or don't believe basically that our taxes will, that we will benefit personally on our personal property, or real estate taxes by approving developments that that's key. And I also, you know, apologize in advance Matt, but I really take offense to calling the City a stock portfolio. To me the City is the community, it is the people and if the people want this type of growth, fine, but I would not say that I think it's inaccurate to say it's just the people that live on Vettelson Road that don't want this development. I think it's clear that many people in the City of Delafield do not, or wish to have better controls built. To me it's not limited to the people who live adjacent to the property and I just don't feel like my property taxes are tied to or as a condition of that, I have to go along as a citizen or as a plan commissioner with one development after another as a way to achieve some sort of savings on our property taxes because I think there's other avenues to get savings and we're not looking at the big piece of the pie which is the school district.

P. Schuman: What control do you think we have over the school district?

B. Leonard: Excuse me?

P. Schuman: What control do you think we the City of Delafield have over the school district? We got zip.

B. Leonard: We vote for board members.

Mayor Craig: ... individual people who are talking about the government...

B. Leonard: But you are the community. The City isn't, doesn't run the show, it's the community that runs the show...

P. Schuman: Excuse me. You came in here. There are things you probably meant and the hour is late. We had fiscal impact statements done by independent people and they talk about the taxes and where it comes, it's not just off of the top of my bald head. They're talking about what Matt's said, it reduces the Lake Country School taxes, at best it will be neutral for us, we may gain something on that. It's not development after development. People have property rights as part of the zoning. They don't have it unfettered, we just spent hours going through listings of things which control what they can do as far as development. We spent a lot of time doing that and for you to say we're approving something unfettered development I think is insulting for all of the work we've done...

B. Leonard: No.

Mayor Craig: Control our emotions, please.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

B. Leonard: I didn't call that this, I'm saying that what I was hearing from you is that we ought to approve these types of things because of the impact on property taxes.

P. Schuman: I hear people say they don't want development and they also say on the other side of their mouth they want their taxes controlled. It ain't no free lunch.

B. Leonard: Right, ...

P. Schuman: It's driven by markets, it's the assessment value of our community. That's state law. I take an oath when I sworn in to support the law of the State of Wisconsin, that's market value. And people have a property right to develop their properties within the zoning and the controls we have. We spent hours tonight controlling that development.

B. Leonard: I think we spent hours tonight reacting to a zoning designation on a property and plan that needed to be updated...

P. Schuman: Well that's not the subject of our meeting tonight.

Mayor Craig: Right.

B. Leonard: Well, no, I'm just saying that's why we spent hours...

Mayor Craig: Is there, I need to bring back to the motion. Is there any other comments?

R. Transon: My only comment is that historically that master plan was developed in 1990 something or another...

Someone: 1991

R. Transon: And prior to that Highway 83 did not have the traffic flow. It did not have the development across from Hartland. And since that time we've had that massive development on the other side, the east side of Highway 83 and Highway 83 is not capable of handling another development at that interchange. Period.

P. Schuman: So we should not develop the City of Delafield and let Hartland develop....

R. Transon: Because the historical standpoint, that thing's done in 1990

P. Schuman: I agree with you.

R. Transon: Prior to any improvements on Hwy. 83.

P. Schuman: I agree with you.

R. Transon: You ... Highway 83 infrastructure is not there. It's a hazard.

Mayor Craig: Keep in mind that one of the conditions that we said is that it's got to be improved.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

D. Curtis-Costa: And the intensity of this development, it didn't mean that we don't development. It could just mean that this isn't the right one.

P. Schuman: We've gone through a whole list of things and the size of it is 150,000 sf.

D. Curtis-Costa: But we're working with a plan that was given to us that doesn't meet...

P. Schuman: Well we could have said, hey it could 100,000 sf, we said 150,000. Then you say it's too intense, we had the opportunity to reduce the intensity. We went through that whole process.

B. Leonard: I guess my concern is I think it is more important that we comply with our comprehensive plan than we comply with the zoning. Particularly, if this City never took steps to match the zoning and The Plan.

P. Schuman: The comprehensive plan is merely a guidance, the zoning is the law itself.

B. Leonard: But the zoning comes after the plan. You base your zoning on the plan, not the other way around. It's wagging the dog.

P. Schuman: Well, it's 20/20 hindsight, but we have a development...

B. Leonard: Well, we can still do something about it...

P. Schuman: ... in front of us. We have a development in front us. We made conditions for its approval.

B. Leonard: Because we were told to. I mean,...

P. Schuman: It's what we're supposed to be doing here.

Mayor Craig: It's what the decisions that had to be made.

B. Leonard: I had to do this. I had no choice to vote on

R. Transon: Initially we denied the development and the Council throws back to us to do something.

Mayor Craig: We addressed those conditions and the concerns through these, this document.

R. Transon: So we're at the point of either accepting or denying this again.

Mayor Craig: The motion at hand is to accept and pass it on.

P. Schuman: And then I may make a different statement when I get to the Council.

Mayor Craig: You have that right.

P. Schuman: Because that's my prerogative.

CITY OF DELAFIELD PLAN COMMISSION MINUTES

Mayor Craig: There's not doubt about it. Nobody's going to deny that. Do I have any further discussion? All those in favor of this motion to accept this plan to recommend it to the Council say aye, opposed say nay.

VOTE: YES - 1, NO - 5, OPPOSED.

6. PRELIMINARY CONSIDERATION - NO ACTION

- a. **Tax Key 786.059 and 786.060 , Lots 5, 6, and 7 of Nagawicka Lake Heights .**
Applicants: Lance and Debra Jochims seek preliminary consideration of CSM.

7. ZONING AND ORDINANCE REVISION - NO ACTION

- a. Tree cutting ordinance: sample ordinances from other communities

8. HEARING DATES

9. ADMINISTRATOR'S REPORT

No report.

10. BUILDING INSPECTOR'S REPORT

T. Maney: Total number of permits to date 31, plus 2 occupancy permits. The new permits include one new single family home.

11. BOARD OF ZONING APPEALS

12. CORRESPONDENCE

- a. Letter from the Village of Hartland dated April 11, 2003 for occupancy permit for chiropractic services at 860 Rose Drive, Hartland.

13. ADJOURNMENT

R. TRANSON MOVED 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 12:28 A.M.

Respectfully submitted,

Marilyn Czubkowski, CMC
City Clerk/Treasurer

Minutes prepared by:

Accurate Business Communications, LLC