

CITY OF DELAFIELD PLAN COMMISSION MINUTES

PUBLIC HEARINGS

M. Czubkowski read the public hearing notices.

1. CONDITIONAL USE PERMIT FOR "PERFECT PUPPY" AT 1928 HILLSIDE COURT FOR A HOME BUSINESS.

Mayor Craig asked three times if there were any citizen comments. M. Czubkowski mentioned that there was one letter included in the commissioner's packets. P. Schuman stated that the writer of the letter called him and stated that he was against the business operation.

R. TRANSON MOTIONED TO CLOSE THE PUBLIC HEARING. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. VANDAL PROOF HYDRANTS

Mayor Craig asked three times if there were any citizen comments. There were none.

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

3. TEMPORARY SIGN PERMIT WAIVER FEE

Mayor Craig asked three times if there were any citizen comments. There were none.

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

4. FLAG LOT TEXT AMENDMENTS

M. Czubkowski read the public hearing notice and summarized the amendments.

Jim Zahorik, 1948 W. Shore Drive - Mr. Zahorik read from 17.14(2)(d). He discussed the ten acres that he owns and asked if this affects the possible division of his property with the majority of the acreage removed from Highway C. He stated that he was not for or against the Amendment because he does not know the answer. Mayor Craig stated that he thought he would have to put a road in. Discussion as to how this amendment would affect his property will take place later on in the agenda.

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Thomas Berner, 1307 E. Devonshire – Thought that the flag lot was a valuable tool for homeowner to expand. He addressed the land that he bought 20 years ago and didn't think it is fair to have this affect existing land owners from developing their property. Suggested that if the property sold, the new zoning law could take effect then.

Mayor Craig asked three times if there were more comments. There were none.

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

5. ADMINISTRATIVE APPROVAL OF BUSINESS PLANS OF OPERATIONS

M. Czubkowski read the public hearing for this item. Mayor Craig asked if there were any comments.

Jim Zahorik, 1948 W. Shore Drive – He asked if there is an opportunity for people who have a concern to speak in this arena if these changes were made to the plans of operations. Mayor Craig stated that this is not a question and answer period. Mr. Zahorik then stated that if private individuals are denied the opportunity to speak for or against an operation he is violently opposed to this because you have taken away the voice of the people. If it is done in an arena where public input can be received, then he is for it.

Mayor Craig asked three times for more comments. There were none.

P. SCHUMAN MOTIONED TO CLOSE THE PUBLIC HEARING. D. CURTIS COSTA SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

CALL MEETING TO ORDER

The meeting was called to order at 7:13 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

ROLL CALL

Present

Mayor Paul Craig
Phil Schuman
Chrys Mursky
Fred Welch

Absent

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Robert Transon
Marilyn Gardner
Diri Curtis Costa
Roger Dupler
Tom Maney
Matt Carlson
Marilyn Czubkowski

1. APPROVE MINUTES OF JUNE 26, 2002.

A correction was made on page 12, item b – the zoning should be RE1.

P. SCHUMAN MOTION TO APPROVE THE MINUTES AS AMENDED. F. WELCH SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

2. DELAFIELD CITIZEN'S COMMENTS PERTAINING TO SUBJECTS ON THIS AGENDA.

Joyce Wessel, 715 W. Shore Drive – Addressed Item 5c, Jens property. Stated that the new plat is still on the questionable side, especially the roadway that is coming towards her house. In previous conversations with the Mayor she told him that in the 47 years that she has been living there she has had water draining to her property from the farm. If anything is done with this property she expects that the water problem will be solved. She read from 17.75 – Item 8 (later determined to be an old ordinance) and stated that it would depend on what was classified as wetland. The amount of land per lot would need to be more than proposed. She wants the commissioners to give this a very thorough look and wanted to know what happened to the cul de sac on the side of the subdivision.

Barb Rambradt, 3440 Nagawicka Rd. -- Spoke regarding the Waterleaf Subdivision. She thought that the zoning should be as stated. This is a two-acre lot area and thought that it should be two-acre zoning. It keeps the density down. The developer has to respect the two-acre zoning as prescribed. Asked about removal of trees on the river and possible launching boats on the river. Mayor Craig replied that there are restrictions and ordinances that address this. She stated that she is in favor of the two-acre zoning as written in the master plan.

Charles Hall, 3019 Sylvester Dr. – Spoke regarding Waterleaf Subdivision. He has lived here for 29 years and likes the neighborhood and wants low density. He encouraged the commissioners to hold the two-acre minimum zoning. There is no reason to change it.

J. Zahorik, 1948 W. Shore Drive – Spoke regarding Item 5c, Jens Property. Distributed a sheet that was the back page of correspondence from Matt Carlson on a different matter. The last column is pertinent to this issue. The

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reduction of the size of a lot in a PUD was discussed. He has two properties that abut the Jens property. M. Carlson stated that the current code does not include the code that Ms. Wessel referenced. The residents on W. Shore Drive have serious drainage problems now and if the development occurred where so much impervious surface would be put in, the water will head east. He recommended denial of this and the reduction of the density and impervious surface.

R. TRANSON MOTIONED TO CLOSE THE CITIZENS COMMENTS SECTION. P. SCHUMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

3. CONSENT AGENDA

M. Czubkowski read the items in the Consent Agenda.

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

a. **Tax Key 803.998.001, 394 Williamstowne, Suite G.** Owner: William Toson. Applicant: Wayne Dehn. Applicant seeks approval of Amended Business Plan of Operation for the *Dehn & Associates*. The business is relocating. Hours of operation, 8:00 AM to 6:00 PM Monday –Friday, Saturday 9:00 AM to Noon, and closed Sunday. One full-time employee.

b. **Tax Key 803.988.001, 385 Williamstowne, Suite 3B.** Owner: William Toson. Applicant: John Grimes Agency. Applicant seeks approval of Business Plan of Operation for the *MSI Insurance*. Hours of operation, 8:00 AM to 8:00 PM Monday –Friday, Saturday 8:00 AM to Noon, and closed Sunday. One full-time employee and one part-time employee.

c. **Tax Key 794.014, 78 Enterprise Rd.** Owner: Greg Smith. Applicant: Eric Schultz. Applicant seeks approval of Business Plan of Operation for *Cast-In Stone, Inc.* Hours of operation, 6:00 AM to 6:00 PM Monday –Friday, Saturday 7:00 AM to 3:00 PM, and Sunday 10:00 AM to 3:00 PM. Five full-time employees.

4. PLANS OF OPERATION, SIGNAGE AND SITE PLAN

a. **Tax Key 807.987, 3558 Hillside Dr.** Owner: William and Susan Isler. Applicant: Tom Falcone. Applicant seeks approval for a Business Plan of Operation and Signage for *Midwest Power*. Hours of operation, 10:00 AM to 9:00 PM Monday –Friday, Saturday 9:00 AM to 5:00 PM, and Sunday 10:00AM to 4:00 PM. Four full-time employees and two part-time employees. Four vehicles displayed outside only during store hours with no outside storage.

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Tom Falcone was present. R. Dupler reviewed. Midwest Power is allowed 43 sf for the sign and the proposed sign is 42 sf. A site plan to show the proposed area for vehicles was displayed by the applicant. It was stated that there would probably be only one or two vehicles there and 10-15' from the sidewalk. The vehicles might be an ATV, motorcycle, golf cart, etc.

F. WELCH MOVED TO APPROVE. M. GARDNER SECONDED THE MOTION. C. MURSKY STATED THAT IT SHOULD BE MADE CLEAR TO THE OWNER THAT THERE IS NO ROOM FOR MORE SIGNAGE FOR FUTURE TENANTS WITHOUT MODIFICATIONS TO THE EXISTING SIGN PROGRAM. THE OWNER OF THE BUILDING, WILLIAM ISLER, WAS PRESENT. THE HISTORY OF THE FLASHING SIGN WAS REVIEWED. W. ISNER STATED THAT 25% OF THE MESSAGE IS SEASONAL AND THAT THIS SIGN HAS ALWAYS BEEN INTENDED TO BE AN ADVERTISING SIGN. M. CARLSON STATED THAT THE INTENT IS TO BE CLEAR AS TO WHAT IS BEING APPROVED. R. TRANSON STATED THAT THE ORIGINAL INTENT/UNDERSTANDING OF THE SIGN WAS THAT IT WOULD DISPLAY WEATHER, TIME, AND SEASONAL MESSAGE, BUT NO SALES. W. ISNER STATED THAT THE MESSAGE WAS NOT SUPPOSED CONSTANT AND THEY ADJUST IT EVERY THREE MONTHS. STATED THAT THE PROBLEM IS UNDERSTANDING THE CONCEPT OF MESSAGE SIGNS. C. MURSKY STATED THAT THEY JUST WANT IT TO BE CLEAR AS TO WHAT IS LEFT IN TERMS OF SIGNAGE. W. ISNER STATED THAT THE SIGNAGE ISSUE IS CLARIFIED IN THE LEASES THAT HE HAS FOR THE TENANTS. R. TRANSON STATED THAT WHEN THE SIGN WAS ORIGINALLY PRESENTED, HE WOULD NOT HAVE APPROVED IT IF IT WAS A SCROLLING SIGN, HE THOUGHT IT WAS A WEATHER AND TIME SIGN. W. ISNER SUGGESTED LOOKING AT THE VIDEO FROM THAT MEETING. IT WAS STATED THAT THIS ISSUE HAS BEEN REVIEWED IN THE PAST AND NO CONCLUSIONS COULD BE REACHED. R. TRANSON SUGGESTED THAT THE SIGN SHOULD GO BACK TO STAFF FOR REVIEW AS TO WHAT SHOULD BE ON THE SIGN AND THEN MIDWEST POWER COULD GO ON. F. WELCH WITHDREW HIS MOTION AND M. GARDNER WITHDREW HER SECOND.

Discussion took place regarding the sign. It has been in operation since 1996 and although some complaints were received in the beginning (brightness – it was reduced and the logos – it was corrected), W. Isner has corrected the problems and there have not been any complaints in recent years. T. Maney stated that he has not had a complaint in three years. Discussion took place.

R. TRANSON MOTIONED FOR THE SIGN TO CURTAIL THE INFORMATION AND TO ONLY HAVE WEATHER, TIME, AND SEASONAL GREETINGS AND BE IN COMPLIANCE WITH PUBLIC

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INFORMATION ON THE EXISTING SIGN. THIS MOTION IS NOT TIED TO THE NEW SIGN. THE MOTION DIED FOR LACK OF SECOND.

M. GARDNER MOTIONED TO APPROVE THE KAWASAKI SIGN AS IS. P. SCHUMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

The scrolling sign will be put on the next agenda.

- b. **Tax Key 787.076, 603 Milwaukee St.** Owner: Cornerstone Investments, LLC. Applicant: Helga Robinson. Applicant seeks approval for a Business Plan of Operation and Signage for *Sunburst Studio*. Hours of operation, 11:00 AM to 5:00 PM Wednesday –Friday, Saturday 11:00 AM to 3:00 PM, and closed Sunday.

Helga Robinson was present at the meeting. She will be teaching watercolors and acrylics and does not plan to use this as a gallery. R. Dupler reviewed. Staff recommended that sign on Milwaukee Street be post mounted rather than attached to the arbor. H. Robinson would rather have her sign “landscape” rather than “portrait”. R. Dupler stated that staff would not object to the reorientation.

P. SCHUMAN MOVED TO APPROVE WITH HORIZONTAL FRAMING OF THE SIGN. F. WELCH SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. **Tax Key 787.074, 814 Genesee St.** Owner: William and Martina Verre. Applicant: Sally Anderson. Applicant seeks approval for Business Plan of Operation and Signage for *Bear Bottom Toys*. Hours of operation, 11:00 AM to 5:30 PM Monday –Wednesday and Friday, 11:00 AM- 8:00 PM Thursday, Saturday 10:00 AM to 4:00 PM, and closed Sunday. Open on Sunday during December.

Martina Verre was present at the meeting. R. Dupler reviewed. The sign is a pendant sign and falls short of the required clearance and does not hang over the right-of-way or the sidewalk. Appropriate measures should be taken to detour pedestrian traffic from the area beneath the sign. M. Verre stated that this is why they have a flowerpot there, to prevent people from hitting their heads. The flowerpot will stay here year around.

R. TRANSON MOVED TO APPROVE. M. GARDNER SECONDED. C. MURSKY THANKED HER FOR OBSERVING THE NO PARKING SIGNS. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- d. **Tax Key 804.994. 2740 Heritage Dr.** Owner/Applicant: Kensington Development Corp., Applicant seeks approval for Architectural Modifications to the Wal-Mart Center building.

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R. Dupler reviewed. Discussion took place regarding the parking and the remote control car races. It was clarified that there is ample parking.

M. GARDNER MOTIONED TO APPROVE. R. TRANSON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- e. **Tax Key 804.994.002, 2730 Heritage Dr.** Owner: Kensington Development Corp. Applicant: John Zingsheim. Applicant seeks approval for a Business Plan of Operation and Signage for *HobbyTown USA*. The business is relocating. Hours of operation, 10:00 AM to 9:00 PM Monday – Friday, Saturday 10:00 AM to 6:00 PM, and Sunday 11:00 AM to 5:00 PM. Two full-time employees and four part-time employees.

John Zingsheim was present at the meeting. The store is moving into the former *Little Professor* space. The facility is larger to accommodate their customers. There will now be a back door.

P. SCHUMAN MOVED TO APPROVE. R. TRANSON SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- f. **Tax Key 804-994-017, 2810 and 2814 Heritage Dr.** Owner: Kensington Development, Applicant: Scott LaTulipe (Aurora Health Care). Applicant seeks Signage approval of a Signage for *Wilkinson Medical Clinic, S.C* and Signage approval for *Aurora Pharmacy*.

R. Dupler stated that the commissioners should disregard the report in regards to signage. Scott LaTulipe was present at the meeting and reviewed their plans. Colored proposals for the signs were distributed to the commissioners. R. Dupler reviewed – they have a maximum square footage of 117 sf. In splitting the signs, one on each, Aurora Pharmacy is stacked letters and it should not exceed 40 inches. They are asking to exceed 40 inches with the sign, font, and total sf being the same, but the stacking is over. They have received authorization from the building owner. The variance is 8” per band on the stacking – 16” total. There are three other signs in the shopping center that do not appear to be within the stacking requirement.

M. GARDNER MOTIONED TO APPROVE OPTION A WITH VARIANCE FOR STACKING. C. MURSKY SECONDED THE MOTION. IT WAS STATED THAT THE SIGNS ARE IN COMPLIANCE TOGETHER, BUT THEY WOULD NOT BE IF THEY WERE SEPARATE. DISCUSSION TOOK PLACE. THEY ARE TOGETHER BECAUSE WILKINSON IS AN AFFILIATE OF AURORA. DISCUSSION TOOK PLACE ON DOWNSIZING THE AURORA SIGN TO MEET THE REQUIREMENTS. THEY WOULD LIKE BOTH SIGNS TO BE THE SAME FONT SIZE, HOWEVER THEY

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COULD REDUCE THE SIGN ON BOTH. C. MURSKY WITHDREW THE SECOND.

M. GARDNER MOTIONED TO REDUCE SIZE SIGN OF THE WILKINSON SIGN AND BRING IT IN COMPLIANCE WITH AURORA SIGN AND APPROVAL BY STAFF. C. MURSKY SECONDED THE MOTION. T. MANEY STATED THAT IF THE CLIENTS DID NOT LIKE THIS, IT WILL BE LEFT OPEN FOR HIM TO COME BACK NEXT MONTH. ALL WERE IN FAVOR.

P. Schuman stated that as new businesses come in, their signs should be compliant.

- g. **Tax Key 804.996.002. 2700 Golf Road.** Owner: M&I Lake County Bank
Applicant: Elizabeth Collier (Plunkett Raysich Architects). Applicant seeks approval of Architectural Modifications and Revisions to Site plan.

R. Dupler reviewed. It was noted that the proposal did not include any signage and a future tenant may petition for an address on this door or another form of entrance recognition. Staff recommends approval with conditions to prohibit any signage or use as a primary entrance for the future tenant. Signage associated with the relocated ATM should be submitted to staff for administrative approval.

F. WELCH MOVED TO APPROVE. P. SCHUMAN SECONDED. F. WELCH AMENDED HIS MOTION TO INCLUDE THAT THERE IS A STIPULATION OF SIGNAGE, AND THAT IT IS NOT A PRIMARY ENTRANCE FOR A FUTURE TENANT. P. SCHUMAN AGREED. THERE WAS NO NEED FOR SILT FENCING. ALL WERE IN FAVOR. MOTION CARRIED.

- h. **Tax Key 783-997-001 1849 Mariner Dr.** Owner: Mr. Ward, Applicant: Paul Schultz. Applicant seeks approval of a single-family site plan including boathouse architecture.

T. Maney stated that this parcel was here two years ago for the same thing. The boathouse and site work with retaining walls was approved at that time. This proposed boathouse does not need a variance and will meet setbacks and height requirement. On the lakeside it does exceed the maximum height requirements, but the average grade makes it well within the height requirement. The owner distributed photos of the existing boathouse. Because it is a brand new boathouse it needs to come before the Plan Commission. P. Schuman would like this to go before the Lake Welfare Committee. A site development plan was shown to the commissioners reviewed by the owner. The proposed house is approximately 4,000 sf. This issue here is the boathouse and retaining wall. T. Maney stated that this is less of a structure, etc. than what was approved before. The retaining wall will be a lannon outcropping material

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and will lend itself to being more natural. M. Gardner asked about how much disturbance would occur to the land around the boathouse in regards to the amount of clearing there will be. The site has been created to have minimal site disturbance. There is one willow that will need to come down because it is half dead and hanging over the lake. The hill will need to be excavated to tear down the old boathouse. What will be excavated will be for the new boathouse.

R. Dupler stated that the retaining walls also need to be addressed. Staff has reviewed this and has found it to be acceptable. They are well designed to accommodate the height requirements. They are here before the Plan Commission because they are in the setback. The material will be natural lannon stone. R. Dupler stated that the retaining walls are a necessity of the site plan and have some function.

M. GARDNER MOTIONED TO APPROVE THE BOATHOUSE PROVIDED THAT IT GOES THROUGH LAKE WELFARE COMMITTEE AND TO APPROVE THE RETAINING WALLS SETBACK. F. WELCH SECONDED THE MOTION. DISCUSSION TOOK PLACE REGARDING THE DNR AND NEIGHBORS. ALL WERE IN FAVOR. MOTION CARRIED.

5. PRELIMINARY CONSIDERATION

- a. **Tax Key 792.995, 1411 Genesee St.** Owner/Applicant: Dwayne Hanon. Applicant seeks preliminary consideration of CSM concept.

Dwayne Hanon was present. M. Czubkowski and R. Dupler reviewed. D. Hanon would like to increase the size of his lot by purchasing a portion of his neighbor's lot and was asking for conceptual approval before drafting the CSM and requested the City to consider abandoning the existing sewer service easement that encumbers a portion of one of the lots.

M. GARDNER MOVED TO APPROVE. F. WELCH SECONDED. IT WAS STATED THAT THIS DOES NOT HAVE TO GO BEFORE DEL-HART. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 804.994.013 and part of 804.999.014, Hwy 83 and Hillside Dr.** Owner: General Capitol Group, Marcus Corporation. Applicant: T-3 Group, LTD/General Capitol Group. Applicant seeks preliminary consideration on conceptual site plan.

R. Dupler reviewed. They are proposing to combine an existing lot with a portion of the Marcus lot. With this petition they are anticipating some things to fall in place: 1) approval of Wisconsin DOT in relaxing setback standards in relation to Hwy. 83 and 2) they are relocating the existing driveway further to the east.

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The company representative was present and presented their proposal. The building would have three exposed sides, with the fourth side acting as a retaining wall into the hill. The loading/unloading would be on the side near the rear with a corridor going all the way across the back for deliveries. The building has a bay system with a maximum of seven bays (1200 sf each) that makes it flexible in terms of leasing. Parking was discussed. The feedback from the commissioners was to have a fewer number of tenants rather than more tenants. The proposed driveway could be moved to the east. Concern was expressed about more traffic and the storm water issue. C. Mursky stated that the Plan Commission would need to look at the new requirements. The T-3 Group distributed a document entitled "Summary of Impervious Areas".

R. Dupler discussed the existing slopes -- they do not exceed 25%. A tree survey has taken place and the trees that they will be removing are low quality trees. What they are proposing can be achieved. F. Welch stated that this design with the combination of the two lots could work. D. Curtis Costa stated that it looks nice but that there are already so many strip malls in Delafield. Mayor Craig stated that it would be nice if it didn't have a "strip mall" appearance. Discussion took place on the look of a strip mall.

- c. **Tax Key 786.999, CTH "C" and North Westshore Dr.** Owner: Gerald and Dianne Jens, Applicant: MLG Development, Ryan Schultz. Applicant seeks preliminary consideration on revised conceptual site plan, Planned Development and Conditional Use.

A five-minute break was taken.

Ryan Schultz was present. He clarified that the total site area of the parcel to be developed is 46.2 acres. This does not include any land of the adjacent parcel to the south. An adjustment was made to the road so that lights would not shine directly into the neighbors on the north. The changes were summarized – The new plan shows a total number lots being five lots less than the last plan. The buffers have been increased, particularly along Hwy C. A buffer of open space has been created along north West Shore. Between lots 19 & 4 there is a strip of open space that will aid in the planning if any type of walking system is developed within the development. Along the east side of property it has gone from 10 lots to 9 lots. He described other work that is presently in progress. They are looking for feedback from commissioners as they move into the general development plan.

M. Carlson explained how this subdivision has been reviewed. R. Dupler stated that the plan is in substantial compliance to the direction of the Plan Commission. Aerial photos showing where Joyce Wessel's house is have been requested. The new average lot size is between 25,000 and 30,000 sf. R. Dupler stated that they would like to see what could

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potentially be done south of the property line. Storm water was discussed and will be further addressed in the future. The ROW on Hwy C was addressed – it is 80 feet. The ROW will not encroach on the open space shown on the plan. The open space that is in a low area is currently an outfall and several measures taken to improve the water quality with heightened concern for the lake. Mayor Craig stated that the water needs to be kept on the parcel and that it cannot flow/drain elsewhere. There are 14.6 acres (31.8%) of open space on this current plan. Last month's plan had 10.3 acres (23.8%) of open space. The open space has been increased by approximately 8%. The decrease of lots was given to the open space areas. The lot sizes are still the same as last month. R. Dupler reviewed the amount of open space required in a PUD. The commissioners discussed the fact that this proposal is giving 14.6 acres of open space and that this is not compacting a higher density of housing, but creating more open space. T. Maney thought that the side yard should not be averaged, but be a straight 20' side yard. B. Transon stated that the blue areas are misleading and give the impression that it is a waterway area – R. Schultz stated that within the next 30 days they would have a better idea of how this area would play out.

6. FINAL CONSIDERATION, APPROVALS, PREVIOUS APPROVALS

- a. **Tax Key 803-962, 1928 Hillside Court.** Owner/ Applicant: Jeanne P. Kay. Applicant seeks approval of a Conditional Use for a home business and a Business Plan of Operation for *Perfect Puppy/Perfect Dog*. Hours of Operation, 9:00 AM to 11:00 AM or 6:00 PM-8:00 PM two or three times Monday –Friday, and Saturday 9:00 AM to 11:00 AM. One part-time employee.

J. Kay and J. Tomaz were present at the meeting. She gave a synopsis of her business plan of operation. She has talked to several of the neighbors – all four had no objection to this home business – two wrote letters of support that were distributed to the commissioners. R. Dupler stated that staff has reviewed the proposal and their only concern is that they stagger the training sessions so that the driveway can be completely empty before the next class comes in. He stated that unless there are objections from neighbors, this is an appropriate use. A letter had been received from someone not in favor of the business (included in the commissioner's packets). J. Kay stated that the dogs are puppies (8-12 weeks in age) and advanced puppies (12-16 weeks in age). They would suggest to students that they use the area in the side yard on the east side of the garage for the dogs to use after class. She stated that rules would be set and they would not be allowed to walk their dog after class. Their requirement is that they pick their puppy up and take it from point A to point B. The dogs will either be leashed (lines) or carried.

It was suggested to approve this with a conditional use for one year as a trial period and review at that time, with no signs or street parking. B.

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Chapman would prepare a conditional use agreement that would incorporate all of the suggestions and commitments that were included in the submittal. This would be sent back to the Plan Commission for final approval.

P. SCHUMAN MOTIONED TO APPROVE THIS WITH A CONDITIONAL USE FOR ONE YEAR AS A TRIAL PERIOD AND REVIEW AT THAT TIME, WITH NO SIGNS OR STREET PARKING. F. WELCH SECONDED THE MOTION. IT WOULD BE BROUGHT BACK TO PLAN COMMISSION FOR FINAL APPROVAL AND THEN COMMON COUNCIL. ALL WERE IN FAVOR. MOTION CARRIED.

- b. **Tax Key 794.017.004, Parcel 7 CSM 9129 Cushing Park Business Center** – Owner SBA Towers, Inc. Applicant: US Cellular. Applicant seeks approval for 6 additional antennas to be mounted on the existing tower.

Vanessa Wallace made a correction that this would be on the existing US Cellular platform. There would not be any height increase. R. Dupler stated that staff has no objections.

P. SCHUMAN MOVE TO APPROVE (6B & 6C) SUBJECT TO REVIEW BY THE CITY ADMINISTRATOR REGARDING PERTINENT REGULATIONS AND NUMBER OF ANTENNAS. M. GARDNER SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

- c. **Tax Key 807.985.016, 3820 Kettle Court East.** Owner: City of Delafield. Applicant: US Cellular. Applicant seeks approval for additional tower platform to exhibit 15 antennas.

V. Wallace made a correction that this would be three additional flush mounted antennas. M. Carlson stated that this is not a substantial change. (See above item for motion.)

- d. **Tax Key 754-989-004, Price Rd and Nagawicka Rd.** Owner/ Applicant: Jorgensen & Taugher. Applicant seeks approval of a Conditional Use Permit and a Preliminary Plat for *Waterleaf* Subdivision a Plan Unit Development.

Atty. Dean Richards was present at the meeting.

C. MURSKY MOTIONED TO REMOVE THIS ITEM FROM TABLE. P. SCHUMAN SECONDED. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

Letters from Weiss Berzowski Brady Attorneys at Law, SEWRPC and Waukesha County Department of Parks and Land Use were included in

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the commissioner's packet. Atty. Dean Richards reviewed the history of this project. Their concept proposal two months ago included 27 lots in a PUD alongside the Bark River. After the public hearing and after staff's calculation of density using the SEWRPC one residential unit per five acres within the primary environmental corridor (PEC) the recommendation was made that the proper density for this project would be 24 units. At that time, Atty. Richards disagreed with staff's use of the SEWRPC density calculation and suggested that both Waukesha County and SEWRPC confirm that their calculation of density with respect to the PEC was correct, but at the last meeting they did not have these documents. They now have these documents. Both Waukesha County and SEWRPC both sent letters confirming that as long as the residential building sites were outside of the PEC, the one-to-five acre density did not apply and they believe that put them back into the range of 27 lots. They have met with staff since. The letter from Attorney Dean Richards (included in commissioner's packets) reviewed the range of different formulas that have been put forth for how the density calculation should put forth. They are now looking to get a determination from the Plan Commission as to what the allowed density for this project will be so that they can either proceed with the plans on the table or make modifications. He stated that if the City used their code provision that said that you have to look at the density when the project includes two separate zoning district, you either have to average or use both of the zoning densities. He stated that if you were to remove the C-1 zoning completely from the density calculation and only use the RE2 land for calculation of the density that supports a 25-lot subdivision. The compromise is a 26-lot PUD and inclusion of a bike trail along Nagawicka Road. They strongly disagree with some of the lower density calculations and think they are inappropriate. He stated that the letter from SEWRPC states that the primary environmental corridor issues are not involved here.

Discussion took place on the zoning in the PEC. Different methods of calculating how many acres per lot were reviewed. R. Dupler stated that the maximum number of lots was 23 when you go through the exact number in regards to the conservancy, the PEC, and the balance of the farmland. The original number of 24 lots came out of a conceptual analysis of that area that was attributable to the PEC taking into account the entirety from the area from the tree line to the north. When the subdivision was divided as a straight conventional subdivision there were 24 lots. Part of the property is RE2 and the other is C1. M. Carlson stated that the SEWRPC letter was saying that they would approve the subdivision with 27 lots as submitted because it doesn't show construction within the primary environmental corridor. The second half of their (SEWRPC's) statement is that the local government determines the number of permitted lots. Attorney Dean said that there was nothing in the Codes of the City of Delafield that calls for the 1:5 ratio in the PEC. M. Carlson said that the Plan Commission and City Council have applied

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that regulation that has been provided to them by SEWRPC, the general rule of thumb has been to accommodate the number of allowable units based on a one unit per five acre density. Discussion on past zoning decisions on subdivisions took place. Part of the property has underlying zoning of RE2 (two acre lots). There also is a C1 designation. The master plan defines the PEC as the C1 designation. There are two different zoning classifications plus another sliver of land that is included in the PEC that no one knows what to do with. The underlying zoning is RE2, but the master plan calls for it to be C1.

The process of zoning the Ruff property was discussed.

The advantages that the developer is providing to the City were discussed. There was a difference in opinion in the calculation methods.

P. Schuman liked the concept of a bike path parallel to Nagawicka Road. Attorney Dean Richards stated that this would alleviate the public hearing comments concerning traffic on Nagawicka Road. This would be a dedicated path area separate from vehicular traffic. The greenway along the Bark River was discussed. The Waukesha County plan calls for conservation in this area.

R. Dupler stated that if the body required a yield plan for a PUD, there would be a plan that identified exactly what was achievable. By running the calculations per his descriptions, you end up with 23 lots. Attorney Richards' plan had 24, that would serve as a yield plan and 24 could be achieved. As a PUD, 23 could be achieved. There are a number of issues to consider.

It was stated that the zoning, without regard to the conservancy and PEC density, could be up to 27.

M. Carlson stated that if the developer comes in with a plat of subdivision where it is laid out with 2 acre lots and you can get 24 out of them, that is what is achievable under the underlying zoning. That is the maximum. Given the fact that they have restricted access to the Bark River and Lake Nagawicka, they have included significant public areas and conservation areas along the river, they are making the connection to Sylvester Drive, they are addressing storm water issues from a regional perspective, he thought that there was rationale to end up at the higher number of the two (23 or 24). He could not recommend that there was a way to get to 26 because based on the underlying zoning and the analysis that is provided at an earlier stage, 24 was the number.

Attorney Richards stated that the yield plan of what you can get from a conventional subdivision is completely different than what the underlying density requirements are as has been applied by the City except for the concessions that were done for the Jens development tonight. Previously

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the City has looked at the gross acreage, divided it by the density of the underlying zoning and not deducted for the roads that were in that. With that calculation 27 or 28 lots are allowable. If you take a more conservative approach and completely eliminate the C1 zoning district from it altogether and look only at the RE2, you get a 25-lot subdivision.

M. Carlson stated that he is counting the primary area as part of the RE2 underlying zoning.

P. Schuman stated that he like the idea of the bike path along Nagawicka Road and thought this would be worth 25 lots.

Attorney Richards stated that they could review. Another option would be the Park Dedication fee here and perhaps the City would consider using some of the Park Dedication fee to form the bike path. M. Carlson would not recommend this.

It was clarified that the bike path would be separate from the road.

C. MURSKEY MOTIONED TO DENY THE 26-LOT REQUEST. R. TRANSON SECONDED. THERE WAS NO FURTHER DISCUSSION. FIVE WERE IN FAVOR. P. SCHUMAN OPPOSED. MOTION CARRIED.

This recommendation will go to the City Council.

Discussion took place on fewer lots. D. Curtis-Costa stated that she would be open to approve 25 with all other proposals and restrictions in place. The conservancy area could be common area space as opposed to lots. This would come out from between lots 20-25. C. Mursky stated that she would be uncomfortable with 25 lots and thought that the City needs to be careful of what was done in the past and continue to apply past practice. D. Curtis Costa thought that she would be willing to give a little in exchange for the benefits.

A straw vote was taken: D. Curtis Costa, 25; C. Mursky, 24; R. Transon, 23/24; P. Schuman, 25; P. Craig, 23/24; F. Welch, 24.

7. ZONING AND ORDINANCE REVISIONS

a. VANDAL PROOF HYDRANTS

C. MURSKY MOTIONED TO APPROVE. R. TRANSON SECONDED. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.

b. TEMPORARY SIGN PERMIT WAIVER FEE

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

c. **ADMINISTRATIVE APPROVAL OF BUSINESS PLANS OF OPERATION**

D. CURTIS-COSTA MOVED TO DENY. R. TRANSON SECONDED. DISCUSSION TOOK PLACE. M. CARLSON STATED IF THE CITY ADMINISTRATOR BE GIVEN THE PERMISSIVE AUTHORITY TO APPROVE TEMPORARY BUSINESS PLANS OF OPERATION WITH THE INTENT THAT THE "TEMPORARY" MEANS UNTIL THEY CAN GET TO THE NEXT PLAN COMMISSION, THEN HE SUGGESTED DRAFTING AN ORDINANCE TO THAT AFFECT. THIS WOULD TAKE BUSINESSES OUT OF THE MODE OF BEING VIOLATORS OF THE CODE, ETC. IT WAS STATED THAT THE WORD "TEMPORARY" MEANS TIME PERIOD - THAT THE BUSINESS PLAN OF OPERATION THAT WOULD BE GRANTED AT THE ADMINISTRATIVE LEVEL IS ONLY GOOD FOR A CERTAIN TIME PERIOD - UNTIL THEY CAN GET TO THE NEXT PLAN COMMISSION MEETING. D. CURTIS-COSTA STATED THAT SHE DOES WANT TO DENY THE WHOLE THING AND WOULD LIKE TO SEE #2 REWRITTEN. ALL WERE IN FAVOR OF THE MOTION. MOTION TO DENY CARRIED.

P. SCHUMAN MOVED THAT CITY ADMINISTRATOR BE GRANTED AUTHORITY TO ISSUE A TEMPORARY PLAN OF OPERATIONS UNTIL THE NEXT AVAILABLE PLAN COMMISSION MEETING WHERE IT WOULD BE BROUGHT FOR DISCUSSION. HE MODIFIED HIS MOTION AND MOVED THAT SECTION 17.33(2) PLAN OF OPERATIONS BE AMENDED THAT THE CITY ADMINISTRATOR MAY HAVE THE AUTHORITY TO ISSUE A TEMPORARY PERMIT UNTIL THE NEXT OFFICIAL PLAN COMMISSION MEETING IS HELD. M. GARDNER SECONDED. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED.

d. **ZONING TEXT - FLAG LOT**

M. GARDNER MOTIONED TO DENY. SHE WOULD LIKE TO SEE INVESTIGATION ON WHETHER MR. ZAHORIK'S LOT WOULD BE AFFECTED AND SHE AGREED WITH THE GENTLEMEN AND THOUGHT IT SHOULD BE GRANDFATHERED WITH EXISTING OWNERS AND IF THE LOT IS SOLD IT WOULD THEN CHANGE TO THE NEW LAW. M. GARDNER RETRACTED HER DENIAL, BUT MOVED TO HAVE LEGAL COUNSEL REVIEW AND THEN HAVE IT COME BACK. F. WELCH SECONDED THE MOTION. C. MURSKY ASKED ABOUT THE WORDING "HEREAFTER". ALL WERE IN FAVOR OF CALLING THE QUESTION. ALL WERE IN FAVOR OF SENDING THIS TO LEGAL COUNSEL. MOTION CARRIED.

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8. HEARING DATES

M. Czubkowski reported on the July 24 public hearing. There were approximately 90-100 people. Eighty-nine people signed in, 43 were City of Delafield residents. It was three hours in length.

In another matter, R. Transon stated that an ordinance could be developed regarding pesticides/herbicides on properties that abut the lake or have water that goes into the lake. M. Czubkowski sent this out today.

9. ADMINISTRATOR'S REPORT

None.

10. BUILDING INSPECTOR REPORT

Total number of permits was 30, plus three occupancy permits, new construction included one single family home.

11. BOARD OF ZONING APPEALS

No report.

12. CORRESPONDENCE

- a. Letter in response from Roger Dupler to revised sign submittal of Kuhlenbeck's Pub.
- b. Letter from League of Wisconsin Municipalities.
- c. Letter from Dennis Matusin (June 27, 2002), in regards to Waterleaf Development.
- d. Letter from Dennis Matusin (July 22, 2002), in regards to Waterleaf Development.
- e. Response letter from Matt Carlson to Mr. Matusin.
- f. Letter from Jon G. Spheeris (July 25, 2002), requesting that Village Square not be placed on the July 31, 2002 agenda.

13. ADJOURNMENT

R. TRANSON MOVED TO ADJOURN. P. SCHUMAN SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED. THE MEETING ADJOURNED AT 11:22 P.M.

Respectfully submitted:

Minutes Prepared By:

Marilyn Czubkowski, CMC
City Clerk/Treasurer

Accurate Business Communications