

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

Call to Order

Mayor McAleer called the meeting to order at 6:30 P.M.

Pledge of Allegiance

The Pledge of Allegiance was recited.

Roll Call for the Wednesday, May 29, 2013 Plan Commission meeting:

Present

Absent

- Ed McAleer, Mayor
- Michele DeYoe, Ald.
- Kent Attwell
- Kevin Fitzgerald
- Dan Jashinsky
- Matthew Katz
- Chris Smith
- Jane Lazynski
- Roger Dupler, Planner
- Gina Gresch, Clerk-Treasurer
- Scott Hussinger, Building Inspector (Arrived at 7PM)
- Jim Hammes, City Attorney
- Tom Hafner, Administrator / Public Works Director

Announcement of Closed Session.

E. McAleer stated the Plan Commission will be convening into Closed Session and will resume the rest of the Plan Commission meeting at 7PM.

Motion to convene into Closed Session pursuant to 19.85(1)(g), Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved., more specifically to discuss the threatened litigation in which the City may become involved with private property owners over Kelly's Greenscapes application for Business Plan of Operation for property at DELC 0799.998 & 0799.999, 940 Indian Spring Drive and 1050 Indian Spring Drive, Delafield.

**K. FITZGERALD MOVED TO CONVENE INTO CLOSED SESSION PURSUANT TO 19.85(1)(G), CONFERRING WITH LEGAL COUNSEL FOR THE GOVERNMENTAL BODY WHO IS RENDERING ORAL OR WRITTEN ADVICE CONCERNING STRATEGY TO BE ADOPTED BY THE BODY WITH RESPECT TO LITIGATION IN WHICH IT IS OR IS LIKELY TO BECOME INVOLVED, MORE SPECIFICALLY TO DISCUSS THE THREATENED LITIGATION IN WHICH THE CITY MAY BECOME INVOLVED WITH PRIVATE PROPERTY OWNERS OVER KELLY'S GREENSCAPES APPLICATION FOR BUSINESS PLAN OF OPERATION FOR PROPERTY AT DELC 0799.998 & 0799.999, 940 INDIAN SPRING DRIVE AND 1050 INDIAN SPRING DRIVE, DELAFIELD. K. ATTWELL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED BY ROLL CALL VOTE.**

**ROLL CALL VOTE:**

- E. MCALEER YES**
- K. ATTWELL YES**
- K. FITZGERALD YES**
- D. JASHINSKY YES**
- M. KATZ YES**
- M. DEYOE YES**
- C. SMITH YES**
- J. LAZYNSKI YES**

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

Plan Commission convened into Closed Session at 6:30 p.m.

Motion to re-convene into Open Session.

**C. SMITH MOVED TO RE-CONVENE INTO OPEN SESSION. K. ATTWELL SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED BY ROLL CALL VOTE.**

**ROLL CALL VOTE:**

<b>E. MCALEER</b>	<b>YES</b>
<b>K. ATTWELL</b>	<b>YES</b>
<b>K. FITZGERALD</b>	<b>YES</b>
<b>D. JASHINSKY</b>	<b>YES</b>
<b>M. KATZ</b>	<b>YES</b>
<b>M. DEYOE</b>	<b>YES</b>
<b>C. SMITH</b>	<b>YES</b>
<b>J. LAZYNSKI</b>	<b>YES</b>

Meeting resumed at 7PM.

**PUBLIC HEARING #1: REZONE & CONDITIONAL USE PLANNED UNIT DEVELOPMENT AMENDMENT**

**TAX KEY:** 0797.979.005 through 0797.979.024

**APPLICANT:** Miller Marriott Custom Homes, LLC

**OWNER:** Commerce State Bank

**MATTER:** Applicant seeks to rezone the properties from R-3 PUD to R-4 PUD and a Conditional Use Planned Unit Development amendment to convert 20 single family condominiums to 21 fee simple lots with common open space.

E. McAleer opened the public hearing at 7PM. Attorney Dean Richards, the property owner's attorney, stated this could be a very easy approval as this is a simple subdivision with a slight modification to the setbacks. The Sanctuary was approved as a condominium development to appear as single family homes. After it was approved, two units were built; one is currently occupied, the other is a model, which the developer and his family will live in. 18 units have been foreclosed on by Commerce State Bank. His client has all the properties under contract with the exception of one, which is pending, to sign off on the conversion to a subdivision. The request is to rezone the lots from R-3 to R-4; R-4 is the same as the properties which surround The Sanctuary. R-4 has a 35 front foot setback, and the developer is asking for allowance of a 25 foot setback. Other than that change, this is a standard compliant subdivision. There will still be common area space in the development; however the trails will not be developed to allow for better storm water drainage. The homeowners will be allowed to design their own homes under a set of architectural controls. The landscaping plan will be updated to include the plantings for screening the homes which face Main Street and three sides of the subdivision. There could be a reduction in footprint of the buildings. The Stormwater Management Agreement and facilities will remain as well as the parking easement. The Homeowners Association will continue to maintain the community well.

**PUBLIC COMMENTS:**

**Denise Labott, 1306 Main Street**, stated eight years ago when this development was approved there was to be a double row of evergreen trees on the east and south sides of her property and one other property. Those trees were never planted on the east side and half of the trees on the south side have died. She is also requesting the Plan Commission to support her in asking the developer to follow the approved plan to replace the trees and to plant ones that are tall enough to block the light pollution from cars which come right into her living room.

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

**Dave Greenway, 1451 Main Street**, stated he lives across street from The Sanctuary and lives near the lower pond. He asked if the new developer is going to do anything to maintain the pond. Half of it is algae and it breeds mosquitoes. There is no moving water in the pond except when it rains. If the internal pathways are going to be abandoned, could a sidewalk installed along Main Street? Also, the berm created to make the pond lacks landscaping and is basically all weeds and buckthorn; something needs to be done about that. The dead trees also have to be replaced. What kind of maintenance will be done on the outlots? Will the grass be cut or will it be grown out?

**K. ATTWELL MOVED TO CLOSE PUBLIC COMMENTS PERTAINING TO THE REZONE & CONDITIONAL USE PLANNED UNIT DEVELOPMENT AMENDMENT FOR MILLER MARRIOTT CUSTOM HOMES, LLC. PUBLIC HEARING AT 7:11 P.M. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

1. Approve Plan Commission meeting minutes of March 27, 2013 meeting.

**K. ATTWELL MOVED TO APPROVE THE MARCH 27, 2013 PLAN COMMISSION MEETING MINUTES AS PRESENTED. C. SMITH SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

2. City of Delafield Citizen's Comments pertaining to subjects on this agenda.

**Mark Lichte, Lake Country School District Administrator**, stated he is here representing the Lake Country School District Board. The Plan Commission should have received a letter from him in early May regarding this. If the Plan Commission has questions about that letter they should contact him. The School Board doesn't have any objections to CELA or its mission; the opposition is to have a fifth private school in the boundaries of their school district.

**Laura Schult, 935 Bahr Road**, submitted a petition into the record and submitted it to the City Clerk objecting to Kelly's Greenscapes. She also gave a brief presentation showing pictures of Kelly's Greenscapes location in Sussex. **\*\* Clerk's Note: The statement is attached to the minutes.\*\***

**Ralph Gerber, 3707 Campbell Trace**, stated he is very much against the CELA proposal and will speak more about it if and when it comes to a public hearing. He has lived here 28 years and in all those years he and others in the area have been under the impression via the 1991 Comprehensive Plan, the 2005/2006 NE Quadrant Plan and the most recent Master Plan/Smart Growth Plan, that this land is to be developed as residential. Anything different changes the character of the neighborhood. The Plan Commission should also look deeper into the traffic analysis. The analysis only covers weekday peak traffic, not total traffic during the week. When the DOT proposed widening STH 83, their traffic analysis showed the majority of the traffic either began or terminated in the City and wanted the City of Delafield to pay for the project and the City said no. With the DOT widening STH 83 to the north and south of the City, they will eventually want to connect those dots. This proposal would add a great number of trips beginning in the City. The traffic analysis also doesn't include the future potential development in the area. In the future, there would be more students and more trips. The traffic analysis used a traffic count for an average school; this is not an average school. All students will be arriving in a car not a bus. A better way to figure these trips is to look at University Lake School, which is similar to CELA, count their cars and divide that by the number of students, and use that as a basis of the approximate number of trips there will be. Also, there is some confusion in the traffic analysis study as to how many neighborhoods there are on Campbell Trace. There are two, not one.

**Mike White, 3787 Campbell Trace**, stated in regards to CELA there wasn't an opportunity for others to bid on the property to buy it, which he wanted to do. Mr. Siepman must have had an agreement that he had first right of refusal on that property. Everyone in the neighborhood assumed this land would be developed into a residential neighborhood. If approved, there will be 154 acres taken out of the tax base. Years ago the City of Delafield felt the best use of this land is residential. There are also two

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

renditions of the proposal, one showing the connector street and one not showing it. He understands the city wants a connector road on Nagawicka Road and isn't sure why it is not on the plans. The traffic on Nagawicka Road is already a nightmare and will be a burden to those who live there. The best plan is to stick to what it was originally planned for: residential.

**Nicholas Cera, 929 Bahr Road**, stated he supports everything Laura Schult stated. He thanked Kelly's Greenscapes for appreciating their neighborhood which is what drew the residents to that area so he understands the appeal. He doesn't support the project. He too is a business owner in the City. This proposed business will be kitty corner to his back yard. This type of business will not bring more jobs to Delafield unlike two other companies, Kohl's and Red Prairie who at one time proposed coming to Delafield. Kelly's would bring some added tax revenue which is great but this is more of a lateral move for Mr. Kelly's business and a negative move for the City. As a neighbor he doesn't want to be emotional about this but can't help but think about the fertilizer plant explosions in Texas. Onsite fertilizer and salt is a health concern. This property is visible from the interstate. He doesn't see this friendly neighborhood staying friendly if this business and its traffic move into the neighborhood. The traffic related to this business would be inappropriate in this neighborhood on a cul-de-sac with only one way in and one way out. He owns a business on Oneida Street, The Delafield Acupuncturist. The building he is in fits into Delafield's historic atmosphere. The City should increase the historical setting of downtown Delafield and push it out to Lapham Peak Park. We need to attract more people to this area. Trucks going in and out of Kelly's Greenscapes isn't going to help the existing traffic issues. Just look at the increased traffic just from Cushing Elementary School from picking up and dropping of kids. This spot is only convenient to the petitioner because of I-94.

**Lance Grady, 1118 Bay Shore Lane**, stated he has known Mr. Kelly for over 10 years. Kelly's Greenscapes has completed two landscaping projects at his house; he does immaculate work. The Plan Commission needs to examine the proposed plans more carefully as they are very impressive. The pictures shown earlier are not a reflection of proposal submitted to the Plan Commission. The equipment you see will be housed in a building proposed to be built on the property. The fertilizer tanks are actually salt water tanks. Everyone needs to be clear of the statements that are being made. He urged the Plan Commission to adopt the plans as proposed by Mr. Kelly. This proposal is an opportunity to get rid of the eyesore currently on that property.

**Kenneth Mennen, 3811 Nagawicka Road**, is in opposition to CELA project. He believes if it goes in, a road will be cut from 83 through to Nagawicka Road. If another school goes in, which we don't need in this area as there are many good options, arteries from local traffic will cut through their neighborhood and traffic will go through the roof. ULS traffic is one car per student and there will be some costs from the LCSD budget if this school goes in. This is not a good idea; there is no need for another school. He has nothing against this type of school; LCDS, ULS, Lutheran High Schools in Hartland and Nashotah are already here. He asked Plan Commission to consider their opinions about this.

**Bob Punjak, 1106 Bahr Road**, spoke about Kelly's Greenscapes and is familiar with construction and landscape businesses; they are not neat and clean. There is always leftover materials which have to be stored somewhere. It's only a matter of time until the green space is filled up with old materials. Indian Spring has limited access: one way in/out. Putting trucks that size on that road will be a terrible mistake. When the trucks are loading/unloading, they will be blocking the street, especially in the morning. Dump trucks will pull out of there three or four at a time, which won't allow traffic to go through. There are already problems with the Park and Ride, and having this extra truck traffic will make it worse. When the Park and Ride is full, people are on the side of the road but not all the way which will make it even harder to get through that area. This will be a horrible mistake.

Clerk Gina Gresch read a statement into the record from Robert Coon, 498 S. Lapham Peak Road, who could not be at the meeting and is opposed to Kelly's Greenscapes. **\*\* Clerk's Note: The statement is attached to the minutes.\*\***

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

**K. ATTWELL MOVED TO CLOSE CITIZEN'S COMMENTS PERTAINING TO SUBJECTS ON THE AGENDA AT 8:04 P.M. K. FITZGERALD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

3. Consent Agenda (Recommended approvals in accordance with the staff report).
- a. **DELC 0793.995, 6 W. Main Street, Delafield. Owner: Ronald Bethia. Applicant: Gabriel O'Hern. Applicant seeks approval of a Business Plan of Operation for an asphalt maintenance and construction business, O'Hern Asphalt, LLC.** Hours of Operation are Monday through Saturday 7am to 8pm and with 1 part-time and 2 full-time employees.
  - b. **DELC 0793.995, 6 W. Main Street, Delafield. Owner: Ronald Bethia. Applicant: Jim Wieschel. Applicant seeks approval of a Business Plan of Operation for a construction business, Top Tier Custom Designs, LLC.** Hours of Operation are Monday through Saturday 7am to 8pm and with zero employees. Applicant also wishes to change the color of the building from pink to gray.
  - c. **DELC 0736.988.001, at the intersection of Campbell Trace and STH 83, Hartland. Owner: Ione Morris Living Trust. Applicant: Suzanne Daur. Applicant seeks approval of a Temporary Business Plan of Operation for a sweet corn stand.** Hours of Operation are July 1 through September 30, Sunday through Saturday, 8AM to 7PM.
  - d. **DELC 0793.055, 329 Genesee Street, Delafield. Owner/Applicant: Debra Fink. Owner/Applicant seeks approval of a Business Plan of Operation for a hair salon and spa, The Beehive Beauty Suites, LLC.** Hours of Operation are Sunday through Saturday 8am to 10pm with 4 part-time employees.
  - e. **DELC 0807.987.005, 3562 Hillside Drive, #3, Delafield. Owner: Bill Isler. Applicant: Erin O'Boyle. Applicant seeks approval of a Business Plan of Operation for a dance studio, Social Style Dance, LLC.** Hours of Operation are Sunday through Saturday 7am to 11:59pm and with 3 part-time and 1 full-time employee.
  - f. **DELC 0793.001.004, 514 Wells Street, Delafield. Owner: Equitable Bank, Randy Seifert. Applicant: Karen Wilman-Salituro. Applicant seeks approval of a Business Plan of Operation for a painting studio, Arte Wine & Painting Studio.** Hours of Operation are Sunday through Saturday 9am to Midnight with 8 part-time and 4 full-time employees.
  - g. **DELC 0798.012, 708 Genesee Street, Delafield. Owner: Melton Investments, LLC. Applicant: Todd & Kelli Stuckart.** Applicant seeks approval to repaint the building at 708 Genesee Street with Dover White base color and Olde Navy Blue trim color.

**K. ATTWELL MOVED TO APPROVE ITEMS 3C, 3D, 3E, 3F AND 3G ON THE CONSENT AGENDA IN ACCORDANCE WITH THE STAFF REPORT, AND TO REMOVE ITEMS 3A AND 3B FOR FURTHER DISCUSSION. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

**CONSENT AGENDA ITEMS 3A & 3B:**

K. Attwell asked what the petitioner's plans are for improving the existing site because this is the time to make those changes as it is an eyesore. Gabe O'Hern stated the garbage will be picked up, berms fixed, grass mowed, cleaning up the entrance and landscaping done. He is not sure if the parking lot will be paved but will check with the property owner. There are only three employees and they will park in the back. He agreed to work with the City Planner on the landscaping improvements. He currently is located in Pewaukee and has to do vehicle maintenance outside and in the new site he can do that inside as well as store equipment to keep it out of the elements and away from theft. C. Smith asked if there is a vehicle limit for this area. R. Dupler stated no but the Plan Commission has discretion to allow parking outside overnight or not. The history of this site includes a landscaping company who was storing equipment outside. He is not sure if the interior space will accommodate those vehicles. G. O'Hern stated he keeps his fleet small and they will fit inside the building. All asphalt is obtained from the plant so there are no materials on site other than the sealer tank and roller. He does not use any harmful chemicals.

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

**C. SMITH MOVED TO APPROVE ITEMS 3A AND 3B ON THE CONSENT AGENDA IN ACCORDANCE WITH THE STAFF REPORT. K. FITZGERALD SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED WITH ONE NAY BY K. ATTWELL.**

4. Final Consideration, Approvals, Previous Approval.

- a. **DELC 0798.999.001, 935 Main Street, Owner: Clearview Home. Applicant: City of Delafield.** Applicant seeks approval of a provision in a Sidewalk Easement Agreement between Clearview Home Corporation (Grantor) and the City of Delafield (Grantee) such that the public sidewalk to be installed on private property instead of the public right-of-way (Milwaukee Street) will not count against impervious area calculations and green space calculations for any future redevelopment of the property (DELC 0798.999.001, 935 Main Street).

***TAKEN FROM PLANNER DUPLER'S STAFF REPORT:** The Clear View Home has been working closely with the City to help realize the route for the Milwaukee Street sidewalk. As a result of allowing the sidewalk on their property an access easement must be established. If the public sidewalk is installed on the Clear View Home property then that area of impervious sidewalk will contribute to the allowable percentage of impervious surface and may adversely impact any redevelopment plans. In addition, the same area should not be counted against the required green space associated with redevelopment either. Therefore, the institution has requested that language be created and incorporated into the easement agree to ensure that the area of the sidewalk does not contribute to the impervious surface in the future or negatively impact the green space calculations. Recommendation: Approval, recommend to the City Council accordingly.*

**K. FITZGERALD MOVED TO APPROVE THE PROVISION IN A SIDEWALK EASEMENT AGREEMENT BETWEEN CLEARVIEW HOME CORPORATION (GRANTOR) AND THE CITY OF DELAFIELD (GRANTEE) SUCH THAT THE PUBLIC SIDEWALK TO BE INSTALLED ON PRIVATE PROPERTY INSTEAD OF THE PUBLIC RIGHT-OF-WAY (MILWAUKEE STREET) WILL NOT COUNT AGAINST IMPERVIOUS AREA CALCULATIONS AND GREEN SPACE CALCULATIONS FOR ANY FUTURE REDEVELOPMENT OF THE PROPERTY (DELC 0798.999.001, 935 MAIN STREET) FOR DELC 0798.999.001, 935 MAIN STREET, OWNER: CLEARVIEW HOME. APPLICANT: CITY OF DELAFIELD, SUBJECT TO THE COMMON COUNCIL'S ACTION TAKEN ON MAY 6, 2013. M. DEYOE SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

- b. **DELC(S) 0797.979.005 – 0797.979.024, Sanctuary Lane, Delafield. Owner: Commerce State Bank. Applicant: Miller Marriott Custom Homes, LLC.** Applicant seeks approval to rezone the properties from R-3 PUD to R-4 PUD and a Conditional Use Planned Unit Development amendment to convert 20 single family condominiums to 21 fee simple lots with common open space and recommendation to the Common Council of the same.

***TAKEN FROM PLANNER DUPLER'S STAFF REPORT:** The Sanctuary exists as a single family condominium where the ownership of each home site is limited to the building footprint and a minimal amount of area surrounding the foundation, all other lands are held in common ownership. This project was developed as a Planned Development, where the developer offered a number of tangible community benefits in exchange for a number of setback and lot size variances. The project has been inactive since 2006.*

*At this time, the petitioner offers the City a change in the subdivision program to convert the property from a condominium development to a standard Planned Development that exhibits 21 single-family and two-family fee simple lots. As proposed, the new development plan introduces reduced building footprints and building envelopes that are much more compatible with the surrounding neighborhood. The action to be taken will*

### CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

*essentially revise the existing General Development Plan and allow the project to move forward to the Specific Implementation Plan stage.*

*To accommodate this, the developer requests a conversion to the R-4 underlying zoning district and a variance to the district standard 35'; it is proposed to afford a 25' front setback for conventional orientation and 14' for side loaded garages. In the existing condition the condominium homes are allowed reduced front setbacks that range from 25' to 1'. With this proposed variance, 21 single family lots may be realized with a variety of garage orientations. Two of the existing homes that were constructed as part of the original development, have been incorporated into the new layout and will be legal lots in the Planned Development. Conversion of the underlying zoning to R-4 is appropriate, the Master Land Use Plan identifies this area as appropriate for R-4 development and immediately to the east is an existing R-4 neighborhood.*

*There is no proposed change to the existing signage, lighting, or infrastructure except that sewer laterals may be relocated. With the new lot configuration home sites are shifted about the site. A new grading plan will need to be produced that reflects the adjusted building location. The City Engineer's review of the storm water management plan has found no critical issues to warrant concern. In comparison between the size of the proposed homes, to the size of roofs that were originally approved, it is evident that impervious areas are greatly reduced.*

*In the conversion of this project the developer will maintain the intent of the original landscape plan. A number of landscape features are already in place, some have suffered mortality and have been documented against the existing Letter of Credit. The balance of plant material yet to be installed shall become the responsibility of the new developer. A revised landscape plan for the entire development shall be submitted for review in the S.I.P stage of approval. Tree mitigation has already been incorporated into the approved landscape plan. Although the new plan introduces a home site immediately east of the parking lot, the trees in this area are documented as low quality invasive species by the City Forester and do not trigger mitigation.*

*The Plan Commission should note that the petitioner, although a home builder, is not intending to construct all of the homes in the development. As a real estate developer their role is to make this project workable and sell fee simple lots to home owners or other home builders. As such they have not prepared any sample architecture for Plan Commission consideration. The Plan Commission may wish to request Subdivision Covenants and Restrictions that identify architectural character, materials, garage orientation, or any other element deemed necessary for recordation. They should also establish an architectural review board and layout an approval process.*

*Recommendation: Approval and recommend to the City Council. The Plan Commission should refer to the accompanying Conditional Use Review, Determination and Approval guide sheet to appropriately frame a motion. The rezoning, as well as the Conditional Use Permit, may be judged by the same criteria and should be clearly recommended to the Council for action. Approval should be contingent upon approved SIP documents to include Site Engineering, Landscaping and Architectural controls added to the Covenants and Restrictions. In addition, staff recommends that the developer provide a plan that identifies the quantity and location of all two-family structures. The Plan Commission may request such a plan in order to curtail unregulated development that may significantly increase the aggregate density of residential units.*

There was discussion between K. Fitzgerald and R. Dupler regarding how the space for the extra lots came about, the retention pond plan and what the homeowners association will take care of. R. Dupler stated the lot geometry is smaller, therefore allowing for extra space for more

### CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

lots. The original plans were designed to have prairie grass and wildflowers. If the Plan Commission wants the pond maintained and manicured, the Plan Commission should direct the developer to include that in the landscaping plan which is to be presented to the Plan Commission. The homeowners have fractional ownership of the pond so it is up to them to run the pump in the pond. T. Hafner suggested using a small aerator instead of a fountain. There were more questions regarding the pond and how the City insures the pond will be maintained since the City has had this same problem with the last two developers of this area. D. Richards stated pond maintenance is up to the homeowners association. If they do not fulfill their responsibility, the City steps in, does the work and special charges each property owner for the maintenance costs.

D. Richards asked the Plan Commission to consider that the promises made by the prior developer were too large of promises as related to what was going on in the marketplace. Since the condominium units failed to be developed, the new developers are looking at having to not make good on a prior developer's promises. His client is merely purchasing the lots the houses will be built on, not the entire development. He also asked the Plan Commission to use the current Letter of Credit on file to fulfill the prior developer's promises if the City really wants those brought into compliance. This way the new developer can come in and he can do what he promises to do. There was further discussion about the Letter of Credit, how it can be used and if it can even be called upon. D. Richards stated the Letter of Credit is a financial guarantee by the bank, not the failed developer. He also stated the preliminary landscaping plans are in the ePacket. He hopes to meet with Planner Dupler to compare the old landscaping plan to the new one and see what overlaps.

**K. FITZGERALD MOVED TO APPROVE THE REZONE OF THE PROPERTIES FROM R-3 PUD TO R-4 PUD AND A CONDITIONAL USE PLANNED UNIT DEVELOPMENT AMENDMENT TO CONVERT 20 SINGLE FAMILY CONDOMINIUMS TO 21 FEE SIMPLE LOTS WITH COMMON OPEN SPACE, APPROVE FRONT SETBACK CHANGES FROM 35 FEET TO 25 FEET, APPROVE SIDE-LOAD GARAGES FRONT SETBACK FROM 35 FEET TO 14 FEET AND RETURN TO PLAN COMMISSION WITH SIP DOCS AS DESCRIBED IN THE STAFF REPORT, FOR DELC(S) 0797.979.005 – 0797.979.024, SANCTUARY LANE, DELAFIELD. OWNER: COMMERCE STATE BANK. APPLICANT: MILLER MARRIOTT CUSTOM HOMES, LLC, AND RECOMMENDATION TO THE COMMON COUNCIL OF THE SAME. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. ALL WERE IN FAVOR. MOTION CARRIED.**

5. Plans of Operation, Signage and Site Plan.

- a. **DELC 0799.998 & 0799.999, 940 Indian Spring Drive and 1050 Indian Spring Drive, Delafield. Owner: Marion J. Doermer. Applicant: Shawn Kelly, Kelly's Greenscapes.**

Applicant seeks approval of a Business Plan of Operation for a landscaping business, Kelly's Greenscapes, conditioned upon Site Development Plan approval.

**TAKEN FROM PLANNER DUPLER'S STAFF REPORT:** *The proposed BPO is a continuance of the approval process initiated last month. As part of the Conceptual Presentation an analysis of this use determined that it may be considered a permitted use in the B-5 district. The petitioner was directed to prepare site plan documents and return to the Plan Commission. At this time the petitioner wishes to confirm the use as allowable in the B-5 district before proceeding to site development plans. Therefore, a Business Plan of Operation application is formally submitted for consideration and action. The Plan Commission will want to determine if the described use conforms to the permitted uses outlined in 17.39(26)(b), and specifically which of the itemized permitted use descriptions is applicable. If it is determined that item (10) adequately describes the proposed use then the Plan Commission may approve the proposed Business Plan of Operation. If it is determined that item (11) is the appropriate description for the proposed use, then the Plan commission will want to recommend the*



### CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

*Business Plan of Operation to the City Council for approval. In either case the approval must be contingent upon site plan approval given the fact that Kelly's Greenscapes must not be permitted to operate on the property in its current condition. Recommendation: Determine which ordinance description is applicable to the proposed use. The use is substantially consistent to item (10), if one accepts that servicemen may be a description of the employees function. If the Plan Commission does not feel comfortable that "servicemen" sufficiently describes construction crews leaving the site in the morning and returning in the afternoon then the Plan Commission should recognize the proposed use as similar to a described use and recommend it to the Council as mandated in item (11).*

E. McAleer stated there are many questions the Plan Commission needs answered about this proposed business. The proposed business plans need to be explained in much better detail.

Shawn Kelly, Kelly's Greenscapes owner, stated the Sussex location does not have any office space and only had enough room to house two trucks as his current location is only on .6 acres; that's why his Sussex location looks the way it does. He doesn't have any space for anything out there, which is why he wants to move to Delafield. He is proposing a building for 36 vehicles but does not have that many vehicles. The office building will be 2,400 square feet, the vehicle building will be 9,000 square feet and a third building has not been determined yet. He reviewed his building plans with the Plan Commission showing what the buildings will look like which are being designed to match the historical district in downtown Delafield; where they will be located; bermed areas surrounded by large evergreen trees; landscaped areas; retention pond; employee parking; customer parking; a salt shed built to DNR regulations; and product display areas which will include stone, brick and mulch. He explained his is a design/build firm, not a maintenance company. Items are constructed on the job site and equipment is left at the job site as well. He also does not store fertilizer. The parking lot is designed to be large enough for employees to park in the back as well as leaving enough room for semis to pull all the way in, dump the mulch and pull out onto the road. The parking lot will be fully screened and fenced in. There was further discussion about mulch, where it is stored, how it is sold and what it is used for. S. Kelly stated his business does sell mulch but as a part of the job they are working on; they bring the mulch to the job site. He stores sample materials outside so customers can touch and see the product they are buying; brick and stone is shipped to the job site, however leftover materials from jobs are kept outside.

E. McAleer stated he is not convinced this is not a construction yard. He asked the petitioner to explain further the quantity and frequency of trucks entering and leaving the proposed site. S. Kelly stated there will be about six trucks leaving the site each morning. E. McAleer stated he and the Plan Commission are looking for assurances that in three to five years this site will not morph into a construction yard which is what the neighbors are worried about. S. Kelly stated he will sign an agreement laying out the specifics of what he can and cannot do. Plan Commission members discussed whether or not this type of business truly fits in the B-5 zoning district. C. Smith asked what "servicing headquarters" means and told the Plan Commission the dictionary says it is "work done for others as a business." There's nothing in the zoning code that he can see which states storage for materials is allowed. He questioned how this business can fit in this zoning. Plan Commission members asked more questions regarding the mulch and salt storage. S. Kelly stated the salt storage will be in a building and they can move the mulch inside too, however the bricks and stone will stay outside in bins for people to see. Plan Commission members continued to discuss whether or not the storage of salt and mulch outside fits into the B-5 zoning district since B-5 states no outdoor storage. S. Kelly stated he can keep the mulch at the Sussex site if he has to for compliance.

D. Jashinsky stated he lives in the Indian Spring neighborhood and feels this could become a bigger issue in the winter when the trucks are loading up with salt at 4AM. This is not a 9AM to 5PM business and the noise factor hasn't even been mentioned yet. E. McAleer stated

### CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

allowance of snow removal and salt storage puts this business in the realm of a construction yard. S. Kelly stated the six trucks kept onsite are filled with salt prior to a storm and can only be billed during the approved hours of operation. D. Jashinsky stated the proposed use of this property is not only an office building and doesn't think it fits. Also, the residents there have to fight daily with the Park and Ride people and that is a major issue. People who park there don't realize there is a neighborhood back there and when the lot fills up they park on the side of the road but don't fully pull off the road which makes it hard for traffic to move through that area. M. DeYoe stated she asked the Police Department if they've had any complaints and she was told they didn't have any on record. If people call to complain they will enforce the parking and issue tickets. D. Jashinsky stated the primary role of this business is constructing/building and more revenue is going to be made from that rather than designing. The intent of B-5 is offices, high-end commercial buildings, which this is not. K. Attwell asked what will happen to the Sussex location if this is approved. S. Kelly stated the Sussex site will be eliminated. He also stated he plans on asking for signage as well but hasn't reviewed that with the Planner yet. He would like a two square foot sign above the water feature, and 50 square feet of signage on both corners the office building.

**K. ATTWELL MOVED TO DENY THE BUSINESS PLAN OF OPERATION FOR A LANDSCAPING BUSINESS, KELLY'S GREENSCAPES, CONDITIONED UPON SITE DEVELOPMENT PLAN APPROVAL FOR DELC 0799.998 & 0799.999, 940 INDIAN SPRING DRIVE AND 1050 INDIAN SPRING DRIVE, DELAFIELD. OWNER: MARION J. DOERMER. APPLICANT: SHAWN KELLY, KELLY'S GREENSCAPES, BECAUSE IT IS NOT COMPLIANT WITH THE B-5 ZONING DISTRICT, SPECIFICALLY SECTIONS 10 AND 11. D. JASHINSKY SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED WITH NAYS BY C. SMITH AND M. KATZ.**

- b. **DELC 0793.014.023, 631 Genesee Street, Delafield. Owner: Jason Steiner. Applicant: Curtis Lamon.** Applicant seeks approval for permanent banners as an architectural element for the business known as Elements East.

***TAKEN FROM PLANNER DUPLER'S STAFF REPORT:*** *The specialty retailer proposes to install permanent banner signage to the Delafield Square storefront. Five banner locations are proposed with seven potential banners to be periodically interchanged. As proposed, Staff can not approve the proposed signage. They are not conventional signage, not approved as an element of the multi-tenant sign program, and do not conform to the approved Downtown historic color palette. The existing sign, mounted on the fascia above the porch is 12sf. and maximizes the allowable sign area for Elements East per the existing multi-tenant sign program. Each banner measures 9sf, and the five display locations will constitute 45sf of signage. The storefront is 46' wide and is therefore could support 69sf of signage. The proposed banner signs may be accommodated based on size. This proposed banner signage was previously approved unique to a grocery store. At that time the introduction of the banners were considered by the Plan Commission and approved for a one year trial period. Recommendation: If the Plan Commission elects to approve the proposed signage the colors should be consistent with the approved color palette, the SALE and NEW SHIPMENT banners should not be approved, as they conflict with the City policy regarding temporary sign permits for sale events.*

Petitioner Curtis Lamon stated the brackets are still on the building; all they need are rods and banners installed. He reviewed the history of the banners on this building and tried to match the size and scale but not so much the colors. He has no problem with matching colors to the downtown district colors. He also understands banners indicating "sale" and "new shipment" denotes an event and those are not allowed. He would like the banners to say "furniture," "accessories" and "lighting" to show the items he sells. He would like to put some life into the retail section of the building which would stimulate his and others' businesses.

## CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

K. Fitzgerald asked what the issue is and why this was brought to the Plan Commission. R. Dupler stated the building already has a sign program and the signage being requested is over the allotted square footage. Also, the City's sign ordinance only addresses permanent signage and temporary banner signage. Temporary banner signage is only allowed for business opening, closing or under new management. Banners on businesses are not to advertise events. The allowable sandwich board signs are advertising that purpose. Plan Commission members asked if the building's sign program can be modified. R. Dupler stated yes and in fact the petitioner has already reviewed that with the condominium association who manages the building's sign program and they approve. The Plan Commission can approve these banners as a trial period and the petitioner can come back with a different plan. J. Lazynski asked what this will do to the rest of the businesses downtown; will there be banners everywhere? R. Dupler said yes, if they fit within the allowable signage sizes. K. Attwell asked if the City has rules allowing permanent banner signage. R. Dupler stated no and the City shouldn't amend the sign ordinance for this one element. E. McAleer asked how the applicant assures the banners will look as good in five years as they do new. K. Fitzgerald stated that would be no different than the action the Plan Commission took regarding the Village Square awnings. It is in the best interest of the property owner to keep them looking nice. K. Attwell asked if this would be setting a precedent. R. Dupler stated yes, as a temporary sign is defined as something that is flexible and deteriorates. Fishbones put up a banner across the face of the restaurant but put it behind plexiglass, which then changes the banner to a graphic attached to the building. J. Lazynski stated the banners the City and Chamber display are not lasting more than two or three years; how long will these proposed banner flags last? E. McAleer suggested the Planner research other municipalities' sign ordinances and bring back recommendations for the Plan Commission.

**K. FITZGERALD MOVED TO APPROVE THE PERMANENT BANNERS AS AN ARCHITECTURAL ELEMENT FOR THE BUSINESS KNOWN AS ELEMENTS EAST FOR DELC 0793.014.023, 631 GENESEE STREET, DELAFIELD. OWNER: JASON STEINER. APPLICANT: CURTIS LAMON, SUBJECT TO A TEMPORARY SIX MONTH TRIAL BASIS; THE APPLICANT COME BACK TO THE PLAN COMMISSION BEFORE THE SIX MONTH TRIAL PERIOD ENDS TO PROPOSE A NEW SIGN PROGRAM FOR THIS BUILDING; APPLICANT WORK WITH THE PLANNER ON SIZE, COLOR AND FONT SO IT CONFORMS TO CITY REQUIREMENTS. C. SMITH SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED WITH NAYS BY K. ATTWELL, M. DEYOE AND J. LAZYNSKI.**

6. Preliminary

- a. **DELC 0753.995, STH 83, Hartland. Owner/Applicant: CELA Holdings.** Owner/Applicant seeks preliminary feedback for CELA, Christian Education Leadership Academy, and schedule public hearing for the same.

***TAKEN FROM PLANNER DUPLER'S STAFF REPORT:*** *The Christian Education Leadership Academy is a private school proposed immediately north of the Bark River on 149 acres of land formerly known as the Walcott Farm. The land exhibits A-1, A-1E, and C-1 zoning. It is accessible from Fair Lakes Parkway on the west and Campbell Trace on the east. The proposal offers a single school building with associated drives and parking that are designed for separation, exclusivity, and security. In addition a sports complex is proposed near Campbell Trace. To realize this plan the City will require a rezoning for that portion of the site containing the school grounds and sports complex to P-1. This area to be rezoned is approximately 73 acres. This use, and the proposed campus setting, is permitted as a Conditional Use in the Public and Semipublic Use District. It will therefore be subject to a public hearing, Council approval, and detailed site development plans not unlike a Planned Development. The balance of the property is proposed to remain in agricultural production. As this project moves forward*

### **CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

*the Plan Commission will want to provide the petitioner with a list of questions and concerns to address prior to a pending public hearing. In creating the opportunity to rezone the property the City must first amend the master plan to designate Institutional Land Use consistent with the proposed rezoning.*

*The site and building are well designed to realize the vision of the developer. The project as a whole will be an asset to the culture of Delafield; however, to be appreciated as a tangible benefit to the immediate neighborhood, elements of interconnectivity need to be resolved. The City planning documents illustrate a mapped collector street through this property that connects Faire Lakes Parkway to Cardinal Drive at Hwy 83. This route has been documented on the Official Map for more than a decade. The necessity for a connection to Faire Lakes Parkway must be considered a mandatory element of development on this site. Aside from the proposed P-1 school area, 216.53 acres of undeveloped property to the north and west of the school need to be considered. The existing conditions are very limiting to this area in regard to vehicular access. The area is bounded by the river on the south, the railroad on the north, and privately owned developed property on the west that does not allow for a westward road connection other than Faire Lakes Parkway. As a result, if this proposed development were allowed to occur without a public road connection to Faire Lakes Parkway then the entire area is relegated to one point of egress; Cardinal Road. This configuration is not acceptable in a single subdivision, let alone an entire neighborhood.*

*Another element of interconnectivity is the conveyance of pedestrians to and through the site. As proposed, there are no pedestrian linkages to the school, or through the property. The Plan Commission should recognize that the Waukesha Bark River Greenway designates an east-west route along the river through the Walcott farm. In addition the City Comprehensive Plan identifies a north-south connection through this site. A potential bridge crossing of the river and linkage to planned parks in the neighborhood have been planned for and incorporated into the Comprehensive Plan as part of the 2009 Smart Growth. The petitioner has acknowledged these elements of the plan and requests that they be designed in the future. The Plan Commission may wish that these elements be made an integral part of the plan at this time to ensure that they may be realized in the foreseeable future.*

*Another element of the Comprehensive Plan and the Park and Recreation 5 Year Plan to be considered is the designation of an eight acre park in this general area. In recognition of this plan requirement the petitioner has incorporated the proposed sports complex for school use, but also with the intention of providing shared usage to the City. As an integral part of this conditional use the City should request that a draft agreement be evaluated as part of the public hearing process.*

*In discussions at staff level, the petitioner has offered to create an agreement to offset the cost of municipal services. Recognizing that the school will remove a substantial amount of acreage from the tax role, the financial compensation agreement may be considered so that the operation of the school will not be a burden on the Delafield Tax payers. As integral part of this conditional use the City should request that a draft agreement be evaluated as part of the public hearing process.*

*To further a better understanding of the potential traffic impacts the Plan Commission should request that a revised traffic impact analysis be conducted. The study should take into account the eventual build-out of the currently undeveloped lands. In addition, any improvements planned by WisDOT in regard to the Hwy 83 and Cardinal Drive intersection should be incorporated. These revised numbers will lend greater credibility to the proposed size and design of the round-about.*

## CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES

*Recommendation: Share opinions and concerns with the petitioner and request additional information to be provided prior to the public hearing. Schedule a public hearing accordingly.*

Jim Siepman, the petitioner representing the Christian Education Leadership Academy (CELA) introduced the K-8 Grade Christian Elementary School. Tonight's goal is to get an endorsement for a public hearing for the June Plan Commission meeting. CELA held a neighborhood meeting at Lake Country Elementary School which had good attendance. They also went to the Lake Country School District (LCSD) Board and attended multiple City staff meetings. He then played a video describing what CELA is about and its mission. The site is 154 acres with 72.5 acres to be rezoned for public use for the school. The remaining 43 acres will continue to be farmed. He reiterated many of the details as recorded in Planner Dupler's staff report. He reviewed plans for roads which include a public road developed from STH 83 to the facility with a round-a-bout in it so the Public Works Department has access in and out of the site to maintain the public feature. There is also dedicated road right-of-way to service the Morris property. There is a designed emergency access to service the school from Faire Lakes Parkway. CELA has no interest in installing a collector street as the traffic analysis conducted confirms one is not needed as it will only increase traffic. There are two phases to this project: the school and athletic fields. The school will be built immediately and the fields and field facilities later. CELA will allow only Christian based groups to use the fields and facilities since it is a Christian based school. There is also room for a future expansion of the building on the east and west ends with room for more parking if that happens. CELA also met with the Park and Recreation Commission Chairperson about the site trails, and they have agreed to work with the City to make the trail easement available to the City. Utilities, sanitary sewer and water are available. There are 370 general parking spots and there is a gated secure area for staff. Dark sky lighting guidelines will be used to keep the light very low to the ground to avoid domes of lights. With regards to the questions about the lack of tax revenue to the City, CELA is willing to participate in a payment in lieu of taxes (PILOT) program to pay their fair share. The LCSD is concerned about costs for special needs students, which CELA will compensate the LCSD for those costs.

J. Siepman continued to explain CELA's building is 162,000 square feet and two stories. There are three classrooms per grade and includes a chapel/auditorium and a separate large gym area. Materials used will be earth tones for a natural feel. This building will be one of the finest buildings in the City and the region. It is four sided with stucco and stone on all four sides. A peaked roof was added to make it look more residential. If this were developed into a subdivision the City would have 50 or more buildings instead of just one building with the rest of the land preserved as green space. With the school only about 7% of the land will be impervious surface. With single family homes that would increase to 9% or more.

M. DeYoe asked the petitioner to elaborate on the emergency access road. John Holz, project architect, stated the emergency access road is at the end of Faire Lakes Parkway and will connect to the road at the south end of the building which will be able to accommodate large apparatus and will have a breakaway gate system. K. Fitzgerald stated there are a few steps in the process which need to be handled first and a main one is to deal with the road the City shows on their official map going right through the property. Only the Common Council can vote to vacate or move the road. Step two is to amend the City's Master Plan since the change being sought is not allowed in the Master Plan. Since the Common Council has to address the road issue, the Master Plan amendment should be requested at the same time. Step three is to have the City consider a land use change, but that is after the Master Plan amendment and decision on the mapped road. E. McAleer stated those processes always start with the Plan Commission and they make recommendations to the Common Council. R. Dupler stated the public hearings can be held by either the Plan Commission or Common Council.

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

**M. DEYOE MOVED TO SCHEDULE A PUBLIC HEARING ON WEDNESDAY, JUNE 26, 2013 FOR DELC 0753.995, STH 83, HARTLAND. OWNER/APPLICANT: CELA HOLDINGS. OWNER/APPLICANT SEEKS PRELIMINARY FEEDBACK FOR CELA, CHRISTIAN EDUCATION LEADERSHIP ACADEMY, TO AMEND THE CITY'S MASTER PLAN AND LAND USE PLAN. M. KATZ SECONDED THE MOTION. THERE WAS NO FURTHER DISCUSSION. MOTION CARRIED WITH ONE NAY BY K. FITZGERALD.**

Plan Commission members asked questions regarding the plans for remaining acreage, what impact this new school will have on the existing ones in the district and park and recreation trails. J. Siepmann stated the intent was to leave the remaining as agricultural but if that is a permanent change CELA will have to reconsider that. He is not able to answer how CELA will impact other schools in the district as this new school is different from the existing schools, but he will look into it. The lands south of the river are not impacted. The land to the north is the Morris farm and CELA sees that staying as residential. Also, CELA would like to see a bridge over the Bark River built as a part of the trail system but is not sure who would build it. CELA will work with the Park and Recreation Commission on the trail. The main goal is to keep the trails far away to the school to keep the children safe. C. Smith stated the east/west trail should hook up with the Ice Age Marsh Trail. He is concerned about the usage of the parks if only Christian based groups are allowed to use them; that means the City cannot use them and if the City can't use the parks he will vote no on this project.

Plan Commission members discussed if a fifth school in a district is needed. E. McAleer stated that is not up to the Plan Commission to decide. K. Attwell stated he is concerned with taking 150 acres off the tax roll and what can be done to offset that. He asked if someone can run an analysis to see what net tax benefits would be for the City versus this proposal. E. McAleer stated the Village of Hartland accepted PILOT for the Lutheran school. T. Hafner stated he will work on that and include what additional expenses the City would have with a subdivision versus a school. Plan Commission members asked questions about the traffic analysis being shared with the Department of Transportation, stormwater needs and a possible collector street.

J. Siepmann stated the traffic analysis has not been shared with the DOT yet. There will be stormwater basins but they will be dry, not wet. CELA is also using rain gardens and bio swales to control the water in a high tech way. This site has very good soils. Installing a collector street would be for the good of whole community; CELA feels this type of road isn't necessary for the community.

Plan Commission members invited Mark Licht, LCSD Administrator, to the table to ask him questions regarding cost sharing, enrollment and the effect LCSD will feel if this school is approved. M. Licht stated there is no way to determine how CELA's enrollment will affect LCSD but he is not concerned about competition as CELA's mission is different than LCSD's. This question would be better asked of the other four private schools in the district. He also couldn't comment on CELA reimbursing LCSD for students' expenses as the school board didn't want to enter any negotiations while CELA is working with the City.

7. Zoning and Ordinance Revision.
8. Reports of City Officials:
  - a. Clerk
    1. June 26 (Meeting); May 29 (PH Deadline); June 12 (Reg. Deadline)
    2. Correspondence
      - i. Letter from Axley Law Firm regarding Kelly's Greenscapes.
      - ii. Letter from Lake Country School Board regarding CELA.
  - b. Planner
  - c. Building Inspector

**CITY OF DELAFIELD PLAN COMMISSION MEETING MINUTES**

S. Hussinger stated the total number of permits to date is 42 with 12 residential occupancy permits and two commercial occupancy permits this month.

9. Adjournment.

**M. DEYOE MOVED TO ADJOURN THE MAY 29, 2013 PLAN COMMISSION MEETING AT 10:38 P.M. M. KATZ SECONDED THE MOTION. ALL WERE IN FAVOR. MOTION CARRIED.**

Minutes Prepared By:

A handwritten signature in cursive script that reads "Gina C. Gresch".

Gina C. Gresch, MMC/WCPC  
City of Delafield Clerk-Treasurer  
Waukesha County