

**Joint Planning Commission and Village Board Meeting
Thursday, December 3, 2009**

1. **Planning Commission Call to Order:** Chair Greg Schnelle called the Planning Commission meeting to order at 6:34 pm on Thursday December 3, 2009.
2. **Roll Call:** Present: Greg Schnelle; Larry Mahr, John Bieno, Scott Meier, Pat Molzahn, and alternate Doug Brethauer (arrived at 7:25 pm). Absent: Jeff Groenier and Phil Harms. Also Present: Village Administrator Mike Gracz, Public Works Director Mark Below, Village Engineer Joe Eberle, Village Attorney Mat Dregne, Village Planner Mike Slavney, and Deputy Clerk/Deputy Treasurer Tracey Berman

The Planning Commission moved to agenda item 10

3. **Village Board meeting call to order:** Village President Steve Staton called the Village Board meeting to order at 7:15 pm on Thursday December 3, 2009.
4. **Roll Call:** Present: Steve Staton, Darlene Groenier, Eric Poole, Jon Lourigan. Absent: Jerry Bollig, Randy Way, and Phil Harms.
5. **Proposed New Stormwater Ordinance –Discussion of Staff’s Memorandum regarding Outstanding Issues from September 3rd Joint Meeting:** Schnelle referenced a memo dated November 23, 2009 from Attorney Matt Dregne, Mike Gracz, Mark Below and Village Engineer Joe Eberle. The memo highlighted and addressed all the questions the Commission had at their prior meetings. Below described some minor changes in chapters 17 and 22. Meier’s biggest concern with the proposed storm water ordinance was the application of the regulations to existing structures. Meier felt a lot of the homes in the Village fell under this and had concerns with that. Below stated this was put in primarily for the commercial areas. Eberle explained the ordinance doesn’t apply to single family and two family residences these are covered in another section in the ordinance. There was discussion regarding the FEMA flood plain maps that are currently adopted. Eberle noted an example of the impact of the ordinance would be some places may not be able to have a basement due to the vertical separation, which is not always a bad thing. It was noted the DNR, CARPC and Dane County would all review the proposed ordinances to ensure compliance with all the entities. There was discussion regarding ordinance #09-04 and clarification regarding residential redevelopment. The addition has to be over 4,000 square feet for the ordinance to apply. Dregne noted the vertical separation does apply to an addition on a home of any size; this is not talking about setback only vertical. In order to comply with this ordinance, Eberle noted some places can be done with a shovel and others maybe more extensive. The Com 85 in the ordinance deals with the qualifications of the person doing the soil testing. It was noted vertical separation from ground water elevations is the issue, not slab on grade. Eberle gave the example of the Jefferson Street redevelopment area noting the only impact of the proposed horizontal and vertical separations may prevent construction of an underground parking area or basement. Gracz noted this example comes from when there was a proposal to put underground parking in the parking lot behind Brouxnellie’s. It was noted under the proposed ordinance the applicant would have to go to the Zoning Board of Appeals for a variance to allow the underground parking. Below acknowledged Meier’s point noting that if someone in the Edenberry Lane and Swallow Tail Drive area wanted to add a recreational room or put an addition on the back of the house they may not be able to because of the storm water pond and the high ground water table. The Commission discussed the pros and cons and possible effects it could have. Staff’s concerns were if a basement was built within the ground water elevations people are in a position to have flooding in their basements. Madison’s underground parking that is below the ground water elevation was discussed as an example. Gracz stated this ordinance is in response to the Village of Oregon’s history of flooding and staff and the Village Board are looking at ways to prevent the basement flooding complaints being received. Gracz noted based on the number of floods in the Village and

**Joint Planning Commission and Village Board Meeting
Thursday, December 3, 2009**

high ground water the Village is trying to be proactive instead of reactive. There was discussion of whether or not residents would spend the money to go through a variance process to put an addition on their home. Slavney suggested the idea of only new construction being a variance process and existing dwellings use a conditional use process. This would allow for flexibility. Meier questioned if a house burned down that had a basement would the homeowner be able to build the house the way it was before the fire with a basement? *Staton called the Village Board meeting to order see agenda items #3 & 4.* Discussion occurred regarding how to procedurally proceed with this. Dregne stated he is hearing from the Commission that on some projects with substantial investment designs with below grade infrastructure there needs to be a way that will address the concerns the Village has. If in fact the Village wants to allow for those types of projects to move forward because the confidence is there that the developer will do it in a way that will address the flooding issues then the variance process is not the best process. Dregne noted they could tweak the ordinance to say the elevation requirements would not apply if the other standards are met. The Commission, Village Board, and staff would need to describe the criteria. Dregne suggested finding an alternative for constructing low grade facilities that are in the ground water and direction would need to be given as to what would satisfy the requirements and what would be acceptable. Eberle explained he would also like some direction from the Fire Department if that avenue is opened. Eberle discussed underground parking and the hazards. There was discussion regarding collecting data of wet basements that the Village has received complains on. Gracz suggested taking the master list from the last flood in August 2007 and compare with other data. Lourigan questioned reconstruction from a 'natural' disaster and insurance financials. Dregne noted the financial aspects of insurance were not discussed. Discussion occurred regarding reconstruction because of a disaster such as fire or tornadoes. It was noted disaster would need to be defined. Slavney explained that State Statutes address those kinds of reconstruction procedures for non-conforming structures. State Statutes Law describes the local municipalities' authority to limit reconstruction. The statute states restrictions that are applicable to damaged or destroyed non-conforming structures and are contained in ordinance and acted under the subsection may not prohibit the restoration of non-conforming structures if the structure will be restored to the size, location, and use that it had immediately before it was damaged or destruction occurred and can't impose any limits on the cost of the repair, reconstruction or improvement if all of the following apply: the non-conforming structure was damaged or destroyed on or after March 2, 2006, the damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation. Dregne summarized by stating this is the law and the Village could not apply the vertical separation to a reconstruction if those conditions are met. Dregne explained if they wanted to build larger and it wasn't damaged by one of the conditions listed in the state statute then they are subject to the requirements. Dregne also stated the Statutes states: the Village shall allow for the size of the structure to be larger than the size that it was immediately before the damage or destruction if necessary for the structure to comply with applicable standard federal requirements. This statute should apply to residential and commercial. There was discussion if federal and state laws would apply to the floodplain areas. Schnelle questioned if the Commission had any other concerns? Bieno did request a site location map to be included with the projects to better identify project locations in the Village. Below stated they will ask applicants to provide this. It was noted this is part of the zoning code. There was discussion regarding requiring a master grading site plan for properties for new construction properties that are not part of a land division. Below stated the intent was that anything platted the day of the adoption of the ordinance would be included. Dregne noted the main reason for this is there is no master site grading plan for lots that were platted prior to the adoption. Below explained that typically this isn't required for residential. It was noted the Board was against that idea. There was discussion of comparing this to other municipalities that have high ground water and use as a basis and see what is working for them. Below will try to collect data regarding wet

**Joint Planning Commission and Village Board Meeting
Thursday, December 3, 2009**

basements as discussed earlier. Eberle noted he will also do some research by looking into other communities and their storm water ordinances.

6. **Discuss Possible Use of Dane County for Plan Review, Inspection and Enforcement of Stormwater Ordinance:** Schnelle inquired as to who the Commission would like to use for storm water matters. There were suggestions to use Dane County. Schnelle's initial reaction was he didn't like the idea, however Below has had discussions with other municipalities that use Dane County and have been very happy with their services. It was noted in the agreement there is an escape clause and they are not tied to Dane County if the Village ever wanted to change. The County would enforce the Village's rules as written. An advantage with using Dane County is that if something goes bad it won't be the Village's fault. Eberle gave an overview of his experience with them and has had positive experiences. There was a concern regarding how long the waiting periods would be. Below stated other municipalities have said work has been done in a timely fashion. It was noted to try using Dane County.
7. **Discussion and Planning Commission's Possible Recommendation to the Village Board re: Scheduling Public Hearing for Ordinance #09-04, Ordinance to repeal and re-create Chapter 22 (Stormwater) and to amend Chapters 17 (Zoning) & 18 (Land Division) related to Stormwater Management and Erosion Control:** It was noted the Commission is not ready to set the Public Hearing yet. This item was tabled.
8. **Discussion and Village Board's Possible Action re: Scheduling Public Hearing for Ordinance #09-04, Ordinance to repeal and re-create Chapter 22 (Stormwater) and to amend Chapters 17 (Zoning) & 18 (Land Division) related to Stormwater Management and Erosion Control:** This item was tabled.
9. **Adjournment of Village Board:** Lourigan moved to adjourn the Village Board meeting at 8:09 pm on Thursday December 3, 2009. Second by Groenier. Motion Carried 4-0.

Planning Commission moved to adjournment

10. Approval of Minutes
 - a) 11-05-09 – The minutes were Distributed Prior to Meeting. **Mahr moved to approve the Planning Commission minutes from November 5, 2009. Second by Bieno. Motion carried 5-0.**
11. **Public Appearances:**
 - a) Discussion and possible recommendation to the Village Board regarding the Certified Survey Map for Braun Rd extension west of Market St. (5 K Partnership): Below explained this is on the agenda as part of the process to get Braun Road in. **Bieno moved to approve the Certified Survey Map for Braun Road extension west of Market Street. Second by Molzahn. Motion carried 5-0.**
 - b) Public Hearing re: request for a Conditional Use Permit from T- Mobile at 215 W. Netherwood St. to add 12 antennas to the existing 180' tower: Schnelle opened the public hearing at 6:37 pm. There was no one present for comment. The public hearing was closed at 6:37 pm.
 - 1) Discussion and Possible Recommendation to the Village Board re: Conditional Use Permit for additional antennas to the existing 180' tower: Schnelle explained more antennas are being added. The applicant has met with staff and staff sees no issues with

**Joint Planning Commission and Village Board Meeting
Thursday, December 3, 2009**

this. Bieno moved to approve a conditional use permit for T-Mobile at 215 W. Netherwood Street to add 12 antennas to the existing 180' tower. Second by Mahr. Motion carried 5-0.

- c) Public Hearing re: request for a Conditional Use Permit from Peoples United Methodist Church at 103 N. Alpine Parkway to construct a garden shed: Schnelle opened the public hearing at 6:40 pm. Schnelle gave an overview regarding constructing a garden shed. There was no public input. The public hearing was closed at 6:41 pm.

1) Discussion and Possible Recommendation to the Village Board re Conditional Use Permit to construct a garden shed at 103 N. Alpine Parkway: Schnelle explained the Methodist church has allowed for a community garden on their property and for a garden shed to be constructed. The shed will be for storage of tools and gardening materials. The church will have nothing to do with the garden, but as owner of the property needs to apply for the CUP. The Village wants to thank the church for allowing the public to garden on their property. It was noted it will be a wood shed that is 12 by 10. The school will be building the shed. The community garden persons will maintain the shed. **Bieno moved to approve a conditional use permit to construct a garden shed at 103 N Alpine Parkway. Second by Meier. Motion carried 5-0.**

12. Communications and Miscellaneous Business

- a) Review of Planning Staff Meeting of November 10th: There was no discussion.

13. Unfinished Business

- a) None

14. New Business

- a) None

15. Staff Report: It was noted all projects have ceased for winter and any remaining work will be completed in the spring.

- a) Status of Developments/Projects
- 1) Alpine Meadows, Bergamont & Oregon Parks Neighborhood
 - 2) Alpine Business Park
 - 3) Update on the status of the Downtown Project Phase II: The Commission commented on how nice the Village Hall entrance and spring street look. Staton thanked Darlene and Jim Groenier along with Jeff Bergey for putting up the holiday lights on the poles downtown. Schnelle moved to agenda item #5.

16. Items for Future Meetings

- a) Extraterritorial Zoning
- b) Review of Conditional Use Permit at 101 S. Main Street regarding outdoor dining in February, 2010

17. Adjournment: Bieno moved to adjourn the planning Commission meeting at 8:10 pm on Thursday December 3, 2009. Second by Molzahn. Motion carried 5-0.

Submitted by,
Tracey K. Berman
Deputy Clerk/Deputy Treasurer