

1. Call to Order/Determination of quorum

Chairman Jim Otto called the meeting to order at 7:01 PM, noting there was a quorum present.

In attendance were Chairman Otto, Vice-Chairman Berghammer, Commissioners Bartel, Coté, Lalk, Melzer, Trustee Collins and Village Administrator Jim Healy.

2. Verification of Open Meetings Law compliance

Administrator Healy stated that the agendas were posted at the Richfield, Hubertus, and Colgate U.S. Post Offices as well as Village Hall. Digital copies of the agenda were sent to the West Bend Daily News, Germantown Express News, Hartford Times Press, and the Milwaukee Journal Sentinel.

3. Pledge of Allegiance

4. PUBLIC HEARINGS

- a. **Discussion regarding a Conditional Use Permit application for Mr. and Mrs. Paul Craig for a ground-mounted solar panel array pursuant to Sec. 70.241(E)(2) for property located at 501 Scenic Road (Tax Key: V10_116400B)**

Motion by Vice-Chairman Berghammer to open the public hearing for agenda item 5a; Seconded by Commissioner Lalk; Motion passed without objection.

No Comments

Motion by Vice-Chairman Berghammer to close the public hearing for agenda item 5a; Seconded by Commissioner Melzer; Motion passed without objection.

5. DISCUSSION/ACTION

- a. **Discussion and possible recommendation to the Board regarding a Conditional Use Permit application for Mr. and Mrs. Paul Craig for a ground-mounted solar panel array pursuant to Sec. 70.241(E)(2) for property located at 501 Scenic Road (Tax Key: V10_116400B)**

Administrator Healy provided the following information:

As discussed with previous petitions, there have been changes in legislation by the Wisconsin State Legislature which limit the authority of municipalities to place “*any restriction, either directly or in effect, on the installation or use of a solar energy system*”. Therefore, as seen with other types of “utilities” like cell tower and wind turbines, the Village’s local control has been limited by the Legislature.

While this provision may become problematic in denser residential subdivisions, here we are talking about a subject property located on 5.00 acres of land that is surrounded by other, larger, estate parcels. Its placement would be approximately 100’ from the east property boundary line, 188’ from the south

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property boundary line, 230' from the north property boundary line, and 330' from the west property boundary line.

The solar panel array will be 38' long and 12'7" when tipped on its 35-degree axis. The Tesla panels themselves are 13'5" high. These are fixed units and do not "track" the sun.

Motion by Vice-Chairman Berghammer to recommend to the Village Board the approval of the proposed Conditional Use Permit for a ground-mounted solar panel array for Mr. and Mrs. Paul Craig for property located at 501 Scenic Road (Tax Key: V10_116400B) subject to the terms and conditions contained therein; Seconded by Commissioner Lalk; Motion passed without objection.

b. Discussion/Action regarding a Site, Building and Plan of Operation petition for Kwik Trip gas station and convenience store, located at 2900 STH 167 (Tax Key: V10_034800A)

Mr. Troy Mleziva from Kwik Trip gave an overview of the subject property and the development proposal.

Architectural Designs:

Motion by Trustee Collins to accept the recommendation as modified by the Architectural Review Board for the Kwik Trip Gas Station and Convenience Store located at 2900 STH 167 (Tax Key: V10_038400A), as designed; Seconded by Commissioner Bartel; Motion passed without objection.

Site, Grading and Erosion Control:

Motion by Trustee Collins to approve the proposed Site, Grading and Erosion Control Plans for Kwik Trip Gas Station and Convenience Store located at 2900 STH 167 (Tax Key: V10_038400A) subject to the final review and approval of the Village Engineer based on his written comments dated October 19, 2018; Seconded by Commissioner Melzer; Motion passed without objection.

Lighting Plan:

Motion by Trustee Collins to accept the recommendation of Consultant Planner Tim Schwecke for the approval of the proposed Lighting Plan for Kwik Trip Gas Station and Convenience Store located at 2900 STH 167 (Tax Key: V10_038400A), as presented and to allow for light spillage on light for STH 167; Seconded by Commissioner Melzer; Motion carried 5-1-1.

EDITORS NOTE: A Five (5) minute recess was granted for Staff to make copies of the proposed hours of operation on the Site, Building and Plan of Operation Application. This document was inadvertently omitted from the packet.

Plan of Operation:

Motion by Trustee Collins to approve the proposed Plan of Operation for Kwik Trip Gas Station and Convenience Store located at 2900 STH 167 (Tax Key: V10_038400A), as presented; Seconded by Commissioner Melzer; Motion carried 6-1.

Chairman Otto suspended the rules to allow for discussion, per Robert's Rules of Order.

Commissioner Lalk questioned the access to and from STH 167, the public improvements being required by the Wisconsin DOT and access modifications to the "Thoma property".

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Administrator Healy discussed the site improvements required by the Wisconsin DOT and the logic and reasoning behind not presenting the plans to the Plan Commission. Simply stated, the improvements that are being required by the Wisconsin DOT are not the jurisdiction of the Village. They are entirely the jurisdiction of the Wisconsin DOT and the Village has no ability to object one way or another. The Wisconsin DOT is requiring these public infrastructure improvements regardless of what future development may occur on this property. Administrator Healy stated that Kwik Trip was willing to pay for the entire cost of all public infrastructure improvements as well as the cost to relocate the Thoma property driveway.

Landscaping Plan:

Motion by Trustee Collins to accept the recommendation of Consultant Planner Tim Schwecke for the approval of the proposed Landscaping Plan for Kwik Trip Gas Station and Convenience Store located at 2900 STH 167 (Tax Key: V10_038400A), subject to the final review and approval of planting materials by Commissioner Kurt Bartel; Seconded by Commissioner Melzer.

Motion by Commissioner Bartel to amend the previous motion to include the following: The Landscaping Plan must also include three (3) Austrian Pine trees in the SW corner along with any of the evergreens noted on the plan. Additionally, two (2) River Birch trees in the NE corner should be replaced. Based on the substitution for approved list by Commissioner Bartel; Seconded by Commissioner Cote; Motion to amend the previous motion and include the amendment in the final motion passed without objection.

c. Discussion and possible recommendation the Village Board regarding Resolution R2018-10-03, a Resolution vacating portions of Riverview Drive

Administrator Healy provided the following information:

Several months back, the Village Staff brought forward a proposal to the Village Board by two property owners on Riverview Drive who have expressed their desire to vacate a portion of Riverview Drive which abuts their home. Since that time, the Village has been approached by another property owner who desires to go about the same process. Rather than do these petitions independently, both are being handled concurrently.

Motion by Commissioner Melzer to recommend to the Village Board the passage of Resolution R2018-10-03, a Resolution Vacating Portions of Riverview Drive; Seconded by Commissioner Cote; Motion passed without objection.

d. Discussion and possible recommendation to the Village Board regarding a proposed Two-Lot and One Out-Lot Certified Survey Map (CSM) for Steven Schmidt involving Tax Key: V10_008800D

Administrator Healy provided the following information:

Mr. Healy advised that the Village has been working with Mr. Steven Schmidt for close to year on his proposed land division and rezoning, in an effort to move the meeting along the past year events were not discussed, rather what has recently happened since the last action by the Plan Commission:

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- The Village received correspondence from the Wisconsin DOT, pursuant to the request from the Plan Commission, that they have denied several times a request for a second access off of STH 164.
- Village Staff contacted Mr. Schmidt regarding the misinformation he has provided the Village regarding the access to the properties on STH 164.
- Mr. Schmidt proposed a shared driveway to the Village Staff and he was informed the Village generally is not in favor of shared driveways, particularly when they are only for the purpose of economic gain.
- Mr. Schmidt was advised to yet again change his survey to reflect the recent communication from the Wisconsin DOT. Meaning, instead of two (2) properties off of STH 164, he has combined them in favor of a single parcel.
- The Village Board was advised of the situation and at their October meeting voted to table the proposed rezoning until a proposed CSM was submitted that was consistent with the recommendation of Staff and the Wisconsin DOT.
- The right-of-way dedication for a temporary T-turnaround on Whitetail Run is consistent with our Village Code. There is no need for any easement outside.

Motion by Trustee Collins to recommend to the Village Board the approval of the Two-Lot and One Out-Lot Certified Survey Map (CSM) for the property indicated by Tax Key: V10_008800D subject to the General Conditions of Approval listed below:

General Conditions of Approval:

1. The subdivider shall satisfy all comments, conditions, and concerns of the Village Engineer, the Village Planner, and all reviewing, objecting and approving bodies, including, but not limited to, the Wisconsin Department of Commerce per Ch. 236, Wisconsin Statutes and Ch. Comm. 85, Wisconsin Administrative Code; Wisconsin Department of Administration per Ch. 236, Wisconsin Statutes; and Washington County.
2. The subdivider shall, on demand, reimburse the Village all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
3. Any unpaid bills owed to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees, or any other fees owed to the Village; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Village, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.

Seconded by Commissioner Cote; Motion carried 6-1.

- e. **Discussion and possible recommendation to the Village Board regarding a proposed One-Lot CSM for Kenneth Schmidt involving Tax Key: V10_008800C**

Administrator Healy provided the following information:

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The proposed parcel is 38.997 acres. The subject property is zoned A-1, Exclusive Agricultural District. Minimum acreage in this District is 35 acres. This parcel does not have access to STH 164 per the Wisconsin DOT. Its only access is from Pioneer Road. All necessary right-of-way dedications have been made. Village Engineer, Ron Dalton has reviewed the CSM and his only comment is as follows:

“We have reviewed the One-Lot CSM for the Kenneth Schmidt property. Our only comments are references to the proposed lots to the south should be revised to reflect the most current version that was prepared after communication from WisDOT regarding access restrictions and the Village approval should be contingent upon completion of the lot line adjustment of the common line between Steven and Kenneth Schmidt’s parcels.” – dated October 24, 2018

Motion by Trustee Collins to recommend to the Village Board the approval of the One-Lot Certified Survey Map (CSM) for the property indicated by Tax Key: V10 008800C subject to the General Conditions of Approval listed below:

General Conditions of Approval:

1. The subdivider shall satisfy all comments, conditions, and concerns of the Village Engineer, the Village Planner, and all reviewing, objecting and approving bodies, including, but not limited to, the Wisconsin Department of Commerce per Ch. 236, Wisconsin Statutes and Ch. Comm. 85, Wisconsin Administrative Code; Wisconsin Department of Administration per Ch. 236, Wisconsin Statutes; and Washington County.
2. The subdivider shall, on demand, reimburse the Village all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
3. Any unpaid bills owed to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees, or any other fees owed to the Village; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Village, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.

Seconded by Commissioner Cote; Motion carried 6-1.

f. Discussion and possible recommendation to the Village Board regarding a proposed Three-Lot CSM for the Germantown School District and Ralmar Properties, LLC, involving Tax Keys: V10_0914, V10_138600A, and V10_138600Z

Administrator Healy provided the following information:

The purpose of the proposed CSM was to create a parcel on the south side of Willow Creek Road for the purposes of installing a septic system. Septic systems are permitted and approved by the Washington County Sanitarian without review from the Village of Richfield. The properties on the southside of

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Willow Creek Road are zoned Rs-2, Single Family Residential District. Lot 1 is zoned I-1, Institutional District. Lot 1 is the site of Amy Belle School.

As a part of this process, the depicted Lot 2 was created without authorization of the Village. Its legal description was filed at the Washington County Register of Deeds without review from the Village of Richfield.

The prepared Three-Lot Certified Survey Map (CSM) prepared by Deborah Fenney of TRIO Engineering, LLC with a revision date of September 20, 2018 was presented. The CSM was previously submitted to Village Engineer on August 17, 2018. The contents of the August 23, 2018 letter have been addressed to the satisfaction of Village Staff.

Several members of the Commission expressed frustration with the Germantown School District and their contractors for not going through the appropriate approvals process.

Motion by Commissioner Melzer to recommend to the Village Board the approval of the Three-Lot Certified Survey Map (CSM) for the properties indicated by Tax Key: V10_0914, V10_138600A and V10_138600Z subject to the General Conditions of Approval listed below:

General Conditions of Approval:

1. The subdivider shall satisfy all comments, conditions, and concerns of the Village Engineer, the Village Planner, and all reviewing, objecting and approving bodies, including, but not limited to, the Wisconsin Department of Commerce per Ch. 236, Wisconsin Statutes and Ch. Comm. 85, Wisconsin Administrative Code; Wisconsin Department of Administration per Ch. 236, Wisconsin Statutes; and Washington County.
2. The subdivider shall, on demand, reimburse the Village all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
3. Any unpaid bills owed to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees, or any other fees owed to the Village; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Village, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.

Seconded by Commissioner Bartel; Motion carried 4-3.

g. Discussion and possible recommendation to the Village Board regarding a rezoning petition for Mr. Steve Willis for property located at 2075 STH 175 (Tax Key: V10_0259)

Administrator Healy provided the following information:

Back in August, Mr. Steven Willis, owner of the subject property approached the Village regarding his desire to expand his business located at 2075 STH 175. The subject property is currently zoned Rs-2,

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Single-Family Residential District. Given the fact that his zoning on his property is considered a legal, non-conforming use, the Village's Building Inspector denied his request and directed him to the Planning and Zoning Department. When Mr. Willis approached the Village, he was under the assumption that his property had always been commercial and the uses on his property were permitted. This is due, in part, because of a "Zoning Approval Letter" received by Mr. Willis from the Town of Richfield for his business operations prior to the purchase of the subject property back in 2003.

Motion by Commissioner Cote to recommend to the Village Board the approval of the proposed rezoning petition for the subject property located at 2075 STH 175 (Tax Key: V10_0259) from Rs-2 to B-3; Seconded by Commissioner Melzer; Motion passed without objection.

h. Discussion and possible recommendation to the Village Board regarding a proposed Ordinance Amendment to the Chapter 70 Zoning Code related to the repealing of Conditional Uses in all Village Zoning Districts

Administrator Healy provided the following information:

The state legislature adopted 2017 Act 67 on November 27, 2017, which made various revisions to state statutes governing local zoning authority. Most notably, the Act made substantial revisions to how conditional uses are treated at the local level (Section 62.23(7)(de), Wis. Stats.

Historically, conditional uses were reviewed on a case-by-case basis to determine if the proposed use fit the parcel and fit in with the surrounding land uses. If the use was deemed a good fit, it would be approved, potentially with conditions to address on-site and off-site impacts.

Under the new requirements, conditional uses must be approved unless the applicant does not show by "substantial evidence" they will comply with the conditional use standards for that particular use.

Motion by Commissioner Lalk to recommend approval to the Village Board the passage of Ordinance 2018-11-01, An Ordinance Temporarily Repealing All Listed Conditional Uses in the Village's Zoning Code; Seconded by Commissioner Melzer; Motion passed without objection.

6. ADJOURNMENT

Motion by Commissioner Lalk to adjourn; Seconded by Vice-Chairman Berghammer; Motion passed without objection at 9:06 p.m.

Respectfully Submitted,

Jim Healy
Village Administrator