

**PLANNING COMMISSION MINUTES
5500 SCHOFIELD AVENUE
WESTON, WI 54476
MONDAY, OCTOBER 9, 2006 - 6:00 P.M.**

I. CALL TO ORDER

Trustee Steve Meinel called the meeting to order at 6:00 p.m. Members present were DPW Keith Donner, Kim Fischer, and Mary Hancock. Village President Vilas Machmueller and Mark Strobel attended late. George Oberlander was excused. Trustee Fred Schuster was present. Village Administrator, Dean Zuleger, Community Development Director, Jennifer Higgins, Building Inspector Al Breu, and Recording Secretary, Valerie Parker were present. About 20 audience members were also present.

Meinel read the notices and opened the hearing.

A. OPEN HEARING – (RZ2006-009) FORESIGHT DEVELOPMENT REZONING REQUEST FROMSR TO RE: 2 40-ACRE PARCELS ON NICK AVENUE (ALSO REFERRED TO AS THE PROPOSED WHITETAIL SUBDIVISION)

This item was tabled due to a notification issue.

B. OPEN HEARING - (RZ2006-010) GULF INVESTMENTS REZONING REQUEST FROM B4 & WPD TO B3 & WPD: LOT 3 OF SHADOW RIDGE DEVELOPMENT (NE CORNER OF STH-29 AND BIRCH STREET)

Tom Nitschke, Autowerks owner, 1745 Park Avenue, Plover, was present in support. This is a dealership that they started in Plover. They feel that Weston is a good place to build. He stated this dealership will sell cutting edge, late model, high-end used cars. This is their second location, and they plan to build 12 more throughout the State in the next 5 years. This dealership location will employ 10 people from the start. He clarified that this dealership will not have junk vehicles. Will not use gimmicks such as streamers, balloons, etc., to advertise sales. Nitschke stated that \$1.6 - \$2 million will be the total investment.

Mark Hull, Putnam Capital Management, 7611 Birch Street, was present in opposition, representing Ministry Health Care & Saint Clare's Hospital. He read and discussed the letters of opposition (attached) from Putnam Capital Management and Ministry Health Care, both dated October 6, 2006.

C. OPEN HEARING – (CU2006-004) UNITED FINANCIAL GROUP CONDITIONAL USE PERMIT REQUEST TO OPERATE AN ACTIVE, INDEPENDENT COMMUNITY FOR INDIVIDUALS 55 AND OLDER IN BP WITH OPD ZONING DISTRICT: LOTS 16, 17, 17, * 18 OF CROSS POINTE COPORATE PARK (SE CORNER OF BIRCH STREET AND CROSS POINTE BOULEVARD)

Jon McMurtrie and Bob Zoelle, both of United Financial Group, 660 W. Ridgeview Drive, Appleton, were present in support. McMurtrie described the locations of their other facilities. He feels there is a huge desire for senior housing in the Weston area. This will be a \$10 million increment to the tax base. He discussed that the building will be all masonry, there will be underground parking, and 75% of the site will remain as green space.

Bill Schierl, Schierl Companies, PO Box 308, Stevens Point, was present in support. They feel this will be a good fit and a great transition from commercial to residential.

Zuleger stated the CDA endorsed this project last week.

No one spoke in opposition.

D. OPEN HEARING – VILLAGE OF WESTON ORDINANCE REPEALING SECTION 94.128(E) (3) & (6) OF THE ZONING CODE RELATING TO FARMING AND ANIMAL REGULATIONS AND AMENDING & RECREATING THE SAME

Higgins stated this is an ordinance amendment to the section of the Village Zoning Code, 94.128, Farming and Animal Regulations. This is a section of the code that was not updated when we became a Village. We have since started to have issues with farm animals within some of the residential neighborhoods. Higgins read the proposed changes for this ordinance.

Zuleger clarified that because there are some residents who have pot-bellied pigs as pets, we have specified in this ordinance amendment "hogs and pigs for slaughter or market".

II. CONSIDERATION OF PLANNING COMMISSION MINUTES
A. SEPTEMBER 11, 2006 MINUTES

**M/S/P Fischer/Strobel: to approve the Planning Commission Minutes of September 11, 2006.*

III. VISITORS

A. DAVID ROTH, 3406 SCHOFIELD AVENUE – MOBILE HOMES/LARGE TRAILERS IN COMMERCIAL ZONING DISTRICTS

David Roth, Mom's Café, 3406 Schofield Avenue, is present because he was told to come and ask permission to be able to keep a trailer on the property behind Mom's Café. Zuleger clarified that Roth has a trailer (formerly a mobile home, now a storage trailer) and some appliances. We have had an ongoing struggle with Roth on this trailer and his appliances. Roth came to us last week and stated that he would agree to move the trailer and some of the appliances, if he could build a 24-foot addition on to his building. The problem with the addition is that the current building does not meet setbacks. He would have to get a variance. We have allowed, in the past, for extensions in these cases. Zuleger stated that Roth is already taking steps to move the appliances. Roth is looking for the Planning Commission to concur with him that it would be okay for him to put an addition on to his building so that he can store some of these things in a more proper way. Zuleger stated that it is our intent to work with Roth, to get the addition added on to Mom's Café this Spring. Zuleger stated that the appliances that Roth has are going to be sold to a wholesaler, not that they are (to be) salvaged.

Meinel questioned when the plans will come in for review. Zuleger stated that Roth is leaving for Mexico for a short while at the end of this month, so probably when Roth gets back that we'll start the process for him. Zuleger stated that the trailer is not doing any harm where it is right now and could stay there until Roth gets back. Then we would start this process in the Spring. Zuleger stated that this is the most amicable way that we could get this done. Meinel stated that for the conflicts of the neighbors, that he hopes we can get this done quickly. Zuleger stated that Roth is aware of the neighbors' issues. Zuleger stated right now the main issue with the neighbors is the storage of the appliances out there, not so much the trailer. Zuleger stated that the trailer will have to leave the site for Roth to commence the addition, and the appliances will be leaving sometime near the middle of this month. Roth clarified that six of the appliances have already left the site today. Zuleger then clarified that this Spring we will commence with the process of getting the addition on the building. None of the Planning Commission members spoke up with any issues against this plan.

Donner questioned if all of the other scrap material and larger items that are there also, if those will be removed. Roth stated that he has everything on top of a flatbed trailer right now, which he will take that off the site before he leaves for Mexico on the 27th of this month.

IV. CSM APPROVAL

A. #35-06 MOSHER/DOUGLAS BENDER: 4403 SCHOFIELD AVENUE

Higgins stated this CSM is for the proposed Su Casa Restaurant site. This is located right next to the entrance to Green Acres Trailer Park. It meets the requirements of the subdivision ordinance. There is a 35-foot sewer easement, where a sewer and water line will be run down the front of the lot. Donner stated the sewer will be run there. Eventually it will extend all the way down (the rest of the Bender's property).

**M/S/P Strobel/Fischer: to approve CSM #35-06 Mosher/Douglas Bender: 4403 Schofield Avenue.*

B. #36-06 GROHOLSKI/TRAILWOOD INVESTORS: LOT 3 OF SHADOW RIDGE DEVELOPMENT (NE CORNER OF STH-29 AND BIRCH STREET)

Higgins stated this is for the proposed AutoWerks site. This meets the requirements of the subdivision ordinance and staff recommends approval. Higgins stated that whether the rezone passes or not, this CSM is not affected.

**M/S/P Strobel/Donner: to approve CSM #36-06 Groholski/Trailwood Investors: Lot 3 of Shadow Ridge Development (NE Corner of STH-29 and Birch Street).*

V. SIGN PERMITS

A. UNITED FINANCIAL GROUP/APPLETON SIGN CO. – BIRCHWOOD HIGHLANDS SENIOR COMMUNITY PERMANENT SIGN: LOT 18 OF CROSS POINTE CORPORATE PARK (SE CORNER OF BIRCH STREET AND CROSS POINTE BOULEVARD)

Higgins stated this is the permanent sign for the proposed Birchwood Highlands Senior Community. The sign meets the requirements of the zoning code and staff recommends approval. This sign will be between 4-feet, 6-inches and 5-feet, 6-inches tall. Zoelle pointed out some samples of the material to be used for the sign.

**M/S/P Strobel/Hancock: to approve the United Financial Group/Appleton Sign Co. – Birchwood Highlands Senior Community Permanent Sign: Lot 18 of Cross Pointe Corporate Park (SE Corner of Birch Street and Cross Pointe Boulevard). Q: Donner questioned if should be contingent on the conditional grant being approved tonight. Higgins stated that they can make it contingent on the approval of the conditional grant, but that if the conditional grant is not approved, they most likely will not construct the sign. Motion carried.*

B. THE SAMUELS GROUP/SUPER LETTERING & SIGNS – THE SAMUELS GROUP PERMANENT SIGN: 7702 SERVICE LANE

Higgins stated this is just a wall sign on the Samuels Group building in the new Highview Business Park. This will be located on the front of the building facing the highway. Staff recommends approval.

**M/S/P Fischer/Donner: to approve the Samuels Group/Super Lettering & Signs – The Samuels Group Permanent sign: 7702 Service Lane.*

C. GHIDORZI CONSTRUCTION/D&L SIGNS – WESTON CROSSING PERMANENT SIGNS: 4103 & 4107 BARBICAN AVENUE

Higgins stated this is for the two permanent monument signs for the new retail area that Ghidorzi is in the process of building, near the AmericInn. One sign will be on the corner of E. Everest Avenue and Camp Phillips Road, and the second will be on the southern lot along Camp Phillips Road. Staff had questions concerning the lighting and has requested more information. According to the pictures, the light fixtures are open, not enclosed (internally lit). Staff wants to be sure there won't be any light pollution. The signs should also be contingent on their being 5-feet from the property line. Zuleger stated the developer will build the second building next Spring.

**M/S/P Fischer/Hancock: to approve the Ghidorzi Construction/D&L Signs – Weston Crossing Two Permanent Signs: 4103 & 4107 Barbican Avenue, contingent on the signs being placed at least 5 feet from all property lines and staff receiving the requested lighting information that meets staff's satisfaction.*

D. ERIC REEDER/SUPER LETTERING & SIGNS – RAZZ’S BREAKFAST BAR & GRILL PERMANENT SIGN: 5307 WESTFAIR AVENUE

Higgins stated that this is a permanent sign for a new restaurant bar & grill that will be opening on Westfair Avenue. This will be a wood sign, which will be illuminated with floodlights. Higgins explained that, per the Code, Section 94.137 (7) (d) 1, ground lights for signs shall be screened from view of the public right-of-way with evergreen shrubs or ground cover to a minimum height equal to that of the lights. She stated that the setbacks are fine here.

****M/S/P Hancock/Fischer: to approve the Eric Reeder/Super Lettering & Signs – Razz’s Breakfast Bar & Grill Permanent Sign: 5307 Westfair Avenue, contingent on if the sign will be lit, it will not be lit with moving or flashing lights and that Section 94.137 (7) (d) 1 will be complied with and therefore the ground lights for signs will be screened from view of the public right-of-way with evergreen shrubs or ground cover to a minimum height equal to that of the lights.***

E. VENTURE OF WAUSAU/ALLEN GILBERTSON – MESSAGE BOARD TEMPORARY SIGN: 3609 WESTON AVENUE

Higgins stated Gilbertson is requesting a portable reader board sign, out at the Venture of Wausau site, on Weston Avenue. Per code, these types of signs would actually fall under “Special Event Signs”, and per Code, they can only be up for 30-days at a time (per Section 94.157 (6) (a)). Staff recommends approval for 30 days from the Village Board approval.

****M/S/P Strobel/Fischer: to approve the Venture of Wausau/Allen Gilbertson –Temporary Sign Permit for the Portable Reader Board for a period of 30 days from the date of Village Board approval per Section 94.157 (6) (a). Q: Meinel questioned if Gilbertson is aware that this approval is for 30 days only. <<Zuleger stated that he will inform Gilbertson>>. Motion carried.***

F. CHARLES GHIDORZI/D&L SIGNS – ARBY’S PERMANENT SIGNS: 10002 ADVENTURE WAY

Higgins stated these are for all of the Arby’s signs located at the new Commerce Crossing C-Store, on Adventure Way. These signs meet the requirements of the sign ordinance and staff recommends approval.

****M/S/P Hancock/Strobel: to approve the Charles Ghidorzi/D&L Signs – Arby’s Permanent Signs: 10002 Adventure Way.***

G. DAN JOHNSON/D&L SIGNS – EZ MONEY PAYDAY LOANS PERMANENT SIGN: 1711 SCHOFIELD AVENUE

Higgins stated that the original submittal (centered above their store window) was approved by Breu, but on Wednesday, Oct. 4th, we received a revised sign layout, which has the sign located above the store’s door, where the sign is now offset to the right. Staff feels they should center the sign over the door. However, staff thinks that there may be a future second business, which will utilize one common entrance, where their sign may get offset to the left side of that same door. Staff has not verified this, though. The members discussed the options and decided to approve the sign as submitted.

****M/S/P Fischer/Strobel: to approve the Dan Johnson/D&L Signs – EZ Money Payday Loans Permanent Sign: 1711 Schofield Avenue, as submitted.***

VI. RESIDENTIAL BUSINESS/HOME OCCUPATION PERMITS

A. NONE

VII. CLOSE HEARING

A. CLOSE HEARING – (RZ2006-009) FORESIGHT DEVELOPMENT REZONING REQUEST FROMSR TO RE: 2 40-ACRE PARCELS ON NICK AVENUE (ALSO REFERRED TO AS THE PROPOSED WHITETAIL SUBDIVISION)

This hearing was not opened due to a notification issue.

B. CLOSE HEARING - (RZ2006-010) GULF INVESTMENTS REZONING REQUEST FROM B4 & WPD TO B3 & WPD: LOT 3 OF SHADOW RIDGE DEVELOPMENT (NE CORNER OF STH-29 AND BIRCH STREET)

Meinel closed the hearing at 6:47 p.m.

C. CLOSE HEARING – (CU2006-004) UNITED FINANCIAL GROUP CONDITIONAL USE PERMIT REQUEST TO OPERATE AN ACTIVE, INDEPENDENT COMMUNITY FOR INDIVIDUALS 55 AND OLDER IN BP WITH OPD ZONING DISTRICT: LOTS 16, 17, 17, * 18 OF CROSS POINTE COPORATE PARK (SE CORNER OF BIRCH STREET AND CROSS POINTE BOULEVARD)

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Meinel closed the hearing at 6:47 p.m.

VIII. NEW BUSINESS

A. HPI PROPERTIES/PDM CONSTRUCTION – SU CASA RESTAURANT SITE PLAN: 4403 SCHOFIELD AVENUE

Zuleger stated that Steve Frazier, owner of the proposed Su Casa Restaurant, could not be here tonight, but that Frazier met with staff earlier today to review his site plan with respect to the contingencies that staff is recommending for drainage, stormwater, plumbing and utility plans. Frazier understands that the grease interceptor is to be installed on the sewer and that all existing curb cuts not being used are to be closed, and that an access easement (for the proposed entrance) will be recorded. Zuleger stated that he is also fine with the lighting issue. Zuleger stated that this will be a Mexican restaurant, with a feel of a Hard Rock Café. Site is designed to accommodate bar patrons separate from the restaurant patrons. There will be a stage for live entertainment. There will be an open, screened-in patio. There will be garage doors to close off the patio for a private party. Zuleger stated this will be a \$2 million facility.

Zuleger stated that there will be fencing along the backside of his property. Higgins stated it is already very tree-lined.

****M/S/P Strobel/Fischer: to approve the HPI Properties/PDM Construction – Su Casa Restaurant Site Plan: 4403 Schofield Avenue, contingent on drainage, stormwater, plumbing and utility plans are submitted and meet staff satisfaction, a grease interceptor is installed on the sewer, all curb cuts that are in existence will not be used and will be closed, an access easement is recorded, and fencing and/or landscaping to be installed to staff's satisfaction.***

B. ZINSER PROPERTIES/WANTA & SON – CENTRAL WISCONSIN BODY & HOIST SITE PLAN: 7202 ZINSER STREET

Todd Eckers, owner of Central Wisconsin Body & Hoist, 7202 Zinser Street, was present. Higgins stated that all previous contingencies listed in the staff memo have been taken care of. This will be a 4,800 square foot addition on to the property. This meets the requirements of the zoning code for setbacks and lighting. No new landscaping is planned, this is zoned B3. The new building will be used for storage. They have acquired another dealership where they work on truck-mounted cranes. Wanta Builders is doing the design.

****M/S/P Meinel/Hancock: to approve the Zinser Properties/Wanta & Son – Central Wisconsin Body & Hoist Site Plan: 7202 Zinser Street.***

C. WAUSAU SUPPLY CO./URBAN CONSTRUCTION CO. – WAUSAU SUPPLY SITE PLAN: NW CORNER OF COMMERCE DRIVE & ZINSER STREET

Higgins stated that last month we approved their conditional use permit for this property to allow them to operate a warehouse in the BP zoning district. At that time they showed us a building design layout. Based on the comments of the conditional use hearing and comments from the Board, they have changed the layout of their site. They will be starting on the Commerce Drive side rather than Rickyval

Street, so the truck traffic will be coming off of Commerce Drive now. Higgins has stated that they will be adding a temporary cul-de-sac (60-foot radius) onto their fire lane so that trucks can turn around, which the Fire Chief approved. Zuleger stated that they have agreed to go all masonry on the north side (which fronts the residential properties), with no lights on the back, except for safety lights. We are allowing the south elevation to be architectural panel. He stated that we will be working with Wausau Supply on their landscaping. We received a drainage easement from them, on the north side of the property. This building will start out at 62,000 square feet and could go up to 559,200 square feet.

***M/S/P Meinel/Fischer: to approve the Wausau Supply Co./Urban Construction Co. – Wausau Supply Site Plan: NW Corner of Commerce Drive & Zinser Street, contingent on the easement being provided for the drainage issues that is satisfactory to staff, and final approval by the Fire Chief. Q: Higgins commented that the entire building will have a sprinkler system put in by Integrity Fire Protection, but that the Fire Chief wanted to verify the materials planned to be stored there. Motion Carried.**

D. DISCUSSION AND ACTION ON HEARING – (RZ2006-009) FORESIGHT DEVELOPMENT REZONING REQUEST FROM SR TO RE: 2 40-ACRE PARCELS ON NICK AVENUE (ALSO REFERRED TO AS THE PROPOSED WHITETAIL SUBDIVISION)

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E. DISCUSSION AND ACTION ON HEARING - (RZ2006-010) GULF INVESTMENTS REZONING REQUEST FROM B4 & WPD TO B3 & WPD: LOT 3 OF SHADOW RIDGE DEVELOPMENT (NE CORNER OF STH-29 AND BIRCH STREET)

Zuleger stated the question this is whether we feel okay to rezone from B4 & WPD to B3 & WPD. Zuleger stated that there is a potential issue with lighting. Nitschke stated that half the lights will automatically shut off at 10:00 p.m., and at 11:00 p.m. most building lights are shut down. There will be five service stalls. Signage only on building and one sign out in front of the property.

Donner clarified that B3 is the only zoning that allows for this type of business. He questioned why they did not look for a lot that is already zoned B3? Nitschke stated that they really like this site. Donner stated that if we rezone this, any B3 use will be permitted here in the future. He does not believe this conforms with our long-range plan. Meinel is concerned because this development is meant for office district. Strobel questioned if we could do some type of a conditional use? Meinel questioned if this is spot zoning. There is B3 zoning across STH-29, and no other B3 areas until Schofield Avenue. Staff requests that if the Planning Commission approves the rezone that they only rezone the 2 acres being split out with the CSM. This rezone request is for a 10-acre site. Hancock stated that because this does not follow the intent, she is wary to approve. Zuleger pointed out the surrounding zoning. Zuleger stated the zoning for each corner is to create a unique character for each area. Zuleger stated that this is by Colonial Gardens, and near wetlands that can never be built in. Zuleger stated that the Board is concerned with the way used car dealerships are run in the Village. Meinel questioned if we can conditionally approve where if owners sell that the use goes away.

Donner and Higgins brought up the finding of fact form that the members should follow to make their decision. She also pointed out that this property would have to follow the Damon Farber Guidelines and as proposed she felt it did not meet the guidelines. Zuleger read the uses in the B3 district. It was brought up that this zoning is consistent with future land use map, but is not consistent with the comprehensive plan or 1998 TIF plan, which describes this area as office use. We would be down-zoning if we go from the B4 to B3. Higgins stated that typically, we would not see the site plan at the time of a rezoning request. The plans look okay, but we are dealing with the zoning now. Higgins read from the code Sections 94.104 and 94.105. The members liked the plans, just not the location.

***M/S/P Hancock/Strobel: to deny the (RZ2006-010) Gulf Investments Rezoning Request from B4 & WPD to B3 & WPD: Lot 3 of Shadow Ridge Development (NE Corner of STH-29 and Birch Street).**

F. GULF INVESTMENTS/POINT OF BEGINNING – AUTOWERKS LUXURY CAR DEALERSHIP SITE PLAN: WEST 2.31 ACRES OF LOT 3 OF SHADOW RIDGE SUBDIVISION

No discussion or action was taken on this item since the rezoning request was denied.

G. DISCUSSION AND ACTION ON HEARING – (CU2006-004) UNITED FINANCIAL GROUP CONDITIONAL USE PERMIT REQUEST TO OPERATE AN ACTIVE, INDEPENDENT COMMUNITY FOR INDIVIDUALS 55 AND OLDER IN BP WITH OPD ZONING DISTRICT: LOTS 16, 17, 17, & 18 OF CROSS POINTE CORPORATE PARK (SE CORNER OF BIRCH STREET AND CROSS POINTE BOULEVARD)

**M/S/P Hancock/Donner: to approve the (CU2006-004) United Financial Group Conditional Use Permit Request to Operate an Active, Independent Community for Individuals 55 and Older in BP with OPD Zoning District: Lots 16, 17, & 18 of Cross Pointe Corporate Park (SE Corner of Birch Street and Cross Pointe Boulevard). Q: Donner stated that there are a list of things to consider with this being a conditional grant. Higgins discussed what the Planning Commission options are. She stated that the conditional grant should be worded so as to allow them to operate an apartment complex that will be operated as an active, independent community for individuals 55 and older. This conditional use permit is granted by the Planning Commission and the Board. This will be put right on the deed for the property, when the sale goes through with the Schierls. That would ensure that this site could only be used for that type of use. So, if they wanted to change the use, they would have to come back here. She then pointed out that if the members wanted to hear more about the site plan first, they can request that. Donner voted nay, because no conditions were given. Higgins stated the condition for approval is that it be an active, independent community for individuals 55 and older. Hancock stated that it was her intent to have that in the motion. All are now favor. Motion Carried.*

H. UNITED FINANCIAL GROUP/SCHULER & ASSOCIATES – BIRCHWOOD HIGHLANDS SENIOR COMMUNITY SITE PLAN: LOTS 16, 17, & 18 OF CROSS POINTE CORPORATE PARK (SE CORNER OF BIRCH STREET AND CROSS POINTE BOULEVARD)

McMurtrie stated that they will be coming back in with some CSM's in the near future. There will be two stormwater ponds on their site, part of their purchase agreement with Schierls is that they want the two detention ponds to become two outlots. He stated that as part of their purchase agreement the other parcels whose stormwater drains into these two detention ponds, that the owners of those would join with United Financial in a long-term maintenance agreement. This complex will be done in phases. In order for them to have the 5,400 square foot community center, which is part of the first phase, be accessible by as many residents as possible, they designed two separate buildings. The second building is necessary because of the ANR easement that runs through the center of this site. They will be coming back to us to do a zero-lot line plat. The main building will be built in three stages of construction, and will be two separate financings. There will be property lines that run through the building after the first phase of development, that facilitates their financing. They do not want to divide the lot until their building plans are finished and all approved. They brought the building down from Cross Pointe Boulevard as far as they could to maximize the greenspace in the front to create a park-like setting. He discussed that there is an existing stormwater pipe that goes right through the lot, which goes around to the wetland. Because they want the greenspace along Cross Pointe Boulevard, they are going to relocate a portion of the stormwater pipe, which means the easement line for the long-term maintenance will need to be shifted. He stated that the public works department will need to have access from Birch Street to be able to go through their parking lot to access this stormwater pipe, which they do not have a problem with. McMurtrie stated that the public works department will probably want an attachment to the site plan approval that they will approve the long-term easement agreement for maintenance. He stated that if the Village attorney is okay with this, they would just re-draw an easement line, now that they know where the parking lot and accesses will be.

Donner stated that with the construction of the buildings and parking lot so close to the pipeline, that there was likely going to be some extraordinary costs, in the event that any maintenance was required or replacement was needed. The pipeline is very near the south line of the west building. There are also some retaining walls that will be very near the pipeline, even coming down from Cross Pointe

Boulevard. Donner would prefer a separate recordable document stating that those extraordinary costs from our maintenance of the pipeline be borne by the property owner in this case.

McMurtrie stated that by them signing a separate document to be recorded that it would be like their signing a death warrant on their financing. McMurtrie told Donner that we need to take a look at the design and get comfortable with this. The reason they are doing this is to create a quality of the curb appeal along Cross Pointe Boulevard, and the quality of the project. He stated that if we are looking at it straight from the standpoint of the maintenance of the stormwater pipe, that is not what they like to have. McMurtrie stated that we need to consider that they have borne the substantial expense of rebuilding this pipeline in order to create this greenspace. They have to be very careful of any restrictions of record that occur. If there is anything out of the ordinary, that eliminates certain lenders, which drives up their interest rate and the long-term rent in the community. He feels this is not in the best interest of anybody. McMurtrie stated that existing manhole (which would be near against the building), will be abandoned and two new manholes just south of that will be put in. Zoelle stated that they will be shifting the pipe 3 feet south of the original manhole. Zoelle stated that they will deepen the foundation there to prevent undermining, should we have to go and dig up the concrete stormwater pipe. McMurtrie feels there is only about a 1% chance that this stormwater pipe would ever have to be fixed or replaced.

Donner's concern is that this manhole will be in a spot right by someone's patio, that there will be some extra costs that the Village will have to incur at a later date if any repairs need to be made. He does not feel very comfortable taking on this liability. McMurtrie stated that they are dealing with secondary lenders and that they do not like language in closing documents that are not standard. McMurtrie feels Donner's concerns would only amount to a matter of thousands of dollars, not tens or hundreds of thousands of dollars. It was clarified to Meinel that this issue is that this manhole is being squeezed between the building foundation and the wetlands. Because of this they would not be able to dig a trench 15 feet. Donner stated on the south side of the pipeline is a retaining wall. Because of the wetlands, they cannot re-locate this pipe. Donner stated the building was positioned to go over existing easement, but the existing easement is being reconfigured to put the building up. McMurtrie feels that if we try to come to a solution for how to plan the stormwater pipe, we would just delay the project for at least a year. Zoelle stated that he previously discussed these issues with Donner, but now the issue is if there is a recorded document they will have the impact of lending institutions backing off. Meinel questioned if utility does not have the ability to get in and work or make repairs, then what is the purpose of the easement? They said that the utility will be able to get in, but a patio slab may need to get removed. McMurtrie stated again that to get in to make repairs it would be a matter of thousands of dollars, not tens or hundreds of thousands of dollars; and if we put that language in a covenant to be recorded, lenders get very nervous of the non-standard language. McMurtrie stated that we will have access from east and west side to get in to the two manholes. Donner clarified that he is not opposed to relocating the pipeline, that his concern is of taking on the extra costs because of the retaining walls. McMurtrie stated again that the likelihood of us having to rebuild a pipe is less than 1%. Donner stated that although there could be no reason that we would ever have to go in to repair this, but that we cannot make the statement that it would never be a possibility. Zuleger questioned if McMurtrie would be okay with the language being in a developer's agreement. Zuleger stated that we still have to draft a developer's agreement with respect to the supplemental TIF Funding. McMurtrie stated that he would not have a problem with that as long as it does not have to be recorded where it would show up in the title policy. Zuleger questioned Donner what the risk is. Donner stated that he could not quantify the risk, that the pipes should last 50 years at least. He stated that we will have to periodically clean the pipe. He is leery of the extra exposure for maintenance cost for the Village at some point in the future because of the nearby building and the retaining walls that are there. Donner stated that if we had to excavate the pipe, there is no way of doing that without damaging the retaining walls. Zuleger asked Donner if he would accept it if they give us a hold harmless on the retaining walls. McMurtrie questioned if that could be listed on the outlots in covenants. This way it would not show up directly as on the legal description. Schierl would be willing to take the risk. McMurtrie is not opposed to the risk, just opposed to scaring the lenders away. Zuleger stated then to attach the risk mitigation language to the outlots. Outlots will be owned by Schierls. Donner stated that he is just looking out for the Village's interest long-term, that something should be worked out. Zuleger stated that approval should be contingent on this easement issue being worked out so that the Village can provide maintenance at a

minimum. Zuleger pointed out that the neighborhoods to the south are supportive and approving of this project. Zoelle then described the architectural look of the building.

****M/S/P Donner/Strobel: to approve United Financial Group/Schuler & Associates – Birchwood Highlands Senior Community Site Plan: Lots 16, 17, & 18 of Cross Pointe Corporate Park (SE Corner of Birch Street and Cross Pointe Boulevard), contingent on working out an agreement on the storm sewer and detention pond suitable to the applicant and the Village.***

I. DISCUSSION AND ACTION ON HEARING – VILLAGE OF WESTON ORDINANCE REPEALING SECTION 94.128(E) (3) & (6) OF THE ZONING CODE RELATING TO FARMING AND ANIMAL REGULATIONS AND AMENDING & RECREATING THE SAME

****M/S/P Meinel/Hancock to approve the Village of Weston Ordinance Repealing Section 94.128(e) (3) & (6) of the Zoning Code Relating to Farming and Animal Regulations and Amending & Recreating the Same. Q: Strobel clarified the intent of this amendment whether it is meaning inside, outside, or both. He questioned if (for example) we are restricting people from having ferrets that they purchased from Farm & Home. Zuleger stated that this amendment states “intended for slaughter or market”. Zuleger stated there currently areas in the Village where there are roosters, etc. We are trying to structure this ordinance in a way that if a resident has a pot-bellied pig, or ferret, that we will not restrict those. There was discussion on possibly tying this ordinance with Chapter 10, Animals. Zuleger suggested we table this ordinance so that staff can look into this.***

****M/S/P Strobel/Meinel: to table this ordinance amendment for more clarification.***

J. KARL MATTHEWS/MTS CONSULTANTS – LINDEN GROVE FINAL PLAT REVIEW: 5807 WESTON AVENUE

****M/S/P Hancock/Meinel: to approve the Karl Matthews/MTS Consultants – Linden Grove Final Plat Review: 5807 Weston Avenue. Q: Higgins stated that there are some issues that need to be addressed. Higgins stated that we can collect Parkland Dedication Fees now. This was verified by the League of Municipalities, that our ordinance did not fall underneath the Bill that was approved earlier this year. The approval should be contingent on our collecting the Parkland Dedication Fee, a letter of credit being received, and a developers agreement be signed.***

****M/S/P Donner/Meinel: to amend the motion to include the contingency that a developers agreement along with a letter of credit or suitable security be provided on the infrastructure as part of the plat, and that the parkland dedication fees in the amount of \$2,928 be collected. Q: Meinel questioned if the cul-de-sac should have a 60-foot or 66-foot radius. Higgins clarified 60-foot radius.***

Motion as amended – all ayes. Motion carried.

K. DISCUSSION AND POSSIBLE ACTION ON METAL ACCESSORY STRUCTURES IN RR AND AG ZONING

Breu stated that currently these are not allowed in any district. Residents in the RR and AG zoning want us to allow these sheds for storage of hay or wood. Breu stated that he was informed that these apparently will hold a 60-pound snow load. Breu stated that people in the mobile home parks want these too, but he disagrees with that because of the small lots that they have.

George Zinser, Weston Avenue, stated he has 10 acres and wants to put a shed up in his woods to store his cut wood to be dried. Where it would be located is fully wooded and could not be seen from the neighbors. His property is zoned RR. Meinel does not have a problem with this. The land is large enough and it would not be visible. Higgins stated we will need a recommendation for changes to the code where to allow these. It was stated that staff will bring this issue with options back to next

Planning Commission meeting. Higgins explained some situations we have had in the past with these structures.

IX. UNFINISHED BUSINESS

A. NONE

X. FUTURE MEETING TOPICS

A. NONE

XI. ADJOURN

****M/S/P Meinel/Hancock: to adjourn at 8:15 p.m.***

Respectfully,

Valerie R. Parker
Recording Secretary