

**PLAN COMMISSION MINUTES**  
**April 8, 2019**

**CALL TO ORDER:** Chairman Wolter called the meeting to order at 6:33 p.m.

**ROLL CALL:** Chairman Dean Wolter, Trustee Rep David Baum, Commissioners Tony Laszewski, Peter Nilles, Bill Shadid, Matt Kimmler and Bob Williams were present. Also present were Community Development Director/Village Planner Jeff Retzlaff and Planning Assistant Lori Johnson.

**PUBLIC INPUT:** None

**APPROVAL OF MINUTES:** ***MOTION Baum second Shadid to Approve the minutes from 3-11-19. MOTION carried unanimously.***

**PUBLIC HEARINGS:**

A. **Veridian Homes**, Agent for the Germantown School District, Property Owner – N104 W14942 Donges Bay Road. Rezoning application to create a Planned Development District and Rezone 14.7 acres from A-2: Agricultural to Rs-5: Single-Family for a 27-lot residential development. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the Public Hearing at 6:43 pm

The following people spoke:

- Terry Tschetter, W144 N10451 Wilson Drive, spoke against the proposal, said the lots were small and the rezoning should be strict Rs-4.
- Kristine Huber, N103 W14960 Windsong Circle East, spoke against the proposal. She said it was significantly inconsistent with the surrounding neighborhoods and the PDD is not represented correctly.
- Jan Miller, W151 N10297 Windsong Circle West, was opposed to the proposal. She doesn't agree with the PDD overlay and wants land to remain open.
- Brian Dolk, N103 W14650 Hawkeye Court, was opposed to the project and is concerned with on-going construction in the area. He said the zoning should be strict Rs-4.
- Neil Risler, N106 W14743 Harrison Circle, spoke against the proposal and the rezoning.
- Joan Marie Schultz, N106 W14743 Harrison Circle, spoke against the proposal.
- Jeff Holmes, Superintendent of the Germantown School District, spoke in favor of the proposal. He said the sale of the property as single family housing makes the most sense and will have a positive impact on funding for the school district.
- Bob Soderberg, President, Germantown School Board, W144 N9723 Elmwood Drive, said he represents the tax payers of all the communities included in the school district and supports moving forward with the proposal for the additional tax revenue for the school district.
- Brigit Poetzel, N104 W15447 Donges Bay Road, spoke against the proposal and the correct zoning should be Rs-4.
- Robert Banner, W148 N10730 Crabtree Lane, spoke against the proposal and the rezoning. He asked why the Village granted permits for the construction going on at the site.
- Lynn Doll, N106 W14764 Harrison Circle, spoke against the proposal saying she likes the park and wildlife.
- Phil Hudson, W150 10214 Windsong Circle West, spoke against the proposal because it doesn't meet the criteria.

The public hearing was closed at 7:44 pm.

**Veridian Homes LLC Consideration and Action:**

Matt Cudney, Veridian Homes, clarified that the only exceptions to the Rs-5 zoning is their request to reduce the lot size on 4 lots, reduce the minimum frontage on 13 lots, and the front and rear setbacks on 3 lots. The average lot size is 16,500 sqft. He said all of the surrounding neighborhoods have an Rs-5 zoning designation to them and Heritage Hills has Rs-4 PDD zoning with many of the same exceptions. Trustee Baum said he had talked with Matt Cudney and told him if the zoning doesn't match an adjacent subdivision, Heritage Hills or Windsong or another subdivision, his proposal probably wouldn't be approved. Commissioner Shadid questioned what the residents really want, Rs-4 or Rs-5 or nothing. Chairman Wolter indicated there were more comments about the zoning matching the surrounding neighborhoods and another group had come forward asking that nothing be put there. Shadid agreed the proposal should have the same zoning as one of the surrounding neighborhoods. Trustee Baum said Heritage Hills has a PDD with some lot sizes at 15,000 sqft and some lots are smaller. He said the if the lots matched Heritage Hills the project could be approved.

***MOTION Baum second Shadid to Postpone until a plan to match the one of the adjacent districts is brought forward.***

Commissioner Williams asked what Heritage Hills offered as part of the PDD exceptions and what is being offered as an exchange for this PDD. He said he's not seeing anything more imaginative or creative in their proposal. Planner Retzlaff said it's unclear what was offered as an amenity. He said the current proposal is now moving closer to what matches the surrounding neighborhood and asked if maybe dropping a lot or two would make this proposal comparable to the other projects around it. Trustee Baum said he could be more accepting of the development if the zoning matched the surrounding neighborhood. Planner Retzlaff agreed the proposal doesn't stand up to PDD requirements and needs significantly more landscaping around the perimeter of the project. Chairman Wolter said people want Rs-4 zoning and he may look at approving the proposal with that and some other amenities. He would prefer if small lots are at a minimum number of smaller lots.

***MOTION carried unanimously.***

Chairman Wolter called a break at 8:06 pm Meeting reconvened at 8:15 pm.

**NEW BUSINESS**

**A. MSTLC LLC, Agent for TLC Acres LLC and Matthew & Amy Seban, Property Owners- W210 N10738 Appleton Avenue.** Conditional Use Permit application to allow the operation of a landscaping maintenance and construction services business and the retail sale of nursery products not raised on the property. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the public hearing at 8:26 pm.

The following people spoke:

- Stephanie Erdman, N105 W21121 Oak Lane, asked that the CUP be denied. She said the construction noise never stops.

- Judi Cimuchowski, N105 W21085 Oak Lane, spoke against the CUP. And said they have been operating for over a year and it is very loud.
- Carol Harrison, N105 W20998 Oak Lane, spoke against the CUP because of the noise.
- Robert Lietzau, W214 N10548 Oak Lane, spoke against the CUP because of the noise.
- Joel Bojarski, N105 W21151 Oak Lake, spoke against the CUP because of the noise issue.
- Chris Lietzau, N105 W21074 Oak Lane, spoke against the CUP because of the noise.
- Tom Surendonk, N104 W21494 Willow Creek Road, spoke against the CUP.
- Joe Hlavac, N105 W210554 Oak Lane, asked to deny the CUP because it is too noisy.

The public hearing was closed at 8:49 pm.

### **TLC Acres for Matthew & Amy Seban Consideration and Action**

Matt Seban spoke and explained he is working with the Village to acquire the proper permits. He said his business is regulated by the Farm Service of America and the intended purpose of owning the 50 acres is to farm and grown trees. He said filling the tiers was meant to mitigate flooding on the property and after tier 2 is finished he will move forward with planting. He said he will listen to the concerns of the neighbors. Discussion followed.

Trustee Baum said he met the with residents who were concerned with loud noise other than the dumping of fill. Mr. Seban commented the noise is coming from the vibrations of the dump boxes, banging of tailgates and backup alarms. He indicated when tier 2 is done that noise should stop. He also said that periodically there will be some action outside the normal hours of operation.

Commissioner Laszewski asked how many vehicles have white noise backup alarms. Mr. Seban said the majority of the trucks used for dumping are not owned by him, but when tier 2 is completed, all the trucks will be owned by him and have white noise backup alarms. Planner Retzlaff stated the relationship with Mr. Seban is better now and that he is working to resolve the zoning issues. He explained the conditional use permit could include a condition for an annual review.

Chairman Wolter read the following names into the record: Karen Hager-N105 W21162 Parkland Circle, Audrey Neu-N105 W20922 Parkland Circle, Bobbie Siewert-N105 W21005 Oak Lane and Kay Hager-N105 W21162 who are all against the CUP. He said Mr. Seban held a neighborhood meeting at the library on April 2<sup>nd</sup> where 12 residents attended. Their concerns were regarding tier 2 and when it would be complete. Other concerns were with the truck traffic pattern, truck vibration and banging of tailgates, backup beepers and the appearance of the site.

***MOTION Baum second Nilles to Approve the APPROVE a conditional use permit (CUP) for Matthew and Amy Seban to allow the operation of a landscape maintenance and construction services business, and, to sell retail products not raised on the 53.4-acre TLC Acres LLC property located at W210 N10738 Appleton Avenue subject to the following conditions:***

- 1. The uses and activities allowed on the property shall be limited to those uses and activities and relative locations specified in the conditional use permit (CUP) application and supporting documents dated February 26, 2019. The size and relative location of those areas within the property from which said uses and activities are permitted are limited to that presented in the detailed site plan and description submitted with the supporting documents. Days and hours of operation shall be limited to those specified in the CUP application and supporting documents submitted to the Village. The***

***Owner/Operator is responsible for reporting any significant changes in the type, intensity, amount or location of the land uses and activities, days and hours of operation, size or location or other operational characteristics of said uses and activities authorized under this CUP to the Village Planner.***

- 2. All temporary and permanent exterior signs require a permit and shall comply with all current sign regulations. Off-premise advertising and directional signage is regulated by the Village and requires a permit if/when allowed.***
- 3. In the event the Village receives complaints regarding noise negatively affecting the nearby residential neighborhood and adjacent properties, including but not limited to noise from truck-mounted backup alarms, the Owner/Operator shall work cooperatively with the Village to mitigate the noise and resolve the issue. The Owner/Operator shall implement the measures and practices described in the application and supporting documents to mitigate noise, dust and traffic impacts on the surrounding area on a continual basis.***
- 4. Site improvements, buildings, shelters, parking areas, signage, exterior lighting and any other improvements on the property that benefit the vehicles, equipment, materials, employees, and/or customers of or are necessary for the land uses and activities authorized under this CUP shall be reviewed and approved by the Village through the Zoning Permit or Site Plan application process as determined by the Village Zoning Administrator. If required, Site Plan review and approval will include Plan Commission review and approval.***
- 5. The area leased to MSTLC/Total Lawn Care for purposes of parking and storage of vehicles and equipment shall be visually buffered in some manner from the residential properties to the north, west and south. This requirement is not intended to require a complete opaque visual screen, but rather a buffer comprised of either landscape plantings and trees, fencing, berming or a combination, that lessens the impact of viewing commercial vehicles that are primarily used by and for the MSTLC/Total Lawn Care business and not the tree nursery. A detailed grading and landscape plan for the required visual buffer and the "landscape berm" shown in the Site Plan shall be prepared and submitted to the Village Planner for review and approval within six (6) months after issuance of the CUP.***
- 6. No inoperable vehicles, trailers, equipment, junk or trash that may negatively affect the nearby residential areas and adjacent properties shall be kept on the property.***
- 7. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional uses and activities which cause special problems or harmful effects associated with the permitted uses and activities that were not revealed or anticipated at the time this CUP was granted, or, where conditions imposed by this CUP that were anticipated to mitigate or eliminate harmful effects associated with the uses and activities but are subsequently insufficient to do so, or, for similar cause based upon consideration for the public comfort, safety, and welfare, this conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.***
- 8. Residential or other non-agricultural uses not permitted "by right", as an accessory use or authorized under this CUP may constitute a violation of the Village's Zoning Code or this CUP.***

***MOTION to Amend Baum second Shadid to add Condition #9 that Matt Seban notify the Planning Department on the date that tier 2 is fully completed and has ceased filling operations.***

***MOTION to Amend carried unanimously.***

Motion to Amend Baum second Shadid to add Condition #10 that the Conditional Use Permit be reviewed again 1 year from Village Board approval. Motion revised: The CUP is good for 1 year. Trustee Baum explained he wants a timeframe to re-evaluate the business. Chairman Wolter commented that the CUP could be revisited after approval and revoked if the conditions of approval aren't being met. He thinks most of the noise will go away when tier 2 is done. Motion to Amend Withdrawn

Trustee Baum addressed the hours for extraordinary circumstances and asked that they be stricken from the business operations in all areas. Mr. Seban said he intends to follow the hours of operation and he knows the extraordinary circumstances cannot become the ordinary circumstances because it will cause his conditional use permit to be reviewed. But he said it is too hard to say there will not be a truck that may enter after 6:00 pm. He indicated when he spoke to the residents that noise and lights were not a bother to them at night. He added that the extraordinary hours occur in winter during the snowplowing season.

***MOTION to Amend Baum second Laszewski to add Condition #10 that the Conditional Use Permit come back to the Plan Commission for review in 1 year with a public hearing.***

***MOTION to Amend carried unanimously.***

***MOTION to Approve as Amended carried 5-2 (Wolter, Kimmler)***

B. **Keller Inc., Agent for Ellaretee LLC and GGWW LLC, property owner – W204 N12839 Goldendale Road.** Application to Rezone 28.1 acres from A-1: Agricultural to M-1: Limited Industrial; a 2-Lot Certified Survey Map (CSM) application; a Conditional Use Permit application to allow an accessory structure to exceed 45 feet in height; and a Site Plan application for a 100,000 sqft industrial building. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the Public Hearing at 9:47 pm.  
No one spoke.  
The Public Hearing was closed at 9:48 pm.

**Ellaretee LLC Consideration and Action**

***MOTION Baum second Nilles to Approve Rezoning approximately 28.1 acres from A-1: Agricultural to M-1: Limited Industrial as proposed.***

***MOTION carried unanimously.***

***MOTION Baum second Nilles to Approve the 2-Lot Certified Survey Map (CSM) for the 28.1-acre property subject to the following conditions:***

- 1. The CSM shall be revised to reflect the Village Surveyor comments contained in the March 18, 2019 review memo prior to recording the CSM.**

**MOTION to Amend Baum second Nilles to add Condition #2 that the applicant work with staff to provide a street name with the Gateway theme, to be approved at staff level.**

**MOTION to Amend carried unanimously.**

**MOTION to Approve as Amended carried unanimously.**

**MOTION Baum second Shadid to Approve a Conditional Use Permit for Dielectric Corporation to allow an accessory dust collection system to be installed at a height greater than 45 feet subject to the following conditions:**

- 1. The exterior components of the dust collection system shall be painted to match the primary color of the building.**
- 2. Visual screening of the base of the collection system, including any bins, trailers or other related equipment, shall be installed along the south and west sides shall be installed to a minimum height of twelve (12) feet. Said screen can be comprised of a screen wall, opaque fencing, and/or landscaping.**
- 3. Dust collection systems can generate significant mechanical and exhaust noise when operating. The elevated collection system that is proposed may generate unnecessary and continuous noise over the typical weekday work hours from 6:00am to 9:30pm (two shifts) that exceeds the Village's maximum sound level performance standards for the M-1 Zoning District of 75db(A) during the daytime and 70db(A) during the nighttime after 10:00pm (measurements taken at the property line). The Applicant indicates that the dust collection system sound level is expected to be 80db measured at the system location and 68db at the property line. Dielectric shall monitor the noise level generated by the dust collection system to ensure compliance with the Village's performance standards. In the event that the noise level exceeds the performance standards or becomes a nuisance as defined and determined under the Germantown Municipal Code, Dielectric shall make modifications to the dust collection system to reduce the sound level to comply with the performance standards and eliminate the nuisance, including but not limited to, reducing the height, installing silencers, sound enclosures, etc.**
- 4. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or, where there is a change in the nature, character, intensity or extent of the activities or uses which causes problems or harmful effects that were not anticipated at the time of approval of this CUP, the conditional use permit may be modified or terminated by the Village Board by the amendment to or addition of conditions after public hearing thereon.**

Discussion followed. Commissioner Laszewski asked if there was any noise mitigation. Planner Retzlaff said the noise would be from the fan, but hose details haven't been provided. He said sound panels could be installed around the base. Brad Egan, Keller, said because of the tree line and the building, noise would not be an issue. He doesn't believe the noise will reach the neighborhood to the north.

**MOTION carried unanimously.**

**MOTION Baum second Shadid to Approve the site development and building plans for the 13.1-acre ELLARETEE LLC property and 100,000 sqft Dielectric manufacturing facility located on Holy Hill Road @ Goldendale Road subject to the following conditions:**

- 1. This approval is subject to all the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the following architectural and engineering plans unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:**
  - a. Architectural plans for "ELLARETEE LLC" dated January 17, 2019;**
  - b. Civil Engineering plans "Site Improvement Plans for ELLARETEE LLC" dated April 4, 2019;**
  - c. Landscaping plans dated April 3, 2019 (revised);**
  - d. Lighting plans dated April 3, 2019**
- 2. All landscaping, screening, grading, and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.**
- 3. All exterior doors (except primary entrance) shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access as required by the Police Department.**
- 4. All outstanding items and issues identified by Village Staff in the following review memos shall be resolved and reflected in additional information and/or revised plans submitted to Staff for further review, comment and approval prior to commencing construction or issuance of a building permit for the Dielectric facility (excluding "early start" site clearing and footing/foundation work approved by the Village and/or WI DSPS):**
  - a. March 29, 2019 memo from Village Engineer, Eric Nitschke**
- 5. State approved plans and a \$20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.**
- 6. Additional landscaping is required along the south elevation of the building. Additional plantings shall be installed along the south building elevation and comprised of vertical, quick-growing evergreen, deciduous and/or ornamental trees.**
- 7. The Applicant is required to submit a roof plan showing the location of any/all RTU's and the proposed screening to be used to shield the view of the RTU's. Said plan shall be submitted to the Plan Commission for review and approval prior to issuance of an occupancy permit.**
- 8. The following items shall be provided as required by the Village Fire Department:**
  - a. Approved and operational water supply is required prior to occupancy with fire hydrants located at intervals at approximately 400' apart;**
  - b. A paved sidewalk around the entire building is required for GFD access connecting to a hard surface on the east side.**

- c. ***Fire standpipes are required to be installed at all exit doors in the manufacturing and warehouse areas of the building.***
  - d. ***A Knox Box shall be installed at a location to be determined by GFD.***
  - e. ***Fire sprinkler and alarms are required by IBC based on occupancy class.***
9. ***Minimal details regarding the size, location and materials for the dumpster enclosure has been provided. Dumpster enclosures shall be designed to meet the Village's dumpster enclosure guidelines. A revised or supplemental site plan showing details for the dumpster enclosure shall be submitted to the Village Planner for review and approval prior to issuance of a building permit.***

Discussion followed on screening the rooftop units. Trustee Baum said he'd prefer the parapet walls screen the units versus a bolt on screening system. He asked if the units could be shifted around. Chris Manske, Keller, confirmed they could shift the units around and place them behind the parapets.

***MOTION to Amend Condition #7 Baum second Laszewski that the applicant demonstrates the parapet walls will screen the rooftop units prior to the issuance of a building permit.***

***MOTION to Amend carried unanimously.***

Planner Retzlaff said the landscaping on the south elevation should be enhanced to include additional evergreen trees consistent with what's shown on the rendering along the building. Chairman Wolter thanked Keller and Ellaretee for building in Germantown.

***MOTION to Approve as Amended carried 6-1 (Baum).***

C. **Towne Realty Inc. d/b/a Zilber Property Group, Agents for ZPG Development LLC, Property Owner – W210 N12805 Gateway Crossing** in the Germantown Gateway Corporate Park. Conditional Use Permit application to allow grading and filling within a 75' navigable waterway setback; a 4-lot Certified Survey Map (CSM) application; and a Site Plan application for a 198,766 sqft and a 204,373 sqft Industrial Building. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the Public Hearing at 10:20 pm.

No one spoke.

The Public Hearing was closed at 10:21 pm.

**Zilber Property Group Consideration and Action**

***MOTION Baum second Shadid to Approve the 4-lot Certified Survey Map (CSM) for the 101.7-acre Germantown Corporate Park property subject to the following conditions:***

1. ***The CSM shall be revised to reflect the Village Surveyor comments contained in the March 26, 2019 review memo prior to recording the CSM.***

***MOTION carried unanimously.***

**MOTION Baum second Shadid to Approve a Conditional Use Permit to allow development within the 25' wetland setback areas and proposed compensation as presented in the Wetland Mitigation Narrative (dated February 28, 2019) pursuant to Section 24.04 of the Shoreland Wetland Zoning Code and subject to the following conditions:**

- 1 .If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or, where there is a change in the nature, character, intensity or extent of the activities or uses which causes problems or harmful effects that were not anticipated at the time of approval of this CUP, the conditional use permit may be modified or terminated by the Village Board by the amendment to or addition of conditions after public hearing thereon.**
- 2. The Property Owner shall implement the wetland setback compensation measures as set forth in the Wetland Mitigation Narrative (dated February 28, 2019) as part of the site development activities. Any changes to the mitigation plan, or, changes to any proposed development of the site that impacts the ability to implement the mitigation plan shall be reported to the Village.**
- 3. The Property Owner shall prepare and submit an annual monitoring report to the Village concerning the management activities proposed in the Wetland Mitigation Narrative (dated February 28, 2019), including the planting/restoration of native vegetation. Said report shall, at a minimum, detail the type and number of plantings, all activities carried out in the previous year and the observed success of all previous activities, recommendations for new or different activities needed to ensure success of the mitigation measures and management activities carried out, and the planned activities for the coming year. Said report shall be submitted annually at the end of each year beginning in 2020 for a period of three (3) years.**

**MOTION carried unanimously.**

**MOTION Baum second Laszewski to Approve the Site Development and Building Plans for Zilber II (198,766 sqft industrial building) and Zilber III (204,373 sqft industrial building) in the Gateway Corporate Park subject to the following conditions:**

- 1. This approval is subject to all the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the following architectural and engineering plans unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:**
  - a. "Onsite Civil Engineering and Infrastructure Plans for the Z2 &Z3 at Germantown Corporate Park" dated March 4, 2019;**
  - b. Architectural plans labeled "Zilber Industrial II" dated March 4, 2019;**
  - c. Architectural plans labeled "Zilber Industrial III" dated March 4, 2019;**
- 2. All landscaping, screening, grading, and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.**

- 3. All exterior doors (except primary entrance) shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access as required by the Police Department.**
- 4. All outstanding items and issues identified by Village Staff in the following review memos shall be resolved and reflected in additional information and/or revised plans submitted to Staff for further review, comment and approval prior to issuance of a building permit for the Zilber II and Zilber III buildings (excluding "early start" site clearing and footing/foundation work approved by the Village and/or WI DSPS):**
  - a. March 28, 2019 memo from Village Engineer, Eric Nitschke**
  - b. March 27, 2019 memo from Community Dev Director, Jeff Retzlaff**
- 5. State approved plans and a \$20,000 occupancy bond are required by Inspection services as part of the building permit application.**
- 6. The following items shall be provided as required by the Village Fire Department:**
  - a. An approved water supply with fire hydrants required at intervals of approximately 400 apart.**
  - b. Fire Sprinkler and alarm systems shall be installed as required by IBC based on occupancy class (currently unknown). Locations of fire protection equipment is subject to approval of GFD.**
  - c. A fire lane shall be designated between the Zilber II & Zilber III buildings through the shared driveway and truck parking areas so the GFD has access to both buildings per NFPA 1 Chapter 18. Said fire lane should be shown on the site plans and recorded on the CSM survey map.**
  - d. Knox boxes will be required on each building at locations to be determined by GFD.**
- 7. The Developer shall provide a detailed plan or set of specifications for what type, i.e. design, materials, color, etc. of roof-mounted mechanical screening will be installed in the event that screening is required at the time one or more tenants apply for building permits and occupancy from the Village, and, submit said specifications to the Village Planner for review and approval prior to issuance of an occupancy permit for the Zilber II & Zilber III buildings.**
- 8. The landscaping plan shall be revised to include additional landscaping around the fencing to be comprised of evergreen trees and shrubs. Said revised or supplemental plan shall be submitted to the Village Planner for review and approval prior to issuance of a building permit for the Zilber III building.**

Discussion followed regarding rooftop units.

Motion to Amend Baum second Laszewski to add Condition #9 that the building parapet walls screen the rooftop units either by location of the rooftop units or increased height of the parapet walls.

Planner Retzlaff said it is unknown who the tenants will be and if any rooftop mechanicals will be required. Chad Novis, Zilber Property Group, said the future uses will fall within the zoning district. Trustee Baum said his first preference is to locate the rooftop units around the glazed corner so the taller walls would screen the rooftop units.

Motion Withdrawn.

***MOTION to Amend Baum second Shadid that the first preference is for the building to screen the rooftop units and if screening the rooftop units cannot be done with the building or by placement as a secondary measure, we will accept the bolt on screening method.***

***MOTION to Amend carried unanimously.***

***MOTION to Approve as Amended carried unanimously.***

**D. Matthew & Michelle Stephan, Agents for Mark Stephan, Property Owner – 19.8 acres on Rockfield Road ½ mile west of Goldendale Road.** Application to Rezone 19.8 acres from A-1: Agricultural to A-2: Agricultural & Rs-1: Single Family and a 2-Lot Certified Survey Map application. Planner Retzlaff summarized the proposal and said staff does not support the proposed rezoning and land division at this time because this area will likely be better and more efficiently served with public utilities that can be used more efficiently by future development that is suitable for industrial or a higher density residential area.

Chairman Wolter opened the public hearing at 10:36 pm.

- Matt Stephan, N163 W20135 Ash Drive, said he is looking to raise his family here and that he knows about the development and future water tower that are located across the street from this lot.

The public hearing was closed at 10:39 p.m.

**Matthew & Michelle Stephan Consideration and Action**

***MOTION Baum second Shadid to Approve Rezoning the 19.8-acre parcel from A-1: Agricultural to Rs-1: Residential Single-family as proposed; and Approve the proposed 2-lot Certified Survey Map (CSM) of the 19.8-acre parcel owned by Mark Stephan located on Rockfield Road.***

***MOTION carried 6-1 (Baum).***

**Lendlease Americas Inc., Agent for Rockfield Investments, Property Owner and Verizon**

**Wireless – N132 W17390 Rockfield Road.** Request for approval of a Conditional Use Permit and Site Plans for the installation of a wireless communication facility and 185.5 monopole tower on a 6.5-acre property. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the Public Hearing at 10:52 pm.

- Nathan Ward, spoke on behalf of the applicant. He asked if they could post a \$20,000 bond versus a Letter of Credit. Planner Retzlaff said that has been allowed in the past. Mr. Ward said the recommendation of approval abides with all code requirements in Section 17.56 and is not in conflict with the state statute. He stated they are not proposing any landscape screening and that the vertical slats component is the only basis for screening the site.
- Amanda Kasinskas, W172 N13307 Division Road – spoke against the proposal. She is worried about the health effects of having a cell tower so close to residential properties.

The Public Hearing was closed at 11:00 pm.

**Lendlease Americas Consideration and Action**

***MOTION Baum second Shadid to Approve an issuance of a Conditional Use Permit to Lendlease Americas Inc. and Verizon Wireless, lessee and operator, and Rockfield Investments LLC, property owner, to allow the installation and operation of a wireless communication facility and 185.5' monopole tower as proposed on the property located at N132 W17390 Rockfield Road, and approval of the site development plan subject to the following conditions with the amendment to Condition #3 changing the Letter of Credit to a Bond and remove the landscaping requirement:***

- 1. This permit authorizes the installation of a 185.5' monopole tower and equipment compound as set forth in site development and building plan set dated of February 13, 2019, and in the supporting documents and plans made part of said application. All of the operational characteristics and services as described, as well as any commitments made by the Applicant as set forth in the application, supporting documents, and made during presentations to the Village Plan Commission, Village Board and Village staff are deemed to be conditions of approval.***
- 2. If use of the tower and/or operation of the communication equipment supported thereon falls out of conformity with the conditions herein, or where there is a change in the nature, character, intensity or extent of the permitted conditional use which causes special problems or harmful effects otherwise associated with the use to be no longer ameliorated or eliminated, or where conditions imposed were anticipated to mitigate or eliminate harmful effects associated with the use but are subsequently insufficient to do so, or for similar cause based upon consideration for the public comfort, safety, and welfare, the conditional use permit may be terminated or modified by the Village Board by the amendment to or addition of conditions after public hearing thereon.***
- 3. Installation and continued operation of the wireless communication facility shall comply with all requirements set forth in Section 17.56 (Wireless Communication Facilities) of the Village Code to the extent that such requirements do not conflict or are inconsistent with Wis. Stat. 66.0404; including, but not limited to the requirement that the applicant/owner shall provide an irrevocable letter of credit or cash to the Village in the amount of \$20,000 to guaranty the removal of wireless communication facilities and associated site restoration if/when said facilities are no longer used.***
- 4. The Applicant shall install privacy slats or screening in or integrated with the wire-woven chain link fencing around the equipment compound to shield the view of the equipment cabinets, generators, fuel tanks, etc. that will be installed within the fence compound. The color should be earth-tone and compatible with the surrounding area.***
- 5. The Applicant shall provide a final set of stamped and sealed engineering plans at the time building permit applications are submitted.***

Chairman Wolter explained there is nothing the Village can do about this proposal because state law took away the ability to restrict these towers at a local level.

***MOTION carried unanimously.***

**F. Weissman Automotive – W140 N10455 Fond du Lac Avenue.** Request for approval to Rezone 4.1 acres from B-3: General Business District and M-2: General Industrial to B-5: Highway Business; a Conditional Use Permit application to allow the operation of a motor vehicle service and repair

shop; and a Site Plan application for a 3,500 sqft building addition. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the public hearing at 11:11 pm.

No one spoke.

The public hearing was closed at 11:13 pm.

**Weissman Automotive Consideration and Action**

***MOTION Baum second Nilles to Approve rezoning the 4.1-acre property from B-3: General Business and M-2: General Industrial to B-5: Highway Business.***

***MOTION carried unanimously.***

***MOTION Baum second Nilles to Approve a Conditional Use Permit for Rick Weissman to operate a vehicle repair facility from the property located at W140 N10455 Fond du Lac Avenue subject to the following conditions:***

- 1. The uses, activities and hours of operation for the vehicle repair facility shall be limited to that described in the Application (dated March 4, 2019), supporting information and in the Village Staff Report & Recommendation (dated April 8, 2019).***
- 2. If the use, activities and/or operation subject of this permit falls out of conformity with the conditions herein, or, where there is a change in the nature, character, intensity or extent of the activities or uses which causes problems or harmful effects that were not anticipated at the time of approval of this CUP, the conditional use permit may be modified or terminated by the Village Board by the amendment to or addition of conditions after public hearing thereon.***
- 3. To provide an adequate visual buffer of the west parking area within which it can reasonably be expected that business vehicles, trailers, customer vehicles, inoperable and junk vehicles, used tires, discarded parts and other junk may be stored on a long-term basis, the Owner/Operator shall install the proposed 6' high wooden privacy fence along the west, north and south sides of the expanded parking area within eighteen (18) months after completion of the 3,500 sqft building addition.***
- 4. The Owner/Operator shall operate the auto repair business on a continual basis in compliance with the provisions of Section 10.06 of the Municipal Code regarding "Junk and Junked Vehicles".***
- 5. All temporary signs require sign permits and compliance with the Zoning Code regulations for signs.***

***MOTION carried unanimously.***

***MOTION Baum second Nilles to Approve the site development and building plans for the proposed 3,500 sqft building addition and site improvements for the Weissman Automotive facility located at W140 N10455 Fond du Lac Avenue subject to the following conditions:***

- 1. This approval is subject to all the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the following architectural and engineering plans unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:***
  - a. Architectural plans prepared by Bayland Buildings dated February 18, 2019;***

**b. Civil Engineering plans “Weissman Auto Building Addition, Parking Lot Expansion & Utility Construction” revision dated April 4, 2019**

- 2. All landscaping, screening, grading, and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.**
- 3. All exterior doors (except primary entrance) shall be clearly marked with reflective 5” or larger letters/numbers to aid emergency personnel access.**
- 4. All outstanding items and issues identified by Village Engineer/Public Works Staff in the following review memos shall be resolved and reflected in additional information and/or revised plans submitted to Staff for further review, comment and approval prior to commencing construction or issuance of a building permit (excluding “early start” site clearing and footing/foundation work approved by the Village and/or WI DSPS):**
  - c. April 1, 2019 memo from Village Engineer, Eric Nitschke**
- 5. State approved plans and a \$20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.**
- 6. Details regarding the size and location of the dumpster enclosure(s) shall be provided in supplemental information and/or a revised site plan sheet. Dumpster enclosures shall be designed to meet the Village’s dumpster enclosure guidelines.**
- 7. The maximum height allowed for pole-mounted light fixtures is 25 feet. The pole-mounted fixtures cannot be tilted as proposed. Backlight shields for the pole-mounted fixtures in the west parking area shall be provided. A revised lighting plan shall be submitted to the Village Planner for review and approval prior to issuance of a building permit.**
- 8. To provide an adequate visual buffer of the west parking area within which it can reasonably be expected that business vehicles, trailers, customer vehicles, inoperable and junk vehicles, used tires, discarded parts and other junk may be stored on a long-term basis, the Owner/Operator shall install the proposed 6’ high wooden privacy fence along the west, north and south sides of the expanded parking area within eighteen (18) months after completion of the 3,500 sqft building addition.**
- 9. All temporary signs require sign permits and compliance with the Zoning Code regulations for signs.**
- 10. The Owner/Operator shall remove the existing pavement encroachment and other site improvements from the Fond du Lac Ave right-of-way and provide a minimum 8’ wide setback and landscaped buffer area between the paved parking area and the east property line. Said landscaped buffer shall be comprised of ornamental trees, deciduous and evergreen shrubs planted in a continuous hedge.**
- 11. The Owner/Operator shall install additional trees integrated with the landscaped berm proposed along the west property line comprised of additional evergreen and deciduous trees.**
- 12. The Owner/Operator shall submit a revised landscaping plan to the Village Planner for review and approval prior to issuance of a building permit.**

- 13. The following items shall be provided as required by the Village Fire Department:**
- a. Parking shall not be allowed on the paved parking or drive area on the north side of the building so that the west parking area is accessible.**
  - b. All exterior doors (except primary entrance) shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access.**

Rick Weissman was concerned with losing all the front parking spaces saying he will have minimal parking available. He said he gets 10 to 15 cars an hour for emission testing and losing the parking spaces is critical to his business. Planner Retzlaff explained the Fire Department recommended that parking not be allowed in the drive area on the north side of the building to provide a fire lane. But he said the site plan could be modified to accommodate parking on the north side of the building. Chairman Wolter stated he is not in favor of going against the Fire Department's recommendation. Mr. Weissman said the DOT is OK with the 5 parking spaces staying in the right-of-way along Fond du Lac Avenue. However, Planner Retzlaff explained the parking spots do not comply with the zoning code requirements and recommended the required minimum 8' wide setback and landscaped buffer area be required. He said the WisDOT has provided a "Revocable Occupancy Permit" that allows the parking lot encroachment to be used temporarily.

**MOTION to Amend Baum second Laszewski to Remove Condition #10.  
MOTION carried 6-1 (Nilles).**

**MOTION to Approve as Amended carried unanimously.**

**Heritage Park Development Corp., Agent for John & Mary Barnes and Bittersweet Trail, LLC,** Property Owners – 33 acres east of Division Road and north of Revere Lane. The request is for approval of a Preliminary Subdivision Plat for a 35-lot Single-Family Residential Development called "Heritage Park North". Planner Retzlaff summarized the proposal.

**MOTION Baum second Shadid to Approve the preliminary subdivision plat for the 35-lot, 33-acre single-family residential development called "Heritage Park North" located on Division Road subject to the following conditions:**

- 1. Developer shall enter into a Development Agreement with the Village pursuant to Section 18 of the Village Code (Subdivision and Platting), as well as, the preparation of detailed plans for the installation of public utilities and improvements including, but not limited to public street improvements, water, sewer, storm water management facilities, master grading plan and erosion control, trails, landscaping & street trees, open space, lighting and signage. The Development Agreement should also address the fact that the 4 lots created from the Bittersweet Trail will be completed with a certified survey map (CSM) and not a final plat along with the other 31 lots.**
- 2. The Developer shall obtain a conditional use permit (CUP) and prepare a setback mitigation plan for any development that encroaches into a 25' wetland setback. Setback mitigation required under the Village's 25' Shoreland-Wetland Code wetland setback requirement is different than and in addition to the wetland mitigation required to satisfy the WisDNR's wetland filling permit requirements.**

3. ***The Developer is seeking approval from the WisDNR to fill portions of Wetland W-3 (and potentially W-2). In the event that the required approval is not granted to fill Wetland W-3, the Developer shall delete Lot 7 & Lot 8 from the development and replace said lots with open space (and shown on the final plat prior to Village approval). Prior to or concurrent with execution of a Development Agreement with the Village, the Developer shall revise the preliminary plat to include a note that Lot 7 & Lot 8 cannot be developed unless and until approval to fill Wetland W-3 is obtained from the WisDNR.***
4. ***The Developer shall submit a detailed street tree and landscaping plan for any common area improvements to the Plan Commission and Village Forester for review and approval prior to execution of a Development Agreement with the Village.***
5. ***The Developer shall address all of the Village Surveyor comments contained in a review memo dated February 6, 2019 and revise the preliminary plat (if necessary) prior to execution of a Development Agreement with the Village.***
6. ***The Developer shall address all of the Village Engineer/Public Works comments contained in a review memo dated March 5, 2019 and revise the detailed construction plans prior to execution of a Development Agreement with the Village.***
7. ***The Development Agreement shall include a requirement that subdivision deed restrictions and covenants be submitted to the Village prior to final plat submittal that include a requirement that each individual lot contain the minimum landscaping required under Section 17.43(5).***
8. ***The Developer shall install a sidewalk/pedestrian trail from the existing terminus north of the property on the east side of Division Road to the proposed Tanglewood Drive intersection as mutually agreed to with the Village Engineer to provide pedestrian accessibility to/from Heritage Park North.***

Chairman Wolter stated his home backs up to this subdivision and said he and his neighbors are asking that the drainage swale that backs up to the lots not be impacted by the development.

***MOTION carried unanimously.***

**Carity Land Corporation, Agent for Briscoe Development & Management**, Property Owner of 144.8 acres located south of Freistadt Road, east of the Canadian National Railroad, north of Mequon Road and west of Country Aire Drive. Request is for approval of a 4-lot Certified Survey Map (CSM) to re-divide the property contained within the Wrenwood Planned Development District. Planner Retzlaff summarized the proposal.

***MOTION Baum second Nilles to Approve the 4-lot Certified Survey Map (CSM) for the 144.8 Briscoe Development & Management Inc., property subject to the following conditions:***

1. ***The CSM shall be revised to reflect the Village Surveyor comments contained in the March 26, 2019 review memo prior to recording the CSM.***

***MOTION carried unanimously.***

**Neumann Developments, Agent for Briscoe Development, Property Owner of 144.8 acres bounded by Freistadt Road, Country Aire Drive and Mequon Road.** Site development and building plans for a 44-unit multi family condominium development in the Wrenwood Planned

Development District. Planner Retzlaff summarized the proposal. Bryan Lindgren, Neumann Developments, said he accepted the conditions in the staff report.

***MOTION Baum second Laszewski to Approve the site development and building plans for the development of a 44-unit residential condominium community located within the Wrenwood Planned Development District (PDD) subject to the following conditions:***

- 1. This approval is subject to all the conditions and requirements set forth herein and adopted by the Plan Commission. Approval is granted for the following architectural and engineering plans unless superseded by subsequent plan sheets approved by Village Staff pursuant to revisions required herein and/or by the Plan Commission:***
  - a. Site Plan Sheet C0.02 dated March 1, 2019;***
  - b. Civil Engineering Plans labeled “Wrenwood Single Family Residential Subdivision Site Development Plans” that affect the condominium development prepared by TRIO dated March 1, 2019;***
  - c. Architectural Plans prepared by TDI Associates Inc. dated February 21 & 28, 2019;***
  - d. Common Area Landscape Plan prepared by Garland Alliance dated March 4, 2019***
- 2. All landscaping, screening, grading, and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.***
- 3. All outstanding items and issues identified by Village Staff in the following review memos shall be resolved and reflected in additional information and/or revised plans submitted to Staff for further review, comment and approval prior to issuance of building permits and/or commencing construction (excluding “early start” site clearing and footing/foundation work approved by the Village and/or WI DSPS):***
  - a. April 5, 2019 memos, Village Engineer, Eric Nitschke***
  - b. March 25, 2019 memo, Community Development Director, Jeff Retzlaff***
- 4. Construction of the clubhouse shall commence no later than the date an occupancy permit is issued for the 22nd condominium dwelling unit.***
- 5. Uses and activities within the Glen at Wrenwood condominium development shall be consistent with and comply with the conditions & restrictions adopted by the Village for the Wrenwood Planned Development District (PDD).***
- 6. Developer shall enter into a Development Agreement with the Village pursuant to Section 18 of the Village Code (Subdivision and Platting) to address the installation of public utilities and improvements including, but not limited to public street improvements, storm water management facilities, master grading plan, erosion control, landscaping & street trees, open space, lighting and signage.***

***MOTION carried unanimously.***

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**Briggs & Stratton Corporation, W210 N12800 Gateway Crossing.** Request for approval for monument and wall signage for the 706,000 sqft distribution/warehouse facility in the Gateway Corporate Park. Planner Retzlaff summarized the proposal.

***MOTION Baum second Nilles to Approve the proposed monument and wall signs for the 706,000 sqft Briggs & Stratton Corporation warehouse/distribution facility located in the Germantown Gateway Corporate Park subject to the following conditions:***

- 1. Electrical permits shall be obtained from Inspection Services prior to installation of any/all electrical components.***
- 2. A landscape plan for the "VISITORS ENTRANCE" monument sign along Gateway Crossing shall be provided to the Village Planner for review and approval prior to installing the monument sign.***
- 3. The sign area for the wall sign located on the south building façade facing Holy Hill Road shall not exceed a total of 300 sqft.***

***MOTION carried unanimously.***

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 11:43 p.m.

Respectfully submitted,

Lori Johnson  
Planning Assistant