

PLAN COMMISSION MINUTES

October 12, 2020

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:30 pm.

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

PUBLIC INPUT: None

APPROVAL OF MINUTES:

MOTION Baum second Laszewski to Approve the minutes from 9/14/20.

MOTION carried unanimously.

MGS Manufacturing Group - W190 N11701 Moldmakers Way. Request for approval of a conditional use permit (CUP) to allow development within a 25' wetland setback on the 24-acre property. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the Public Hearing at 6:38 pm.

Chairman Wolter closed the Public Hearing at 6:39 pm.

MOTION Baum second Laszewski to Approve the Conditional Use Permit to MGS Mfg. to allow development within the 25' wetland setback areas and the proposed compensation as presented in the Wetland Setback Compensation Plan (dated October 6, 2020) pursuant to Section 24.04 of the Shoreland-Wetland Zoning Code and subject to the following conditions:

- 1. The Property Owner shall prepare and submit an annual monitoring report to the Village and local DNR staff concerning the various management activities proposed in the plan, including the prairie grass planting and restoration. Said report shall, at a minimum, detail the type and amount 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 to be carried out, and a list of planned activities for the upcoming year. Said report shall be submitted annually at the end of each year beginning in 2021 for a period of three (3) years.***

Trustee Baum questioned why the swale is considered wetland. Planner Retzlaff explained the swale met DNR criteria to be considered wetland.

MOTION carried unanimously.

Neumann Developments for Wrenwood LLC - Outlot 2 of Wrenwood Subdivision. Request for approval of a conditional use permit (CUP) to allow development within a 25' wetland and 75' navigable waterway setback in the 145-acre Wrenwood subdivision. Planner Retzlaff summarized the proposal.

Chairman Wolter opened the Public Hearing at 6:48 pm.

- Susan Bernhard, N120 W14709 Freistadt Road - asked if there would be any more berms with the other new development to the north. Planner Retzlaff answered that is not known at this time. He explained the developers first step with excess topsoil is to find a location on site to use it. Chairman

Wolter stated the leftover topsoil is from the infrastructure development and that topsoil should stay within the development.

- Jan Miller, W151 N10297 Windsong Circle West - was opposed to creating any kind of berm and said the dirt should be moved to a different location.

Chairman Wolter closed the Public Hearing at 6:55 pm.

MOTION Baum second Shadid to Approve a Conditional Use Permit to Wrenwood LLC to allow development within the 25' wetland and 75' waterway setback areas and the proposed compensation as presented in the Wetland Setback Compensation Plan (dated August 31, 2020) pursuant to Section 24.04 of the Shoreland-Wetland Zoning Code and subject to the following conditions:

- 1. The Developer or Homeowner's Association (or other subsequent owner of Outlot 2) shall prepare and submit an annual monitoring report to the Village and local DNR staff concerning the various management activities proposed in the plan, including the prairie grass planting and restoration. Said report shall, at a minimum, detail the type and amount 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 to be carried out, and a list of planned activities for the upcoming year. Said report shall be submitted annually at the end of each year beginning in 2021 for a period of three (3) years.***

Chairman Wolter explained some development is allowed to occur within the wetland setback area. Planner Retzlaff added that the 25-foot buffer was created by the Village as an additional setback for wetland on top of the DNR regulations.

MOTION carried unanimously.

Gehl Foods - N116 W15970 Main Street- Request for approval of an amendment the Gehl Foods Planned Development District (PDD), site development and building plans for a proposed Nitrogen Generation Facility and a Conditional Use Permit (CUP) for an accessory structure over 45' in height. Associate Planner Zandt summarized the proposal.

Chairman Wolter opened the Public Hearing at 7:12 pm.

- Janet Oleson, N114 W15821 Hilbert Lane - Chairman Wolter read her letter into the record. Ms. Oleson had concerns with Gehl Foods buying most of the houses on Main street, the Saxony Village development, dogs leaving waste on her grass, traffic and construction trucks.
- Robert Plastine, N118 W15735 Williams Drive - Chairman Wolter read his letter into the record. Mr. Plastine had questions regarding noise with the new nitrogen operation process and if a runtime window had been established; will Airgas maintain the existing nitrogen equipment as a backup.
- Julie Reichert, W156 N11580 Pilgrim Road - asked about the safety of having nitrogen in a residential neighborhood. Chairman Wolter stated the Fire Department indicated they have the correct equipment to respond and Washington County can also respond.
- Steven Buck, Gehl Foods - Explained nitrogen is not explosive or acts with other chemicals. He said Gehls will be using the same amount of nitrogen with this unit but will not need to use the tanker truck for trucking in nitrogen. He said the location for the new tank was picked because it has the least impact to the neighborhood and site traffic.

- Scott Barkow, W154 N11651 Daniels Drive - asked if the nitrogen unit would deplete oxygen from the air, and how much noise will it cause. Mr. Buck, Gehl Foods, said it the unit would take oxygen from the air but not significantly. He said the units sound decibel would be at 83 or well below the requirements and lower than the nitrogen unloading. He explained the process will generate the oxygen on site instead of bringing it in. Mr. Barkow asked why Gehls was not in the industrial park instead of downtown Germantown. Chairman Wolter commented that Gehls growth has occurred over many years, and when their last development application came forward, they agreed to look into bringing the noise level down as part of the proposal. Planner Retzlaff stated when the PDD was approved, other similar issues were raised and Gehls agreed to make a strong commitment to reduce noise, and the cooling units would be at the top of their list.
- Jan Miller, W151 N10297 Windsong Circle West - asked the Plan Commission to deny the proposal. She said there wasn't a plan how the nitrogen would move to the plant or how it would be delivered. She said 52 feet is more than the code allows and the Village keeps making exceptions for Gehls. She asked if Airgas could make a new silo within the 45-foot regulation adding the compressor or evaporator would still make noise.
- Art Zabel, N97 W15736 Burr Oak Road - asked if the unit should be located where other towers located on the site instead of standing alone. Mr. Buck explained the new unit will supply gaseous oxygen to the plant and there would be no liquid nitrogen to the facility. He said it would stay within the fenced area and does not need to be attached to the facility. The unit would be located on the lot far enough away from traffic on site and the community.

Chairman Wolter closed the Public Hearing at 7:38 pm.

MOTION Baum second Laszewski to Approve the Conditional Use Permit (CUP) for the proposed 52' tall cold box silo for the proposed Nitrogen Generation Facility addition to the Gehl Foods food production plant located at N116 W15970 Main Street 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 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.***

Trustee Baum asked why the silo needed to be 52 feet tall and could not stay within the regulations. Mr. Buck stated the only way to stay within the regulations would be to install 4 separate units and they wouldn't fit on the site. Trustee Baum stated he had a problem continually relenting to do what is asked for, another conditional use and changing all the rules. Why can't they stay with what they can do? Planner Retzlaff stated granting the CUP is not an exception or variance just to Gehl Foods. Gehl Foods is located in the M-1 Limited Industrial Zoning District that has a regulation that allows for accessory structures to exceed the 45-foot standard maximum height provision with a CUP. What Gehl's is applying for is what is available to every property owner in the M-1 zoning district. Chairman Wolter added this proposal uses the least amount of space available and is addressing the noise concern of filling the nitrogen tanks twice a day. Planner Retzlaff commented that this was brought up as part of the building expansion, but it was unknown what form or extend the facility needed to be and was not part of that package. He indicated the height and location the graphics presented show the general public the tank will be located behind the trees. He said the nitrogen facility is in a low

spot on the property. Chairman Wolter stated that Gehl's isn't the only business that the Village is giving this type of approval or exception to. Others have come forward too, and each one went through a process for approval. He continued that this was something Gehl's said they would do and it has been studied and applied for. Trustee Baum said in three months Gehl's will come back with another application. It's an ongoing continuous thing. He wants them to bring forward a final plan and that's it and be done with it. He said he is listening to all the people who say it is a continuous thing with Gehl's. Chairman Wolter said that doesn't happen in any business.

Commissioner Nilles asked if the operation would run 24/7 or just during the day and how will the noise be different than the noise currently. Mr. Buck explained the facility would run 24/7 and will replace the current delivery. The current delivery noise level is not continuous but 2-3 times a day and is measured at 109 decibels. Trustee Baum confirmed that liquid nitrogen would still be brought to the site between the hours of 8 and 5. Commissioner Williams asked why the size couldn't expand in diameter and decrease the height. Mr. Buck said that according to their consultant Airgas the distillation process of extracting nitrogen gas needs the cold box to be that height to work.

MOTION Failed 4-3 (Baum, Nilles, Kimmler, Williams) (Wolter, Laszewski, Shadid)

MOTION Baum second Shadid to Approve the site development and building plans for the proposed Nitrogen Generation Facility addition to the Gehl Foods production plant at N116 W15970 Main Street 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 site development and building plan set dated September 11, 2020.***
- 2. All landscaping, screening, grading, paving, storm water management, utility and other improvements that are not fire-safety related as 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. State approved plans and a \$20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.***
- 4. No signage, other than the tank manufacturer's name and Gehl Foods, shall be displayed on the tank/cold box.***

MOTION Failed 4-3 (Baum, Kimmler, Nilles, Williams) (Wolter, Laszewski, Shadid)

MOTION Baum second Laszewski to Approve the amendment to the "Gehl Foods" Planned Development District (PDD) to include Nitrogen Generation Facility" as a permitted accessory use for the property located at N116 W15970 Main Street.

Discussion followed. Planner Retzlaff asked if there was a particular item or acceptable form of the nitrogen facility that might change the decision making. Trustee Baum said it wasn't the nitrogen facility as a whole, it had to do with always making exceptions for Gehl's and he doesn't want another conditional use permit to do something special. Planner Retzlaff said it is not a tangible reason to not support the request simply because it is the 6th time they've asked for a conditional use permit. Chairman Wolter added it was part of the discussion and plan that Gehl's come forward with something to reduce the noise. Trustee Baum said but not to put in a 53-foot tank.

Commissioner Nilles wasn't sure the proposal was the solution that would help the neighbors with their concerns, but he would support it. Commissioner Williams asked if there was a nitrogen silo shorter than 52 feet. Mr. Buck said Airgas was their contracted supplier and this was the only option. Commissioner Laszewski commented that effectively the silo would be 44 feet at grade because it would be 8 feet below ground and will reduce the noise impacts.

MOTION carried 4-3 (Wolter, Laszewski, Nilles, Shadid) (Baum, Kimmler, Williams)

Community Development Department - 2050 Comprehensive Plan; Status Report and Discussion Items. Planner Retzlaff reviewed the progress to date of updating the 2050 Comprehensive Plan project.

Project timeline & upcoming activities: Due to the Covid pandemic we are behind 7-8- months on the planning process and about a third of the way complete. In order to save time and not hold separate meetings to discuss the same items, the Steering Committee and the Plan Commission will be combined into one group. A list of upcoming tentative meetings is:

- October 26 - special Plan Commission meeting
- November 9 - special Plan Commission meeting
- November 23 or 30 - Community conversation meeting for feedback on neighborhood districts and corridors land use mapping.
- December 14 -Joint Plan Commission and Steering Committee
- January 25, 2021 - Community conversation meeting
- February - Plan Commission/Steering Committee meeting to review draft plan document
- March/April Village Board review and possible action on a 2050 plan document.

Planner Retzlaff said there have been challenges with regard to public participation and community engagement. We will be transitioning to the use of a new community engagement platform called "Social Pinpoint" recommended by Graef. It will include a dedicated website named Germantown 2050.com. Associate Planner Zandt reviewed the toolkit for engaging online participation and said the Social Pinpoint program includes opportunities for public feedback as well as seeing feedback from other participants. The site will also provide an opportunity for discussion on all areas of the Village. Planner Retzlaff stated we should do as much as we can virtually requesting feedback adding the October 26th meeting will be held virtually. Graef has indicated Social Pinpoint has the capability to hold virtual meetings through the site or through WebEx or Zoom and include integrated real time polling activity. Plan Commissioners were asked to look at the Social Pinpoint website for more information.

Community Survey Results: Associate Planner Zandt presented a summary of the survey results.

The overall document will be presented as an appendix in the plan document with a summary report.

Neighborhood-Districts-Corridors-Land Use Mapping: Planner Retzlaff commented the neighborhood district map will be refined by staff in the next few weeks. Work will continue with the consultant to complete the chart, matrix and adjustments to the neighborhood district mapping to present to the Plan Commission on October 26th where we will start making some decisions.

Jan Miller, W151 N10297 Windsong Circle West, asked how much time residents will have to put their comments on Social Pinpoint and how will those comments influence how that information will be used. She asked if Social Pinpoint was a separate cost to the Village or part of the Graef survey. She thinks we need to focus on passive recreation land use moving forward.

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Planner Retzlaff explained the intention of social pinpoint is not to start over but to supplement what we have. There will be a minimal cost for Social Pinpoint to get setup however there are cost savings in other areas that won't increase the budget.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:07 pm.

Respectfully submitted,

Lori Johnson

Planning Assistant