JOINT MEETING – FEBRUARY 20, 2012

On Monday, February 20, 2012, the Town of Raymond Plan Commission and Town Board held a joint meeting. The meeting was called to order at 7:30 PM. The Pledge of Allegiance was recited. Plan Commission roll call was taken as follows: Present were, Chairman Harold Strohmeier; Members, Gary Boldt; Art Binhack and Scott Brenton. Absent were, Members, Mike Sinda; Kevin Cantwell and Joe Strueder.

Town Board roll call was taken as follows: Present were, Chairman, Gary Kastenson; Supervisors, James Phillips; Paul Ryan; Stan Bugnacki and Joe Pohlhammer. Also present were, Town Clerk, Linda M. Terry; Town Attorney, Stan Riffle; and Town Engineer, Chris Stamborski.

The purpose of this meeting was for discussion and decision of a Minor Land Division: Mark Gelhaus – Seeking Approval of Westfield Way Road Extension and Related CSM to Include Three Additional Lots:

Attorney Riffle stated that, there has been a submittal and the Town Engineer has looked at it, and Attorney Riffle has drafted a developer's agreement, which has been submitted to the developer, and the developer has agreed to accept this version. The developer wanted to leave this open ended and sign now and record it. Attorney Riffle's recommendation was not to leave this open ended – the developer has two years to start this development, or it becomes null and void. However, if he starts within two years, at that time, a letter of credit would need to be drafted for the road and storm water. The storm water facilities will remain private. In the event the lot owners do not maintain the storm water facilities, then the Town could go onto the premises, do the work, and bill the lot owners. We need to have some revisions on the Restrictive Covenants. The Town does not want to own any of the storm water facilities. There is nothing in Chapter 26 that requires the pond to be on its own lot. Attorney Riffle is satisfied with the developer's agreement – the declaration of general conditions, covenants, restrictions and easements needs to be revised.

Engineer Stamborski stated that his main roll was to review the Certified Survey Map. On June 6th, this was turned into the Town. These ponds were constructed to the Town's specifications. For every six inches of rain, they will release 2 inches of water. The ponds will take approximately a week to drain instead of a few days.

Supervisor Ryan asked if the proposal meets the Ordinances?

Attorney Riffle said that it does, other than the declarations being changed.

Supervisor Bugnacki asked if all of the engineer's concerns have been addressed? Why did you put the one pond on two separate lots?

Engineer Stamborski stated that Mr. Gelhaus put it there on purpose – that way there was less dirt to be moved, and actually, it could become a feature when selling the lots.

Mr. Gelhaus stated that it will be a shared pond. He would like to sell both lots together. Plus, this was the best place for the pond.

Supervisor Pohlhammer stated that our Ordinance says that you cannot put a pond on a lot line.

Attorney Riffles asked where that was in the Ordinance book? He is unaware of any setback regulations for a pond.

Supervisor Pohlhammer asked if the pond lots were being CSM'd off? He also said that this is a man-made body of water. These questions were in the list of questions that Supervisor Pohlhammer faxed to Attorney Riffle a few weeks ago. He also stated that these ponds will stink – the DNR will make the owners clean them out.

Chairman Kastenson asked how big the lots were?

Mr. Gelhaus stated that Lot 2 is 5.04 acres; Lot 5.04 acres; and Lot 4 is 9.4 acres.

Plan Commission member, Scott Brenton stated that the ponds will only be approximately 6 feet deep.

Engineer Stamborski stated that the easement for the ponds, shown on the map, represents the maximum for the 100 year flood plain.

Supervisor Pohlhammer asked how deep the ponds were?

Engineer Stamborski stated that all of the ponds will hold about 5 feet of water.

Supervisor Pohlhammer asked if the 5.04 acres excludes the easement for the pond?

Attorney Riffle stated that, according to Town Ordinances, 26.495(a)(2); Storm Water Drainage ponds are excluded from the requirements that Supervisor Pohlhammer is speaking of.

Supervisor Pohlhammer asked if an outlot needs a legal description?

Attorney Riffle said that there are no outlots in this development.

Chairman Kastenson stated that the ponds are included in total lot area.

Mr. Gelhaus said that the reason for the delay (of two years), is that he needs someone to buy the lots first. They need to be sellable.

Plan Commission Member, Gary Boldt asked if there is any liability to Town with the ponds?

Attorney Riffle said that he is not concerned about that at all; the ponds do not create a liability – it is not an issue.

Supervisor Pohlhammer stated that he has an email from Chris Stamborski saying that the attorney would be requesting an outlot. If the pond fails, it will be the property owner's responsibility to fix it.

Attorney Riffle stated that outlots are not necessary for this development. He also stated that it would be more appropriate for all of the lot owners to be responsible for the upkeep and maintenance of the pond.

Supervisor Pohlhammer stated that he sent Attorney Riffle paperwork regarding how things are done in Waukesha County.

Plan Commission Member Gary Boldt said feels that if this agreement with Mr. Gelhaus doesn't work, then, when he comes back for the next phase we'll know what to put in the developer's agreement.

Attorney Riffle said that the developer is on the hook under the developer's agreement. The buyers of these lots will go in with their eyes wide open.

Supervisor Pohlhammer asked, if the Town approves this, when can he record the Certified Survey Map?

Attorney Riffle stated, that could happen as soon as the developer comes in with a Letter of Credit.

Supervisor Pohlhammer asked how much the Letter of Credit is for?

Attorney Riffle said it depends on what the engineer says.

Supervisor Pohlhammer asked about deed restrictions for no large animals.

Mr. Gelhaus stated that these will all be private matters. The Homeowner's Association will be voting on things like that. You do not understand the powers of the Homeowner's Association – it is self-policing.

Supervisor Pohlhammer asked what are the ponds designed to hold? What about square footage of homes and out-buildings?

Attorney Riffle stated that we have standards that are to be met. This meets all standards; you will put the Town in a situation if you try to make Mr. Gelhaus do more than what is required.

Engineer Stamborski asked Supervisor Pohlhammer if there was a number, for the capacity of the ponds, that he would be happy with?

Supervisor Pohlhammer felt that the lot owners should share the field tile responsibility.

Mr. Gelhaus said that all of the lot owners are subject to do that.

Supervisor Pohlhammer said that if the Homeowner's Association does not enforce the tile, and the Town has to do the work, who will be billed? He compared it to the subdivision just north of his home – K-Custom Homes.

Attorney Riffle said that the four lot owners are responsible.

Supervisor Pohlhammer asked where will you get the extra land to make the pond larger?

Engineer Stamborski said that's why the easement is so large. Why would you want to make the pond bigger? It can always be made deeper.

Supervisor Ryan stated that the project meets the ordinances, and meets the standards – it is time to move on.

Attorney Riffle stated that he has dealt with a 982 lot subdivision and has never had this many problems.

Supervisor Pohlhammer questioned The Fields Developer's Agreement.

Engineer Stamborski stated that this has nothing to do with The Fields Development. None of this water goes that way.

Supervisor Pohlhammer asked about a street light on Waukesha Road; and he also asked about holding all building permits being issued if the work is not done; and asked if all invoices have been paid?

Plan Commission, Art Binhack stated that, as a neighbor, he would not like the light pollution that a street light would cause.

Mr. Gelhaus stated that all invoices but one are paid. The one that is not paid – he is questioning. There are charges on that for Attorney fees for the Town Attorney speaking with Supervisor Pohlhammer about the development. Mr. Gelhaus was unaware that the Town Board authorized Supervisor Pohlhammer to contact the attorney regarding this matter.

Attorney Riffle stated that the Board has recently decided to require board approval prior to the attorney talking to a Supervisor.

APPROVE AS PRESENTED, CONTINGENT OF MR. GELHAUS EXECUTING THE DEVELOPERS AGREEMENT, REVISING THE DECLARATIONS AND RESTRICTIONS TO MEET THE ATTORNEY'S AND TOWN'S APPROVAL, AND SUBMITTING THE LETTER OF CREDIT PRIOR TO THE PROJECT BEGINNING OR WITHIN TWO YEARS, PURSUANT TO THE TERMS OF THE DEVELOPERS AGREEMENT, AND AUTHORIZING TOWN'S SIGNATURES ON THE CERTIFIED SURVEY ONLY AFTER MEETING THESE CONDITIONS. MADE ON A BOLDT/BRENTON MOTION. MOTION CARRIED 4-0.

APPROVE PLAN COMMISSION RECOMMENDATION FOR APPROVAL, RECOGNIZING THAT IF DEVELOPMENT IS NOT COMMENCED ON THESE CONDITIONS WITHIN TWO YEARS, ALL APPROVALS ARE NULL AND VOID, MADE ON A RYAN/JAMES MOTION. MOTION CARRIED 4-1, WITH SUPERVISOR POHLHAMMER OPPOSING. Pohlhammer stated there were too many open questions.

AT 8:45 PM, THE PLAN COMMISSION MEETING WAS ADJOURNED ON A BOLDT/BINHACK MOTION. MOTION CARRIED 4-0.

AT 8:46 PM, THE TOWN BOARD MEETING WAS ADJOURNED ON A RYAN/PHILLIPS MOTION. MOTION CARRIED 3-0; with Supervisors Pohlhammer and Bugnacki not voting.

Respectfully submitted,

Linda M. Terry
Town Clerk
Town of Raymond