VILLAGE OF GRAFTON

PLAN COMMISSION MEETING MINUTES

OCTOBER 4, 2012

The Plan Commission meeting was called to order at 6:00 p.m. by Chair Jim Brunnquell by roll call. The Pledge of Allegiance followed.

Commission members present: Jim Brunnquell, Al Kletti, Randy Silasiri, Amy Plato, Carl Harms, and Mark Paschke

Commission members excused: Richard Rieck

Staff/Officials Present: Director of Planning and Development Michael A. Rambousek, Village Attorney Michael Herbrand, Village Engineer/Director of Public Works Dave Murphy, Traffic Design and Safety Analysis John Bieberwitz, Village Police Captain Emmett Grissom, Clerk Kelly Popp

Others Present: Mike Klingl of Greenberg Farrow, Director of Real Estate for Meijer Michael Flickinger, Jack Corrao, Michelle Corrao, Attorney Tim Cincotta, Lynn Broderick

Members of the audience: Trustee Grant, Trustee Harbeck, Trustee Liss, Trustee Antoine, Trustee Meinecke, and Pam King

MINUTES

Motion made by Commissioner Kletti, seconded by Commissioner Harms, to approve the August 28, 2012, Plan Commission meeting minutes with the noted change. Approved unanimously.

PERSONS REQUESTING TO BE HEARD

None

RECONSIDERATION OF A REQUEST FOR A CONDITIONAL USE PERMIT TO ACCOMMODATE THE CONSTRUCTION OF 191,352 SQUARE FOOT RETAIL STORE, IDENTIFIED UNDER SIC 5411 GROCERY STORES AND A 2,640 SQUARE FOOT CONVENIENCE STORE, IDENTIFIED UNDER SIC 9999 USES NOT ELSEWHERE CLASSIFIED PURSUANT TO VILLAGE OF GRAFTON ZONING CODE SECTION 19.03.0703 (Q) RETAIL AND COMMERICAL SERVICE BUILDINGS IN EXCESS OF 50,000 SQUARE FEET OF AREA, AND SECTION 19.03.0403 NON-RESIDENTIAL PERMITTED, ACCESSORY AND CONDITIONAL USES.

President Brunnquell asked Village Attorney Michael Herbrand to provide comments on this agenda item.

Village Attorney Herbrand stated that this is a reconsideration of the Plan Commission's prior approval and granting of a conditional use permit for this agenda item. This matter was requested by Attorney Tim Cincotta on behalf of Jack and Michelle Corrao.

Attorney Herbrand went through the itinerary for presentations from Meijer representatives, the Village of Grafton Planning and Development Staff and Attorney Cincotta on behalf of the Corrao's. He explained that the Plan Commission is being requested reconsider this matter and make findings based on their review. Attorney Herbrand stated that all documents presented before the Plan Commission, including the Corroa's documents, should be reviewed. He also added that the Village of Grafton also reserves all of its rights to object to this hearing. The purpose of the hearing is for review and findings regarding the conditional use permit.

Presentation by Director of Real Estate for Meijer of Michigan, Michael Flickinger, of 21 South Evergreen Avenue, Arlington Heights, IL and Mike Klingl of Greenberg Farrow, 21 South Evergreen Avenue, Arlington Heights, IL

Mr. Flickinger stated that Meijer is a private company, they are proud to give back to the communities and they do give approximately 6 percent of sales. He stated, as a company, they are also very active in the communities. He stated that the plan for the store that is being presented tonight is that same as it was presented at prior meetings. This evening Meijer representatives will do a walkthrough to review the site, store layout and architectural layout as presented as part of a slide show. The property was described as being located at Port Washington Road by Home Depot and Target and to the east is I43. To the south of the site is a single family property and the Seek Employment Agency. To the west is Hunters Crossing Condominiums and to the north is another part of the property owned by Meijer with wetlands on site and further north is a preservation of trees on property not owned by Meijer. The layout and grading of the Meijer store site will be oriented to the adjacent Meijer site to the north by putting a retaining wall at the north end that provides enough room for a wetland buffer. In other words, the soil will be pushed to the north to level off the property. Based on a traffic study by the Village of Grafton there will be a traffic signal placed at the main entrance and other traffic improvements to Port Washington Road. Meijer will be compliant with the Ozaukee County requirements for access points.

The building is a supercenter with 60 percent of the floor area dedicated for grocery and 40 percent for general merchandise. Two entrances will serve the store: one leading to the grocery area and one leading to the general merchandise area. There will also be a pharmacy located at the north end of the building. Parking is not compliant with (typical C-4 Interstate Commercial District) zoning stardards (and is one reason why property was requested to be rezoned to PUD – Planned Unit Development).

There are some wetlands to the east. The convenience store that was previously proposed as part of the outlots on the west side of the property has been removed based on comments from residents. The outlots will be maintained to attract restaurants (or other small users). There will be, in conjunction with the traffic signalization, a left

turn lane and Hunters Lane access. There will be improvements at STH 60 and Falls Road for this project. It was noted, Meijer has worked very closely with the Village of Grafton Staff. The building will be brick, with two-story vestibule entrances, and canopies above. Sconce lighting was also added to the store at the request of the Village Staff. Meijer has introduced full masonry false window components on the east elevation. They added additional pilasters to this elevation as well. All the horizontal lines and cornices were beefed up and added to give the architecture a better appearance. He then showed slides of southbound and northbound traffic views, along with signage plan and details. Signs are to include, fresh and home to be displayed by the entrance to signify direction for home goods, reserve parking spaces for four tenant spaces across the front of the store, flanking either side, a sign on the back of the store for advertisement on I43. The blue banding of Meijer will be added to the architecture of the east elevation.

Trustee Brunnquell asked to move forward with the review and asked Director of Planning and Development Michael Rambousek to provide comments.

Presentation by Village Staff and Representatives – Director of Planning and Development, Michael Rambousek, Traffic Consultant John Bieberitz, Village Engineer Dave Murphy, Captain Emmit Grissom, Village Police Department

Director Mike Rambousek stated as you know we are here for reconsideration of this conditional use permit. The store is over 50,000 square feet in footprint so additional architectural and site requirements were also considered by the Plan Commission. The rezoning of this property to PUD-Planned Unit Development was approved by the Village Board on September 5, 2012. The zoning to PUD – Planned Unit Development provided a reduction in the parking standards to the proposed total amount as well as the preservation of the natural resources on the site.

In total the site is 32.23 acres or 1,332 in square feet. The convenience store is not part of the reconsideration (like the original review). The traffic signals will be at Hunters Lane and Port Washington Road. The south end of the property will include the truck entrance where deliveries will be made. There are approximately thirty-two vendors that supply stock or other items making eight to thirteen deliveries a day to the truck docks, at the back of the store. The numbers of deliveries typically include 10 semi-trucks with 4 to 8 other trucks. A pedestrian/bike trail was also intertwined on the property to allow for safety of the customers. Three shifts of employees will be used with sixty-two employees on site per shift. The Architectural Review Board and Plan Commission did go through all the review processes this site.

Director Rambousek stated that Section 19.03.0701 of the Village of Grafton Zoning Code indentifies general standards for conditional uses and states that no conditional use permit shall be granted unless the applicant has established certain criteria. These criteria consist of the development being in harmony with the general and specific standards of the ordinance and comprehensive plan, the development shall not have an adverse impact or endanger adjacent property, shall not have interference with

surrounding development, shall have adequate public facilities, shall not cause a significant impact of traffic on residential streets, shall not cause the destruction of significant features, and shall be compliance with the standards of its zoning district. This presentation will discuss each of these items as the previous report did and as the Plan Commission did at the public hearing and initial review on July 24, 2012 and the consideration of the conditional use on August 28, 2012.

Director Rambousek stated that the project has demonstrated that it is <u>in harmony with ordinance and the comprehensive plan's purpose and intent</u>. The Village of Grafton 2035 Comprehensive Master Land Use Plan designates this property for future commercial/business use as part of the Freeway Interchange Business District. On December 23, 1997 the Village of Grafton Plan Commission adopted the *Site Analysis and Land Use Plan: I-43/Port Washington Road Corridor – Phase 1.* In that plan, which was included as part of the current *Village of Grafton 2035 Comprehensive Master Land Use Plan*, this particular property was indentified for future business/commercial district. Specifically, in was referenced as a future "C-5 Freeway Interchange Business District" land use, which corresponds directly with the C-4 Freeway Interchange Business District in the Village of Grafton Zoning Code. The property is currently zoned C-4 Freeway Interchange Business District and within that district SIC 5311 Department Store and SIC 5411 Grocery Store are identified as conditional uses. However, the applicant elected to pursue a rezoning of the site to PUD – Planned Unit Development due to their desire to preserve those natural resource features and address the regulations appropriately. The site also features some rolling terrain that limits the developability of the site and ultimately prevented the building being oriented in a north-south fashion, instead of east west. The Planning and Development Staff recommended that the applicant attempt to meet all of the bulk and area regulations in the C-4 Freeway Interchange Business District using that district as the baseline for the PUD zoning for this project. The only requirement that the applicant will not be able to meet is the amount of parking spaces required for the site. With the C-4 Freeway Interchange Business District being used as the baseline criteria for the PUD – Planned Unit Development Zoning of the site this criterion has been met.

Director Rambousek then discussed <u>adverse impact</u>. He stated that the established land use designation identified in the Village of Grafton Plan Commission adopted the *Site Analysis and Land Use Plan: I-43/Port Washington Road Corridor – Phase 1* and in the current *Village of Grafton 2035 Comprehensive Master Land Use Plan* has been in place since 1997 so this type of commercial use has been anticipated prior to most development that has occurred adjacent to the site. In addition, the commercial use of the site is a continuation of a commercial district that has already been developed to the north that was also identified in the same plan. Directly adjacent to the north of the Meijer site is a conservation area that was required as part of the Home Depot/Target site. The parcels south of the Meijer site are part of a Town of Grafton Business Park, the property directly to the east consists of I-43 right of way, and the properties across Port Washington Road to the west consists of a multi-family condominium development called Hunters Crossing that has been constructed with the knowledge of the *Site Analysis and Land Use Plan: I-43/Port Washington Road Corridor – Phase 1* and

Village of Grafton 2035 Comprehensive Master Land Use Plan. Buildings over 20,000 and 50,000 square feet in the Village of Grafton require additional design standards under Section 19.03.0703 (P) to ensure a quality development and compatibility within the area. There are some issues that require mitigation such as traffic and lighting, but based on the type of surrounding land uses, this type of development is compatitable and will not have any adverse impact on the area.

Director Rambousek then discussed interference with surrounding development. Since the proposed Meijer development is located in an established commercial area and will develop between an existing business park and an existing retail commercial development to the north and is also adjacent to a county highway and an interstate system to the west and east, respectively, this development site is ideal for a development such as the Meijer project. As a result, this particular development will not dominate the immediate vicinity or interfere with the use and development of the neighboring property. As a result, this criterion has also been met.

Director Rambousek then stated the requirement for adequate public facilities. He added that all public facilities are in place for this development site such as water, sewer, stormsewer, police and fire protection, refuse disposals, etc. al. A development agreement will be required to be executed between the applicant and the Village of Grafton for all off-site improvements and all associated fees such as sewer connection fees, interceptor fees, lift station fees, water connection, and impact fees. A stormwater detention pond is proposed to be located at the northwest corner of the development site. This detention pond will meet both local and Wisconsin Department of Natural Resources (WDNR) regulations for water filtration and water quantity for all four lots proposed on the development site. The Village Engineer has reviewed the stormwater management plan and has deemed it acceptable. The Police Department and Fire Department have reviewed this project extensively and have indicated there will be no negative impact on services. Refuse disposal will be handled by a private entity. As a result, this criterion has also been met.

Director Rambousek then discussed the requirement of Traffic Management. The project is located on CTH W (Port Washington Road), an Ozaukee County highway and will have interchange access from I-43 for regional traffic. The Village of Grafton hired Traffic Design and Analysis, Inc. to complete a traffic study for this project. That study was based experience in the operation of other Meijer stores. The report indicates that peak morning hour trip generation is expected to be 320 new trips(180 in/140 out), 815 new trips (400 in/415 out) in the peak evening hour and 1020 new trips (510 in/510 out) for the peak midday hour on the weekend. As a result of that study, several recommendations for improvements to Port Washington Road and the store entrance have been made, such as full signalization, widening to Port Washington Road to four lanes to match the existing pavement design to the north, Falls Road intersection improvements which include acceleration and deceleration lanes. The applicant will be required to make those improvements as part of this project at their cost. The Planning and Development Staff further recommended a crosswalk to be added across Port Washington Road to encourage and allow crossing by pedestrians from the residential

properties to the west. At the public hearing and the subsequent review meeting, some residents of Hunter's Crossing condominiums expressed concerns of additional traffic in their neighborhood. Since the internal road of this neighborhood are not open to the general public and function as private roads, internal traffic should not be an issue. However, Meijer has agreed to provide signage indicating those streets are private. In addition, Meijer has agreed to provide signage on Hunters Lane that will restrict truck traffic from utilizing that road. The Village of Grafton Department of Public Works is currently analyzing Hunters Lane to gain baseline data and will then examine the road again post-development. At that time, further improvements and/or increased Police traffic enforcement will be made to Hunters Lane if justified by statistical data. This criterion has been met.

Director Rambousek then went over the section regarding destruction of significant features. He stated that the Meijer project could have been developed within the existing C-4 Freeway Interchange Business District, but in order to preserve the natural resources on the site that consist of woodlands, wetlands and shorelands it was agreed upon by both parties that a rezoning of the site to PUD – Planned Unit Development would ensure the preservation of these natural resources on the site without mitigation. Therefore, this criterion has been met.

Director Rambousek then discussed the compliance with standards and requirements. Meijer had indicated that they will conform to all ordinance requirements and conditions as part of the zoning code and this conditional use permit. They have stated on the record that they will be a good neighbor and will ensure compliance in all aspects of the development and operations. The review of their conditional use application has conformed to the required process, Meijer will also be submitting their construction drawings to the State of Wisconsin and the Inspection Department at the Village of Grafton for all necessary building permits. In addition, any plans that require submittal to the Planning and Development Department such as final landscaping, signage, natural resource protection, and any other adjustments that occurred as part of this review process will be made prior to the issuance of building permits for the development site. Therefore, this criterion has been met.

In addition, as you know Section 19.03.0703 (P) of the Village of Grafton Zoning Code also requires additional standards for buildings over 20,000 square feet and 50,000 square feet. They include criterion such as compatibility with Village plans, building materials, building design, building entrances, building color, building location, screening, traffic impact, parking, natural resource protection, landscaping, lighting, signage, bicycle and pedestrian access, central areas/features, cart returns, impact of existing Grafton locations, waiver of standards, and hours of operation. All of these items have been addressed as part of the plan review by the applicant, Planning and Development Staff and/or Plan Commission in detail. Director Rambousek then went over each item and indicated that based on the plans that have been submitted, the criteria has been met.

There are three other considerations the Plan Commission should consider based on the zoning code requirements for conditional use permits. These include: public benefit, alternative locations, and mitigation of adverse impacts. In terms of public benefit and alternative locations, this particular use of a supercenter is an allowable use (by conditional use permit) at a site that was indentified for this type of development by the Village's comprehensive planning process. It will provide additional jobs and tax base for the community and the applicant will pay for all private improvements. It will also provide 24-hour access to goods and products that are currently not offered in the Village of Grafton. The proposed architect, site design and other improvements are of the highest design quality. In addition, as mentioned at a previous Plan Commission meeting Meijer was interested in a previous location (prior to this site), that was deemed unacceptable based upon the Village's comprehensive planning goals and the zoning of that site, and the applicant was then referred to this particular site which is more appropriate and in which the characteristics of the development fit with the goals of the Village's comprehensive planning. In regards to the mitigation of adverse impacts most of those issues such as quality of design, screening, landscaping, etc. have been address by the conditional use requirements listed in Section 19.03.0703 (P), but issues such as traffic management that were discussed at the public hearing have been mitigated. In addition, the c-store that was originally proposed as part of this project was removed and not approved by the Plan Commission based upon input and concerns expressed by the public.

As further background, Director Rambousek stated additional details of the Meijer project. The architecture of the main building is highlighted by the two glass vestibules on the main building elevation, which is the west building elevation. These glass vestibules will serve as the two main entrances for the grocery and home goods areas of the store. The north entrance vestibule will provide direct access to the "Home" side of the store and the south entrance vestibule will be signed as "Fresh" to direct customers to the grocery side of the store. A pharmacy drive-thru is also proposed to be located at the northwest corner of the store and will be located at the northwest corner of the store directly in front of the garden center. The proposed materials for this elevation and the building overall consists of two full glass vestibules at the front for each entrance and then a series of regular sized brick of tan with sandstone finish and red and almond bricks with typical finish. There is also an accent brick that is blue with a glazed finish located in various section of each elevation. Both entrances also include a blue awning supported by brick columns. The roofline of the front elevation does a great job with undulation for the entire length of the building with capped parapet walls and the vestibule sections rising above the primary roof line. The south building elevation includes many of the same materials and also includes the loading docks and trash refuse areas. The Planning and Development Staff would like to see additional screening and green space. The building materials are similar to the front elevations, but the roofline and facade remain too flat and linear and need to be enhanced, at least on the western half. The north elevation includes the outdoor storage area. This area consists of a black wrought iron (aluminum) style fence around the perimeter with a small canopy that extends outward from the building. A framed roof covering the fuel

pumps provide shelter over the rest of the outdoor display area. As with the truck docks and refuse area, the roofline and facade were considered too linear by the Planning and Development Staff and the design has been further enhanced with architectural details. The rear elevation faces I-43 and utilizes the same masonry materials and color patterns of the other elevations. The applicant has also worked with the Planning and Development Staff to significantly enhance this side of the building. Based on the review of the architectural plans by the Planning and Development Staff, several modifications were requested and have since been made by the applicant. These requested changes included: widening and/or capping the parapet walls on the front elevation, adding an accent brick in areas of previous monotony, the addition of wall lighting in the plaza area, identifying the internal structural components inside the vestibules as a visual architectural component, framing the Meijer wall sign, adding wall sconces to the building, tying together the linear components of the building together with a top, middle, and base section for each elevation, and individually channel mounting all wall signage. On the north elevation a brick base added as a base for the wrought iron fencing (on front elevation as well), the drive-thru canopy should consist of the same material as the front awnings, and the continued linear integration of sections of the elevation. Additional landscaping and screening was also added in this area. The south elevation has also been enhanced with established linear relationships between the horizontal sections of the building. The east elevation, which serves as the rear of the building and is highly visible from I-43, includes the establishment of a horizontal design components, adding interest to areas of monotony with accent brick, and the framing of the Meijer wall sign. As mentioned, the rear elevation has also been substantially enhanced with landscaping between the building façade and I-43. In addition, the area just north of this elevation will provide a location for public art.

The main portion of the site plan proposes a total of 681 parking spaces with a 28 of these spaces being ADA accessible spaces. A total of five of these spaces will need to be van accessible spaces. The Village of Grafton Zoning Code requires 957 parking spaces for the c-store and the main store so the applicant is 276 spaces short of the required amount. However, the applicant has indicated that based upon their own data, the 681 parking spaces will be adequate. The parking lot will consist of asphalt and will be fully curbed with gutters around the perimeter. All landscape islands will have curb as well. The landscape islands adjacent to the store and opposite of the store plaza has now been enlarged to compensate for the smaller plaza area. A significant amount of landscaping has been added on the east side of the property and other key portions of the site such the landscaping on the pedestrian walk in front of the pharmacy drive-thru, the pedestrian walk area, and the plaza area. The Planning and Development Staff has reviewed the proposed lighting and it has been deemed acceptable with full cut-off fixtures and zero light spillage at the lot lines of the site.

Director Rambousek stated that there are additional changes that the Planning and Development Staff required and has since been added on the plans include: the plaza area having a designed pattern in the concrete such as “window framing” in the walk areas and stamped brick in the non-walking areas, the main internal vehicular intersections consisting of gray stamped concrete, a small amount of pedestrian lighting

has been added to the plaza area in areas not covered by the wall sconce lighting, and bicycle racks now added in the plaza area. The proposed signage for the buildings and the site was reviewed by the Planning and Development Staff and Plan Commission at the previous meeting. The dimensional requirements for the signs have been determined. However, the style, design and materials will require further review by the Planning and Development Staff. Director Rambousek added that as part of the Village's adaptive re-use plan requirements; the applicant will be making a deposit for the post-Meijer use of the building as allowed by the Village of Grafton Zoning Code.

Director Rambousek stated that he is again recommending approval of this conditional use permit.

Village Engineer/Director of Public Works Dave Murphy stated the letter was sent this week for the requirements. Meijer will have to provide a letter from the DNR stating that the wetland area will not be an issue.

Regarding the issue of traffic management, Village Engineer/Director of Public Works Murphy spoke and stated the whole corridor has been looked at and studied. The full build out with the future traffic was taken into account. Several studies have been completed.

John Bieberwitz of Traffic Design & Safety Analysis, the Village's traffic consultant, talked about the traffic study. He stated that his firm designs traffic signaled intersections and are recommending some traffic signals as part of this project as well. Their statewide traffic engineer is here with him as well.

As Village Engineer/Director of Public Works Murphy mentioned, a detailed traffic study was done. They looked at future possible build-out as well; none exist today but were included in the worst case scenario. They did this at a peak times, including a peak Saturday. Standards were taken into account according to State practices. Several improvements were recommended from the study. Mr. Murphy then went over the recommendations in the report.

Village Engineer/Director of Public Works Murphy also stated a traffic baseline study will be done by the Public Works Department. The Public Safety Committee has requested that this study be done. Areas such as Hunters Crossing subdivision will be studied as part of the baseline analysis.

Village Police Captain Emmett Grissom stated that this proposal was reviewed in regards to safety issues; negative impact is not foreseen or evident. There were some of the aspects brought up regarding the 24 hour store. The PD does not see any issues with significant increases in crime. Security concerns between the hours of 11 p.m. and 7 a.m. were discussed previously. Meijer will only have one entrance open during the 11 p.m. to 7 a.m. hours. They will cooperate with the Grafton Police Department. There will be digital security with the installation of panic buttons directly linked to the Police Department. They also have the ability to review the surveillance if required.

Director Rambousek stated that he recommending approval of the conditional use permit Conditional Use Permit dated August 28, 2012 to accommodate the construction of 191,352 square foot retail store to Meijer Store's Limited Partnership.

Chair Commissioner Brunnquell thanked Director Rambousek and the staff for all of their hard work on this project.

A brief break was taken for 5 minutes.

Chair Brunnquell commenced the meeting.

Evidence or Argument from aggrieved landowner; Attorney Cincotta of 757 N. Broadway Avenue, representing Jack and Michelle Corroa of 2474 Caribou Lane, Grafton, Wisconsin

Ms. Michelle Corroa stated her concerns over the traffic, as well as the impact on property value. She stated we, along with three quarters of the residents are concerned about the impact of the values on their properties. This will severely affect the property owners and devaluate the properties when a sale comes up. The increase of traffic will continue to turn the road into a major corridor. The noise and activity will impact the residents. The developer admitted the police are unable to learn of a theft until after it happens. The access to the interstate could potentially cause issues. The store brings amenities that are already in the area. There is not public need for this project. She has pleaded that the village not accept this.

Mr. John Enright, 2360 Caribou Lane in Hunters Crossing, Grafton, Wisconsin

This is an absolute set up for middle of the night crime with the access to the interstate. They could be well on their way in either direction before the Police Department could stop them. This will take away from the value and enjoyment of my property. This is not for the betterment of the residents. Mr. Enright asked that the project from Meijer be denied permanently. He inquired on whether there is a need for a store such as this at all. Their home looks down from their glass windows on Hunter's Lane. He stated he has been a Real Estate Broker and Developer in the area for many years.

Wayne Higgens, PTOE, Traffic Engineering Services

Traffic Engineer Wayne Higgens started in 1965 with traffic engineering. He stated he is a registered professional engineer, has worked for cities and also worked as a consultant. He commented that the gentlemen that were hired by the Village are good people. He was asked to take a look at the plans for any enhancements or recommendations. The traffic study was done in all situations and followed the State studies. The onsite and offsite development brought this into a picture of full growth. Any structural improvements need to be made. The aerial was copied with the residential development in mind. People will come to the store from these residential areas. The number of trips in the day and evening showed a volume in the morning trips increased by 15 during the day, 40 trips in the evening, and 50 trips on the week-end. These are all on Hunter Lane. There would be an increase from 47 to 77 percent in this area. This will be a change in traffic to the residential neighborhood area. In the ingress

and egress, the left turn lane is the best way rather then waiting for a left turn arrow. If you cut that traffic in half, you reduce the time people will have to wait for a red light. The level of service to the left turn lane can be improved. Level approaches need to be looked at to be in compliance with the ordinance. In the review, there is a difference in the ordinance and calculations. They have a median; there was no median in the traffic study. If you want bicycles to connect to the traffic on the west, it could be done. Eastbound, that will be a movement that would take you back to the freeway. A left turn lane would be appropriate there. Bicycle traffic is a need and a land is required that could be shared with the walkers, if necessary. The State of Wisconsin did do the right job for the study of traffic in the area.

Attorney Cincotta stated the study done does show that there will be a decrease in property value to the residents. The issues that are important are referred to in his brief. Page three quoted the ordinance, which applies to all conditional use permits and the adverse impact. Attorney Cincotta is challenging on a few and the one that Attorney Cincotta feels has been wrongly determined is on page four, number five, regarding traffic. He has concerns regarding Section 19.03.073 (p) (8) traffic impact, and the entire subsection of this ordinance is incorporated into the applicable in this case. In addition, Section 19.03.073 (q) has requirements for buildings over 50,000 square feet. For the record, in regards to all projects 50,000 square feet, the Village has three options: deny the project, require a size reduction, or the developer pays for the improvements. The fourth area goes back to the brief, page five, subsection (q) of the ordinance, the primary requirements for a building in excess of 50,000 square feet; does substantially diminish value of property, does it increase traffic, or does the level of service fall below the need of the community. Does it meet a demonstrated public need? How does a body like this allow determining these issues? This is not a legislative decision, rather it's a determination where an applicant comes forward and submits the material. It is then reviewed by the Plan Commission. The legislative end of this is to call on their experience and make the determination. Attorney Cincotta believes the statutes are not permitted to reach out and rely on the applicants own experience and bring those to bear on this decision. Section 19.03.0701, set the standard for review, and in Attorney Cincotta's opinion, states it is the applicant's responsibility for them to review and provide the information to satisfy the criteria. It is appropriate for the staff to provide information, but not do the work for the applicant. He stated all three attorneys have attempted to come up with the best solution and under State Statute 68.09, they believe gives them the opportunity to present their case. Attorney Herbrand does not agree with this. Attorney Cincotta also believes that tonight new information for the first time has been brought forward from two new appraisers from Mr. Rambousek and he would like to see further information regarding this matter.

Attorney Herbrand disagreed with Attorney Cincotta's position on new information being submitted.

Village Engineer/Director of Public Works Murphy stated a digital copy was sent and given electronically on the traffic study as was requested by the Attorney.

Village Attorney Herbrand wanted to confirm with Attorney Cincotta that he is only challenging page five through seven of the brief. He is not challenging the other requirements of a conditional use.

Attorney Cincotta agreed.

Chair Brunnquell asked for clarification on a couple of items. Village Engineer/Director of Public Works Murphy was asked in his experience if the traffic study results and findings were eventually and generally matching to their findings.

Murphy stated he did feel that they have been good, did an excellent job and have satisfied in the past many concerns.

Chair Brunnquell mentioned that the other issues of concern are the 24 hour operation and safety and this has been improved with the removal of the convenience store. He wanted to clear the record on that discussion.

Realtor Mr. Rick Schmit wanted to make a statement on the adverse impact. He stated that when he sold each condominium at the adjacent Hunter's Crossing Condominiums he included an addendum confirming to each buyer the different land use designations for the properties in the area.

Director Rambousek stated that this is why the Village's Comprehensive Plan is so important and why the Village updates the plan continuously, so it provides a guide or blueprint for Village growth and development. This way anyone purchasing property will have a fair indication regarding future development. The realtor, Mr. Schmit indicated that there is no doubt he would have disclosed this information to the buyers upon sale or purchase of the property. This is one reason why the Village of Grafton takes the comprehensive plan very seriously. We want to ensure it is fair across the board. The Village of Grafton has a basis for decision making that protects all in the future.

Commission Paschke asked if Mr. Terry Carrick, the appraiser for Attorney Cincotta was present.

Attorney Cincotta stated he was not present.

Commissioner Paschke commented that some of the information that was provided from Mr. Carrick was confusing. He stated that some of the comparable information was not really comparable.

Attorney Cincotta replied that because a city plans to use an area for certain uses does not mean that a developer should get a conditional use permit.

Chair Commissioner Brunnquell asked that all questions be directed to the Plan Commission and they will be answered.

Village Attorney Herbrand clarified his position on the law and then asked the Plan Commission to go point by point through the issues presented by Attorney Cincotta.

Adverse Impact by Plan Commission

Chair Commissioner Brunnquell stated the record is now closed and Plan Commission is now in deliberation on whether the contested standards have been met.

Chair Commissioner Brunnquell asked for any comments from the Plan Commissioners' perspective. He commented he does not feel this is an accurate statement of devaluation. He asked the Commissioners to decide whether the standard has been met. Village Attorney Herbrand asked for Commissioners to articulate as to whether it has been met and why. Commissioner Silasiri stated he would feel comfortable seeing two or three more appraisals regarding the value of the condominium. He commented that another appraisal should be brought in. He noted he lives in the same area and just had an appraisal done on his residence. His appraisal came out well. He was concerned that the appraiser spent many years involved in devaluation reports; therefore, he stated he would like to see another appraisal completed on the residence in question. He cannot say why or why this project would not have an adverse impact.

Commissioner Plato stated she does live in the downtown area, but not in this direct area. She mentioned typically appraisers go back six months. It doesn't seem as if this appraisal was done by that method. She knows someone who lives in this development and cannot wait for Meijer's to come in to the area.

Commissioner Harms stated he was trying to lower his value, because it is too high! He does not feel Meijer's is an adverse impact in this area for property values.

Commissioner Kletti stated he lives on the north side and he has to drive everywhere. He thinks it will be an asset for people to have some place to go for groceries on this side of town.

Chair Brunnquell stated with the comprehensive plan already in place and the awareness of the upcoming development, he does not base the appraisal on the complementary zoning that is already there. This particular site and project is not diminishing the character of the area; he believes it does not have an adverse affect.

Traffic Management by Plan Commission

Commissioner Silasiri stated he looked at the report from the gentleman with years of experience. He agreed with many things the Village experts stated. He believes that there is a way to make this work for the subdivision. Look at the traffic patterns specific to the subdivision and plan accordingly. He lives in the neighborhood near the site too. Most traffic already cuts through this subdivision. He is not sure how much impact the traffic will have when Meijer is built. He asked that everyone look at how to manage it, don't stop the progress.

Commissioner Plato stated that traveling WIS 60 east several times a day, she can see that they people who live in the subdivision will continue taking the trip. Traffic should be looked at as it would be in that area; she would never take that cut-through route. Adverse impact in that area will not be much of an issue. Traffic and engineering put a study together that was to help with traffic flow. The Village should consider the study.

Commissioner Harms stated he agrees with what everyone says. He is also a biker and believes that something should be done about bicycle safety as the report states.

Commissioner Kletti stated he was on Village Board and Ozaukee County Board for many years. He indicated that they always spent a lot of time studying and did a great job in Grafton on handling traffic. We do need traffic for Meijer to stay in business there. The Village wants them to stay in business. There is a lot of traffic all the way to Milwaukee right now. That is where it is happening right now. He sees no real issues.

Chair Commissioner Brunnquell stated significant increase is subjective. Studies are done on experiences, history and expertise. The Village has to work on the best information that they have. Based on the information provided, he will depend on their credibility.

Traffic Impact by Plan Commission
Commissioner Paschke stated that the point to all of this is that the discretion regarding this code provision lies with the Village of Grafton.

Commissioner Silasiri stated regarding subsection (8), the Village has met every one of the requirements.

Commissioner Plato stated it is pretty clear that the intersection is a level C; Traffic Analysis & Design, the Village's consultant, has been working for the village for several years. She respects him and his findings. He indicated that it was a level C. She is defaulting back to the expert.

Commissioner Silasiri stated you cannot get more solid than that.

Chair Commissioner Brunnquell stated that the Village has the option to design this to the requirements the Village wants. A more than adequate engineer and other traffic experts have spoken and have always served the Village and Community well. The Plan Commission has control to put in any changes regarding concerns.

Public Need by Plan Commission
Commissioner Paschke stated it is a regional need; not just a Grafton need. That would also refer to the public. It does satisfy a need for the region, offering up competition for other facilities/businesses in the area.

Commissioner Silasiri commented on the additional requirements for a building that is 50,000 square feet. Whether a building is 49,000 square feet or 51,000 square feet,

how do you determine the needs and surrounding areas? It is a difficult decision to make for the public. Does it fit the master plan or not? So far every development that has been completed in that area has been beneficial.

Commissioner Kletti stated that down the road where will we be and what needs will we have? He feels that the Meijer's store will fit in very well looking down the road. Anyone can get a copy of the master plan at Ozaukee County to see the results.

Commissioner Harms stated they wouldn't have come to this location if they didn't see a need. Meijer has even adapted for the Village's needs and concerns. There is a need for a business such as this according to some people that he has spoken with. They welcome the new development.

Commissioner Plato agreed with everyone.

Chair Commissioner Brunnquell stated that Meijer has determined there is a need; the outlook is to become a full service area. A zoning classification has been created here. It gives options. It serves the public need by adding to the zoning committed to retail. This does meet a public need.

Chair Brunnquell requested that a motion to affirm be made by the Plan Commission.

> Motion by Commissioner Harms, seconded by Commissioner Plato, to affirm the grant of Conditional Use Permit dated August 28, 2012 to accommodate the construction of 191,352 square foot retail store to Meijer Store's Limited Partnership. Approved unanimously.
>
> Motion by Commissioner Paschke, seconded by Commissioner Plato, to deny the request for a Review of Determination of the prior grant of the Conditional Use Permit dated August 28, 2012, to Meijer Store's Limited Partnership on the grounds that the aggrieved landowner's constitutional due process rights have not been impacted, and therefore, the determination is not subject to review. Approved unanimously.

OLD BUSINESS
None

NEW BUSINESS
None

ADJOURN

> Motion by Commissioner Kletti, seconded by Commissioner Silasiri, to adjourn the meeting at 9:42 p.m. Approved unanimously.