

**MINUTES
VILLAGE OF HINSDALE
PLAN COMMISSION
December 10 2008
MEMORIAL HALL
7:30 p.m.**

Chairman LaPlaca called the meeting to order at 7:30 p.m., Wednesday, December 10, 2008 in Memorial Hall the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois.

PRESENT: Chairman LaPlaca, Commissioner Geoga, Commissioner Sullins, Commissioner Parsons, Commissioner Kluchenek, Commissioner Byrnes, Commissioner Moore, Commissioner Thacker, Commissioner Flynn

ABSENT: None

ALSO PRESENT: Tim Bleuher, Sean Gascoigne, Gina Hassett, Ken Florey (village attorney)

Chairman LaPlaca called the meeting to order at 7:30 p.m., Wednesday, December 10, 2008 in Memorial Hall in the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois.

Chairman LaPlaca said the First and Garfield Street text amendment and exterior appearance/site plan review has been deferred by the Board of Trustees to the January 14, 2009 meeting.

Commissioner Geoga questioned whether both applications could be done on the same night and if the text amendment would need to be heard first. Ken Florey, village attorney, said the code does allow simultaneous applications when approval of one component is required to approve a component of another application.

Commissioner Moore motioned to postpone the exterior appearance and site plan review for First and Garfield Street to the January 14, 2009 meeting. Commissioner Parsons seconded. Motion passed 9-0.

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Commissioner Byrnes moved to approve the minutes of November 12, 2008 with corrections. Commissioner Moore seconded. Motion passed 9-0

Findings and Recommendations

❖ 950 N. York Road – Graue Mill Executive Center Condominium – Design Review Permit

The Commission reviewed the findings and recommendations for the above application as submitted. Commissioner Kluchenek moved to approve the Findings and Recommendations. Commissioner Moore seconded. Motion passed 9-0.

Exterior Appearance/Site Plan Review -534 W. Chestnut – Parking Lot and Landscape Modifications to Approved Plan

Chairman LaPlaca asked anyone present who planned to speak stand and be sworn in.

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Chairman LaPlaca said this plan has already been approved and due to neighbor concerns, the developer has come up with some compromises on landscaping issues and removal of some parking spaces.

Mike LeBeaux, Michael James Development, said there are four changes to the original approved plan. Mr. LeBeaux said that due to concerns of neighbors regarding the original additional parking spaces requiring removal of some of the mature trees and landscape buffering, they are now proposing to eliminate the six additional spots originally approved to maintain the landscape buffer between the existing parking lot and the adjacent residential property. Mr. LeBeaux said the second item is to remove a window on the east side of the building to provide an emergency escape door in order to comply with the building code. The third item is to add windows per code to provide additional natural light into the building. Mr. LeBeaux said the last item is a request to change the color of the building from the approved white color to a tan color.

Chairman LaPlaca asked if they would be leaving the burning bushes in their current locations. Mr. LeBeaux said that as long as all the plantings are in good shape, they will remain, however, there would be several trees on the property that will be removed due to damage and the current poor condition of the trees. Chairman LaPlaca asked about the fence. Mr. LeBeaux said the proposed fence is along the west side and is proposed to be a six-foot cedar fence. Sean Gascoigne, Village Planner, said they are permitted to have up to an eight-foot fence.

Commissioner Byrnes asked about the trees along the fence line. Mr. LeBeaux said there is one tree that is on the property line and they plan to box around the tree and the fence will not affect other trees.

Commissioner Geoga asked where the monument sign would be located. Mr. LeBeaux said currently the sign is located on the right of the driveway and they are planning on installing a new monument sign identifying the tenants within the building and they will come back to the Plan Commission with that plan.

Commissioner Sullins asked about the parking ownership for both buildings. Mr. LeBeaux said they own the parking that is west and south of the centerline of the driveway all the way down to the back end of the other building and the front lot as well.

Chairman LaPlaca opened the floor for public comment.

Kevin Hayes, resident, said they represent a large group that surrounds the subject property. Mr. Hayes said the current plan submitted is not detailed enough and leaves too many uncertainties and would like to see a more detailed rendering. He also said he objects to the color change from white to tan and objects to the removal of all the wood trim. Mr. Hayes feels both buildings should remain the same color. Mr. Hayes said they did not receive notice for the original application and he does not believe the application meets the standards of the Code. Chairman LaPlaca said the original plan has been approved and cannot take away what is already approved.

Jim Fitzgerald, 101 S. Monroe, said that he believes this proposal does not meet the standards of the Code for site plan review criteria and the fence will block the view of the natural boundary that presently exists. Mr. Fitzgerald said the proposed placement of the sign causes confusion.

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Chairman LaPlaca asked the applicant why the fence has been added. Mr. LeBeaux stated the owners wanted the fence for liability and safety issues and it was strongly recommended by their insurance carrier.

Elizabeth Garvey, 542 Chestnut Street, stated that she has consulted a commercial underwriting department regarding the impact of the fence on liability premiums and the way the fence is proposed, it would not keep people out because it is not surrounding the entire property and is not locked, therefore, would not have any impact on liability premiums. Ms. Garvey said the fence would be only a few feet off of her deck and it would not blend esthetically with the property. Ms. Garvey said there are also bushes on the west side of the property that create a buffer between the commercial property and her home and she requests that those bushes remain as well. Ms. Garvey said she believed the current sign was temporary and she objects to the proposed placement of the sign.

Commissioner Kluchenek asked if the Commission had the power to order that these changes be made or not. Mr. Gascoigne said they have the discretion to recommend the changes that are suggested. Mr. Florey said if the applicant did not agree with the recommendations, the applicant could withdraw his application at any time.

Mr. Gascoigne said that for clarification purposes, the Code requires a six-foot buffer for non-residential uses that abut residential uses, however, it does not stipulate what type of screening, but there has to be a six-foot buffer of some type along the property line.

Denise Fitzgerald, resident, said her children have grown up in this neighborhood and the parents in the area are not in the practice of allowing their children to play in parking lots.

Allen Smith, property manager of 522 W. Chestnut, said there are easement rights on the south lot for parking and he requests that any decision about parking be postponed until they have had an opportunity to speak with the owners and come to an understanding about the parking. Chairman LaPlaca said they have an approved plan and the applicant was going to add the six spaces as an accommodation to the Village, however, they are under no obligation to do anything different with the parking lot.

Commissioner Geoga asked if the six-foot buffer could be in the form of additional landscaping. Mr. LeBeaux said he would need to discuss that option with the owners, however, the owners strongly feel a fence would be the best solution. Chairman LaPlaca asked if they could consider different type of material for the fence such as wrought iron style for esthetic purposes. Mr. Gascoigne said if it were an open style fence, it would have to be in combination with buffer-type landscaping.

Commissioner Parsons said he thinks the existing landscaping more than meets the buffer requirement and the area does not need to add an additional solid fence. Commissioner Kluchenek said there is the liability issue that the owners are concerned about. Chairman LaPlaca said that the exiting landscaping and different type of fence might satisfy the concern regarding liability.

The Commission discussed the color change and most members felt the color change to light tan was an improvement and not a contrast with the other building.

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Commissioner Moore said the existing Pine tree should be removed and replaced with a mature arborvitae of six to eight feet to provide future screening for residential neighbors.

Commissioner Kluchenek moved to recommend approval of the site plan/exterior appearance plan as submitted with the exception of the fence and with the following conditions: remove two regular and two handicap parking spaces, compliance with the revised elevations and site plans as presented at the Plan Commission on December 10, 2008, the burning bushes on the north or west side of property line remain in their existing location unless the health of the shrubs dictate their removal, at which point the petitioner must replace any shrubs removed in like and kind, the color of the building will be light tan, if the large Pine tree is removed, it would be replaced with a relatively mature Evergreen tree with potential for future growth. Commissioner Byrnes seconded. Motion passed unanimously.

Commissioner Thacker moved to recommend approval of a six-foot cedar fence on the west side property line. No second.

Commissioner Kluchenek moved to recommend an aluminum wrought iron style fence be installed. Commissioner Thacker said he feels they have seen enough of what it would look like and perhaps they should just vote on the one that is submitted. Commissioner Geoga said he thought the applicant would explore with the owner the possibility of alternative landscape buffers. Mr. LeBeaux said he is sure the owners want some type of fence. No second on motion.

Commissioner Kluchenek moved to recommend approval of a four to six-foot open-type fence the final material and height to be approved by the Board of Trustees. Commissioner Thacker seconded. Motion passed unanimously.

Break taken at 9:00 p.m. to 9:10 p.m.

Case A-06-2008 – Applicant: Village of Hinsdale – Request: Text Amendment to section 7-210E(1) (Height Exceptions) of the Hinsdale Zoning Code as it relates to lighting in the OS Open Space District

Commissioner Flynn recused herself

Chairman LaPlaca said this is a continuation of the deliberations on the text amendment on heights in the OS District.

Gina Hassett, Director of Parks and Recreation, said the revised text amendment contains the setback requirement that is suggested by the Parks and Recreation Department and the Parks and Recreation Commission. Ms. Hassett said they feel the changes that have been made takes into consideration the input of the public and the Plan Commission as well as what is needed in order for Parks and Recreation to move forward with any future projects.

Chairman LaPlaca said for the changes proposed a special use would be required for any structures, recreational facilities or lights over 35 feet and up to 60 feet in the Open Space District and it must maintain a minimum setback of 60 feet from any residential property; an expanded definition of “building” to include light poles, fixtures and other recreational structures; and language to grandfather all existing non-conforming light poles, fixtures or recreational structures.

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Chairman LaPlaca said she would like to split this into two separate votes, one being the issues of the definition of building being expanded and the grandfathering language and the second being the requirement of a special use, height of the structures and setback requirements. . Chairman LaPlaca said she does not think it is appropriate for this type of request to be a special use and that it should be an amenity to an existing use. Chairman LaPlaca also said she also has concerns about the setback requirement that is proposed.

Commissioner Geoga said he agrees with Chairman LaPlaca and is supportive of the grandfathering clause and the clarification of the definition of building. He also stated that the adoption of the special use language does not approve any rights and not approving the special use permit does not preclude the possibility of addressing lights in the future but in a more site specific manner.

Commissioner Kluchenek asked Commissioner Geoga if he was comfortable not calling this a special use Commissioner Geoga said the solution would be not to add a special use, meaning if there is a structure under 35 feet that does not meet the setbacks of that exception, then it would have to be dealt with by case specific circumstances such as a text amendment.

Commissioner Parsons asked if public notification requirement on any new lights in any park is covered in this proposal. Chairman LaPlaca said anything that is up to 35 feet would be handled by an exterior appearance/site plan review, which does not require a public hearing. Mr. Gascoigne informed the Commission that there is a text amendment coming before them for scheduling of a public hearing next month requiring any exterior appearance/site plan review applications to provide notice to any properties within 250 feet of the location of the application.

Commissioner Moore asked if any of the existing non-conforming structures were damaged, would they be permitted to be repaired to the same specification that they were previously. Ms. Hassett said with the adoption of the grandfathering clause, they would be able to make repairs.

Chairman LaPlaca opened the floor to public comment.

Luke Stifflear, 227 Justina, said that he feels this has been somewhat of a troubling process, however, this commission has been very independent thinking. Mr. Stifflear said that he predicts that there will be text amendment in the future to place lights at Pierce Park and asked that the Commission remember the thoughts and hard work of the 26 people that have been attending these meetings for the last two months.

Troy Urnell, 227 Phillipa, said having a setback 60 feet from the nearest residential property line turns out to be less restrictive than what is required under the IB District where the setback is 35 feet and seems to not be a very restrictive setback.

Jason Edgewater, 208 Phillipa, asked about the procedure of the vote and how the Board votes on this. Chairman LaPlaca said the Commission's recommendation will go to the Zoning and Public Safety Commission and then onto the Board of Trustees and they do not necessarily have to vote on it the same way the Plan Commission has.

Commissioner Kluchenek moved to recommend acceptance of the language as written regarding

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the expansion of the definition of building and the grandfathering of all non-conforming light poles, fixtures or recreational structures. Commissioner Moore seconded. Motion passed as follows:

AYES: Commissioner Parsons, Commissioner Sullins, Commissioner Geoga, Commissioner Thacker, Chairman LaPlaca, Commissioner Kluchenek, Commissioner Byrnes
Commissioner Moore

NAYES: None

ABSTAIN: Commissioner Flynn

Motion passed 8 to 0 with 1 abstention.

Commissioner Geoga moved to recommend deletion from the proposed language, as stated in the proposed ordinance that would allow a request for lights over 35 feet and up to 60 feet to be subject to a Special Use (and its subsequent requirements) and maintaining a minimum setback of 60 feet from any residential property line. Commissioner Byrnes seconded. Motion passed as follows:

AYES: Commissioner Parsons, Commissioner Sullins, Commissioner Geoga, Commissioner Thacker, Chairman LaPlaca, Commissioner Kluchenek, Commissioner Byrnes
Commissioner Moore

NAYES: None

ABSTAIN: Commissioner Flynn

Motion passed 8 to 0 with 1 abstention.

Steve Thacker left at 9:47 p.m.

Public Hearing - Case A-10-2008 – 111 S. Lincoln – Planned Development

Witnesses sworn.

Chairman LaPlaca said that if it is agreeable to everyone, the applicant's attorney agreed to incorporate into the record the prior submissions, evidence and testimony from the original planned development hearings on this matter.

Matthew Klein, attorney for applicant, said this property was previously approved in 2002 and 2005 as a lifestyle housing and in 2004 approval for rezoning from B-2 to O-2 to allow the property to proceed as a lifestyle housing planned development. Mr. Klein said currently a tenant pursuant to occupancy permits issued by the Village occupies the second floor. Mr. Klein explained that in the course of the various processes that have occurred, the Village determined that because the Village Board did not separately approve the final plan, the village attorney has determined that the planned development approval is no longer valid. Mr. Klein said their current request is to reinstate the planned development for lifestyle housing that would incorporate the special use, the planned development and the lifestyle housing ordinance that was approved and the waivers that were previously granted with the addition of a waiver of the requirement of a truck loading area. Mr. Klein said the current proposal retains the residential

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component of the building, as there would be at least one residential unit located on the second or third floor and a proposed dental office on the front portion of the third floor.

Bill Passero, Passero Builders and Development, said he currently has an approval of first floor commercial, second floor office and third floor residential and is requesting a change to allow only one residential unit instead of the original two condominium uses to allow an established Village dental practice to relocate into the space on the third floor. Mr. Passero said the lifestyle housing component would still be maintained with the remaining residential unit. Mr. Passero said his original approval did not require additional parking be provided for the building, however, currently with the reinstatement of this approval, there will now be a parking deficiency in which a contribution of \$97,000 will be required in lieu of the parking spaces.

Dr. Harnois, Orthodontist, said she has been practicing orthodontics in Hinsdale at her present location for 20 years and needs to expand as her current space is not big enough and the only place available south of the tracks in downtown Hinsdale is 111 S. Lincoln. Dr. Harnois said she has explored locations in other towns, however, would prefer not to leave Hinsdale and would like to remain close to the Hinsdale Middle School where many of her patients can walk to her office without having to cross the railroad tracks.

Commissioner Geoga asked staff what would happen to the building if nothing further happened at this time. Mr. Florey said that the Board would have to revoke the planned development approval and no occupancy of the building would be permitted.

Commissioner Geoga asked if there was a plan to expand the list of possible uses for the ground floor. Mr. Passero said the original approval had a condition that everything on the first floor was a B-1 use in order to exclude any non-tax generating type uses such as banks and hair salons. Mr. Passero said in this current economy it is unlikely to get a use such as a restaurant in that space and an occupied building brings more vitality to the area than a vacant building.

Chairman LaPlaca opened the floor to public comment.

John Bohnen, 230 E. First Street, said that this request is basically a single building with a planned development and the Code does not allow that. Mr. Bohnen said that lifestyle housing would imply that more than one residential unit would be required. Mr. Bohnen said there have been five attempts to try and figure this building out and to recast a planned development by including one small condo is a way to shoehorn the notion of a planned development onto this building. Mr. Bohnen said he is concerned with the message this is sending future developers and it is not the Commission's responsibility to change zoning codes to accommodate developers who change their objectives due to economic changes or any other reason.

Bob Saigh, 210 S. Lincoln, said he is asking the Commission not to undo the extensive work that has been done on this project and not to kick it up to the Board of Trustees. Mr. Saigh suggested the Commission ask the petitioner to work on it as this current proposal is flawed enough that it should not go forward.

Commissioner Geoga asked Mr. Saigh if he had any advice on a way to learn the lessons of the zoning history of this project without leaving this building empty. Mr. Saigh said he does not have an answer to that tonight.

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Julie Crynovich, 122 E. Third Street, said she feels this will set a precedent especially since First and Garfield will be in front of the Commission in the near future. Mr. Crynovich asked how this building received a certificate of zoning compliance and a certificate of occupancy if this is not a legal planned development. Mr. Bleuher said the certificate of occupancy was approved because the use and the current tenant is a permitted use in the O-2 District.

Karl Weber, resident, said removing the last 12 feet of the building, the garage area and still have the parking spaces on the first floor along with a variance from the ZBA of ten percent would bring this building into compliance with the B-2 or O-2 requirements.

Commissioner Geoga asked if there was a request to remove the loading dock on the application. Mr. Klein said the plans presented do not show a loading dock and he had requested a waiver at the beginning of the presentation.

Commissioner Byrnes asked how the number for the parking deficiency was arrived at and if this request were to be denied by the Commission, would the developer still owe the \$97,000. Mr. Florey said that decision would be up to the Board of Trustees and per Code the fee is \$2,500 per space that is deficient.

Chairman LaPlaca said this building is fraught with many issues and in hindsight different decisions may have been made and they need to come up with a solution to fix the problem in the least disruptive fashion. Chairman LaPlaca and the first step toward solving the deficiency on both the applicant's and the Village's part would be to discuss reinstating the original planned development. Chairman LaPlaca asked if there was any further comment before the public hearing was closed.

Mr. Bohnen said he did not think the Commission could do that because the Zoning Code does not allow single building planned developments and Mr. Florey said it would be a new planned development. Chairman LaPlaca said it would be under lifestyle housing. Commissioner Geoga said the suggestion is they would consider the development as it would have been had the 90-day requirement been met.

Chairman LaPlaca closed the public hearing and deliberations began. Chairman LaPlaca said there are three major issues to consider: a. Turn the clock back and assume the 90-day requirement was met and approve the building as a planned development under the lifestyle housing as it originally approved; b. Whether or not the Commission can modify the use of the third floor and reduce the number of residential units; c. The B-2 uses on the first floor the petitioner has asked for and the loading dock issues.

Mr. Florey said the loading dock should have been a waiver on the original approval and he cannot explain why it was not included.

Commissioner Sullins asked for clarification regarding zoning status. Director Bleuher confirmed that it would not revert back to B-2 and the underlying zoning remains O-2.

Commissioner Geoga said the loading dock waiver is an issue as it would set a precedent for future applications. Mr. Florey said if they leave that component out, it would not be a legal planned development because a planned development must list all waivers of the code variances and the original planned development did not list a loading dock, therefore, approval of the original planned development perimeters is not a legal planned development.

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Mr. Passero said there are no buildings in the downtown area that can accommodate a tractor trailer and most unloading and loading is done in the alley.

Commissioner Kluchenek asked if the intent of the Plan Commission and the Board of Trustees was to grant the waiver for the loading dock and it just did not get listed. Mr. Florey said it was never discussed because staff at the time said that the existing building had a loading dock deficiency, it could carry that forward.

Commissioner Kluchenek said he could be on board with reinstatement of the planned development and the change in the third floor use, however, he has difficulty with the first floor use changes and the loading dock issue is the most difficult and that has to be resolved.

Commissioner Moore agreed with Commissioner Kluchenek and feels the changed for the first floor uses should not be allowed.

Commissioner Sullins said she would think that allowing the other uses are less parking intense and therefore less impact on the neighbors.

Commissioner Parsons recused himself.

Commissioner Flynn said she would support reinstating of the original planned development and the third floor use change, but is uncomfortable with the allowing the change of use on the first floor.

Commissioner Byrnes agreed.

Commissioner Kluchenek motioned to recommend reinstatement of the planned development with the waiver of the loading dock, deny the expansion of usage on the first floor with respect to the B-2 District and approve the combination of the third floor tenant and residential unit. Commissioner Flynn seconded. Motion carried as follows:

AYES: Commissioner Sullins, Commissioner Kluchenek, Chairman LaPlaca, Commissioner Moore, Commissioner Flynn

NAYES: Commissioner Geoga, Commissioner Byrnes

ABSTAIN: Commissioner Parsons

Motion passed five to two with one abstention.

Commissioner Moore motioned to adjourn. Commissioner Flynn seconded. Motion carried unanimously and the meeting was adjourned at 11:35 p.m.

Respectfully Submitted,

Kerry L. Warren
Community Development
Administrative Assistant

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