

**MINUTES
VILLAGE OF HINSDALE
PLAN COMMISSION
JANUARY 14, 2009
MEMORIAL HALL
7:30 p.m.**

Chairman LaPlaca called the meeting to order at 7:35 p.m., Wednesday, January 14, 2009 in Memorial Hall the Memorial Building, 19 East Chicago Avenue, Hinsdale, Illinois.

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

ABSENT: Commissioner Kluchenek, Commissioner Flynn

ALSO PRESENT: David Cook, Sean Gascoigne, Ken Florey (village attorney)

Minutes

Commissioner Parsons moved to approve the minutes of December 10, 2009 as written. Commissioner Byrnes seconded. Motion passed 7-0.

Findings and Recommendations

534 W. Chestnut – Parking Lot and Landscape Modifications to Approved Plan

Liz Garvey, 542 Chestnut Street, said that per the recommendation of the Zoning and Public Safety Committee, she has put forth recommended language to be included in the ordinance to go to the Board of Trustees for final approval. Chairman LaPlaca said the Plan Commission has to approve what they did at their meeting. Mrs. Garvey said some of the specific conditions that were to be included have been omitted in these draft findings.

Chairman LaPlaca suggested the changes in the language regarding the large pine tree north of the parking lot be revised to include the language of a relatively mature evergreen with the potential for future growth be planted in the event that the current pine tree needs to be removed and also the burning bushes on the north and west property line remain in their existing location to reflect what was discussed.

Commissioner Parsons moved to approve the findings and recommendations for the parking lot and landscape modifications for 534 W. Chestnut with the above changes. Commissioner Thacker seconded. Motion passed unanimously.

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

Chairman LaPlaca described the additions and changes she made to the findings and recommendations regarding items number five and six and added more specific language in bullet point number two on page two of the document to better clarify the intent of the Commission.

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Commissioner Geoga said he wondered if the findings as written communicated enough to make the recommendations helpful to the ZPS and to the Board and suggested adding language to item number four such as “but indicated that a special use for lights above 35 feet without a substantial reduction in the setbacks applicable would not serve a useful purpose.”

Commissioner Geoga said the reason for this would clear up any misunderstandings as to why the special use did not survive on discussion. He also suggested an additional finding stating that the Plan Commission determined that it was not in a position to make a general determination of a reduced setback for all open spaces.

Chairman LaPlaca said she does not have a problem with being more specific in the language, however, there were a variety of reasons that it was voted the way it was and asked for more thoughts on a better way to articulate the intent of the Commission’s recommendation.

Chairman LaPlaca suggested adding language stating the Plan Commission determined that the application of a reduced setback proposed by the applicant should be considered on a site-specific basis rather than to the Open Space generally.

Commissioner Parsons motioned to approve the findings and recommendations for the Text Amendment to Sections 7-205 and 7-210E(1) of the Hinsdale Zoning Code as it relates to lighting in the Open Space District with the above additional language added to item number 4.

Commissioner Thacker seconded. Motion passed unanimously.

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

Commissioner Moore said she recalled discussing not allowing different uses on the first floor and it is not noted as any of the stipulations in the findings. Chairman LaPlaca asked if there should be an exhibit attached listing the permitted uses on the first floor. Ken Florey, village attorney, said there will be an attachment with the list of uses as well as the original ordinance, which will also create restrictions and waivers.

Chairman LaPlaca asked to add language to item I to state the exhibit would be attached to the findings and recommendations.

Commissioner Geoga moved to approve the Findings and Recommendations for 111 S. Lincoln – Planned Development with the added language in item I regarding an attached Exhibit listing the permitted uses on the first floor. Commissioner Byrnes seconded. Motion passed unanimously.

Scheduling of Public Hearings

- ❖ **Case A-12-2008 – Request: Text Amendment to Article XI, Part VI, Sections 11-604 (Site Plan Review) and 11-606 (Exterior Appearance Review) of the Hinsdale Zoning Code to require notification for any site plan and/or exterior appearance review for non-residential property that is within 250 feet from a single-family zoning district.**
- ❖ **Case A-13-2008 – 230 Ogden Avenue – Molecular Imaging – Request: Map Amendment and Lot Consolidation**

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Chairman LaPlaca stated that the above cases are scheduled for public hearing on February 11, 2009.

Chairman LaPlaca said she is going to shift the agenda tonight to hear the public hearing first before the exterior appearance review for this application.

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

Case A-11-2008 – Applicant: Anno Domini LLC. – Request: Text Amendment to sections 5-102G (Permitted Uses) and 9-105 (Off Street Loading) of the Hinsdale Zoning Code as it relates to Bulk Regulation and Loading Zone Requirements in the B-2 and B-3 Business Districts

Jim Dahl, attorney for Anno Domini, explained there was basically three different text amendments proposed and they all deal with and affect the B-2 District and they all achieve the same objective, which is to make the zoning code more consistent with the existing downtown community. Mr. Dahl described each of the text amendments stating the first is in regards to the permitted uses to clarify that the restrictions for an R-5 District with regard to the bulk and yard restrictions. Mr. Dahl said the second text amendment deals with buildings in the B-2 District with multiple uses within the same building only requiring one loading dock to service that entire building. Mr. Dahl stated that currently it could be interpreted that if there are multiple uses within the same building in a B-2 District, a loading dock for each use would be required. Mr. Dahl said the third text amendment deals with the truck turnaround issue. He said he is not aware of any buildings in the downtown area currently that would permit a tractor-trailer to access and make one turnaround. Mr. Dahl said the text amendment proposed would accommodate a panel truck of 30 feet in length and is consistent with the way goods are delivered in the downtown area currently.

Commissioner Geoga asked if height was one of the elements that the reference to R-5 does not carry with it. Mr. Dahl said yes, this proposed text amendment would exempt residences in the B-2 from that requirement. Commissioner Geoga asked if the objective was to use the general height available in B-2 and not the height available in R-5 despite the cross-reference. Mr. Dahl said without getting into answers that would affect pending litigation, the answer is yes, the intent of the text amendment is to affect the height restriction in the B-2 District and that would supercede the height requirement in the R-5 District.

Commissioner Geoga asked if it was reasonable to ask for a status report on the pending litigation and if any of this would impact the pending litigation. Mr. Florey said that type of discussion would be best suited in a closed session meeting. Mr. Florey said it is not a secret that if this text amendment is approved by the Village Board, there would be an expectation of the pending litigation going away in relation to the Village Board, however, he does not feel comfortable discussing the details in an open forum.

Jack Benning, Ives/Ryan Land Planning Group, said the intent of the three proposed text amendments is to clarify sections of the zoning code. Mr. Benning said R-5 states that it is for existing and transitional uses to adjacent single-family and the bulk standards, if applied, would essentially preclude any commercial development on the lot as it would not be able to meet the setback requirements and ultimately this would change the character of the existing downtown. Mr. Benning said that this would be especially applicable if a building or series of buildings were

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lost from a fire or an extensive remodel, if it has a residential component in it, it would not be permitted to be re-built as it is today.

Mr. Benning said their intent regarding the size of the off-street loading requirement is to reduce the impact of truck traffic on the business district as opposed to increasing it. Mr. Benning said that the way the code is currently written encourages semi-truck traffic because the town can accommodate it. He said most deliveries are made by a 16 to a 26 foot straight or box truck. Mr. Benning said that in order to accommodate the requirement for a semi-truck turnaround each site would require a ¼ acre and that would exclude any new development or rebuilds in the B-2 district in the downtown area as it is impossible to meet that lot requirement.

Mr. Benning said the number of loading docks should not be counted in its aggregate and the proposed building is less than 100,000 square feet and the residential units proposed are under the 20,000 square feet and therefore have no requirement for loading. Mr. Benning stated the stores would be small and most likely receive deliveries from UPS or FedEx.

Chairman LaPlaca asked if there was any thought regarding a different format for this amendment such as waivers from the Board of Trustees for their particular project as opposed to requesting a blanket change for the entire village. Mr. Dahl said that avenue was considered, however, they felt this text amendment was more appropriate because the implication that a literal one-turn semi-tractor trailer turnaround in the B-2 downtown Hinsdale area was not rationale.

Commissioner Geoga said it is possible the semi-truck turnaround requirement was put in place to prevent making the delivery and loading situation worse in the downtown area. Mr. Dahl said the rule has never been applied and has never been required for any structure or development and it does not make any sense.

Commissioner Thacker said perhaps the rule has never been applied because there has not been any new development in the B-2 downtown area. Mr. Dahl said his understanding is there have been developments where it would have been required and was waived by the village manager and it was never contested.

Robert O'Donnell, attorney for Alliance of Hinsdale, said they oppose the three proposed text amendments. Mr. O'Donnell said the proposed amendment to Section 5-102 would modify or relax certain area and dimensional restrictions that would otherwise be applicable from the R-5 District, but the R-5 District also has use restrictions which are not being amended or relaxed and would be applicable to this development such as a multiple family dwelling is not allowed in a R-5 District without a special use. Mr. O'Donnell said even if this text amendment is approved, this development would still not be code compliant without a special use.

Kristy Noble, land planner, said it is her opinion that the amendment will not eliminate tractor-trailer trucks deliveries because deliveries by this method are determined by the users and not whether there are parking accommodations or not. Ms. Noble said the current buildings downtown do not meet the threshold of one building being 10,000 square feet, therefore, they are not required to meet the requirement of the tractor-trailer truck loading space. Ms. Noble said the purpose of the amendment process is intended to provide a means for making changes in the text of this code and it is not intended to relieve particular hardships and she believes there has not been any changing conditions in the downtown area that would promote this relaxing of the

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standards for buildings in excess of 10,000 square feet to provide one tractor-trailer loading space and it is singularly purposed. Ms. Noble said if this amendment is approved, it would adversely affect adjacent existing users and users within the building. Ms. Noble said the proposed loading entrance is in a pedestrian walkway and a heavy vehicular area in the downtown area and will interfere with the right of way, cause traffic congestion, interfere with on-street parking and possible blockage of emergency vehicle access.

Todd Fagen, Sam Schwartz Engineering, said it is not realistic to think semi-trucks could be banned in any community and although he does not have the numbers, it is his sense that there are more semi-trucks delivering because it is more efficient for the shipper. Mr. Fagan said he phone surveyed Crate & Barrel, Trader Joe's, CVS and Corner Bakery and the results were the majority all receive semi-truck deliveries and sometimes more than once a week. The Corner Baker, which is located in the B2-District, uses the alley to pull in and pull out and the proposed site will not have that ability and a semi-truck will have to back into the driveway, which will be dangerous and unsafe in the pedestrian area.

Commissioner Parsons suggested the possibility of pulling a semi-truck into the proposed 20-foot wide alley and create an alley on the south side of this property and pull it out onto Garfield Street without having to turn around. Commissioner Parsons suggested that if the developer gave up some of the first floor area, he could create a through traffic situation.

Chairman LaPlaca opened the floor for public comment and questions.

Karl Weber, resident, said to put this development into perspective, the building's footprint is approximately 25,000 square feet and the Ameritech Building's footprint is approximately 12,000 square feet, therefore, there is no other building in town that has a footprint of 10,000 square feet, and therefore the need for this requirement is necessary. Mr. Weber said the best and safest solution would be to open up the alley and extend it from Washington to Garfield for semi-trucks to pull in one end and pull out the other.

Nancy Chapa, 318 S. Garfield Street, said many of the issues that are being discussed have already been adjudicated in court and the Village of Hinsdale and the resident plaintiffs have prevailed on all the substantive counts of the counter-claims brought forth by Anno Domini. Ms. Chapa said she feels this project violates the safety of pedestrians in the Village and the impact of the traffic patterns for the small downtown area and the surrounding neighborhoods. Ms. Chapa submitted an objection to the Commission.

Julie Crynovich, 122 E. Third Street, said the applicant is asking for the text amendment for the B-2 District and pointed out that it includes the B-3 District. Ms. Crynovich said it will affect other areas of the Village.

Mr. Dahl said the issue before the Commission is the propriety of the text amendment requested and whether or not the proposed change to take away the bulk requirements and the yard requirements for B-2 will allow the Garfield project to proceed is not what these text amendments are about. Mr. Dahl asked the Commission to question the traffic expert as to whether or not Trader Joe's, CVS or Z-Gallery are located in the B-2 District or not and also ask their land planner whether or not she is aware of any community remotely close to the kind of downtown as Hinsdale's that has a similar ordinance requiring the turnaround for a tractor-truck.

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Commissioner Parsons said he couldn't remember any development of this size in Hinsdale that had the truck turnaround requirement waived. Mr. Dahl said it is not of this size, but of a size that would have required a truck turnaround, which is 10,000 square feet.

Richard Gammonley, Gammonley Group, said there will be covenants, bylaws and restrictions that are recorded with this property and will be attached to each lease restricting any commercial users from using anything larger than a 30-foot panel truck. Mr. Gammonley said the reason they are doing text amendments is because it is the right way to make this change for the entire district. Mr. Gammonley said Trader Joe's and CVS are not very good examples because these types of uses require 25,000 square feet or more and the lower level of retail proposed at First and Garfield is 16,000 feet and they anticipate three to five users on the first floor. Mr. Gammonley said the alley between Washington and Garfield is partly privately owned and therefore not an option for a pull through alley.

Chairman LaPlaca asked Ms. Noble if she was aware of any other communities similar to Hinsdale that has this type of requirement for loading in the downtown area. Ms. Noble said yes, Lincolnshire, which is a northern suburb and they are trying to have a more urbanized downtown. Chairman LaPlaca disagreed that Lincolnshire is similar to Hinsdale and the downtown was a contrived downtown and in her opinion it is not a parallel example.

Commissioner Sullins said the code as it reads does not necessarily require a turnaround, but requires egress and ingress without a vehicle having to back up onto a public street, so theoretically a pull straight through would address the issue without having to do a text amendment. Commissioner Sullins said recently Hinsdale has gone to more national type tenants even though they are leasing a smaller space and these types of uses will get more deliveries.

Commissioner Geoga made a motion to adjourn to closed session to discuss pending litigation per Section 5ILCS/10, Section 11 of the Illinois Open Meetings Act. Commissioner Moore seconded. Motion carried as follows:

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

NAYES: None

ABSENT: Commissioner Kluchenek and Commissioner Flynn

Motion passed 7 – 0 and the Plan Commission adjourned to closed session at 9:45 p.m.

The meeting was resumed and the public hearing was closed. Deliberations began at 10:10 p.m.

Chairman LaPlaca said they would be voting on each of the three sections of the text amendment individually. She asked to discuss first the request to amend the section of the bulk, height and certain setback requirements of the R-5 District that would not apply to dwelling units in the B-2 District, but the density requirements would.

Commissioner Moore said if the applicant is trying to make the height requirement clear, they are not because they are taking any perimeters of height and setback as opposed to clarifying it

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and that is a concern for her. Mr. Florey said there would still be the underlying requirements of the B-2 and B-3 District.

Commissioner Parsons asked if the essence of the amendment is that the B-2 zoning overrides the R-5 zoning for height and setback. Mr. Florey said yes, this is a prudent clarification.

Chairman LaPlaca said it may make more sense to state dwelling units shall be subject to the provisions applicable to the R-5 District with respect to lot area per unit for multi-family.

Commissioner Parsons motioned to recommend approval of a text amendment to Section 4-112 of the Hinsdale Zoning Code regarding dwelling units shall be subject to the lot area per unit provisions applicable to the R-5 District. Commissioner Byrnes seconded. Motion passed unanimously.

Chairman LaPlaca asked for discussion regarding the text amendment that relates to whether or not more than one loading zone is required.

Commissioner Geoga said the only question is whether or not this necessary at all. Chairman LaPlaca agreed. Mr. Florey said he thinks it is implicit, however, if it avoids a lawsuit he is in favor of going through the exercise.

Commissioner Parsons asked how much bigger of a building would require a second loading dock. Mr. Florey said it depends on the use and the worse case scenario would be over 100,000 square feet. Commissioner Geoga questioned whether they are ready to say that the 100,000 square feet is the right trigger. Mr. Florey said that is already in the code, and without it, there could be an argument that a separate loading dock for each use with simultaneous truck turnarounds.

Commissioner Geoga said he thinks an adjustment is appropriate, however, he is not comfortable writing it right now. Chairman LaPlaca agreed. Mr. Florey said he does not think the current language covers their intent, which is to make sure someone does not come in with a mega building and use this language to only require one loading space. Mr. Florey said his suggestion is to let himself and staff draft more suitable language and they can continue to make changes if it does not meet their intent.

Chairman LaPlaca asked for discussion regarding the third request, which is the tractor-trailer turnaround, which she also feels requires more information. Commissioner Geoga said he agreed and he is not convinced that the current regulation did not have a purpose and he does not know enough to vote on it at this time. Most Commissioners concurred. Commissioner Parsons said he feels a lot of these issues could be addressed with more specific waivers for the project and not change the code for the entire Village.

Chairman LaPlaca asked the applicant if they would like the opportunity to bring additional information back to the Commission. Mr. Gammonley said he would not know how to obtain that kind of data. Commissioner Parsons said the data he would be interested in is how the existing stores in the B-2 District of Hinsdale get their deliveries.

Chairman LaPlaca asked the applicant if they would prefer to have the Commission consider the matter as it stands right now and take a vote on it and move forward. Mr. Dahl said that is what he would ask the Commission to do. Chairman LaPlaca asked the applicant that since

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their project is contingent on all three of the amendments being passed and the loading dock request is tabled for clarification in language, would it benefit them to table both and come back with more information regarding the tractor-trailer turnaround. Mr. Gammonley said if he can present different information, perhaps he might be able to sway two or three commissioners.

Mr. O'Donnell said they would like to make additional comment on the revised language and would they be able to do that because technically the public hearing is closed, however, the text amendment has changed and may have encompassed more than was on the table this evening.

Mr. Gammonley said he would like to present his application for the exterior appearance review and then decide about whether he wanted a vote on the text amendments. Chairman LaPlaca said if they are not voting on the text amendments, then procedural she does not want to move on to the exterior appearance review. Mr. Gammonley requested motions and votes on the text amendment requests.

Commissioner Moore moved to recommend including language to Subsection D to state, "one loading space or receiving area may be provided for any one or more combined uses set forth in this subsection." Commissioner Thacker seconded. Vote was follows:

AYES: Commissioner Parsons, Commissioner Sullins, Commissioner Thacker

NAYES: Chairman LaPlaca, Commissioner Geoga, Commissioner Byrnes,
Commissioner Moore

ABSENT: Commissioner Kluchenek, Commissioner Flynn

Motion fails 4 – 3

Commissioner Byrnes moved to recommend replacing the word tractor-trailer to panel truck in the Hinsdale Zoning Code. Commissioner Thacker seconded. Vote was as follows:

AYES: None

NAYES: Chairman LaPlaca, Commissioner Parsons, Commissioner Sullins,
Commissioner Geoga, Commissioner Thacker, Commissioner Byrnes,
Commissioner Moore

ABSENT: Commissioner Kluchenek, Commissioner Flynn

Motion fails 7 – 0

Chairman LaPlaca said they will move forward to the exterior appearance/site plan review. Commissioner Byrnes asked why are they moving forward when the text amendments were denied. Chairman LaPlaca said that because they are advisory and the Board could disregard their recommendations and approve these text amendments and they will expect a recommendation on the exterior appearance review.

Commissioner Parsons said he is disappointed that there are several amenities that were in previous designs for this building that are not there anymore. Commissioner Parsons said this is a big project and he would like to make comments on several things and he does not think it will be done in one night particularly starting at 11:00 p.m. Mr. Gammonley said his presentation

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will take approximately 30 minutes and he would like the opportunity to present this evening. Commissioner Thacker said they couldn't let Mr. Gammonley proceed without giving the public and the opposition an opportunity to speak as well.

Mr. Gammonley said he would not have requested a vote on the text amendments if the exterior appearance review was not going to be heard. Commissioner Thacker said if the Commission wanted to hear the whole presentation at the next meeting, he would suggest vacating those votes. Mr. Gammonley said that would be fine and he would request a special meeting be called to present the entire project. Commissioner Parsons said because this is an important project, he suggested it be heard at the regularly scheduled meeting and schedule a second meeting to hear any other applications.

Mr. Dahl asked the Commission to reconsider the vote with respect to the second text amendment regarding the number of docks. He said they will accept the vote on the tractor-trailer request and present the presentation for the exterior appearance review at the next meeting.

Chairman LaPlaca said on February 11th the scheduled public hearings will be opened and continued to a special meeting to be held on February 25th and Case A-11-2008, First and Garfield will be heard on the regularly scheduled meeting on February 11th.

Commissioner Moore motioned to reconsider the vote on the amendment regarding one loading dock per use. Commissioner Geoga seconded. Motion passed unanimously.

Chairman LaPlaca said they will table the matter until February 11th and directed counsel to redraft language for that amendment. Commissioner Geoga requested the revised language be posted on the website at least one week before the scheduled meeting.

Mr. Florey said the Commission will need a motion to re-open the public hearing and then continue the matter to the next meeting in order to hear more testimony.

Commissioner Thacker motioned to re-open the public hearing regarding Case A-11-2008. Commissioner Moore seconded. Motion passed unanimously.

Commissioner Thacker motioned to continue the public hearing on the second text amendment to February 11, 2009. Commissioner Geoga seconded. Motion carried

Commissioner Parsons motioned to adjourn. Commissioner Moore seconded. Motion passed and the meeting was adjourned at 11:30 p.m.

Respectfully Submitted,

Kerry L. Warren
Recording Secretary

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