

**Regular Meeting – Plan Commission/Zoning Board of Appeals  
Gregory J. Bielawski Municipal Center, DuPage County, Carol Stream, Illinois**

***All Matters on the Agenda may be Discussed, Amended and Acted Upon***

**February 23, 2015**

Chairman Pro-Tem Creighton called the Regular Meeting of the Combined Plan Commission/Zoning Board of Appeals to order at 7:00 p.m. and directed Secretary Linda Damron to call the roll. The results of the roll call vote were:

Present: Chairman Pro-Tem David Creighton, and Commissioners Dee Spink, John Meneghini, David Hennessey, and Frank Petella.

Absent: Chairman Angelo Christopher and Commissioner James Joseph.

Also Present: Don Bastian, Assistant Community Development Director, Linda Damron, Secretary.

**MINUTES:**

Commissioner Spink moved and Commissioner Hennessey made the second to approve the minutes of the meeting of October 13, 2014.

Ayes: 3 Chairman Pro-Tem Creighton and Commissioners Spink and Hennessey  
Nays: 0  
Abstain: 2 Commissioners Meneghini and Petella  
Absent: 2 Chairman Christopher and Commissioner Joseph

**PUBLIC HEARING:**

Commissioner Spink moved and Commissioner Hennessey made the second to open the Public Hearing. The motion passed by unanimous voice vote.

**Case # 14213 – Village of Carol Stream – 500 N. Gary Avenue  
Zoning Code Text Amendment – limited Outdoor Seating**

Assistant Community Development Director Bastian stated that the proposed text amendment was on the October 13, 2014 agenda and was tabled at that time; he asked the Plan Commission to make a motion to remove the item from the table and bring it back up for discussion.

Commissioner Meneghini moved and Commissioner Hennessey made the second to remove case # 14213 from the table and bring the case up for discussion. The motion passed by unanimous voice vote.

Chairman Pro-Tem Creighton swore in the witness, Don Bastian, Assistant Community Development Director. Mr. Bastian stated that early in 2014 he asked if the Plan Commissioners would be open to considering certain types of outdoor seating associated with food service uses that could be approved by staff without having to require a special use permit and at that time the Plan Commission said they would be willing to consider such a change. Mr. Bastian stated that since then staff has worked on some zoning text amendments that would accomplish that and they were originally brought to the Plan Commission on October 13, 2014 and at that meeting there

were some questions and items that the Plan Commission identified that they would like to have additional information on.

He stated that the Plan Commission wanted to know what types of business would be able to have a limited outdoor seating area. He stated that the Zoning Code does have a definition (this definition is listed on page 2 in the staff report) of a food service business and the proposed text amendment refers to a food service business as the category use that would be allowed to apply for the limited outdoor seating. He did mention that Commissioners asked at the October 13, 2014 meeting if a convenience store would qualify for this type of use, and Mr. Bastian responded that it would not.

He stated that there was a question as to whether the DuPage County Health Department would require an exterior water spigot. He stated that staff did check with the Health Department and was advised that a water spigot is not required for outdoor dining areas and the Health Department did state they like to see outdoor seating areas establish on a hard surface so the surface can be cleaned and they would inspect the outdoor seating area at the same time they do an inspection of the interior of the food establishment.

He stated that there were questions regarding safety related to the type barriers between the parking lot and the outdoor seating area. He stated that staff would prefer not to put a firm requirement in the zoning code text amendment, but would prefer to allow to staff to review each application and take the specific circumstances of each case into account. He stated that staff is proposing that safety is one of the items that staff will evaluate during the review of the required permit.

He stated that there were some concerns about outdoor furniture storage, and noted that staff has changed the Statement of Compliance to state that the seating area needs to be maintained in a neat, sanitary, orderly and safe manner at all times and that the furniture would be removed and stored indoors during the off-season.

He stated that the text amendments that are proposed would be to have a new permitted use for limited outdoor seating on properties in B-1, B-2 and B-3 Zoning Districts as outlined on page 2 of the staff report. He stated that the use would be subject to a permit submitted to the Community Development Department and clarified that this option would not be available for any type of business that serves alcohol. He stated that staff is proposing a second text amendment to clarify the type of outdoor seating area that would continue to need a special use permit, and that text amendment is listed on page 3 of the staff report.

Chairman Pro-Tem Creighton asked if anyone from the audience had any questions. There were no questions from the audience.

Commissioner Petella wanted to know if establishments like McDonald's that has permanent table, would they need to remove their tables in the winter. Commissioner Petella also wanted to know if staff felt that outdoor seating areas would need to be fenced. Commissioner Petella wanted to know if an applicant was denied a permit would they be able to come before the Plan Commission and ask for a special use permit. Commissioner Petella wanted to know the cost of a request for a special use permit.

Mr. Bastian stated that establishments with permanent tables would not have to remove their tables in the winter. He stated that staff will evaluate the need for fencing during the review of the permit. He stated that an applicant would be able to come before the Plan Commission and ask for a special use permit in the case that staff could not approve a permit. Mr. Bastian stated that there is an \$800.00 fee to request a Special Use Permit.

Commissioner Spink has a concern that leaving it to staff discretion that someone might feel there is favoritism. Commissioner Spink wanted to know if there would be a standard that would determine if a fence or bollards would be required.

Mr. Bastian stated that there will be a Statement of Compliance and if the application meets all the requirements staff will approve the application. He stated that if an additional barrier needs to be provided it would be determined on case by case bases, he stated that staff would review the specific placement of the tables and the drive aisle.

Commissioner Hennessy did not have any questions.

Commissioner Meneghini wanted to know if there would be enough space to walk past an outdoor dining area.

Mr. Bastian stated that the establishment would need to comply with the Illinois Accessibility Code.

Chairman Pro-Tem Creighton wanted to know on what basis it is considered that wheel stops would be an adequate deterrent to prevent a store front crash. Chairman Pro-Tem Creighton wanted to know if Taco Real who just had a store front crash last month, if they applied for a permit would they be required to have wheel stops. Chairman Pro-Tem Creighton stated that he was in contact with Mr. Rob Rider who is with the Store Front Safety Council, who is apparently a leading expert when it comes to store front crashes, and I asked him about wheel stops and he said "wheel stops are referred to as launching pads as they cause the front wheels of cars to mount over curbs and up onto sidewalks much more easily than if the wheel hit the curb face directly, as well as being a tripping hazard". Chairman Pro-Tem Creighton stated that some of the research he did suggested that it is because most of the crashes are due to the driver thinking they have their foot on the brake, when it is actually on the accelerator. Chairman Pro-Tem Creighton stated that after doing this research he would not be feel safe sitting at one of the outdoor seating areas.

Mr. Bastian stated that one example that the Plan Commission reviewed at which wheel stops would be sufficient was the case on County Farm Road last year, due to the orientation to the drive aisle. He stated that staff would look at the specifics of each application and apply the measured type of approach and address it. He stated that staff would probably recommend something similar to wheel stops at the Taco Real location. He stated that staff has done research on other communities, and he believes that we will not be less stringent than other communities. He stated that the Engineering Services Department will also be reviewing the plans and will be offering their input on the orientation of vehicles, traffic and the location of the seating area. Mr. Bastian stated that staff is comfortable with the recommendation. Mr. Bastian stated that staff is looking for the Plan Commission to make a recommendation on this case tonight.

Chairman Pro-Tem Creighton stated that he wanted to make a motion to amend the text amendment to the Zoning Code §16-9-2 (B) to include the stipulation that certain establishments with nose in parking and little space between the sitting area and the parking lot be required to have suitable bollards to prevent entry in those sitting areas. He asked for a second.

No one gave a second. The motion failed.

Commissioner Meneghini moved and Commissioner Hennessey made the second to approve the request for Zoning Code Text Amendment for limited Outdoor Seating subject to the recommendations listed in the staff report.

The results of the roll call vote were:

Ayes: 3 Commissioners Meneghini, Hennessey, and Petella  
 Nays: 2 Chairman Pro-Tem Creighton and Commissioner Spink  
 Abstain: 0  
 Absent: 2 Chairman Christopher and Commissioner Joseph

Chairman Pro-Tem Creighton reminded the petitioner that the Plan Commission's recommendation would be forwarded to the Village Board at their next meeting on March 2, 2015, at which time the Board would take final action on the matter.

**Case # 15027 – Village of Carol Stream – 870 W. Army Trail Road  
 Termination of Special Use Permit**

Mr. Bastian remained sworn in. Mr. Bastian stated that this case is a Village of Carol Stream initiated petition to terminate the prior special use permit for the property at 870 W. Army Trail Road. He stated that in 1981 the property was granted a Special Use Permit to allow the property to be use as an automobile service station, and a Mobil gas station operated on the property until it closed in 2011. He stated that in December 2010 Buchanan Energy acquired all of the Chicagoland convenience store and gas station assets of Exxon Mobil Corporation. In 2012 Buchanan Energy decided to redevelop the property at 870 W. Army Trail Road, and they came forward with a plan for a larger convenience store, new gas pumps and a carwash. He stated that Buchanan Energy did receive approvals to build a new convenience store, gas station and carwash. He stated that after they received their approvals they started talking to the owners of the closed Kentucky Fried Chicken restaurant about purchasing the property. Buchanan Energy thought if they could purchase that property they could have a larger development site. He stated that the negotiations have been going on for a while between the two parties. He stated that the original Special Use termination date was February 6, 2014, and about a year ago Buchanan Energy came and asked for a one year extension of the 2012 Special Use Permit approvals and the extension was granted by the Village Board at that time. He stated that with the extension it resulted in a new Special Use Permit termination date of February 6, 2015. He stated that staff has remained in contact with the owner of Buchanan Energy and they have not been successful in acquiring the former KFC parcel, but have stated that negotiations are heading a good direction, but they have also indicated that they do not have any plans to build per the 2012 plan. He stated that the Zoning Code provides the Village Board with the option to terminate a Special Use Permit under certain circumstances. The circumstances are listed on page 2 of the staff report and this property meets those circumstances. He also stated that staff has a letter from the property owner stating he has no objection to the termination of the Special Use Permit. He stated that the fuel tanks have been removed from the property and the remaining building no longer complies with the current building codes. Mr. Bastian stated the staff is recommending that the Plan Commission and the Village Board should consider terminating the Special Use Permit approvals granted to 870 W. Army Trail Road.

Chairman Pro-Tem Creighton asked if anyone from the audience had any questions. There were no questions from the audience.

Commissioners Meneghini, Hennessey, and Spink did not have any question.

Commissioner Petella wanted to know if the village could have the property owner demolish the building.

Mr. Bastian stated that we would have to have a code based reason in order to ask them demolish the building.

Commissioner Spink moved and Commissioner Petella made the second to approve the request to terminate the Special Use Permit granted to the property located at 870 W. Army Trail Road through Ordinances 8-01-02 and 2012-08-30 subject to the findings and facts provided in the staff report.

The results of the roll call vote were:

Ayes: 5 Chairman Pro-Tem Creighton and Commissioners Spink, Meneghini, Hennessey, and Petella  
Nays: 0  
Abstain: 0  
Absent: 2 Chairman Christopher and Commissioner Joseph

Chairman Pro-Tem Creighton reminded the petitioner that the Plan Commission's recommendation would be forwarded to the Village Board at their next meeting on March 2, 2015, at which time the Board would take final action on the matter.

Commissioner Spink moved and Commissioner Petella made the second to close the Public Hearing. The motion passed by unanimous vote.

**PRESENTATION:**

**Case # 15016 - Village of Carol Stream - 500 N. Gary Avenue  
2015 Official Zoning Map**

Mr. Bastian stated that state statute dictates that the village must publish an updated zoning map by March 31 of each year and the map for 2015 includes the annexations and rezonings that were reviewed by the Plan Commission and approved by the Village Board in 2014.

Commissioner Spink wanted to know if the property at the NWC of County Farm and North Avenue would be annexed into the village.

Mr. Bastian stated that if a business would go onto the property that the village is interested in, staff would recommend that the village annex the property.

Commissioner Hennessey wanted to know what the village boundary is to the west.

Mr. Bastian stated that the boundary would be the forest preserve just west of Fair Oaks Road.

Commissioner Hennessey moved and Commissioner Spink made the second to approve the 2015 Zoning Map.

The results of the roll call vote were:

Ayes: 5 Chairman Pro-Tem Creighton and Commissioner Spink, Meneghini, Hennessey, and Petella  
Nays: 0  
Abstain: 0  
Absent: 2 Chairman Christopher and Commissioner Joseph

**NEW BUSINESS:**

A. Comprehensive Plan Public Visioning Workshop

Mr. Bastian talked about the second Comprehensive Plan Public Visioning meeting that will be presented by CMAP and will be held on Wednesday, March 11, 2015 at 6:00 p.m. at the Fire District on Kuhn Road. Mr. Bastian stated that the village would like to see as many Plan Commissioners at this meeting as possible.

B. The item under New Business was to discuss the cancellation of the March 9, 2015, Plan Commission meeting.

Commissioner Meneghini moved and Commissioner Spink made the second to cancel the March 9, 2015 Plan Commission meeting.


The motion passed by unanimous vote.

**ADJOURNMENT:**

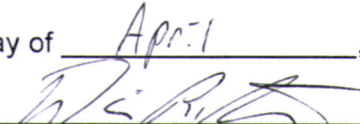
At 7:50 p.m. Commissioner Hennessey moved and Commissioner Spink made the second to adjourn the meeting. The motion passed by unanimous vote.

FOR THE COMBINED BOARD

Recorded and transcribed by,

  
\_\_\_\_\_  
Linda Damron  
Community Development Secretary

Minutes approved by Plan Commission on this 13 day of April, 2015.

  
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Chairman Pro-Tem Creighton