

**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

May 9, 2011

Chairman David Michaelsen called the Regular Meeting of the Combined Plan Commission/Zoning Board of Appeals to order at 7:30 p.m. and directed Secretary Linda Damron to call the roll. The results of the roll call vote were:

Present: Chairman Dave Michaelsen and Commissioners Dee Spink, Timothy McNally, Angelo Christopher, Ralph Smoot and David Hennessey

Absent: Commissioner Frank Petella

Also Present: James A. Rhodes, Village Attorney, Don Bastian, Assistant Community Development Director, Linda Damron, Community Development Department Secretary and court reporter from DuPage County Court Reporters.

MINUTES:

Commissioner Spink moved and Commissioner Christopher made the second to approve the minutes of the meeting April 25, 2011. The results of the roll call vote were:

Ayes: 6 Commissioners Smoot, Christopher, McNally, Spink, Hennessey and Chairman Michaelsen

Nays: 0

Abstain: 0

Absent: 1 Commissioner Petella

PUBLIC HEARING:

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

**Case # 11084 Bulldog Ale House (Fekrije Limani) - 1021 Fountain View Drive
Special Use - Outdoor Seating Ancillary to a Restaurant
PUD Plan Amendment
Gary Avenue Corridor Review**

Chairman Michaelsen read the following "This is a public hearing to consider the request of the Bulldog Alehouse for a special use for an outdoor dining area. The purpose of this hearing is to hear testimony and to receive evidence with respect to the proposed special use and to determine whether the requested special use satisfies the criteria for a special use set forth in section 16-15-8(E) of the Carol Stream Zoning Code.

The hearing proceeds in the following manner:

1. The Petitioner will be allowed to provide testimony and introduce any evidence in support of the special use. After each of the Petitioner's witnesses, members of the Plan Commission may ask questions of the witness regarding the testimony presented. Interested parties will then be given the opportunity to ask any questions of those

witnesses. Questions asked of the witnesses must relate to the testimony that the witness has given. Questions of a witness shall not be used to offer testimony or evidence.

2. After the Petitioner has completed his case, Staff will provide their report to the Plan Commission. Members of the Plan Commission may ask questions of staff with respect to the report. Interested parties will then be given the opportunity to ask any questions of staff with respect to the matters in the report.
3. After the Staff has completed its report, any interested party may provide testimony and evidence with respect to the criteria for the special use. Members of the Plan Commission will be allowed to ask questions regarding the evidence or testimony provided by any interested party. The Petitioner will then be given the opportunity to ask questions of any witness. Again, questions asked of any witness must relate to the testimony that witness has given. Any individuals who wish to offer testimony should sign a sign in sheet provided at the rear of the room.
4. The Petitioner will have an opportunity to provide rebuttal or any additional information.
5. The Plan Commission will then deliberate its decision based only upon the evidence that has been presented and the criteria of section 16-15-8(E). A recommendation will then be made to the Village Board and a written decision will be prepared which includes the findings of fact and the Plan Commission's recommendation.
6. The chair may impose reasonable limitations on evidence and testimony presented by persons such as time limits and barring repetitious, irrelevant or immaterial testimony. The chair will rule on all questions of the admissibility of evidence which ruling may be overruled by a majority of the plan commission.
7. Individuals attending the public hearing are requested to maintain an orderly and civil hearing. Please refrain from making comments during witness testimony or questioning and no clapping, cheering, booing or similar statements are allowed during the hearing."

Chairman Michaelsen swore in the witness, Charles M. Jack, from C.M.J. Designs, 18801 Chestnut Drive, Shorewood, Illinois 60404, and Paul Marrin, Manger of Bulldog Ale House, 1021 Fountain View Drive, Carol Stream, IL 60188.

Before the presentation, Don Bastian, Assistant Community Development Director entered into the record the following exhibits:

The Certificate of Publication of the public hearing notice that was published on Saturday, April 23, 2011, in the Daily Herald, a copy of the letter that was sent to surrounding property owners, the list of addresses for the surrounding property owners that received a copy of the letter and public notice, and copy the petition that was submitted on April 15, 2011, signed by six of the business owners in the Fountains of Town Center.

Charles M. Jack, Owner of C.M.J. Designs, started the presentation; his company was hired to design a patio (960 square foot) for outdoor dinning. The patio would provide 42 additional seating spaces. The outdoor dinning is something that clientele had been asking for. Mr. Jack designed the patio with similar elements as the existing structure (see exhibits A, B, C, D and E of the staff report).The patio will not exceed 24 feet from the building. To construct the patio in this location one handicapped space would be relocated and two additional spaces removed. The handicapped space will be relocated parallel to Lies Road, this space will have access to the existing handicapped ramp (see exhibit A of the staff report). Exterior lighting will be added to enhance the parking lot lighting. The concrete slab will be poured with concrete piers under each column and will be pitched toward the parking lot for drainage. The columns will have a stone cap to match the building with an iron fence between the columns. At each end of the patio there will be two three foot gates that will be alarmed. The gates will not be used as a point

of entrance into the restaurant. There will also be a covered gas fire pit in the center of the patio with seating around it. All the controls for the fire pit will be inside the building. There will be speakers in each column and four televisions on the existing the canopy. The televisions and amplification systems will be monitored by the restaurant staff from in side the building. The system will be designed by an audio professional and would have maximum sound levels that would not disturb surrounding residential areas. The owner would like the hours of operation for the patio area to be the same as for the restaurant but usually the patio would close between would 11:00 p.m. and 12:00 a.m.

As suggested by village staff, staff from Bulldog Ale House has been monitoring the parking spaces on the east side of the parking lot area for the past four weeks. At the peak time when the Bulls, Blackhawks, Cubs and White Sox games were all televised the parking spaces weren't completely filled. On that night it was about 80 to 85 percent to capacity.

Chairman Michaelsen asked if anyone from the audience had any questions regarding this witness testimony. There were no questions from the audience.

Chairman Michaelsen asked if any of his fellow Commissioners had any questions for the witness regarding his testimony.

Commissioner McNally wanted to know how close the business is to the residential area. Mr. Jack said about 500 feet. Commissioner McNally asked if there was a research study done for the way sound travels over water. Mr. Jack said if approved the audio professional would be hired and would be responsible for the design so sound levels would not disturb surrounding residential areas. Mr. Jack also stated that the equipment would be monitored from the inside the building by the management staff.

Commissioner Christopher wanted to know if smoking would be allowed on the patio. Mr. Jack said smoking would not be allowed on the patio.

Commissioner Smoot wanted to know what size the patio would be and how many people would be allowed on the patio. Mr. Jack said the patio would be 40' x 24' in size and would have an area for seating for 42 to 50 patrons.

Commissioner Spink did not have any questions.

Commissioner Hennessey asked know how many parking spaces would be taken up during construction of the patio. Mr. Jack answered about five spaces and it would take three to four weeks to complete.

Chairman Michaelsen asked if anyone else had any questions for the witness.

There were no other questions.

Chairman Michaelsen asked if there was any more testimony.

Paul Marrin, Manger for Bulldog Ale House, talked about the sound system. Bulldog Ale House has spoken with an audio/video technician and they ensured them that the concerns regarding the surrounding properties will be taken care of. Mr. Marrin stated that he will personally monitor the sound levels to the surrounding properties. Mr. Marrin knows that any amplified sound needs to be turned off no later than 10:00 p.m. per the Village ordinance and Bulldog Ale House would abide by the ordinance. Mr. Marrin stated that one of the main concerns is the parking. A

parking count was done by Bulldog Ale House staff for the last month on Friday and Saturday nights from 5:00 p.m. to 1:00 a.m., and the numbers from their study are similar to the count provided by the Village of Carol Stream Police. The busiest day was on April 8, 2011, the Bulls, Blackhawks, Cubs and White Sox games were all televised, on that day there were still open parking spaces. Mr. Marrin wanted to ensure the Plan Commission that the audio/video systems and gas fireplace would be monitored from inside the facility by management staff.

Chairman Michaelsen asked if anyone from the audience had any questions regarding this witness testimony, there were no questions from the audience

Chairman Michaelsen asked if any of his fellow Commissioners had any questions to the witness regarding his testimony.

Commissioner McNally wanted to know if staff would be monitoring the number of people allowed on the patio. Mr. Marrin answered yes by both the serving staff and management. Management staff is responsible for a zone check every five minutes. Commissioner McNally wanted to know if food and beverages would be served on the patio. Mr. Marrin answered yes. Commissioner McNally wanted to make sure the petitioner understands that if they are going to serve food and beverages on the patio then it has to be smoke free according to the State law. Mr. Marrin said the patio would also be monitored make sure there will be no smoking.

Commissioner Christopher wanted to know with the handicapped parking space at the SE corner of the parking lot next to the proposed patio how someone with a handicap would get to businesses on the other end of the center when the patio would be blocking the sidewalk. Mr. Bastian clarified this point by stating that the parking lot needs to re-striped, village staff will be contacting the property owner to have them re-stripe the entire parking lot. If you look at the aerial photo provided in the staff report there is an existing handicapped parking stall just north of the island that is closer to the other businesses further to the north. Commissioner Christopher stated he feels on the east wall line going north of the patio that's were the other handicapped accessibility parking space should be, because there is a linear footage that you have to keep according to code. Mr. Bastian stated that the striping of the parking lot will be done in accordance with the Illinois Accessibility Code. They need to be provided in the most direct route. Village staff will work with the petitioner to get those striped in the appropriate locations. Commissioner Christopher asked what month the stats were taken for parking usage. Mr. Marrin answered April. Commissioner Christopher stated that was the month we had 5 inches of rain. Mr. Marrin answered yes, but it was also the month baseball started, and that the Blackhawks and Bulls were in the playoffs.

Commissioner Smoot wanted to know how many tables would be on the patio. Mr. Marrin said they would have ten tables. Commissioner Smoot wanted to know how many times the police were called to this establishment in the past month and for what reason. Mr. Marrin stated that the police were called there once in the last month and it was for an altercation. Commissioner Smoot asked if Mr. Marrin could see those kinds of incidents happening in the patio area. Mr. Marrin answered no, that Bulldog Ale House has monitoring procedures and security measures in place. Bulldog Ale House staff does everything they can to prevent incidents from happening. Commissioner Smoot asked what the age demographic of the clientele is. Mr. Marrin stated that they have not done a study on the age bracket, but he can tell you that the age demographic that Bulldog Ale House has been getting is 21 - 80. Commissioner Smoot asked if there is security. Mr. Marrin answered yes.

Commissioner Spink wanted to know how many people would be allowed on the patio. Mr. Marrin stated that it is something that would be monitored, if the management staff or security

thinks if is overcrowded they will ask people to move somewhere else. Commissioner Spink wanted to know how many people could fit on the patio comfortably. Mr. Marrin stated that he did not know. Commissioner Spink stated she has concerns with the fire pit on the patio. Mr. Marrin stated that the fire pit would be covered, and it will be designed with safety in mind. Commissioner Spink wanted to know what the capacity of the restaurant is. Mr. Marrin said the capacity of the restaurant and patio is area is 401. Commissioner Spink asked the petitioner if he was aware that in 2004 in the final PUD the village shortened the parking spaces by 24 already. Mr. Marrin answered yes. Commissioner Spink asked if he was aware that there are 5 empty units. Mr. Marrin answered yes and he feels that when those businesses do come in they would have different peak hours of operations than Bulldog Ale House. Commissioner Spink stated that we don't know what kind of business would be in those units and on one of the days of the parking study there was only 13 spaces open. Mr. Marrin believes that there were other spots available in the fountains parking areas just not on the north and east side of the center.

Commissioner Hennessey or Chairman Michaelsen did not have any questions of this time.

Chairman Michaelsen asked Don Bastian, Assistant Community Development Director for the staff report. Mr. Bastian stated that in December 2010, the Village Board granted Special Use approval for a restaurant with a bar area and an accessory game room for Bulldog Ale House to operate in a 6,500 square foot space within the 15,000 square foot commercial building located at the northeast corner of Fountain View Drive and Lies Road. Bulldog Ale House, which has been open since late this winter, now wishes to construct an outdoor seating area on the east side of the building. Since outdoor seating ancillary to a restaurant is listed as a Special Use in the B-2 District, Bulldog Ale House is seeking Special Use approval to construction and operates an outdoor patio. In addition, because the Fountains at Town Center commercial development was approved as a Planned Unit Development, Bulldog Ale House is requesting approval to amend the PUD Plan to accommodate the plan modifications for the outdoor patio. Finally, Bulldog Ale House is also requesting Gary Avenue Corridor Review of the proposed improvements since the property is located within the Corridor. On page two of the staff report there are some bullet points, with a lot of details of the patio construction, hours of operation, etc. many of these items have been previously discussed. With respect to the special use, staff believes that the primary considerations include the compatibility of the outdoor seating use with adjacent commercial and residential uses, safety factors, and the adequacy of parking that will remain with the proposed loss of four parking spaces. With respect to the compatibility of the outdoor seating use with adjacent uses, we note that the Village has approved many Special Uses for outdoor dining areas associated with restaurants. Examples of such approvals include Village Tavern, Culver's, Burger King and McDonald's. In addition, in 2005 the Village Board granted Special Use approval for an outdoor patio area at Flip Flop's Tiki Bar and Grill, which is located across Fountain View Drive. In evaluating the compatibility of restaurant outdoor seating area with adjacent uses, staff primarily considers issues such as noise, as well as the proximity of the use to adjacent land uses, particularly residential uses. Staff is of the opinion that the location of the proposed outdoor seating area, within a commercial shopping center, is appropriate based on the nature of surrounding land uses and the distance of the patio from the nearest residential dwelling units, which are approximately 450 feet to the north. You have heard there are plans to install televisions and speakers on the masonry columns. Staff does not object to these installations; however, the applicant should be advised that Chapter 15, Article 5 of the municipal code ("Sound Amplifiers") prohibits amplified sound in public places between the hours of 10:00 p.m. and 10:00 a.m. The petitioner has agreed to have no outdoor sound after 10:00 p.m. Staff would like to note that the Ordinance approving the Special Use for an outdoor seating area at Flip Flops contains a condition requiring that the patio speakers be turned off after 10:00 p.m., and so the recommendation for Bulldog is consistent with the approval for Flip Flops. With respect to safety the petitioner has talked about the construction of

the patio design, initially the patio was located all the way to the southwest corner of the parking lot. Staff did not support this design due to the fact that vehicles driving west in the east-west drive aisle at the south end of the parking lot could drive directly into the patio area in the case of an accident or improper maneuver. With the current design, the patio is shifted about 16 feet to the north and as such would no longer be directly in line with vehicles heading west in southern parking lot drive aisle. Staff supports the revised location. Also regarding the safety of patio occupants, the plans show that the perimeter of the patio will consist of four foot wide masonry columns built on 42-inch foundations, with five-foot, six-inch wide sections of iron railings between columns. Staff is of the opinion that the substantial masonry columns and iron fencing, combined with the six-inch tall curb that will surround the patio, will provide an acceptable measure of safety for patio occupants. With respect to the fire pit, the applicant has stated that this will be a covered, gas-only fire with no wood burning. The Carol Stream Fire Protection District has reviewed the proposed fire pit and does not object to this installation. Staff does not object to the proposed fire pit. With respect to the parking the entire Fountains at Town Center development has a total of 228 parking spaces, 50 spaces are located in the parking lots to the north and west of the west commercial building, 12 on-street spaces are provided on the west side of Fountain View Drive, 17 on-street spaces are provided on the east side of Fountain View Drive, and 149 spaces are provided in the parking lot east of the east commercial building which is where Bulldog Ale House would like to install the patio. As pointed out by Commissioner Spink, back in 2004 when the Village Board approved the Final PUD Plan, for the commercial portion of the development the plan was approved to reduce the total number of required parking spaces for the entire commercial area from 252 to 228. This reduction was based on: 1) an expectation that the various tenants would have differing peak hour parking demand characteristics, and 2) a recognition that the size of the commercial site, which the Village desired to be as large as possible, was strictly constrained by surrounding wetlands, floodplain, and storm water management facilities. As a safeguard, the Ordinance approving the Final PUD Plan contains a condition stating that the Village would "monitor the uses...and if a significant recurring parking shortage comes to exist, that parking intensive uses may need to be limited or restricted." Understanding that the commercial development was approved with fewer parking spaces than required by the Zoning Code, staff believed that a careful study of existing parking characteristics was necessary in order to determine the impact of the petitioner's proposal to elimination of four parking spaces, Village staff asked Bulldog Ale House to conduct hourly counts (between 5:00 p.m. and 1:00 a.m.) of available parking spaces on Friday and Saturday evenings during the month of April. They did limit the survey area to the parking spaces located on the east side of Fountain View Drive plus the spaces to the east of their establishment. The survey area included 166 out of the 228 total spaces available for the whole development. To verify the counts, Carol Stream Police Department officers conducted their own counts on several occasions during the study period. The Police Department's counts were not conducted at precisely the same moment as those performed by Bulldog Ale House, but the information provided by Police corroborated the parking data provided by Bulldog Ale House. Listed below is a table showing the results of the study.

Date - Day	Busiest Hour	Spaces Empty (Out of 166)
4/1 – Friday	7 pm & 11 pm	50
4/2 – Saturday	7 pm	56
4/8 – Friday	8 pm	13
4/9 – Saturday	11 pm	50
4/15 – Friday	8 pm	16
4/16 – Saturday	10 pm	70
4/22 – Friday	8 pm	39
4/23 – Saturday	6 pm	85

The busiest date during the survey period was Friday April 8, when 13 out of the 166 spaces were reported to be empty, that did not include a survey of the remaining spaces on the west side of Fountain View Drive or the 50 spaces to the west and north of the west commercial building. There is a total of 3,665 square feet of building space that is currently vacant, but we note that 70% of the vacant space located in the west side commercial building. It would follow that when space fills up we would expect that the demand for parking will occur on the west side of Fountain View Drive. It has been observed more often than not that the 22-space parking space to the north of the west commercial building does not usually contain many vehicles. Staff would also like to point out that there is a third commercial building as part of this project that has been approved but not yet built and that is a 4,500 square foot dental office building. However when this is built, we do not expect it will have a significant impact on the parking. The hours of the dental office would likely occur during the daytime into early evening, and the dental office would likely be closed during Bulldog's peak hours which occur later in the evenings and on weekends. In summarizing the parking picture we saw variability in the number of spaces available from one weekend to the next. Staff is of the opinion that there was always parking available and we feel that the loss of 4 parking spaces will not have a negative impact on the remainder of the commercial area. In review of the special use request the six special use criteria contained in Section 16-15-8(E) of the Zoning Code, no Special Use shall be recommended by the Plan Commission nor approved by the Village Board unless the Special Use:

1. Is deemed necessary for the public convenience at the location.

Outdoor seating areas are popular at dining and bar establishments, and have been found to be appropriate for the public convenience at many existing Carol Stream establishments.

2. Will not be unreasonably detrimental to or endanger the public health, safety, morals, comfort or general welfare.

Provided that the establishment is operated in accordance with all applicable provisions of the Village Code, as well as the suggested conditions of approval, the outdoor patio should not be detrimental to or endanger public health, safety, morals, comfort or general welfare.

3. Will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

The primary concern that staff has regarding negative impacts to property owners in the immediate vicinity involves noise from the patio area. Village Code does not allow amplified music or sound after 10:00 p.m., and so provided that the applicant complies with this requirement, there should not be any negative impacts to property owners in the vicinity.

4. Will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

The surrounding properties are developed or approved to be developed with compatible uses.

5. Will provide adequate utilities, access roads, drainage and other important and necessary community facilities.

Utilities and community facilities have either been provided.

6. Will conform to the applicable regulations of the district in which it is located, except as the Village Board may in each instance modify such regulations.

The outdoor patio area is expected to operate and conform to all applicable regulations and any conditions of approval as determined by the Plan Commission and Village Board.

Staff wishes to remind the Plan Commission that their recommendation regarding the requested Special Use must be based upon the Special Use criteria (Items 1-6) above. In making their recommendation on the Special Use, the Plan Commission should specifically refer to the whether the proposed use does or does not meet each Special Use criterion.

The other request is for an amendment to the PUD plan, for the proposed the patio and elimination of 4 parking spaces, those items are not shown on the approved PUD plan which is attached in exhibit F in the staff report. Staff believes that the proposed outdoor patio seating area is consistent with the intent of the original PUD plan and the overall mixed-use development. Staff recommends approval of the amended plan subject to the conditions in the recommendation section of this report. Regarding the Gary Avenue Corridor Review, this property is located within the Gary Avenue Corridor (GAC) Overlay District. The plans and detail notes specify that the stone masonry columns will match the stone masonry material used in the commercial buildings, and that the iron railings between the columns will match the black railing elements found elsewhere in the development. In addition, the plans show that decorative light fixtures matching those on the building would be installed on top of each masonry column. In staff's review we find that the patio has been designed to look as if it were part of the original building plans. The construction materials will be of a high quality and will match the materials used in the building. Staff recommends approval of the Gary Avenue Corridor Review. As mentioned earlier, staff will be working property owner in regard to the striping of the parking lot and making repairs to the parking lot lighting. Staff recommends approval of the Special Use Permit to allow for an outdoor seating area ancillary to a restaurant, the Amendment to the Final PUD Plan, and also of the Gary Avenue Corridor Review, subject to the conditions on page 8 and 9 in the staff report.

Chairman Michaelsen asked if anyone from the audience had any questions, for the staff report. No one had any question on the staff report.

Chairman Michaelsen asked if the Plan Commissioners had any questions regarding the staff report.

Commissioners Christopher, McNally, Smoot, Spink and Chairman Michaelsen did not have any questions. Commissioner Hennessey wanted to know has there ever been any kind of study regarding the maximum amount of parking that would be needed in this commercial development. Mr. Bastian stated that when the commercial portion of this development was approved along with the whole PUD back in 2004 using the ratio of parking that is required in the zoning code for different types of uses and a factor of a certain amount of the spaces would be for restaurant uses, we determined the code required 252 parking spaces based on the square footage space that was available for this commercial development. Village staff, the Plan Commission and the Village Board was very interested in the need for need for a development of this type being so close the Town Center, hoping that there would be restaurants, gathering places for people after events at the Town Center. Mr. Bastian believes that this is why the Plan Commission and Village Board approved this development to have fewer parking spaces than the code requires. What they did try to do was put some insurance into the ordinance with a condition stating the Village would monitor the uses and that if a significant recurring parking shortage comes to exist, the parking intensive uses may need to be limited or restricted. Commissioner Hennessey wanted to know if the development was planned to have a bar or restaurant use in all the spaces. Mr. Bastian stated that was not the plan. It was hoped that one

or more establishments would be a restaurant/bar use. Commissioner Hennessey wanted to know if there were any parking issues with the previous tenants of this space. Mr. Bastian stated he was not aware of any.

Chairman Michaelsen asked if the petitioner had any question from staff. The petitioner did not have any questions.

Chairman Michaelsen asked if anyone in the audience had any comments.

Chairman Michaelsen swore in Bob, Jim, Christine and Amy Sabalasky, owners of Flip Flop's Tiki Bar and Grill, 1030 Fountain View Drive Carol Stream, IL 60188, and Chris Sands owner and operator of Hot Spot 1022 Fountain View Drive, Carol Stream, IL 60188

Bob Sabalasky represented the group, he wanted to give background information that both Flip Flop's has been in business for about three and half years and Hot Spots for about four years. They are surprised that this case has come to vote or that staff has made a recommendation to approve the request. No one from the village has asked them about their concerns, so we are here tonight to voice our concerns and hope you will take them into consideration when casting your vote. We do not have the funds to hire a consulting firm to do the study that needs to be done regarding the parking. Mr. Sabalasky stated that they are the owners and operators of Flip Flop's and Hot Spots, they are there everyday and night. A copy of a petition that is signed by six business owners against this request being approved is included in the staff report, but not mentioned anywhere in the report. He stated that according to the zoning code the center should have 252 parking spaces the group is requesting that parking not be reduced. If they would have known what they know now about the lack of parking they would have asked the Plan Commission / Village Board not to reduce the parking in 2004. Mr. Sabalasky has some concerns regarding the way the parking study was done. This study was done by Bulldog Ale House employee's, Bulldog Ale House is also the one requesting the reduction of the parking spaces. The study was limited to 166 spaces and not the entire development. There are 228 parking spaces in the entire development. Mr. Sabalasky also stated that this parking study was done in April, the busiest time for most of the businesses in this center is May through August and this April is one of coldest and rainiest April's on record. This was not a fair time to perform a parking study. Mr. Sabalasky is requesting that a longer study be done or one during the peak time of year. Mr. Sabalasky would also like to point out there is more vacant space in this development, than what is mentioned in the staff report. Mr. Sabalasky stated in his research of the vacant units he come up with 6,081 square feet vacant space as opposed to the 3,665 square feet mentioned in the staff report. With not knowing what could go into these units there could be a bigger issue with the parking and once the dental building is constructed the parking situation could become an even a bigger issue. Mr. Sabalasky asked the Plan Commission if this was a new development would it be approved. With concerns to the patio, the patio would eliminate the side walk in front of Bulldog Ale House, this would have anyone trying to get from Bulldog to the other end of center would have to walk out into the parking lot, this could be very dangerous. This would also prevent someone who may need to park in the handicapped accessible space to have to walk in the parking lot to access businesses at the other end of the center. Mr. Sabalasky also had safety concerns regarding the fire pit and open flames, when Flip Flop's wanted a smoking shelter they were told there could be no open flames in the shelter, wouldn't a fire pit have the same safety concerns. Mr. Sabalasky wanted to know if another tenant at the center wanted a patio would it be approved. Mr. Sabalasky stated that Bulldog Ale House original request in December 2010 it is on record that they did not want a patio and now they are trying to rush this through. Mr. Sabalasky asked that the Plan Commission take into consideration the concerns of the rest of the tenants at the Fountains of Town Center.

Chris Sands from Hot Spots stated he has an in and out business, and needs to have parking near his business. There is an existing parking problem at the center and removing 4 spaces would even make the parking situation worse.

Chairman Michaelsen asked if the Plan Commissioners had any questions.

Commissioner Christopher, McNally, Smoot and Hennessey did not have any questions. Commissioner Spink wanted to know if a complaint was ever filed regarding the lack of parking. Mr. Sands stated that they have talked to the landlord about the problem.

Chairman Michaelsen asked if Mr. Sands had any parking sign for his business in front of his unit. Mr. Sands answered yes he does. Chairman Michaelsen asked if Mr. Sands had another entrance to his unit. Mr. Sands said yes. Chairman Michaelsen wanted know the hours of operation for Hot Spots on Saturdays and Sundays. Mr. Sands said he was open until 8:00 pm on Saturday and he was not open on Sunday. Chairman Michaelsen asked what the hours of operation for Flip Flop's were on Sundays. Mr. Sabalasky stated that they are open until 10:00 p.m. on Sundays. Chairman Michaelsen asked Mr. Sabalasky what the occupancy of Flip Flop's. Mr. Sabalasky stated it was 109 for the restaurant and 45 for the patio. Chairman Michaelsen asked if Mr. Sabalasky found that his customer could not park on the west side and had to park on the east side of the center and walk over to his establishment. Mr. Sabalasky answered yes.

Chairman Michaelsen asked if the Petitioners had any questions.

Mr. Marrin stated he understands the concern of the surrounding business. Yes when the study was done it was rainy and cold but Bulldog Ale House was full, and there were still open parking spaces in the east lot. Mr. Marrin wanted to make it clear that the numbers for the parking study in the staff report come from the Police Department count.

Chairman Michaelsen asked if the Plan Commissioners had any questions.

Commissioner McNally, Christopher did not have any questions

Commissioner Smoot wanted to know how many employees Bulldog Ale House had. Mr. Marrin said 25 employees. Commissioner Smoot asked where the employees parked. Mr. Marrin stated his employees parked in the back of the parking lot.

Commissioner Spink wanted to know what time of the year would the patio is open. Mr. Marrin stated it would be determined by the weather, we would like to have the option to use it all year. Commissioner Spink asked if Bulldog Ale House would be having any special events, like sponsoring sporting events. Mr. Marrin answered no. Commissioner Spink asked Bulldog Ale House be having a big St. Patrick's Day or New Years Eve Party. Mr. Marrin said that they would have specials. Commissioner Spink wanted to know what entrance people use to enter the restaurant. Mr. Marrin said people use the main entrance in the front of the building, the back door is open, but if someone goes to the back door they are asked to enter through the main entrance. Commissioner Spink asked Mr. Marrin to go into more detail regarding the flag pole. Mr. Marrin state the flag pole would be used to fly a sporting related flag like Cubs, White Sox etc. flag.

Commissioner Hennessey stated that he hopes that the tenants of Fountains at Town Center can find a way to co-exist. Commissioner Hennessey also stated when you go to establishments in other communities there may not be parking right next to the establishments and you have walk from the parking garage or lot. Maybe the tenants from the Fountains at Towns center could work with either the park district or village to use part of their parking lots.

Chairman Michaelsen wanted to know if they would have the same station on every television and the sound associated with it. Mr. Marrin stated that if there were multiple sporting events on,

each television could be on a different station, only one sporting event would be broadcasted with sound. Chairman Michaelsen wanted to know if someone could get hurt / burned if they fell into or touched the fire pit. Mr. Marrin stated that it would be designed so it is not hot to the touch. Chairman Michaelsen wanted to know if there would be seating around the fire pit. Mr. Marrin answered yes. Chairman Michaelsen stated that he does not see a repeated parking problem once Bulldog Ale House has been open for awhile.

Chairman Michaelsen asked if anyone had any further questions. No one had any questions.

Chairman Michaelsen asked if his fellow Commissioner had negative or positives regarding the case.

James A. Rhodes, Village Attorney stated the Plan Commission does not have the authority to defer the petitioners application, the petitioner has the right to ask for the case to be deferred to the next Plan Commission meeting.

Commissioner McNally stated he would like to see this case continued to the next Plan Commission meeting because he is skeptical of the parking study and would like to see a longer study done.

Commissioner Smoot, and Christopher said they would also like to see this case continued and a longer study done.

Commissioner Spink disagreed.

Commissioner Hennessey stated that maybe the patrons should be asked if they mind having to walk a short distance to get to a certain establishment.

Chairman Michaelsen asked how long of a study do we want to asked the petitioner for. Chairman Michaelsen asked Mr. Marrin if he has ever taken count of the number of patrons they have any one night. Mr. Marrin stated that they had up to of 359 patrons. Mr. Marrin stated that Bulldog Ale House is willing to do whatever it may take to get this approved, he would be willing to have his employees park in the lot where the dental building is going or work with either the Park District / Village of Carol Stream to have off site parking for his employees. Chairman Michaelsen asked what the hours of operation are. Mr. Marrin stated the hours of operations are 11:00 a.m. to 1:00 a.m. during the week and 2:00 a.m. on weekends. Chairman Michaelsen asked what the busiest days are. Mr. Marrin stated the busiest days are Friday and Saturdays. Chairman Michaelsen asked Mr. Bastian if a condition could be added to request the employee's park off site. Mr. Bastian stated that we would have to give the petitioner time to work on arrangement with the surrounding property owners, but before we asked the petitioner to do that we should asked the Plan Commissioner if having the employees parking off site would that be sufficient to alleviate the parking situation. Chairman Michaelsen stated he would like to see a study done with the employees parking off site.

Mr. Sabalasky asked the Plan Commissioners not to rush into the decision, and take the time to do another parking study.

Mr. Bastian asked that if the petitioner asked for a continuance until June 13, 2011, so the petitioner could find a suitable offsite location for his employees to park, would the Plan Commission members be willing to support that. Commissioner McNally still would like to see another parking study done. Commissioner Christopher, Smoot would also like to see another parking study done. Commissioner Spink and Hennessey stated that they disagreed. Chairman Michaelsen wanted to know what would happen if the employees did park off site and then it was determined on an average there was enough parking available would the employees be allowed to park at the Fountains of Town Center. Chairman Michaelsen asked what date Bulldog Ale House opened for business. Mr. Marrin stated February 25, 2011. Chairman Michaelsen asked the Bulldog Ale House had a full house on that date. Mr. Marrin answered yes. Mr. Marrin stated he believes the parking study is accurate; yes this April was rainy and

cold but people were drawn into the restaurant to enjoy the games. The weekends the studies were done there were playoff games, baseball games being televised and there were still parking spaces available.

Mr. Sabalasky wanted to ask the Plan Commissioners one more time not to rush into the decision, and take the time to do another parking study.

James A. Rhodes, Village Attorney asked Mr. Marrin if he would be willing to come back with the data being asked for by the Plan Commission or would you like the Plan Commission to vote on your application. Mr. Marrin would like to defer the vote and come back with the data being requested.

Mr. Bastian advised Chairman Michaelsen that the petitioner could request a continuance until June 13, 2011. Chairman Michaelsen said yes. Mr. Bastian stated if the petitioner would like to do so then he Plan Commission could take action on that request. Mr. Marrin said he would like to continue his request.

Mr. Bastian advised the petitioner that he should to continue to collect data for the entire parking lot on Wednesday, Friday and Saturdays from 5:00 p.m. until 1:00 a.m. from now through June 13, 2011 and try to arrange employee parking at an off-site location, and a count of the number of people in the establishment.

The results of the roll call vote were:

Ayes: 5 Chairman Michaelsen and Commissioners Christopher, Smoot, McNally,
Hennessey
Nays: 1 Commissioner Spink
Absent: 1 Commissioner Petella

**Case # 11097: Carol Stream Park District – N.W. Corner of North Avenue and Kuhn Road
Special Use Permit – Governmental Use
Variation – Fence Code
North Avenue Corridor Review
Variation – North Avenue Corridor Fence Regulations**

Chairman Michaelsen swore in the witness, Bill Rosenberg, Carol Stream Park District, 792 Niagara, Carol Stream, IL 60188, Steve Ravanese, with the consulting firm of McDonough Associates, Inc., 130 E. Randolph Street, Chicago, IL.

Bill Rosenberg from the Carol Stream Park District stated that the need for a dog park is part of the survey taken by the community and based on that survey, there was an overwhelming interest for a dog park in Carol Stream. The location is ideal because it is not close to any residential areas. An advisory committee was formed to help with the design of the dog park, and come up with the dog park rules. Some of the rules are you would need to be part of the Carol Stream Park District and have a pass provided by the Carol Stream Park District and the dog would need to have a current license from the Village of Carol Stream, this would ensure that the dog is properly vaccinated. The dog will be leashed until they are in the dog run area. There will be two areas one for larger dogs and one for smaller dogs (20 pounds or less).

Chairman Michaelsen asked if anyone from the audience had any questions regarding this witness testimony, there were no questions from the audience

Chairman Michaelsen asked if any of his fellow Commissioners had any questions of the witness regarding his testimony.

Commissioner McNally asked if someone visiting from out of town would be able to use the dog park. Mr. Rosenberg stated they would be able to get a day pass provided they can prove the dog is current with vaccinations.

Commissioner Smoot asked if along the creek is there going to be a bike path. Mr. Rosenberg answered yes.

Commissioner Spink asked how high the fence would be. Mr. Rosenberg said it would be 4 feet in height. Commissioner Spink wanted to know if the bike path would be close to the dog run area. Mr. Rosenberg said it would not. Commissioner Spink wanted to know if there would be a bike rack in the dog park. Mr. Rosenberg said it was not in the plan but one could be added.

Commissioner Christopher, Hennessey and Chairman Michaelsen did not have any questions.

Before the presentation Don Bastian, Assistant Community Development Director entered into the record the following exhibits a Certificate of Publication of the Public Hearing notice that was published on Saturday, April 23, 2011 in the Daily Herald, Copy of the letter that was sent to surrounding property owners and the list of the addresses for surrounding property owners that received a copy of the letter and public notice.

Chairman Michaelsen asked Don Bastian, Assistant Community Development Director for the staff report. Mr. Bastian stated that the applicant is requesting approval of a Special Use Permit for a Governmental Use to allow for the operation of a Park District dog park facility, a variation from the North Ave Corridor regulations to allow a chain link fence, a variation from the Fence Code to allow a structural fence within a required or actual front yard, and North Avenue Corridor review. Staff feels that the special use for a governmental use for an off leash dog park facility is an appropriate use of the property. Staff feels that there would be adequate parking with the 20 spaces at the park and 24 parking spaces at the Park District maintenance facility. Staff has looked at other off leash dog parks and staff feels this dog park will have plenty of parking. The rules of the dog park are in line with what staff would recommend. One suggestion that staff would recommend is that by each trash can, the Park District provide an additional waste bag dispenser. The Park District is also looking for a fence code variance to allow a fence in the required front yard. Staff feels that this property will likely never develop for commercial uses, given that it belongs to IDOT and being in the flood way and flood plain and the Park District has a Maintenance Facility located on the property. Based on the unique use of the dog park staff thinks the variance to allow a fence in the front yard can be supported. In addition the Park District need a variation from the North Avenue Corridor requirement that states the fence has to be a board on board wooden fence. In this case staff thinks a chain link fence is appropriate based on the use of property. Finally there is a North Avenue Corridor review of the facility and it is limited to the amount of landscaping provided. The dog park does exceed the amount of landscaping required. Staff recommends approval of the Special Use for the Governmental Use, Variance to the Fence Code to allow a fence in the required front yard, variance to allow a vinyl coated chain link fence instead of a board on board wooden fence and approval of the North Avenue Corridor Review subject to the conditions listed on page 9 of the staff report.

Chairman Michaelsen asked if anyone from the audience had any questions, for the staff. No one had any questions of the staff.

Chairman Michaelsen asked if the Plan Commissioners had any questions regarding the staff report. Plan Commissioners did not have any questions.

Commissioner Hennessey moved and Commissioner Spink made the second to recommend approval of the request for Special Use Permit for Governmental Use, Variation to the Fence Code, North Avenue Corridor Review and a Variation – North Avenue Corridor Fence Regulations.

The results of the roll call vote were:

Ayes: 6 Chairman Michaelsen and Commissioners Christopher, Smoot, McNally, Hennessey and Spink

Nays: 0

Absent: 1 Commissioner Petella

Chairman Michaelsen asked for a motion to close the Public Hearing.

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

NEW BUSINESS:

Mr. Bastian stated that the Commission could cancel the May 23, 2011 meeting, since there were no items to bring to the Plan Commission on that date.

The results of the roll call vote were:

Ayes: 5 Chairman Michaelsen, Commissioners Hennessey, Spink, McNally and Christopher

Nays: 1 Commissioner Smoot


Absent: 1 Commissioner Petella

ADJOURNMENT:

At 10:15 p.m. Commissioner McNally moved and Commissioner Smoot made the second to adjourn the meeting. The motion passed by unanimous vote.

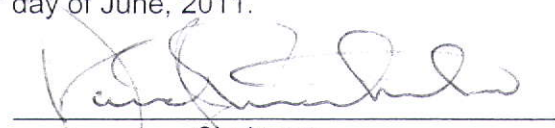
FOR THE COMBINED BOARD

Recorded and transcribed by,



Linda Damron
Community Development Secretary

Minutes approved by Plan Commission on this 13th day of June, 2011.



Chairman