

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

May 14, 2007 At 7:30 P.M.

All Matters on the Agenda may be discussed, amended and acted upon

Chairman Pro-Tem David Michaelsen called the Regular Meeting of the Combined Plan Commission/Zoning Board of Appeals to order at 7:30 PM and directed Recording Secretary Wynne Progar to call the roll.

Present: Commissioners Manzullo, Christopher, Smoot, Vora, Spink, Hundhausen and Michaelsen
Absent: none
Also Present: John Svalenka, Village Planner and Wynne Progar, Recording Secretary

MINUTES:

Commissioner Smoot moved and Commissioner Christopher made the second to approve the Minutes of the Meeting of April 23, 2007 as presented. The results of the roll call vote were:

Ayes: 5 Commissioners Christopher, Smoot, Vora, Spink, Hundhausen & Michaelsen
Nays: 0
Abstain: 2 Commissioners Spink and Manzullo

PUBLIC HEARING:

Commissioner Spink moved and Commissioner Manzullo made the second to open the public hearing. The motion passed by unanimous voice vote.

**#06307: Parkview Development Partners II, LLC – Lot 2 at Southeast corner of Gary Avenue and Lies Road
Special Use Permit – Drive-up Service Window
Final Planned Unit Development Plan Amendment
Variation – Zoning Code
CONTINUED FROM 4-9-07 MEETING**

Mr. Svalenka stated that Matthew M. Klein, representing Parkview Development Partners II LLC, has submitted an application for the property located at the southeast corner of Gary Avenue and Lies Road for a Special Use Permit for Drive-up Window Service and an amended Final PUD Plan for minor site changes to accommodate the drive-up. As a separate issue, the petitioner is also requesting a Zoning Variation to allow a dry cleaner with processing done on site.

This matter was originally scheduled for Plan Commission review at the December 11, 2006, meeting and was continued to January 8, 2007, February 12, 2007, April 9, 2007, and May 14, 2007. Staff has been working with the applicant to revise the plans to accommodate a list of issues. Most recently, the applicant is working to revise the plans to propose a new drive-through configuration. Therefore, staff recommends that this case be continued to the July 9, 2007, Plan Commission meeting.

Commissioner Hundhausen asked the reason for the many continuances of this petition and Mr. Svalenka commented that there has been active participation by the petitioner in resolving the issues in regard to this request, so staff feels that it is acceptable to have the matter continued. Commissioner Hundhausen moved and Commissioner Christopher made the second to continue this matter to the meeting of July 9, 2007 as requested by staff. The results of the roll call vote were:

Ayes: 7 Commissioners Manzullo, Christopher, Smoot, Vora, Spink,
Hundhausen and Michaelson
Nays: 0

**#06362: - Village of Carol Stream, 500 N. Gary Avenue
Text Amendment - Subdivision Code Articles 2 and 3; Zoning
Code Articles 12,16 and 18 - Regarding Utility Structures
CONTINUED FROM 3-26-07 MEETING**

Mr. Svalenka stated that recent events have pointed to the need for an update to those sections of the Village Code that convey the community's standards with respect to utility structures. Historically, the community standard has been to require that utility structures be placed in rear yards only. However, utility companies and developers have been ignoring this standard of late - utility boxes have been placed in front and corner side yards, and the boxes themselves have grown larger.

In order to make the Village's requirements more clear in the Subdivision Code and the Zoning Code, a set of text amendments has been prepared. During the course of this work, staff learned that Wheaton and Roselle, both of whom recently placed a moratorium on new utility structures to allow time for the development of new standards, have brought proposed ordinances to their respective plan commissions. Wheaton and Roselle are still working out details regarding their proposed ordinances. Staff believes there is value in placing Carol Stream's work on pause until Wheaton and Roselle have finalized the adoption of their new standards. In this way, we will be able to achieve better consistency among neighboring communities, and also gain from the public review and comment that has taken place.

This matter was originally scheduled for Plan Commission review at their February 26, 2007, meeting, and was continued to March 26, 2007, and May 14, 2007. Staff recommends that this case be continued to the June 25, 2007, Plan Commission meeting.

Commissioner Manzullo moved and Commissioner Spink made the second to continue this matter to the meeting of June 25, 2007 as recommended by staff. Commissioner Hundhausen asked if the standards for placement of the utility structures is in writing and it was stated that it has been a matter of Village policy that such structures were not to be in front or side yards. Commissioner Hundhausen asked if older structures would have to be moved and it was stated that it was not indicated at this time. In response to the question as to whether a continuance to June 25th is adequate for time, Mr. Svalenka said that staff would prefer to have the matter continued on in an orderly time frame so that when and how Wheaton and Roselle move, the Village will be able to respond promptly. The results of the roll call vote were:

Ayes: 7 Commissioners Manzullo, Christopher, Smoot, Vora, Spink,
Hundhausen and Michaelson
Nays: 0

**#07064: Advance America Cash Advance Centers of Illinois - 492 Army Trail Road
Special Use Permit – Financial Institution
CONTINUED FROM 4-23-07 MEETING**

Joseph Perez, 492 Army Trail Road, Carol Stream was sworn in as a witness in this matter. He said that the request is for a special use to allow an Advance America Cash Advance Center of Illinois to locate at 492 Army Trail Road. He said that they are in the business of making short-term loans as well as getting loans for people that do not have good credit, There were no comments or questions from those in attendance at the call for public hearing.

Mr. Svalenka stated that Lewis White, representing Advance America Cash Advance Centers of Illinois, Inc., has submitted an application requesting approval of a Special Use Permit for a *financial institution* to allow an Advance America Cash Advance Center to be located in the multi-tenant retail building at 492 Army Trail Road.

Advance America is a financial institution that provides payday advance loans. The company was founded in 1997 and now has over 2,600 locations across the country. The proposed location at 492 Army Trail Road is in the B-2 General Retail District. Section 16-9-3 (C)(3) of the Zoning Code requires approval of a special use permit for *banks and financial institutions*.

Staff has evaluated the request with regard to access and parking, and from an aesthetic standpoint. The financial institution is proposed to be located in a 1,120 square foot tenant space within the 10,400 square foot shopping plaza recently developed by the Shiner Group. Access to the shopping plaza is located at three points: a right-in-right-out access from Army Trail Road, a drive aisle connection with the adjacent bank to the east, and an access point along the existing drive between Kuhn Road and the Lowe's development to the east. Staff finds the access adequate. A total of 49 parking spaces are provided on the lot, including two handicapped spaces located along the front of the building. As the table below illustrates, this exceeds the required 45 spaces for the shopping plaza.

Per Section 16-13-3 of the Zoning Code, the parking requirement for a bank or financial institution is 1 space for each 400 square feet of floor area. The shopping plaza is required to include more parking than a financial institution would by itself. Therefore, staff believes that the site includes adequate parking.

The design of the building façade was approved as part of the Special Use Permit process for the shopping center. The building consists of red brick on all four sides accented with neutral masonry along the roofline and storefronts. The storefronts are plate glass and aluminum with the end units including brick accents along the bottom. Decorative lamps are located on all four facades and awnings are located along the front elevation. The financial institution would occupy the second tenant space from the west end of the building. The only proposed change to the façade would involve installation of signage on the front façade of the individual unit. The signage would be required to meet all sign code standards. The proposed facility would cause no more visual impact than other uses that could locate in the facility, and therefore, staff has no issues from an aesthetic standpoint.

Staff notes that the proposed type of payday loan cash advance center would not typically generate any sales tax. The Village of Carol Stream does not levy a local property tax, and is therefore more dependent on sales tax as a revenue source than surrounding communities. This building is within the Central Park Commercial Development. The amended annexation agreement for the overall development disallows non-sales-tax-generating uses unless permitted by the Village Board. On December 5, 2005, the Village Board of Trustees passed Ordinance No. 2005-12-64, amending the annexation agreement to lift the restriction for this entire building. Therefore, staff does not object to the proposed non-sales-tax-generating use.

Commissioner Spink asked what exactly does this business do and Mr. Perez replied that they provide hardship loans. Commissioner Spink commented that she does not understand why this location would be appropriate since there are so many financial institutions in the immediate area. Mr. Perez said that they do not compete with banks; they mostly provide payday loans, which are two-week, short term loans. In regard to the question of hours of operation, it was stated that they were 10-6 Monday thru Thursday, 9-6 on Friday and 9 to 3 on Saturday. It was also stated that there are no currency exchange features, such as vehicle plates, stickers or check cashing and that they promote the business through flyers, mailers and Internet offers. Mr. Perez stated that there are 13 stores in this division with the closest one being in Naperville/Aurora.

Commissioner Vora asked how one qualifies for a payday loan and was told that a person would have to have a recent payroll stub, a checking account and a driver's license. The interest rate currently is 589.6 % annually.

Commissioner Manzullo asked if this is regulated by the State and while it is not directly regulated by the State, the State does audit it just as it does a bank.

Commissioner Vora asked what the maximum loan could be and was told that it would be for 25% of the gross income and in response to the question as to what groups are targeted to use this service, Mr. Perez noted that all income level groups use this service.

Commissioner Spink moved and Commissioner Hundhausen made the second to recommend denial of the request for a special use permit for a financial institution siting that there are too many financial institutions in a cluster in the immediate area and the Commissioners are not in favor of allowing the proposed non-sales-tax generating business. The results of the roll call vote were:

Ayes:	7	Commissioners Manzullo, Christopher, Smoot, Vora, Spink, Hundhausen and Michaelson
Nays:	0	

The petitioner was advised that the Plan Commission has recommended denial of the request for a special use permit and that the Village Board will hear this matter at their meeting on May 21, 2007 and was advised to attend that meeting.

**#07085 : Pastor Joseph Barlow, Family Life Christian Center
Text Amendment – Zoning Code Article 9, Business District**

Joseph Barlow, 511 Schmale Road, Carol Stream was sworn in as a witness in this matter. He explained that they had been meeting at a church at Bloomingdale Rd and St. Charles Road until the building was sold. He noted that the church had dwindled down to 12 people but he built it back up to 100. They have been meeting for church services on Sunday at the Wheaton Bowl and on Wednesday night at the Holiday Inn but they are looking to use the location on Schmale Road for a training center as well as a worship center. They have been offered a below market rent for the area, subject to getting a text amendment for the church use. The area is within walking distance for a lot of under-served residents and the Christian Center would provide low cost training in life skills as well as Bible training. Pastor Barlow stated that he was trained by Pastor Bill Winston who revived the Forest Park Mall with a church and so his background is to raise people up by making an economic impact. While the Center does not want to overlook using retail space, it feels that they would provide benefit to the Village by making people more employable. Pastor Barlow added that he would not be in favor of a text amendment just to allow churches by themselves in B-3 and so he tried to propose the text amendment in a way that it would bring along something of value, like the training center.

There were no comments or questions from those in attendance at the call for public hearing.

Mr. Svalenka stated that Joseph Barlow is the Pastor of Family Life Christian Center, a non-denominational Christian church that was started in June 2006 and currently meets at the Carol

Stream Holiday Inn and the Wheaton Bowl. Pastor Barlow's desire is to locate the church in a permanent facility where he would combine traditional church activities with a training center that would be run by the church. The aim of the training center would be to help the poor by providing job skill training, classes on resume writing, classes on managing household finances, etc. Pastor Barlow has found a facility at 511 S. Schmale Road in the Northland Mall shopping center that he believes would accommodate the Family Life Christian Center's needs. However, Northland Mall is within the B-3 Service District, and the Zoning Code currently does not allow churches in the B-3 District. Therefore, Pastor Joseph Barlow has submitted an application requesting approval of an amendment to the text of Section 16-9-4(C) of the Zoning Code to add churches to the list of special uses in the B-3 Service District. Staff notes that Pastor Barlow has already applied for a building permit for the training facility, which is allowed in the B-3 District.

Staff has reviewed the request with respect to the concept of allowing churches in the business districts. Churches are currently allowed in five different zoning districts in the Village of Carol Stream. Section 16-8-1(C)(2)(b) of the Zoning Code lists, "*Churches and other places of worship, including accessory uses such as convents, rectories, residences for church personnel, day care and pre-school,*" as a special use in the R-1 One-Family Residence District. The same special use is allowed in the R-2 One-Family Residence District, the R-3 One-Family Residence District, and the R-4 General Residence District. Section 16-9-5(C)(4) of the Zoning Code lists "*Regional religious institution*" as a special use in the B-4 Office, Research and Institutional Building District. Based on the fact that churches are currently allowed as special uses in five different zoning districts, staff does not believe that there is an unreasonable constraint placed upon churches wishing to locate in Carol Stream, or that the Village should allow churches in other zoning districts, including the B-3 District.

Staff notes that Section 16-8-1(C)(2)(j) of the Zoning Code lists, "*Community Center, which provides a range of social services such as counseling, recreation, day care, adult education, and religious programs,*" as a special use in the R-1 District, and that this same special use is allowed in the R-2, R-3, and R-4 Districts. Therefore, both churches and community centers are allowed as special uses in the residential districts. We note that Pastor Barlow could apply for a Special Use Permit for a church to allow the Family Life Christian Center church, and could apply for a Special Use Permit for a community center to allow the adult education classes, both in the residentially zoned districts. We also note that there are many residentially zoned properties in close proximity to the Northland Mall. Therefore, staff believes that the residential districts are available and could accommodate the uses desired by the petitioner.

In addition, staff believes that it would not be appropriate for churches to be an allowable use in the B-3 Service District, for several reasons. First, we note that the churches do not typically generate any sales tax. The Village of Carol Stream does not levy a local property tax, and is therefore more dependent on sales tax as a revenue source than surrounding communities. There are many service uses (non-sales-tax-generating) already listed as permitted uses and special uses in the B-3 District, and staff does not support adding another non-sales-tax-generating use. Next, we note that per Section 16-9-4(A) of the Zoning Code, the intent of the B-3 district is to provide sites for more diversified business types, which, by nature of their use, place a greater impact on the land and the surrounding uses. As noted above, churches are already appropriate in five other zoning districts. However, if churches were allowed to be located in the B-3 district, they could compete for sites with other business types that are only appropriate in the B-3 district, such as bowling alleys, grocery stores, and theaters. Therefore, staff does not support adding churches to the list of allowable uses in the B-3 District because to do so would run counter to the intent of the B-3 District to provide sites for specific business types. Finally, we note that amendments to the text of the Zoning Code are appropriate when it can be demonstrated that the amendment would be in the public interest. Pastor Barlow's request is the only request to allow churches in the B-3 District in the Village's records, which go

back to 1997. As a matter of comparison, since 1997, the Village has processed zoning requests from five different churches to locate or expand in districts where churches are allowed by code. Staff has not heard from the community at large a desire to locate churches in the business districts, but rather one request from one party. Therefore, staff does not support adding churches to the list of allowable uses in the B-3 District, because churches have been operating successfully in the zoning districts where they are allowed by code, and there has not been a general concern to allow them in the business districts.

Staff has reviewed the request with regard to the specific text language proposed by the petitioner.

Even if staff could support the concept of allowing churches in the business districts, the actual proposed text amendment is not acceptable. The text, as proposed, would allow a church as a special use in the B-3 District if it would operate in conjunction with an entity that brings either:

- Tangible or viable improvement to the community; or,
- An increase in retail business in the district.

With respect to the first point, staff does not believe it would be possible to clearly determine whether an entity brings *tangible or viable improvement to the community*, because staff believes those concepts are too arbitrary and immeasurable. With respect to the second point, we note that any retail business would bring *an increase in retail business in the district*. Therefore, the proposed text would allow a church in the B-3 District if it were to be located in conjunction with a retail business already allowed in the district. Staff believes this would be an inappropriate standard because it would allow a church to be located in conjunction with any retail business, including those with which it would be incompatible. Based on the above, staff does not support the proposed text language.

Staff points out that the current request from Pastor Joseph Barlow is to amend the text of the Zoning Code, and would apply to all properties in the B-3 District, not just the facility at 511 S. Schmale Road in the Northland Mall shopping center. If the requested text amendment were to be approved by the Village Board of Trustees in its current form, a petitioner could request a Special Use Permit for, "*Churches if in conjunction with an entity that brings tangible/viable improvement to the community or brings an increase in retail business in the district*" on any of the approximate 200 acres of property within the B-3 Service District. Staff also notes that the petitioner's request is for a text amendment, and even if it were to be approved Pastor Barlow would need to file an application for such a Special Use Permit, would need to appear at a separate public hearing before the Plan Commission/Zoning Board of Appeals regarding the specific conditions of the facility, and would need to receive approval of the Special Use Permit from the Village Board.

In staff's evaluation of this request, we do not believe that there is a need to allow churches in zoning districts other than the R-1, R-2, R-3, R-4 and B-4 districts. We believe that the residential districts are more appropriate for the proposed church use, and could accommodate the uses desired by the petitioner. We also do not support adding another non-sales-tax-generating use to the B-3 District. We also believe that allowing churches in the B-3 District would run counter to the intent of the B-3 District. Further, we believe there is no community voice or general concern to allow churches in the B-3 District. Finally, we believe that the actual proposed text amendment is not acceptable as the language is too arbitrary and immeasurable.

Based on the information noted above, staff recommends denial of the requested amendment to the text of Section 16-9-4(C) of the Zoning Code to add, "*Churches if in conjunction with an entity that brings tangible/viable improvement to the community or brings an increase in retail business in the district*" to the list of special uses in the B-3 Service District.

Commissioner Vora asked if other locations have been considered and Mr. Barlow stated that this is the only location that fits into their financial plans.

Commissioner Spink asked how this would be funded and was told that right now it is supported by congregational donations, but that upon approval of a 501 (c) (3) Corporation for the Family Life Training Center they would be eligible to apply for grants that would support the programs. In the meantime they would charge small fees for the training classes.

Commissioner Spink asked they had contacted the College of DuPage Education Center to use it for both training and its meeting room. Mr. Barlow said that he was not aware that the facility was in Carol Stream, but upon learning its location on Kuhn Road commented that it would be off-center to the congregants they hoping to serve. Commissioner Spink asked how he would obtain on-going funding. Pastor Barlow reiterated the previously mentioned sources and added that Pastor Bill Winston might contribute.

Commissioner Spink commented that it seems that there are several churches in the area that are doing the same work, as well as the Outreach Community Center. Mr. Barlow noted that this would be in the area south of North Avenue that has many below poverty level residents could benefit from the Center. Commissioner Spink asked how they would reach out to different languages. Pastor Barlow added that Outreach Community Center has agreed to include the training classes in their flyers that already go out in multiple languages. Commissioner Spink stated that businesses that generate retail sales tax dollars would benefit the same people as well as all of the Village residents.

Commissioner Hundhausen said that it is commendable to have a training center, but she would only approve a 100% training center, not a 90% training center and 10% church in a retail service district.

In a response to Commissioner Smoot's question regarding the determination of the skills needed to be taught, Mr. Barlow said that they provide video classes on basic finances, parenting, job applications that are general enough for most and that they have people willing to teach. He said that they would also provide Christian Classes.

Commissioner Christopher asked how successful groups of 100 or less are in receiving grants and Mr. Barlow said that he does not have any statistics on that but it probably only varies on the skill of the grant writer. In response to the question as to class sizes he stated that it could range from 5 to 30.

Commissioner Manzzullo asked Mr. Svalenka if the training center would require a Special Use Permit and Mr. Svalenka replied that a training center could be allowed as long as it meets the building code.

Commissioner Hundhausen asked if there would be support services supplied for problems such as homelessness or substance abuse and Mr. Barlow said that they would rely on assistance from such groups as the Outreach Center.

Commissioner Spink asked if there would be any housing, to which he said that they had not planned on it, but he stated that they would be equipped to offer services such as a warming center if they were requested to consider it during emergency situations.

Chairman Pro-Tem Michaelsen asked the size of the unit and was told that the main room is approximately 3,000 square feet. Mr. Barlow said that there are a series of offices for staff and storage on one side and that they would have platform built for the area of church services and divide it with pipe and drape for the classroom areas. He noted that there would be minimum changeover to have the unit be all classrooms or all worship area. It is anticipated that there will be about 40 classes per week depending on need and that hours of operation would also be 8AM to 10 PM also depending upon need.

Commissioner Michaelsen said that he is not in favor of the proposed text amendment.

Commissioner Smoot moved and Commissioner Vora made the second to recommend denial of the request for a text amendment to allow churches in the business districts in accordance with staff recommendations. The results of the roll call vote were:

Ayes: 6 Commissioners Manzzullo, Christopher, Smoot, Vora, Spink & Michaelson
Nays: 0
Abstain: 1 Commissioner Hundhausen

The petitioner was advised that the Plan Commission has recommended denial of the request for a text amendment to allow churches in the business districts and that the Village Board will hear this matter at their meeting on May 21, 2007 and was advised to attend that meeting.

Commissioner Smoot moved and Commissioner Spink made the second to close the public hearing. The motion passed by unanimous voice vote.

The Combined Board welcomed Anthony Manzzullo who was sworn in on May 7, 2007. Chairman Pro-Tem Michaelson reminded everyone that the May 28th meeting has been cancelled.

At 8:40 PM Commissioner Spink moved and Commissioner Vora made the second to adjourn. The motion passed by unanimous voice vote.

FOR THE COMBINED BOARD