

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

**Monday, October 24**

**ALL MATTERS ON THE AGENDA MAY BE DISCUSSED, AMENDED AND ACTED UPON**

Chairman John Bentz called the Regular Meeting of the Combined Plan Commission/ Board of Appeals to order at 7:45 p.m. and directed Recording Secretary Wynne Progar to call the roll.

Present: Commissioners Weiss, Michaelsen, Sutenbach and Bentz  
Absent: Commissioner Vora, Spink and Hundhausen  
Also Present: Village Planner Don Bastian and Recording Secretary Progar

**MINUTES:** October 10, 2005

Commissioner Sutenbach said that he believes that there is a scrivener's error on page 19, duplicating his remarks and asked that the second sentence of his comments be removed. Commissioner Weiss moved and Commissioner Sutenbach made the second to approve the Minutes of the Meeting of October 10, 2005 as amended. The results of the roll call vote were:

Ayes:	4	Commissioners Weiss, Michaelsen, Sutenbach and Bentz
Nays:	0	
Absent:	3	Commissioners Vora, Spink, and Hundhausen

**PUBLIC HEARING:**

**#04307: David Schonback, NE corner of St. Charles Road and Morton Road  
Rezoning (Preannexation)  
Continued from 8/8/05 meeting**

Mr. Bastian stated that the petitioner is present and would like to speak to the Commission. Richard Schultz, 130 W. Lake Street, Ste. 6, Bloomingdale, IL was sworn in as a witness. He explained that this project had to meet both the Villages' Planning Department and Engineering Department requirements as well as DuPage County's Engineering and Planning Department requirements. The County is actually issuing the permit, but the pre-annexation is with Carol Stream. DuPage County wanted to have planning and development plans and Carol Stream wanted to re-subdivide the property which did happen. Wayne Township and the County had to approve streets. There is a meeting this Wednesday to get pre-approval from the County and Bill Cleveland of CS engineering will not sign off of this project until there is a letter from DPC saying that the engineering has been approved.

Chairman Bentz noted that staff is recommending a continuance to January 23, 2006 and Mr. Schultz said that he would like this to be continued to December 12<sup>th</sup> since he will be able to make the submittal next week.

Mr. Bastian stated that it is the Plan Commission's prerogative to continue this matter to whatever date they feel is most appropriate. This matter has been continued six times dating back to almost a year ago. The last time the Village sent out a review letter was July 11<sup>th</sup> and there has not been a re-submittal since that date. The reason for staff to suggest January 23<sup>rd</sup> is because this has been continued so many times that we are not convinced that anything is going to be forthcoming soon. Mr. Shultz said that they did not reply to the July 11<sup>th</sup> letter was

that there had not been any approvals from County at that time.

Commissioner Sutenbach asked if staff has reviewed any part of the plan in the last year or so, and Mr. Bastian said that the initial submittal was reviewed in November of 2004, and sent out a commentary letter. There has never been a staff report presented to the Commission. Mr. Bastian said that currently a public hearing notice will not be published until staff is convinced that the plans are adequate in detail to bring it forward.

Commissioner Sutenbach asked what the deadline would be for this to be presented to the December 12 Combined Board meeting and Mr. Bastian said that it would have to be next Tuesday, November 1<sup>st</sup>.

Commissioner Weiss asked where the property is located and it was stated that it is at Morton Road and St. Charles Road, south of Brian's Steakhouse. Mr. Bastian said that this property is not in the Village, however it is within our planning area and it does have the possibility of being served by Village sewer and water. As a part of that process, the developer comes to the Village to ask for zoning at the time of annexation as one of the components of the pre-annexation agreement and there has to be a public hearing before the Plan Commission to determine what that zoning will be at the time the property is annexed. Through that process they will present their plans for development of the property and staff will do the customary Village review just as if the property was in the Village and the Commission will make the recommendation for the appropriate zoning and it will move forward through the standard pre-annexation agreement negotiations and on to the Village Board.

Commissioner Sutenbach asked the impact of continuing this to January 23<sup>rd</sup> and Mr. Schultz said that the owner has to close on the property and there is an exchange property which will lose a lot of money if he doesn't get it approved soon. It was determined that they are looking for a decision during this calendar year.

There were no comments or questions from those in attendance at the call for public hearing. Chairman Bentz said that he understands why staff would suggest a later date since this matter has been continued so many times, but if the petitioner is confident that this can be done in a time frame for the December 12<sup>th</sup> meeting, he would support the continuance to that date.

Commissioner Michaelsen moved and Commissioner Sutenbach made the second to continue this matter to the meeting of December 12, 2005 meeting. The results of the roll call vote were:

Ayes:	4	Commissioners Weiss, Michaelsen, Sutenbach and Bentz
Nays:	0	
Absent:	3	Commissioners Vora, Spink, and Hundhausen

**#05243: The Sabo Group, Inc., 1022 Fountain View Drive  
Special Use – Restaurant with Bar and Outdoor Seating  
Gary Avenue Corridor Review - Revised Plans**

Robert and Chris Sabalasky of 1017 Oakwood Drive and Jim Sabalasky of 668 Paxton Place were sworn in as witnesses in this matter. Robert Sabalasky said their request is for a special use permit for a restaurant and bar with an outdoor eating area at the new Fountains at Town Center development. This will be at the end of the west building on the corner lot.

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

Mr. Bastian said that Robert Sabalasky of The Sabo Group is requesting Special Use approval to operate a restaurant with a bar and an outdoor seating area, and Gary Avenue Corridor Review for the improvements associated with the proposed outdoor patio seating area. The restaurant, which is planned to be named "Flip Flops Tiki Bar and Grill" would be a Caribbean-themed restaurant that would include an indoor bar and an outdoor patio seating area for use during the warm weather months. The approximate 3,000 square foot restaurant would occupy the southernmost

tenant space in the 12,750 square foot west commercial building in the Fountains at Town Center commercial development. The restaurant location within the overall commercial development is shown on Exhibit A. To allow the restaurant with a bar and an outdoor patio, and to facilitate the review of the changes to the approved Gary Avenue Corridor plans that will result from the construction of the outdoor patio area, the petitioner has filed the necessary plans and applications for a Special Use Permit and for Gary Avenue Corridor Review.

**Background:**

As stated, the Special Use requests are for a restaurant with a bar and for an outdoor seating area. In the past, the restaurant operation itself would have required Special Use approval; however, as you may recall, in August of this year, the Village Board approved a Zoning Code text amendment that re-classified a restaurant as a permitted use in the B-2 Zoning District. The text amendment also clarified the specific uses sometimes associated with a restaurant operation that do require Special Use approval, which include a bar and an outdoor seating area. These two aspects of the applicant's proposed business will be evaluated in the Special Use section of this report.

As indicated in the applicant's cover letter, Flip Flops Tiki Bar and Grill is intended to provide a relaxed tropical atmosphere similar to the themes that have been established in area restaurants such as Cheeseburger in Paradise (Downers Grove), Bahama Breeze (Schaumburg) and Key West (Naperville). The restaurant is proposed to be open from 11:00 a.m. to 1:00 a.m. Monday through Thursday, 10:00 a.m. to 2:00 a.m. Saturday, and 10:00 a.m. to 12:00 a.m. on Sunday. The cover letter indicates that traditional bar food and appetizers as well as seasonal food and drink specials will be offered, and that live entertainment may be offered on weekends. The floor plan (Exhibit C) indicates seating for up to 95 customers inside the restaurant (including the bar), with additional outdoor seating on the patio for 43 customers, as shown on the revised landscape plan (Exhibit D-1). As a note, these customer seating counts differ slightly from the counts provided in the cover letter, and in a discussion with the applicant, it was learned that the reason for the discrepancy is that a few tables near the northeast corner of the restaurant will be eliminated to make room for a few video and bar games, such as golf and darts.

Another background item requiring mention involves the issue of parking. During the review and approval of the commercial portion of the Fountains at Town Center development, there was significant discussion and some concern regarding the adequacy of parking for the commercial buildings. To address this concern, the Final PUD Plan includes a note indicating that the Village will closely monitor the number of parking intensive-uses that propose to occupy space in the commercial buildings, so as to try to avoid a parking problem in the future. It is also worth noting that toward the very end of the review of the Fountains project, the parking lot on the west side of the west commercial building was expanded from 10 spaces to 30 spaces, as seen on the overall commercial area site plan (Exhibit A). These spaces should be particularly useful for patrons of the proposed restaurant.

The Zoning Code requires 129 parking spaces for the overall commercial area based upon the ultimate expected construction of 32,317 square feet of building space. For shopping centers, which this area is considered for the purpose of determining required parking, the number of required parking spaces begins to increase once the percentage of food service uses exceeds 10% of the floor area of the entire development. The proposed 3,000 square foot restaurant represents approximately 10% of the total area of the commercial development. As such, staff is not concerned with the adequacy of parking at this time, which should be expected since this use is the first known business planning to occupy space in the commercial development. Staff

will continue to monitor parking within this development as other uses approach the Village to inquire into occupying space in the buildings.

The two Special Uses that the applicant is requesting in association with the restaurant operation are for the restaurant to have a bar, and for there to be an outdoor patio seating area. With respect to the bar operation, planning staff does not have any concerns, as a bar component seems appropriate for the type and location of the proposed restaurant. The cover letter mentions that live entertainment will occasionally be offered in the restaurant, and staff's only recommended condition in this regard is that no live entertainment be permitted outside of the building, unless separate approval for outdoor music amplification is received from the Village's Administration Department. Our only other comment about the bar operation is that the applicant will of course be required to obtain the proper liquor license, which will be processed through the Village Clerk's office.

With respect to the request for an outdoor patio seating area, staff has identified a few issues that have the potential to be problematic. (As a note, aesthetic considerations related to the patio construction will be discussed in the Gary Avenue Corridor Review section of this report.) The first issue involves noise. The applicant has stated that the patio will be open until 11:00 p.m. Sunday through Thursday, and until 12:00 a.m. on Friday and Saturday. The applicant has also stated that music will be provided within the patio area, which will be turned off at 10:00 p.m. The concern with noise involves the relatively close proximity of the proposed patio area to the existing single-family homes on the east side of Bowie Drive and across Lies Road, which are about 400 feet away from the patio. The applicant has stated that they will keep the music at a volume level that will only be audible in the patio area, and that they will need to be good neighbors since they want their neighbors to also be patrons of the bar and restaurant. Staff is not suggesting that noise will be a problem; however it could become an issue if the music volume is not kept at an appropriate level. Staff will suggest some conditions in the Recommendation section of this report aimed at minimizing the impact that the patio noise could have on the most proximate residents. Staff encourages the Plan Commission to discuss the issue of noise with the applicant and indicate whether they are comfortable with the applicant's approach toward addressing noise concerns. It is worth noting that the Town Center hosts events on a regular basis that are much louder (weekly concerts, summer festival, etc.) than would be the patio operation.

The second concern that staff has with respect to the patio operation involves the ability of the restaurant to properly monitor and control the activities of patrons in the patio area. Note that the column and wrought iron fence detail plan (Exhibit B) indicates that the patio will be enclosed with a four-foot wrought iron fence with stone columns. The overall commercial area site plan and floor plan indicates that customers will be able to access the building from one of two locations. The main entrance will be at the southeast corner of the building, facing the intersection of Lies Road and Fountain View Drive. The other entrance, which is the entrance most likely to be used by patrons who park in the lot on the west side of the building, is located just to the north of the proposed patio. A sidewalk will be provided between the west side of the building and the west parking lot, which will allow for convenient customer access into the rear of the tenant spaces. The sidewalk is shown to lead to the rear door into the restaurant. As a note, customers would not be able to enter the patio area directly; all patrons would first have to enter the restaurant through either the main entrance or the west entrance. Please be aware, however, that Building Code regulations do require that an egress gate leading to the sidewalk be provided from the patio area. The applicant will need to coordinate the specific placement of the egress gate with the Chief Code Enforcement Officer.

In review of the issue of containing customers within the patio area, staff notes that a five- or six-foot tall wrought iron fence would do a better job of containing patio area patrons as opposed to the four-foot fence being proposed, although staff expects few problems in this regard. Ultimately, the manner in which the facility is operated and managed will determine whether any significant problems will arise with respect to the outdoor patio area. The Village has other outdoor seating areas associated with bar and restaurant uses, and staff is not aware of ongoing problems at these businesses. Staff encourages the Plan Commission to review the proposed operational plan for the patio area and indicate whether they are comfortable with this aspect of the business, or whether any modifications are necessary.

With regard to the Special Use Permit for the bar and outdoor seating area, staff has reviewed the requests from an operational standpoint. As stated, a bar component seems to be appropriate for the proposed Caribbean-themed restaurant, provided that the necessary liquor license is obtained. With respect to the outdoor patio area, this report has identified issues related to noise and patron control in the patio area. We note that the applicant has agreed to limit the hours of operation for the patio as well as the hours that outdoor music will be provided. Again, the Plan Commission should discuss this aspect of the proposal in more detail with the applicant if they have specific concerns. It is staff's position that the overall bar, grill and outdoor patio use is appropriate in the Fountains at Town Center commercial area, and that the business should be a popular establishment with Carol Stream residents and other people in the general area.

#### **Gary Avenue Corridor Review:**

The entire Fountains at Town Center development is included in the Gary Avenue Corridor Overlay District. Comprehensive site, landscape and architectural plans for the buildings and property were reviewed and approved by the Plan Commission in 2004. While a restaurant use with an outdoor seating area was discussed as a possibility during the review of the architectural plans for the commercial buildings, a patio was not specifically included on any of the plans that were approved. Because the property is subject to the Gary Avenue Corridor regulations, and because the applicant is proposing to attach a patio to the west side of the west commercial building, the Plan Commission must review the plans that depict the patio construction.

The proposed patio will modify the approved landscape, site and architectural design of the southwest corner of the west commercial building. This section of the report will evaluate each of these factors in accordance with the direction provided in the Gary Avenue Corridor regulations.

Exhibit F is a color rendering of the exterior view of the proposed patio area. As seen in the rendering, the patio will be designed to very closely match the appearance of the building. The rendering and the column and wrought iron fence detail plan (Exhibit B) indicate that the masonry columns will match the stone masonry used in the building. Further, the wrought iron fence will match the wrought iron fencing used elsewhere in the overall development. Finally, the applicant has also provided a representational picture (Exhibit E) of the patio table umbrella that will be used, which is in keeping with the intended Caribbean/tropical island theme.

In review of the patio rendering and detail plans, staff finds 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. As such, we find the patio to be in compliance with the architectural standards of the Gary Avenue Corridor regulations. The only question that staff has regarding the patio involves the vertical wall surface seen on the

rendering, below the wrought iron fence. Although the proposed landscape materials will likely obscure much of the view of this area, we question what material will be used on this vertical surface. We recommend that it not simply be unfinished poured concrete. The applicant should be prepared to elaborate on this question at the Plan Commission meeting. Finally, regarding the fence and column detail for the patio, it should be noted that if the Plan Commission determines that a fence taller than four feet is warranted, then the plans will need to be revised to reflect the taller height.

Exhibit D-1 shows the landscape materials that would be installed around the patio, while Exhibit D-2 is a detail of the landscape plan that was originally approved without the patio. Staff has reviewed the plans and found them to be very similar in terms of the type and quantity of landscape materials. Also, we note that it is not intended or expected that the landscape materials would completely screen the patio area, especially since it has been designed to be an attractive addition to the building. The revised landscape plan meets the requirements of the Gary Avenue Corridor landscape standards, and staff recommends approval of the revised plan.

The proposed patio will have a minimal impact on the overall site design of the commercial area. In comparing the revised landscape plan (Exhibit D-1) to the previously approved landscape plan (Exhibit D-2), the site design modifications are evident. The modifications include, of course, the addition of the patio, and the addition of a patio gate/egress point with a sidewalk that connects to the main sidewalk on the west side of the building. The proposed changes to the site design are in compliance with the Gary Avenue Corridor standards.

In review of the requests for Special Use and Gary Avenue Corridor Review associated with the proposed bar and outdoor patio area, staff believes that the proposal is consistent with the Village's vision for a bar and restaurant in the Fountains development. As staff expects that the details involving noise and customer control will be addressed to the satisfaction of the Plan Commission and Village Board, we support the applicant's requests for Special Use and Gary Avenue Corridor Review.

Staff recommends approval of the Special Use Permit to allow for a restaurant with a bar and an outdoor seating area, and also of the Gary Avenue Corridor Review, subject to the following conditions:

1. That separate building permits be obtained for all patio and fence construction;
2. That all improvements and landscaping shall match the approved plans, except as the plans are modified by the Plan Commission or Village Board;
3. That no live entertainment shall be permitted outdoors unless a separate specific approval is granted by the Village's Administration Department;
4. That the proper liquor license be obtained for the proposed bar use through the Village Clerk's office;
5. That the music for the patio area shall be turned off no later than 10:00 p.m. every evening;
6. That the patio music be kept at a volume level that will not be audible from the residential properties to the north (Fountains townhomes), west (Autumn Ridge), and southwest (Bowie Drive/Western Trails);

7. That the egress gate from the patio shall be constructed and located in accordance with all applicable provisions of the Building Code;
8. That the vertical wall surface on the exterior of the patio shall be of a suitable finished material other than unfinished concrete;
9. That customers wishing to access the patio area must first enter the restaurant through one of the two main entrances, and that no direct exterior access to the patio shall be permitted;
10. That the construction and operation of the bar and restaurant facility shall comply with all state, county and Village codes and requirements.

Commissioner Weiss said that he is happy to see that the first applicants for the commercial development at the Fountains at Town Center are Carol Stream residents. He asked Mr. Bastian if all of the commercial areas designed with cross easements for all of the parking and Mr. Bastian said that it is. Commissioner Weiss asked the petitioners if they have had any experience with restaurant operations. Robert Sabalaskey said that he managed a family restaurant for ten years, doing everything from the back line to the front office. More recently he has been a financial systems manager for Levy Restaurants down town and back office operations as well. Jim Sabalaskey commented that he is the engineer. Commissioner Weiss asked what kind of signage will be permitted and Mr. Bastian said that each tenant space in the building will be allowed to have wall signs on their portion of the building and Town & Country Homes received a sign code variance for the height and location of the commercial signs initially and there will be a certain number of spaces for the various retailers to identify the businesses on the ground sign. In regard to window signs, the sign code allows up to 50% of the window area can be covered with signs. Commissioner Weiss asked if temporary signs will be allowed, such as "valet parking". Mr. Bastian said that code does not allow any A-frame or portable signs, however temporary banners are allowed a few times a year. Commissioner Weiss asked if the patio area will be open during all regular restaurant hours and Mr. Sabalaskey said that the restaurant closes at least a couple of hours earlier during the week and one hour earlier on the weekend. In response to the question about a sidewalk connection from the parking lot it was shown on the exhibits that there is sidewalk around the building allowing several entrances into the restaurant. Commissioner Weiss said that he has a concern about the patio is the proximity to the park, Hampe Park. This is a very desirable location for your business but he needs to see that there is control as to what is going on the patio and that there isn't anyone that doesn't belong there able to gain entrance. Mr. Sabalaskey said that he believes that there will be a pond and fountain between this development and Hampe Park. Mr. Bastian confirmed that.

Commissioner Sutenbach asked how traffic will enter and park to enter the restaurant and Mr. Sabalaskey said that most of the parking will be at the back of the building. He commented that the indication for handicapped parking does not seem to conveniently placed for access to the restaurant. Mr. Bastian said that he agrees with that opinion and since they have not been striped yet, there are regulations that specify proximity to buildings and that is an adjustment that can be made so that handicapped accessible stalls be better located so as to more completely cover all buildings. Commissioner Sutenbach asked if valet service is contemplated, and Mr. Sabalaskey said that they would consider if it was necessary. There was discussion in regard to the possibility of drop-off/pick-up patrons on Lies Road and it was determined that this would not be possible due to the amount of traffic. It was also noted that entry would have to be from Fountainview Drive and depending on parked vehicles one could make a u-turn around the dividing feature or proceed north to go around the circle. Commissioner Sutenbach how staff tested for sound from this location and Mr. Bastian said that he and the Community Development Director went out and parked a vehicle in front of the building, at the southernmost parking spot on the west side of Fountainview Drive with all of the

windows and doors open and the stereo on and the Community Development Director was standing near the rear yard of the home at the east side of Bowie Drive, the northernmost yard and nothing could be heard. It was agreed that the traffic noise from Gary Avenue and/or Lies Road drowns out most noise and it would appear that noise will not be a problem. Commissioner Sutenbach said that his comments regarding the proposed four-foot wrought iron fence would be that four feet is acceptable since if any taller fence could interfere with views of the Town Center.

Commissioner Michaelsen asked if there will be booths or just tables and it was stated that there would just be tables. Commissioner Michaelsen asked staff if neon signs are allowed in windows and Mr. Bastian replied that they are permitted in the Code. Commissioner Michaelsen then asked the petitioner if they are going to use such signs and Mr. Sabalasky said that they would not use such signs in the windows because it would detract from the views. Commissioner Michaelsen asked if there will be parking restriction as additional tenants move in and Mr. Bastian said that with any strip center, any individual business does not get to claim the spaces right in front of that location for their own customers use. The PUD plan for this overall development does have a condition that indicates that the Village will closely monitor the issue of parking to determine if any problems come up with the uses that are requested for the rest of the commercial area. Some of the options that were brought up initially were possibly to allow cars to be valet parked at the Town Center parking lot at times where there are no events occurring. It has not been approved, but there are several alternatives that can also be considered. Commissioner Michaelsen asked if there will be cross walks on Fountainview Drive and Mr. Bastian said that there will be crosswalks. Commissioner Michaelsen asked if the speakers would be mounted speakers or rock speakers and it was stated that they would probably be rock speakers, down low but it has not been definitely determined. Mr. Sabalasky said that since the theme of the bar will be a tropical, relaxing atmosphere, it would not be in keeping with the theme to have the music blasting. In regard to having live entertainment, it would only be on weekends and indoors, not outside.

Commissioner Vora asked the distance from the restaurant to where they did the test and Mr. Bastian said that it was more than 400 feet, and Commissioner Vora said that it was not an accurate decibel test. Mr. Bastian agreed but said that the intention was not to put restrictive conditions on the restaurant. Commissioner Vora asked if the distance from the high school was sufficient to allow liquor sales and Mr. Bastian said that would be considered in the application for a liquor license application.

Chairman Bentz commented that he feels that the four-foot fence around the outdoor patio is sufficient, since anything over that might affect a prison bar effect. He stated that from the original letter it appears that this will be a bar that serves food rather than a restaurant that has a bar, and asked the petitioner to explain their intent. Mr. Sabalasky said that their hope is that this will be more of a family type of place where families can enjoy a drink and have something to eat and can bring the kids as well. So it is anticipated to be a restaurant with a bar. He said that they are working on the menu but will start out with soups, sandwiches, appetizers and pizza.

Commissioner Michaelsen commented that with the bar right in the middle, he is not sure he would bring young children into this kind of a setting. Mr. Sabalasky said that as a Caribbean bar it is as they have them in the Caribbean with tables around the bar. This will be the same except that the tables will be behind the bar.

Commissioner Sutenbach asked if this will be a non-smoking bar and was told that at this point there will not be any restrictions on smoking. If it appears that there are objections, they will try to have separate smoking and non-smoking areas. Commissioner Sutenbach asked if there will be carry out available and was told that there will not be any carryout at the outset, possibly later.

Commissioner Weiss asked if the developer is going to build out this whole section first. Mr.



Bastian said that the permits were issued very recently and the developer is going to build both east and west commercial buildings at the same time. The north commercial building that is on the plan have not been approved on any level, so before anything can be developed the plan would have to come before this Board for recommendation to the Village Board as well as Gary Avenue Corridor Review. Commissioner Weiss asked if the Police Department does spot checks of liquor license holders for serving under age patrons and was told that they do so on a regular basis.

Commissioner Weiss moved and Commissioner Sutenbach made the second to recommend approval of a special use permit for a restaurant with bar and outdoor seating area at 1022 Fountain View Drive in accordance with staff recommendations. The results of the roll call vote were:

Ayes:	4	Commissioners Weiss, Michaelsen, Sutenbach and Bentz
Nays:	0	
Abstain:	1	Commissioner Vora
Absent:	2	Commissioners Spink and Hundhausen

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on November 7, 2005 and was advised to attend that meeting.

Commissioner Weiss moved and Commissioner Sutenbach made the second approve the Gary Avenue Corridor Review for 1022 Fountain View Drive as presented. The results of the roll call vote were:

Ayes:	4	Commissioners Weiss, Michaelsen, Sutenbach and Bentz
Nays:	0	
Abstain:	1	Commissioner Vora
Absent:	2	Commissioners Spink and Hundhausen

**#05252      Auto Zone, Inc., Lot 14 in Pasquinelli's Army Trail Road  
Rezoning – B-2 to B-3  
Planned Unit Development Plan – Final**

Michael Caldwell of Marchris Engineering on behalf of Auto Zone, Inc. was sworn in as a witness in this matter. Mr. Caldwell explained that they are requesting rezoning from B-2 to B-3 on the last lot in the Pasquinelli 2<sup>nd</sup> Subdivision and a final Planned Unit Development Plan. He stated that this is an auto parts retail center and described the elevation plan, the landscape plan, noting that there are no variations be requested, with the exception of relief from planting the four evergreen shrubs around the trash enclosure since that location for planting them is not on their property.

There were no comments or questions from those in attendance at the call for public hearing. Mr. Bastian stated that Michael Caldwell of Marchris Engineering, on behalf of Auto Zone Inc., has filed an application seeking approval of rezoning and a Final Planned Unit Development Plan for the proposed development of a 7,400 square foot Auto Zone auto parts store on Lot 14 of Pasquinelli's 2<sup>nd</sup> Resubdivision. The 1.3-acre property is located on the south side of Army Trail Road, about 600 feet west of Kuhn Road and immediately west of the 10,650 square foot retail strip center built by Mid-Northern Equities earlier this year. While the property is currently zoned B-2 General Retail District, an auto parts store is only listed as a permitted use in the B-3 Service District. As such, the applicant is requesting that the property be rezoned to the B-3 Service District. Also, because the entire commercial subdivision was approved as a Planned

Unit Development, the applicant is requesting approval of the Final Planned Unit Development Plan for the site.

**Rezoning:**

As stated, the applicant has filed a request to rezone the property from B-2 General Retail District to B-3 Service District. This request is necessary because the proposed use, an automobile parts store, is not listed as either a permitted or Special Use in the B-2 General Retail District. An automobile parts store is, however, listed as a permitted use in the B-3 Service District. As a note, the property at the southeast corner of Army Trail Road and Kuhn Road was rezoned from B-2 to B-3 a few years ago to accommodate the Citgo/7-11 gas station and convenience store.

In evaluating rezoning requests, one factor that staff considers is the land use recommendation of the Future Land Use Plan. For this property, the Future Land Use Plan recommends a commercial land use. The requested B-3 Service District zoning classification falls within the commercial land use category, and the proposed automobile parts store use is a commercial use. In staff's view, the rezoning request essentially amounts to a fine-tuning of the zoning of the property to allow the particular use in this case. As such, staff can support the requested zoning change from B-2 to B-3.

**Final Planned Unit Development Plan:**

A Special Use for Planned Unit Development was approved for Pasquinelli's original subdivision, which encompasses about 42 acres of land located generally south of Army Trail Road along Kuhn Road, south to Woodhill Drive. The commercial portion of the development along Army Trail Road is included in the Planned Unit Development. In January of 2004, the Village Board approved the Preliminary Planned Unit Development Plan for the 9.5-acre commercial area west of Kuhn Road, which is included in this packet as Sheet PS-2. The individual developers of four out of the five separate lots within the commercial subdivision have received Final PUD Plan approval, and construction activities are complete on two of the lots (for a bank and retail strip center) and are in progress on two other lots (for a daycare and retail strip center).

At this time, the applicant has filed a request seeking approval of the Final Planned Unit Development Plan for the last remaining vacant commercial lot west of Kuhn Road, which is Lot 14. Auto Zone, Inc., is proposing to construct and occupy a 7,400 square foot automobile parts store as seen on the Geometric/Final PUD Plan, Sheet CE-3. Access to the new store would take place through one of two points off of the north-south access drive that connects to Army Trail Road. Access to the store could also take place through the private east-west drive that leads to Kuhn Road.

With respect to parking, the Zoning Code requires 30 parking spaces for the 7,400 square foot retail auto parts store use. The Final PUD Plan shows 43 parking spaces including two handicapped accessible stalls, which exceeds the Zoning Code parking requirement. Regarding landscaping, the Landscape Plan (Sheet LS-1) indicates that the 4% parking lot greenspace standard will be exceeded, and the landscape design themes established for the other commercial lots in this overall development have also been continued on this site. Twelve deciduous trees will be planted on the property, and the shrub and bush pattern found along the parkways and parking lots within the overall development are shown on this site.

Regarding the building elevations, Sheet A-2 indicates that the building will be constructed almost entirely from brick, with some glass areas found on the north and east elevations. Black metal canopies will be provided above all glass areas as a decorative accent and to protect customers entering and exiting the store during periods of inclement weather. The brick used in the construction of the building will match the brick used on the other buildings within the overall commercial development. The elevation plan shows that a six-foot tall trash enclosure will be constructed using the same brick that is used in the building, and that the enclosure will have a decorative cast stone coping. The Final PUD Plan (Sheet CE-3) shows the location of the enclosure adjacent to the south end of the building, and the Landscape Plan (Sheet LS-1) indicates that nine, four-foot tall evergreen shrubs will be planted around the enclosure. Another notable aspect of the plan includes sidewalks being extended and connected along Army Trail Road and along the west side of the north-south access drive, which will complete the sidewalk network throughout the overall commercial development.

Finally, regarding signage, Sheets SN-1 and SN-2 depict the proposed wall and ground signage for the building and site. The wall signage will consist of channel letters, while the ground sign will be six feet in height and include a brick base that will match the brick used in the building. The only condition that staff recommends regarding advertising signage is that there should be a note added to the Final PUD Plan stating that signage is subject to a separate building permitting process from the main building permit.

With respect to the retail automobile parts store use, staff generally finds the use to be appropriate and acceptable for the proposed location. The building architecture has been designed to be relatively simple yet attractive, and the proposed landscape materials will enhance the appearance of the site. The only potential concern that staff has, which is not uncommon with retail auto parts stores, is the possibility that customers will install parts or otherwise work on their vehicles in the parking lot. Staff believes that this sort of activity is not appropriate at this location, and is therefore recommending as a condition that a sign be posted near the entrance to the building that will inform customers that repairs and parts installation are not permitted on the premises. Note #3 on the Final PUD Plan indicates that such a sign will be posted on the property.

#### **Final PUD Plan Review Process:**

In comparing the Final PUD Plan (Sheet CE-3) for Auto Zone to the approved Preliminary PUD Plan for Lot 14 within the overall development (Sheet PS-2), it is clear that the plans are not exactly the same. The approved Preliminary PUD Plan depicts what appears to be a fast food restaurant with drive-up window service, whereas the proposed Final PUD Plan depicts a retail auto parts store. While the uses and site layouts shown on the Preliminary and Final PUD Plans are not identical, staff believes that the Zoning Code regulations governing the review of Final PUD Plans are intended to be interpreted in a general manner as opposed to in a more strict way. Following this approach, the plans are similar in that each contains a single retail user with adequate parking and access to the existing private roadway system. Also consistent with this thinking is that the proposed Auto Zone use will meet or exceed all of the Zoning Code standards of the requested B-3 Service District zoning category. As such, since the uses are similar in that there will be a single retail business in a stand alone building, and since all applicable Zoning Code standards will be met, staff does not find the proposed Final PUD Plan to be substantially changed from the approved Preliminary PUD Plan. Accordingly, we believe that if desired, the Plan Commission can report to the Village Board that the Final Plan is in substantial compliance with the Preliminary Plan. Further, staff does not believe that any further public hearing is necessary regarding the proposed development.

**Summary:**

To accommodate the proposed Auto Zone auto parts store, rezoning to B-3 and approval of the Final Planned Unit Development Plan are necessary. Based upon the plans and information provided, staff can support both requests.

Staff recommends approval of the rezoning from B-2 General Retail District to B-3 Service District and also of the Final Planned Unit Development Plan, subject to the following conditions:

1. That the PUD Plan be revised to include a note stating that all signage and the trash enclosure shall be subject to a separate permitting and review process from the main building permit;
2. That the installation of auto parts and/or automobile repairs shall be prohibited on the Auto Zone premises, and that a sign stating this restriction shall be posted at the main entrance to the building;
3. That no merchandise shall be stored or displayed outdoors on the property;
4. That the landscape materials must be installed and maintained in accordance with the approved Landscape Plan (Sheet LS-1);
5. That the improvements shall be constructed in accordance with the approved Final PUD Plan, Landscape Plan, Building Elevations Plan and Signage Plans; and
6. That the construction of the building and operation of the business shall comply with all applicable codes and regulations of the state, county and Village.

Commissioner Vora asked if there is adequate parking and was told that 30 spaces are required and the plan shows 43 spaces to be provided.

Commissioner Michaelsen said that he would like to see accent stone be included so that this will match the other buildings. Mr. Bastian suggested that the Citgo building and the others could be used by the architect as a template for the color or design scheme. Commissioner Michaelsen asked if the entire dumpster area has to be screened since the space for the four evergreens is not a part of this property. Mr. Bastian commented that from the staff standpoint, while it is not uncommon to have evergreens around trash enclosures, this would match the brick of the building. The only solution would be to get written permission from the adjacent property owner since there is no other room to move the enclosure. Commissioner Michaelsen said that there would definitely have to be appropriate signage forbidding any outdoor repair of vehicles.

Commissioner Sutenbach commented that this footprint has a less intensive use than the original fast food use. In regard to a drive aisle in the back of the building, Mr. Bastian said that the Building Official has reviewed the plans from the standpoint of making sure that there would be no conflict with Building Codes because the size and use of this building it does require circulation all the way around the building. The deliveries would take place through the two doors on the south side of the building.

Commissioner Weiss asked if there will be signs on the windows and it was noted that the windows are frosted and therefore signs would not be visible. Commissioner Weiss asked Mr. Bastian if the B-3 is only for this use and he was told that that is correct. In response to the question as to whether the property would revert back to B-2, Mr. Bastian said that it would not automatically revert and for any other user it would have to apply for a zoning change.

Chairman Bentz asked if there are any architectural features that tie this building to the building next to it as far as the color of the brick or whatever. Mr. Bastian said that the brick color is the same. This plan shows the use of cast stone capping elements and some different column-type features that will play off of what has been done next door. He added that they could add some of the coining features, as suggested by Commissioner Michaelsen. If the Plan Commission is inclined they can strengthen the recommendation in the conditions section to suggest that they pull

in one or more of additional decorative elements as are found on the building next door. Commissioner Michaelsen commented that the roof top equipment parapet should be such that equipment cannot be seen from Army Trail Road. Mr. Caldwell asked about which direction and Commissioner Michaelsen said from all four directions. Commissioner Sutenbach asked if the residents to the west in Hanover Park were noticed about this proposed project and was told that they were. Commissioner Michaelsen said that there should be a sign posted on the enclosure that doors should be open only when in use. Commissioner Michaelsen moved and Commissioner Sutenbach made the second to recommend approval of the rezoning from B-2 to B-3 and the final Planned Unit Development Plan with amendments to the conditions to include additional accents to building corners and to have roof top elements screened from view in all directions and to eliminated the four evergreen trees on the south side of the trash enclosure. The results of the roll call vote were:

Ayes:	5	Commissioners Vora, Weiss, Michaelsen, Sutenbach and Bentz
Nays:	0	
Absent:	2	Commissioners Spink, and Hundhausen

The petitioner was reminded that this matter will be heard by the Village Board at their meeting on November 7, 2005 and was advised to attend that meeting.

Commissioner Michaelsen moved and Commissioner Sutenbach made the second to close the public hearing. The results of the roll call vote were:

Ayes:	5	Commissioners Vora, Weiss, Michaelsen, Sutenbach and Bentz
Nays:	0	
Absent:	2	Commissioners Spink, and Hundhausen

**New Business:**

Discuss cancellation of 11/14/05 and 12/26/05 meetings  
 Commissioner Weiss moved and Commissioner Sutenbach made the second to cancel the meetings on November 14, 2005 and December 26, 2005. The results of the roll call vote were:

Ayes:	5	Commissioners Vora, Weiss, Michaelsen, Sutenbach and Bentz
Nays:	0	
Absent:	2	Commissioners Spink, and Hundhausen

There will be regular meetings on November 28, 2005 and December 12, 2005, and there will be a Holiday Gathering for the Commissioners following the meeting on December 12<sup>th</sup>.

At 9:35 p.m. Commissioner Sutenbach moved and Commissioner Michaelsen made the second to adjourn. The motion passed by unanimous voice vote.

FOR THE COMBINED BOARD