

**MINUTES OF THE PLAN COMMISSION**  
**April 27, 2009**

The regular meeting of the Plan Commission was called to order by Chairman Kurt Hezner at 7:03 p.m. at the Village Hall.

Members present: Chairman Kurt Hezner, William Cotey, Terry Howard, Howard Jaffe, Walter Oakley, and Andy Robinson.

Members absent: Mark Moore.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner; and Pat Sheeran, Project Engineer.

Commissioner Robinson moved, seconded by Commissioner Howard, to approve the March 23, 2009, Plan Commission meeting minutes, as amended.

Motion carried 6 - 0.

**OLD BUSINESS:** None.

**NEW BUSINESS:**

**PC 09-05 Village of Libertyville, Applicant  
118 W. Cook Avenue**

**Request is for a Text Amendment to Section 5-3.3 of the Libertyville Zoning Code to allow Drive-In Establishments accessory to Eating Places as a Special Permitted Use in a C-2, Downtown Community Commercial District.**

**PC 09-06 Village of Libertyville, Applicant  
118 W. Cook Avenue**

**Request is for a Text Amendment to Section 13-2.1 of the Libertyville Zoning Code in order to eliminate Perimeter Landscaped Open Space requirements along property lines abutting public rights-of-way with street frontage in a C-2, Downtown Community Commercial District.**

Mr. David Smith, Senior Planner, introduced two proposed Text Amendments to the Libertyville Zoning Code. The first is an amendment to allow Drive-In Establishments accessory to Eating Places as a Special Permitted Use in a C-2, Downtown Community Commercial District. The second is an amendment to eliminate the Perimeter Landscaped Open Space requirement along property lines abutting public rights-of-way with street frontage in a C-2, Downtown Community

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Commercial District. Mr. Smith noted that these amendments are consistent with the previously discussed changes to the Zoning Code. The elimination of the Perimeter Landscape Open Space along rights-of-way would allow buildings to be built up to the sidewalk to further extend the downtown experience to the C-2 District.

Commissioner Howard inquired if the setbacks would apply to freestanding signs. Mr. John Spoden, Director of Community Development, replied that setbacks would still be required for said signs.

Commissioner Howard stated that he supported the Text Amendments, but had reservations about eliminating the Perimeter Landscaped Open Space along Park Avenue.

Chairman Hezner inquired as to the status of non-conforming structures along Park Avenue.

It was clarified that any such structure cannot be removed by the owner and extend its non-conforming grandfathered status. However, if one of the structures is destroyed in a fire or other natural disaster, it could be re-built.

Commissioner Jaffe inquired as to whether the amendment could be proposed to exclude Park Avenue and only apply to Milwaukee Avenue. He stated that the land use and structures are different along Park Avenue and that it may be a good idea to exclude those from the Text Amendment.

Commissioner Cotey inquired as to how realistic it was for the C-2 District zoning to remain along East Park Avenue due to the existing shallow lot depth. He stated that the Commission may consider re-zoning the area from C-2 District to C-3 District up to the former Shell station site.

*In the matter of PC 09-05, Commissioner Howard moved, seconded by Commissioner Robinson, to recommend the Village Board of Trustees approve a Text Amendment to Section 5-3.3 of the Libertyville Zoning Code to allow Drive-In Establishments accessory to Eating Places as a Special Permitted Use in a C-2, Downtown Community Commercial District.*

*Motion carried 6 - 0.*

*Ayes: Hezner, Cotey, Howard, Jaffe, Oakley, Robinson*  
*Nays: None*  
*Absent: Moore*

*In the matter of PC 09-06, Commissioner Robinson moved, seconded by Commissioner Howard, to recommend the Village Board of Trustees approve a Text Amendment to Section 13-2.1 of the Libertyville Zoning Code in order to eliminate Perimeter Landscaped Open Space requirements along property lines abutting public rights-of-way with street frontage in a C-2, Downtown Community Commercial District, subject to the following condition: 1) The Text Amendment only apply to properties with frontage along Milwaukee Avenue in a C-2, Downtown Community Commercial District.*

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*Motion carried 6 - 0.*

*Ayes: Hezner, Cotey, Howard, Jaffe, Oakley, Robinson*

*Nays: None*

*Absent: Moore*

**PC 09-07 MJK Real Estate Holdings/Libertyville LLC, Applicant**  
**121-139 N. Milwaukee Avenue**  
**147-163 N. Milwaukee Avenue**

**Request is for a Special Use Permit for a Drive-In Establishment accessory to an Eating Place in a C-2, Downtown Community Commercial District.**

**PC 09-08 MJK Real Estate Holdings/Libertyville LLC, Applicant**  
**121-139 N. Milwaukee Avenue**  
**147-163 N. Milwaukee Avenue**

**Request is for a Site Plan Permit for a Drive-In Establishment accessory to an Eating Place in a C-2, Downtown Community Commercial District.**

Mr. Orlando Vivacqua, architect with Kurtz Associates, presented plans for a new retail development at the former Dodge site on South Milwaukee Avenue. Mr. Vivacqua outlined the request for a Special Use Permit and Site Plan Permit for a Drive-In Establishment accessory to an Eating Place in a C-2, Downtown Community Commercial District. He reviewed that the proposed north building is 8,640 square feet of retail and restaurant and the south building is proposed to be 9,848 square feet. As outlined in the Staff Report, a total of 94 required parking spaces are needed by Village Code. The proposal includes 100 spaces. The buildings have been architecturally approved by the Appearance Review Commission and located along the street frontage in line with the Village's Comprehensive Plan.

Mr. Vivacqua also review the requested variations for Perimeter Landscape Open Space to allow an encroachment along the north property line with a refuse enclosure and sidewalk.

A discussion then ensued regarding the proposed sign variations for the site. The Commissioners stated that no freestanding signs are proposed for the site.

Mr. Vivacqua noted that new elevations are presented this evening that incorporate additional glass and that the use of EFIS has been eliminated from the building.

Dr. Vincent Arpino, 109 W. Maple Avenue, submitted an exhibit demonstrating how the proposed dumpster location could affect his existing business. He requested that the dumpster be moved to the northwest corner of the site. He also stated that the water issue needs to be addressed at this site and that he was very concerned with the overland drainage. Dr. Arpino stated that the elevation change makes it possible for individuals on the subject property to see into his established business. He

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stated the snowplowing will be an issue in this area and that there needs to be additional landscaping on this property line.

Mr. Joe Newman, 126 E. Maple Avenue, representing St. Joseph's Parish, stated that the church is concerned with the extent of the proposed sign variations. He stated that the church is concerned that the sign package is not discreet and more refined like the signs in the downtown. He stated that the church does not wish to see a mass of signs on the proposal.

Chairman Hezner inquired as to whether the petitioner owns the property or has a contract to own. The reply being they have a contract to own the property.

Chairman Hezner inquired whether the petitioner met with all surrounding property owners. The reply being that the developer met with Dr. Arpino, but was not sure about the remaining property owners.

Chairman Hezner inquired regarding the construction timeline for the project. The reply being they would propose to start in early June to request building permits.

In regard to phasing, the petitioner stated that the proposal to do both of the buildings at one time could change due to the existing market conditions. If necessary, the south building would be constructed first with all improvements, including the parking lot, completed. The pad for the north building would simply be grassed over until such time that it was constructed.

Chairman Hezner inquired as to whether they had secured IDOT approvals for their access to Milwaukee Avenue. Mr. Curtis Smithson, RMGH Engineers, stated they have met with representatives from IDOT and have received preliminary approval for their striping and left-hand turns. He stated they are waiting on a letter confirming approval.

Chairman Hezner stated that he was very concerned that the petitioner did not propose the development as a Planned Development. He stated it will be very difficult for them to prove a hardship or practical difficulty on the number of variations requested for the site. He also stated that the petitioner may consider lowering the light standards in the rear portion of the property to ten (10) feet. He understood that the proposal meets current Code, but there still may be light glare issues from the site that have to be dealt with. He also stated that he has a concern with the lack of detention on the site and how the overland flow will be addressed.

Mr. Pat Sheeran, Project Engineer, stated that as proposed, the overland flow will be addressed through new structures.

Mr. Smithson stated that the 100 year event will remain without the confines of the proposed structures as designed.

Chairman Hezner inquired if they have secured an easement for the proposed storm drainage for the property to the north. Mr. Smithson replied that they have not yet secured an easement from Dr.

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Arpino, but clarified that there will be less impervious area on the site with the proposed development than with the existing paved areas.

Chairman Hezner stated that he understood IDOT requirements would not allow more than a 35 foot wide access way to Milwaukee Avenue. He stated a taper would have to be involved within the site. He then noted that the petitioner is proposing an extravagant sign variation request including number, size, and location. He also stated that he is concerned about the plane of the building and that the facade does not have any undulation which might further relate it to the downtown. He stated he was pleased with the overall layout for the site and the use of masonry for the building.

Commissioner Robinson stated that he also liked the layout for the site. He questioned whether additional handicap parking would be necessary for the development. He stated he did not support the phasing plan approach and that if they had to go with one building at a time, that the north building should be constructed first. He stated he was very concerned with the number and size of the proposed signs. He stated that using the other Dunkin Donuts locations and their supposed lack of signage as an argument to increase signage at this location does not work. He stated that the lot to the north is an issue as it is difficult for traffic to egress from the site during morning peak hours.

Commissioner Howard stated that the development should be a Planned Development. He stated that there should be a Unified Sign Criteria, but that what they are proposing is excessive for the site and that variations of this extreme are not necessary. He requested that the lights in the back be lowered to ten (10) feet per Chairman Hezner's suggestion. He also stated that the site drainage needs to be further understood and that the petitioner should clarify their final drainage route.

Dr. Arpino stated that the developer had only talked with him once. He stated he was not opposed to talking with their engineer.

Commissioner Howard stated that the developer needs to sit down with all surrounding residents and work out the issues before coming back to the Plan Commission.

Commissioner Jaffe stated that he was more agreeable with the proposed signs than his fellow Commissioners, but that he would support a Planned Development for this site. He stated there should be consistency with the sign program. He requested that the petitioner consider moving the north dumpster as previously discussed. He also stated that if the project is phased, the entire parking lot should be constructed at the initiation of construction.

Commissioner Cotey concurred with Commission Jaffe on the relocation of the north dumpster. He stated a concern with traffic flow during peak hours for the site and encouraged the developer to meet with all of the neighbors.

Mr. Rolf Kilian, 3100 W. Higgins Road, Hoffman Estates, stated that the site has an acceptable level of service for traffic. He stated the access is located opposite Hurlburt Court and that the exit from the drive-thru is a right turn only.

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Commissioners Cotey and Oakley stated their concerns regarding the back up of traffic during the peak morning hours.

Commissioner Cotey inquired as to whether the drive-thru exit could be further narrowed. Mr. Kilian stated that could be provided.

Commissioner Cotey stated that he was concerned that the building looks a little flat on the east elevation. He stated the petitioner should re-think signage for the site and provide more architectural interest reflecting the history of the downtown. He also stated that the petitioner may consider some conservation issues in regard to the parking lot with the use bio-swales and possible longer-rooted grasses.

Commissioner Oakley stated that the plan should be a Planned Development and that the variations as proposed are self-created.

Chairman Hezner agreed that the variations are self-created and that this is not a unique site and there is always another remedy. He further stated his position that the development should be a Planned Development and that the petitioner should notice as such for the next meeting.

*In the matters of PC 09-07 and PC 09-08, Commissioner Jaffe moved, seconded by Commissioner Oakley, to continue these items to the May 18, 2009, Plan Commission meeting.*

*Motion carried 6 - 0.*

**COMMUNICATIONS AND DISCUSSION:**

Mr. John Spoden, Director of Community Development, stated his and the Village's appreciation for Chairman Hezner and Commissioner Jaffe's service noting it was their last meeting. He stated that projects that came before them were improved in many ways thanks to their involvement. He specifically noted Chairman Hezner's attention to details on every project that has come before the Commission and thanked both of them again for their service.

Commissioner Cotey moved and Commissioner Robinson seconded a motion to adjourn.

Motion carried 6 - 0.

Meeting adjourned at 8:48 p.m.