

MINUTES OF THE PLAN COMMISSION
September 21, 2009

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 8:23 p.m. at the Village Hall.

Members present: Chairman Mark Moore, Scott Adams, William Cotey, Walter Oakley, Terry Howard, and Andy Robinson.

Members absent: Robert Guarnaccio.

A quorum was established.

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

OLD BUSINESS:

PC 09-14 Timothy Morgan Associates, Applicant

Request is for a Text Amendment to Section 13-9.3 of the Libertyville Zoning Code relating to the maximum permitted height of fences in the I-3 and O-2 Districts.

Mr. David Smith, Senior Planner, stated that the petitioner was before the Plan Commission at their July 13, 2009 and August 10, 2009 meetings requesting to amend the Zoning Code in order to allow fences to have a maximum height of 15 feet in the O-2 and I-3 Districts. Mr. Smith stated that this is an increase from the current regulation of a 10 foot maximum height for those districts.

Mr. Smith stated that at the second appearance, modifications were proposed so that the fence shall not exceed a height of ten (10) feet, as measured from the lowest point of the fence exposed above ground to the highest point of the fence; and that the highest point of the fence, as installed upon the berm, shall not exceed a total height of fifteen (15) feet above grade, as defined by this Code; and that the berm shall be landscaped and maintained on the finished side of the fence facing the exterior of the lot in accordance with the requirements of Sections 13-2.2a and 13-2.2b of this Code, notwithstanding the fact that such requirements may not otherwise be applicable to the zoning lot upon which the fence and berm are erected.

Mr. Smith stated that during the course of the August 10, 2009 Plan Commission meeting, the Plan Commission made a motion to continue this text amendment request to the September 14, 2009 meeting. Mr. Smith stated that the petitioner then requested to be continued to September 21, 2009 Plan Commission meeting.

Mr. Smith stated that the petitioner has submitted revised and additional application materials to be considered by Staff and the Plan Commission. Mr. Smith stated that the Plan Commission requested that the petitioner give consideration to limiting the text amendment to the I-3 District only and the

Minutes of the September 21, 2009, Plan Commission Meeting
Page 2 of 6

petitioner has concurred. Mr. Smith stated that the petitioner has included an exhibit that indicates those I-3 District boundary lines that would be impacted by the proposed fence/berm height Zoning Code text amendment. Mr. Smith stated that the petitioner has provided a more detailed narrative with information that helps to explain the background behind the Zoning Code text amendment request.

Mr. Smith stated that the amendment as proposed will allow owners to construct fence/berm screening to not exceed 15 feet in height in the I-3 District along the property line that parallels a public right of way.

Mr. Tim Morgan, petitioner, stated that the proposed text amendment has been revised to narrow the affected zoning districts to the I-3 District and only parallel to roadways.

Ms. Laurie Renz, 816 East Rockland Road, stated there has been an improper public notice given for this case therefore making the application fraudulent. She stated that Mr. Morgan did not represent any property owner in his application and that he should not be allowed to proceed at all. She stated that the petition is presented under false pretenses. She stated that to proceed is not right or fair.

Chairman Moore asked the Village Attorney David Pardys and Director of Community Development John Spoden if proper public notice was provided. Mr. Spoden stated that the notice was correctly done. Mr. Pardys stated that the public notice was correctly done.

Ms. Renz stated that the issue is about a berm on Seventh Street. She stated that the process taken thus far has been incorrect and that the application should be null and void.

Mr. Pardys stated that there is no bearing on who benefits from the application. He stated that it is not an issue for the Village as to who the applicant is or who the applicant represents or doesn't represent relative to a request to amend the Zoning Code.

Ms. Renz stated that she is concerned that this petition is an attempt to change the law in order to fix a mistake that was made with the berm on Seventh Street. She stated that she is concerned about how lightly this process is being taken.

Mr. Pardys stated that most requests to amend the Zoning Code are submitted by an applicant with a self-interest motivation. He stated that the decision to amend the Zoning Code should not be made lightly.

Mr. Morgan stated that the fence and berm already constructed along Seventh Avenue is a benefit to the residential neighbors. He stated that the proposed text amendment is in harmony with the Comprehensive Plan.

Mr. Joe Mullen, 414 South Seventh Avenue, stated that he agrees with the existing berm and fence along Seventh Avenue. He stated that he disagrees with changing the law to fix a mistake.

Minutes of the September 21, 2009, Plan Commission Meeting
Page 3 of 6

Chairman Moore asked Mr. Mullen if he understood which properties would be affected by the proposed text amendment. Mr. Mullen stated that any number of properties affected by the proposed text amendment is too many.

Ms. Renz read an email dated August 5, 2009 written from Staff Karen Marren to Director of Community Development John Spoden regarding a list of maximum allowed fence heights in other communities.

Mr. Morgan stated that if they rescinded their request for the Zoning Code text amendment in order to request a fence height variation for the Seventh Avenue berm and fence already constructed, he anticipates that the variation would not get approved. He stated that the amendment is better and will preserve the existing fence and berm along Seventh Avenue.

Mr. William Westerman, 1752 Cedar Glen Avenue, stated that the petitioner's application has been amended to include a more comprehensive narrative that more fully explains the background and reason for the requested text amendment. He stated that the bank issued a letter of credit for the work done on Seventh Avenue and that the berm and fence was part of the plan. He stated that although the fence and berm were not constructed in accordance to the approved plan, it is a high quality constructed fence and berm. Mr. Westerman stated that the proposed text amendment solves a problem and is applicable to other parts of town. He stated that consideration could be given to adding an additional requirement to include a Site Plan review as part of future fence/berms of such height that the amendment proposes.

Ms. Lisa Newell, 428 South Seventh Avenue, stated that the property owner of the subject Seventh Avenue fence/berm should fix the problem and not change the law.

Commissioner Robinson stated that he would be in favor of a fence height variation and not in favor of a text amendment. He stated that other residents adjacent to other I-3 Districts will not have an opportunity to voice their opinion if the text amendment proceeds.

Mr. Pardys stated that a variation request for this situation would require standards that would be difficult to meet as a self-created hardship should be considered.

Commissioner Howard asked if the fact that the developer has disappeared has any bearing on the situation. Mr. Pardys stated that the current owner has assumed the condition of the site from its predecessor in title and is subject to the Village Codes just the same.

Chairman Moore asked how the ownership has changed. Mr. Spoden stated that the ownership structure has been altered, but the basic ownership remains the same.

Commissioner Howard stated that he could support the text amendment proposal provided that it includes a Site Plan Permit review component.

Minutes of the September 21, 2009, Plan Commission Meeting
Page 4 of 6

Mr. Spoden stated that the inclusion of a Site Plan Permit may require additional amendments to the Zoning Code. He stated that perhaps consideration could be given to requiring a fence/berm proposed at such a height as discussed could be a Special Use Permit, but the problem is that a fence and berm are not uses.

Commissioner Cotey reviewed the petitioner's Zoning Map exhibit that indicated the potential affected areas of the proposed text amendment. He stated that he is concerned about any of the affected parcels in the I-3 District having the ability or enough land area to accommodate a berm of the suggested magnitude. He made reference to Chapter Two of the Comprehensive Plan relative to the improvement of existing business areas. He stated that the Plan Commission is charged with reviewing all text amendments.

Commissioner Adams stated that he is not in favor of the proposed text amendment.

Mr. Pardys reviewed the Standards for a text amendment.

Commissioner Oakley stated that he is concerned about using a Zoning Code text amendment to fix a mistake. He stated that there should be a better way and that he is not supporting the propose text amendment.

Chairman Moore stated that the existing fence/berm and its landscaping along Seventh Avenue is aesthetic, but in violation of the Zoning Code. He stated that it will be difficult to support as it is a self-created situation and it is difficult to support the proposed text amendment.

Mr. Westerman stated that they have met 8 out of the 12 standards for amendments, and the other four are not applicable to the text amendment request. He stated that this amendment will solve a problem.

Ms. Renz stated that her objections have nothing to do with the wind turbine installed on the Aldridge Business Park.

Chairman Moore asked the petitioner what they would like the Plan Commission to do tonight. Mr. Morgan stated that he would like for the Plan Commission to render their recommendation.

Mr. Pardys stated that additional sections of the Zoning Code would have to be amended in order to incorporate the Site Plan Permit requirement.

Chairman Moore stated that he recommends that the petitioner request their case be continued to a later meeting date in order to provide an opportunity for the petitioner and Staff to incorporate additional language into the proposed text amendment that includes a Site Plan Permit requirement as part of a fence/berm of the magnitude contemplated by the proposed text amendment.

Mr. Morgan stated that he agreed to the continuance.

Minutes of the September 21, 2009, Plan Commission Meeting
Page 5 of 6

In the matter of PC 09-14, Commissioner Robinson moved, seconded by Commissioner Howard, to continue this item to the October 26, 2009, Plan Commission meeting.

Motion carried 6 - 0.

NEW BUSINESS:

PC 09-15 American Sign, Applicant
751 E. Park Avenue

Amendment to the Planned Development Final Plan in order to construct a freestanding business sign in a C-3, General Commercial District located at 751 E. Park Avenue.

Mr. David Smith, Senior Planner, stated that the petitioner, Tricoci University, is seeking approval to install a freestanding business monument sign on property located in a C-3, General Commercial District at 751 E. Park Avenue. Mr. Smith stated that the proposed sign stands approximately 7 feet in height and is approximately 7.5 feet in width. Mr. Smith stated that the proposed sign area is approximately 39 square feet. The sign is proposed to be internally lit with a predominately black background and the secondary color is proposed to be green.

Mr. Smith stated that the Tricoci University tenant occupies approximately 9,650 square feet of a 90,500 square foot building and the Daz Furniture store occupies the remaining portion. Mr. Smith stated that the Tricoci University and Daz Furniture building was part of a Planned Development that included parking lot improvements and the construction of a 4,540 square foot Culvers Restaurant at the east end of the site. Mr. Smith stated that both buildings, along with parking lot improvements, occupy two parcels of land that comprise approximately five acres. Mr. Smith stated that the Tricoci University/Daz Furniture building was a rehab and adaptive re-use of the previously existing Dickson Weatherproof Nail Company and the Culvers Restaurant was new construction. Mr. Smith stated that a rezoning from an I-1 District to C-3, General Commercial District was requested concurrently with the Planned Development request when the development was approved in August of 2001. Mr. Smith stated that prior to the occupancy of the Daz Furniture store, its tenant space was occupied by O'Reilly's Fine Furniture store who was the Planned Development applicant.

Mr. Scott Bailey, American Signs, agent for petitioner, presented the Tricoci sign plan to the Plan Commission.

Mr. John Spoden, Director of Community Development stated the existing hedge may have to be trimmed in order to move the sign out of the Site Distance Triangle.

Chairman Moore stated that the proposed sign should be moved outside of the Site Distance Triangle.

Minutes of the September 21, 2009, Plan Commission Meeting
Page 6 of 6

Commissioner Howard stated that he is not in favor of a third monument sign for the Planned Development or consideration should be given to making all of the monument signs smaller.

Chairman Moore asked the petitioner what he would like for the Plan Commission to do regarding their petition request. Mr. Bailey asked for a vote.

In the matter of PC 09-15, Commissioner Robinson moved, seconded by Commissioner Oakley, to recommend the Village Board of Trustees approve an Amendment to the Planned Development Final Plan in order to construct a free-standing business sign in a C-3, General Commercial District located at 751 E. Park Avenue, subject to the following condition: 1) The sign be relocated outside of the Site Distance Triangle.

Motion carried 5 - 1.

Ayes: Moore, Adams, Cotey, Oakley, Robinson
Nays: Howard
Absent: Guarnaccio

COMMUNICATIONS AND DISCUSSION:

Mayor Terry Wepler addressed the Plan Commission. He stated that he has directed Village Staff to remove the residential F.A.R. regulation language out of the draft amendment from the Zoning Code and to give further consideration and analysis to instituting an Appearance Review Commission review of single family homes so that new construction can be assessed for its compatibility with the residential neighborhoods.

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

Motion carried 6 - 0.

Meeting adjourned at 10:20 p.m.