MINUTES OF A REGULAR MEETING OF THE

VILLAGE OF NEW LENOX PLAN COMMISSION

Held in the New Lenox Village Hall, 1 Veterans Parkway

Tuesday, February 21, 2012 7:00 p.m.

#12-02-B

CALL TO ORDER

A regular meeting of the Village of New Lenox Plan Commission was called to order at 7:02 p.m. by Chairman Mark Muehlnickel, with a quorum present.

Chairman Mark Muehlnickel led the Pledge of Allegiance.

ROLL CALL

Upon roll call, the following were present: Chairman Mark Muehlnickel, Commissioners Rob Moss, John Kuchler, Gary Berner and Annette Boyd.

The following were absent: Commissioners Tony Orsini and Joan Byerley.

Also present were: Planning and Development Administrator Robin Ellis and Senior Planner Jeff Smith.

REQUEST FOR SPECIAL USE FOR A PRELIMINARY P.U.D. PLAT FOR SENIOR HOUSING (Public Hearing - Continued)
Lenox Place
3-acre site located along the east side of Calistoga Drive, approximately 265 feet south of Laraway Road
William Bolker / Lincoln-Way Development Corporation – Petitioner
Cass Wennlund – Attorney

Chairman Muehlnickel explained the rules for the upcoming public hearing. Chairman Muehlnickel then invited public speakers for the public hearing to be sworn in. The speakers stood, raised their right hands, and were sworn in by Planning and Development Administrator Robin Ellis.

Chairman Muehlnickel entertained a motion to continue the public hearing at 7:05 p.m. Motion was made by Commissioner Kuchler, seconded by Commissioner Berner. Voice vote was taken. Motion carried.

Attorney Cass Wennlund was present on behalf of Lincoln-Way Development Corporation.

Mr. Wennlund explained that this is a re-submittal of the previous plan. The number of units for the development has been reduced from 66 units to 50 units. The number of parking spaces has been reduced from 132 to 102 spaces, and meets the Village's request for a minimum of 2 parking spaces per unit. The number of two-bedroom units have been reduced from 16 to 12 and the balance of the units will be one-bedroom. The entire east wing of the building has been eliminated to provide more green space. Additional sidewalks have been added. A 20-foot green area has been incorporated between the building and sidewalk and parking areas on the west and east sides of the building. The four handicapped accessible parking spaces have been moved closer to the building entrance. The street crosswalk has been moved to the south. A 15- by 60-foot paver patio has been added outside of the community/club room, which will have retractable awnings for shade. A permanent seating area including four benches is located east of the patio, next to the 9-hole putting green. A concrete drive to the building provides an interior garbage dumpster room. A sidewalk has been added to the shuffle board area. The fire hydrants have been relocated to the grass area. There is no shared parking on the current plan.

Senior Planner Jeff Smith began the Staff Report.

As stated at previous meetings, the property is zoned C-3 General Business District and the Comprehensive Plan recommends senior housing to be located near planned or existing shopping centers, such as Calistoga Plaza.

The means to approve a senior housing project on the property would be to submit it as a Planned Unit Development, which requires an enhanced project and a number of amenities in order to justify any relief from Village Code, as well as provide a senior housing project in a commercial subdivision.

The main purpose for a P.U.D. is to provide a high quality project that efficiently and creatively utilizes a property and is in the public interest.

Staff had a number of concerns with the previous plan. The changes made to the plan were recommended by Staff. Some of these changes include providing additional open space, particularly recreation open space; scaling-down the building; removing the east wing; positioning the building at least 315 feet from the nearest lot in Water Chase Estates to the east; the majority of the units will be one-bedroom; and added site amenities as well as the high-quality architecture. The conditions to be placed in the P.U.D. ordinance would insure a compatible development and support the proposed density and number of units for this project.

Mr. Wennlund did not mention that Staff recommended reducing the curb cuts along the north access drive, as well as changing the traffic flow in front of the building. The curb cut along Calistoga Drive would now be a full-access for ingress and egress. Along the access drive north of the property, the first curb cut would be an exit only. These changes make the site more efficient for interior traffic flow and safety for entering the sitem and also the cross-access to the south.

There are 2 parking spaces per unit and there is no shared parking being proposed. A crosswalk would be installed to allow residents to walk to nearby shopping opportunities.

The ordinance approving the P.U.D. will have a number of conditions, including that the project will be owned and operated by a private entity. This will not be a tax-exempt property.

Private covenants will have to be submitted with the final P.U.D. plat, and will include responsibilities of the management group including building and site maintenance and the enforcement of the age restriction of 62 years of age and older.

The building will be operated under the definition of Housing for Older Persons, which is a requirement of the Fair Housing Act (FHA).

A detailed market study is to be submitted at the time of final P.U.D plat application.

The Village will require a deed restriction on the property stating that for the life of the project, not for a specified period of time, the age requirement is restricted to the age of 62 years and older.

Based on these changes, Staff is comfortable endorsing the Findings of Fact as outlined in the Staff Report. Staff recommends that the Plan Commission adopt the Findings of Fact.

Staff recommends approval of the preliminary P.U.D. plat, subject to approval of preliminary engineering plans, preliminary building elevations and the other items mentioned in the Staff Report.

Chairman Muehlnickel asked if the age restriction of 62 years has changed from 50 years to perpetuity.

Jeff Smith responded that the age restriction will be put in the ordinance granting the P.U.D.; so that there is no concern that the age restriction can be changed in the future.

Gail Truitt of 1985 Edgeview Drive stated his assumption that the age-restriction for government-funded senior housing is 55 years of age and older. There is also a provision that at least one person of the age of 62 years of age within each family must live in the unit, and he assumes that younger people would be able to occupy the facility. Mr. Truitt wanted to know if the Village can change the federal regulations for that tax grant money, or if it is federally mandated.

Robin Ellis informed that a similar project was approved approximately a year ago and the Village was capable though the P.U.D. and through the agreements with the developer to have an age restriction limit of 62 years and older for all residents. The Village Attorney reviewed this situation and advised that it was permissible. Ms. Ellis will review this issue with the Village Attorney again.

Chairman Muehlnickel commented that if Mr. Truitt's information is correct, it would put Mr. Bolker's project in jeopardy for approval for state grants.

Mr. Truitt asked which tax credit the petitioner is seeking.

Attorney Wennlund responded that the petitioner is seeking the Low Income Housing Tax Credits. He will investigate the age restriction issue. He also added that in order to qualify for the tax credits, the developer must meet the requirements, but there is nothing stating that the particular municipality cannot make the requirements more stringent. To qualify, the developer must at least meet the minimum requirements.

Mr. Truitt asked if the developer has successfully accomplished restricting the age limitation to each tenant being 62 years of age or older and wanted to know if anyone has challenged this stipulation made by the developer.

Mr. Truitt challenged what the U.S. Fair Housing Act stipulates for age requirements versus what the developer is proposing to incorporate.

Ms. Ellis interjected and assumed Mr. Truitt was referring to the text in the draft amendments to the Annexation Agreement, which is not the subject of the public hearing and will be discussed at the Village Board public hearing on March 12, 2012. The Plan Commission has no authority over the amendments to the Annexation Agreement.

Mr. Truitt wanted to know if there is going to be a low-income qualifier.

Lucy Vittori of 2092 Viewside Drive referred to Page 20 of the Guide to Development Review Process issued by the Village, dated October 25, 2011. Ms. Vittori quoted text regarding the installation and removal of public hearing signs, and questioned whether the signs were posted for the public hearing.

Robin Ellis responded that the required public hearing sign was posted before the initial public hearing and was posted at least 15 days prior to the public hearing.

Ms. Vittori claims that many of her neighbors were unaware of the proposal and wanted to know why the sign did not remain in place until the Village Board voted on the project.

Chairman Muehlnickel clarified that the sign was displayed and met all requirements.

Norma Cason of 2049 Water Chase Drive displayed pictures of enhanced landscaping that Mr. Bolker planted for the Calistoga Plaza project, but since then, the landscaping has not been maintained, nor has the sprinkler system been utilized. Other pictures were displayed that depicted a lack of maintenance for the landscaping and waste items such as a tank and a television that exist on the property.

Mr. Bolker is promising enhanced landscaping for the senior development and Ms. Cason is concerned with the greenery at the senior development.

Ms. Cason would not have built her home at that location if she knew a 3-story building would be constructed and feels it will have a negative impact on the aesthetics of the area.

Cynthia Staskiewicz of 2118 Viewside Drive is a registered nurse and feels that the health and safety of a vulnerable group of residents may be compromised by this decision. The statistics from the American Heart Association and the CDC state that cardiovascular disease is the number one cause of death and disability in the U.S., which refers to strokes and heart attacks.

Ms. Staskiewicz was concerned that the route to the new Silver Cross replacement hospital would be a safety concern to transport patients to the hospital, because of the train tracks.

Sally Wirt of 1997 Edgeview was present to display pictures of a powerpoint depicting the Village's Future Land Map.

Ms. Wirt gave her interpretation of the Village's map and the zoning classifications. She also wanted to go on record that she holds nothing against senior citizens. Her issues include the size of the development and the size of the lot that it is located on.

Ms. Wirt discussed high and low density as she understood it from the Village's Comprehensive Plan.

John Pfeffer of 2123 Viewside Drive referred to the display labeled "Lenox Place Exhibit D," that was depicted at the February 7, 2012 Plan Commission meeting. The issue Mr. Pfeffer has is with Village Code 106-355 (2) a. 2. that refers to the location, design and type of dwelling units proposed. The following recommendation shall be taken into consideration: Avoid regular spacing and building placements that will be viewed as continuous walls from important vantage points. Mr. Pfeffer feels that the former rendering appears to have continuous walls and he did not see any breaks.

Chairman Muehlnickel intervened and noted that there are several breaks in the building. He pointed out the breaks on the rendering and confirmed that there are breaks in the building walls.

Mr. Pfeffer noted that the other buildings in the surrounding area comply with the Village Code regarding the monotony code with a variety of heights and articulation, and expressed his opinion that the senior housing building does not comply with the Village Code in the same manner. He feels that development of vacant lots in Water Chase will be adversely affected by the construction of this 3-story building. He is not against senior housing in New Lenox, but is opposed to the location and size of the proposed building and feels a hotel would be more acceptable at this location.

Tom Hoffmeister of 2057 Edgeview Drive feels that Water Chase subdivision is the largest and fastest growing subdivision in New Lenox and does not want potential homeowners to refrain from building new homes because of the senior development. He also complained about the walking path in the subdivision that has not been completed or continued.

Mr. Hoffmeister feels that the Plan Commission should investigate some of Mr. Bolker's statements before a recommendation is made to the Village Board. He feels Mr. Bolker was not truthful about his contribution of $1,000,000.00 for the construction of Laraway Road.

David Vittori lives with his parents in Water Chase subdivision until his home is completed in the Taylor Glen subdivision, and wanted to know how many people are allowed to occupy each senior housing unit.

Attorney Wennlund explained that the income qualifiers are adjusted each year. If the developer does not get the tax credit financing, the development will not be built. Those restrictions change every year and the Staff can confirm this information directly with the State.

He has drafted annexation agreements for two other senior developments that qualify for Housing for Older Persons, in different communities, which added further restrictions upon the agreements between the developer and the Village. The restrictions are minimum restrictions to qualify.

The public should rely on the Village Staff as counsel to decide whether the restrictions are enforceable or not. The Annexation Agreement amendments will be reviewed by the Village Attorney for clarification.

The current landscape maintenance business and daycare is not owned by Mr. Bolker.

Attorney Wennlund was not aware of the tank and agreed that the property should be maintained.

The Village does not want stockpiled top soil for long periods of time during development.

This is a commercial property and there is no base density. Also, it is not true that the areas surrounding this development are estate zoning. The lots that comprise the residential portion of the Calistoga development are detached townhomes on down-sized lots. Across the street to the north, the Village approved Village Station, a transit-oriented development. That development included a vast array of densities, multi-story structures, townhomes and different lot sizes with urban types and streetscapes.

There are different roof lines to this building, such as the two portions that protrude to the front of the building and a dropped roofline also in the front.

The cost for Laraway Road that Mr. Bolker referred to was just his portion, and Mr. Wennlund drafted the road construction and contribution agreement that was approved by the Village.

Mr. Bolker's portion was over $1,000,000.00, Silver Cross' portion was over $1,500,000.00, and the developers of Water Chase subdivision contributed over $400,000.00. In fact, Mr. Bolker was only referring to his portion.

The number of residents allowed in each unit is two people, whether it is a one-bedroom unit or a two-bedroom unit.

Chairman Muehlnickel asked Mr. Wennlund if he could request that Mr. Bolker have the tank, television, and any other debris cleaned up on the Calistoga property.

Mr. Wennlund agreed.

Sally Wirt stated that the Village Code states that you have to look at the surrounding buildings and layout and look at the level and quality of how it is defined. She feels that the roof lines and color schemes of Calistoga Plaza make the development look like a little village. She questioned the viability of the building design.

Mr. Truitt questioned the term "very low-income seniors," and would not like people in that category to be neighbors. Mr. Truitt requested information on the income qualifications.

Ms. Vittori referred to the February 7, 2012, Plan Commission meeting when Mr. Bolker stated that he wanted to restrict this development to New Lenox senior citizens and to incorporate an amendment that they would get first priority. She wanted to know if Mr. Bolker can realistically accomplish the priority list.

Robin Ellis informed that the Village is still seeking verification on that statement, but does not feel this issue has any bearing on the land use issue. The Village cannot dictate how the project is financed or who lives at the facility, other than the age restriction. If the developer has the ability to give New Lenox residents preferential treatment, it may be sought. From a legal standpoint, residents from other areas and other states can apply to live at the facility and the Village has no authority to give preferential treatment.

Ms. Vittori wanted to know if Trinity Services goes out of business, who will monitor the amount of tenants living in each unit. She also wanted to know what would happen to this facility if Mr. Bolker went bankrupt.

Attorney Wennlund stated that upon approval, there must be a not-for-profit partner.

Mr. Bolker would like to offer these units to New Lenox residents, but should welcome people from all other areas. New Lenox consists of residents that lived in other places at one time, and not all residents were born in New Lenox.

Ms. Cason has a handicapped son and is aware that Trinity Services helps disabled people and people with behavior disorders. Their mission statement says nothing about senior housing.

She is wondering how the petitioner can use a not-for-profit corporation's status to obtain Illinois tax credit funds to build a structure that Mr. Bolker will profit from. Mr. Bolker stated that he would give 30% of his profits to Trinity Services in order to use their name.

Commissioner Boyd stated that it is a requirement to use a not-for-profit corporation as a partner, in order to obtain the tax credit.

Ms. Cason commented that the stipulation does not sound kosher to her.

Chairman Muehlnickel entertained a motion to close the public hearing at 8:11 p.m. Commissioner Boyd made a motion, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion to recommend that the Plan Commission adopt the Findings of Fact for the proposed preliminary P.U.D. plat for Lenox Place to be located on this 3-acre parcel, Lot 5 and a portion of Lot 7, in Calistoga Plaza. Commissioner Boyd made a motion, seconded by Commissioner Kuchler. Roll call vote was taken. Ayes: Chairman Muehlnickel and Commissioners Moss, Kuchler and Boyd. Nays: Commissioner Berner. Motion carried.

Chairman Muehlnickel entertained a motion to recommend approval of a Special Use for the preliminary P.U.D. plat for the 50-unit independent living senior housing development known as Lenox Place to be located on the subject 3-acre property, Lot 5 and a portion of Lot 7 in Calistoga Plaza, subject to preliminary engineering approval, preliminary building elevation approval, final landscaping, the ordinance approving the preliminary P.U.D. plat including language stating that the Village retains final approval of the landscaping plan at the time of final P.U.D. plat approval. Also requiring the submittal of draft private covenants addressing items such as site and building management responsibilities, an enforcement of the age-restriction, along with a detailed market study at time of final P.U.D. plat submittal. The petitioner must successfully renegotiate amendments to the executed Annexation Agreement for Calistoga to allow for the proposed unit count and other development details for Lenox Place. Commissioner Moss made a motion, seconded by Commissioner Kuchler. Roll call vote was taken. Ayes: Chairman Muehlnickel and Commissioners Moss, Kuchler and Boyd. Nays: Commissioner Berner. Motion carried.

OLD BUSINESS

None.

NEW BUSINESS

Robin Ellis announced that there will be a regular Plan Commission meeting on March 6, 2012, and a text amendment for driving schools will be on the agenda.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 8:18 p.m. Motion was made by Commissioner Boyd, seconded by Commissioner Moss. Voice vote was taken. Motion carried unanimously.

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Lorrie M. Sowko – Secretary

MINUTES OF A REGULAR MEETING OF THE

VILLAGE OF NEW LENOX ZONING BOARD OF APPEALS

Held in the New Lenox Village Hall, 1 Veterans Parkway

Tuesday, February 21, 2012 7:00 p.m.

#12-02-B ZBA

CALL TO ORDER

A regular meeting of the Village of New Lenox Zoning Board of Appeals was called to order at 8:18 p.m., by Chairman Mark Muehlnickel, with a quorum present.

ROLL CALL

Upon roll call, the following were present: Chairman Mark Muehlnickel, Commissioners Rob Moss, John Kuchler, Gary Berner and Annette Boyd.

The following were absent: Commissioners Tony Orsini and Joan Byerley.

Also present were: Planning and Development Administrator Robin Ellis and Senior Planner Jeff Smith.

REQUEST FOR VARIANCES (Public Hearing)
323 Old Hickory Road
VFW Post # 9545 – Property Owner
Bill Walter – Agent

Chairman Muehlnickel entertained a motion to open the public hearing at 8:19 p.m. Commissioner Boyd made a motion, seconded by Commissioner Berner. Voice vote was taken. Motion carried.

Bill Walter was available to represent VFW Post #9545 to request variances for a sign.

Mr. Walter is requesting a sign to be located at the corner of 323 Old Hickory Road and Vine Street. He introduced the past commander, Ed Kadela and Lieutenant Colonel Ramey who is the commander for the ROTC program at Lincoln-Way West School.

The case is to add a third category to the electronic message center sign ordinance for the veteran's organizations and/or for not-for-profit groups. Two signs allowed in the Village are located at the Village Hall and also on Route 30 at the Methodist church.

Other electronic display signs are located within this location's proximity in New Lenox Township under the county's jurisdiction, which are not located within the Village limits.

Mr. Walter feels that the VFW should have the same allowance that the Methodist church received.

The purpose of the sign request is to inform the local organizations and the residents to be aware of their presence, banquet hall rental, and to make new residents aware of their location. The sign will also be utilized to advertise events such as fish fries, bingo, and other local activities. A permit has been issued for a non-electronic message center sign with a changeable reader board, and meets the Sign Code requirements.

Senior Planner Jeff Smith began the Staff Report.

The Staff Report gave the history of the amendments to the Sign Code starting in 2006 when a major overhaul was done. The Village Board discussed the issue of electronic message center signs. There were a number of requests from commercial uses to allow electronic message center signs in commercial zoning districts. The Village Board felt that these signs should not be allowed in commercial zoning districts but could be allowed for public uses defined as schools, parks and the Village Hall, and later it was expanded to religious uses. In both religious and public uses, there are still concerns and stipulations. These concerns and stipulations are as follows:

1. The sign must be placed along an arterial roadway.

2. The sign cannot be placed within 250 feet of land recommended or currently zoned for residential uses.

Vine Street is a minor street and is not an arterial roadway. The VFW is not-for-profit, but it is not a defined public use under the Zoning Ordinance. The property is surrounded by residential zoning and land uses.

It is the opinion of Staff that the request does not satisfy the three criteria for allowing this type of sign.

1. The petitioner could achieve a return with the sign permit that was previously submitted to the Building Department, which has a manual changeable copy portion to advertise the events at the VFW. There are other means of advertising such as the internet, newspaper, etc., and the VFW has been in existence for many years already.

2. There needs to be unique circumstances, and Staff feels that there are no unique circumstances with this case. There is a concern that a precedent would be set for other not-for-profit uses requesting electronic message center signs, or possibly a commercial use requesting that type of sign. A church or school within 250 feet of a residential area could possibly request a variance for an electronic message center sign.

3. If the variance is granted, it could alter the character of the area. The property is surrounded by residential uses, and installing an electronic message center sign would not be in character with the area. It could pose as a nuisance to the nearby residences during evening hours.

Staff is recommending denial of the variance request. The Sign Code is stringent and does not allow for an electronic message center sign for this property or use.

Chairman Muehlnickel asked if a pole sign is allowed for this location.

Jeff Smith replied that a pole sign is allowed, and the petitioner has already received a permit for a pole sign with a manual interchangeable copy portion on the bottom, which can also be lighted.

There have been many inquiries from commercial uses for electronic message center signs, and these were not allowed.

Mr. Walter stated that if the ZBA is not going to recommend approval of the proposed sign, then he will proceed to request the variance from the Village Board.

Chairman Muehlnickel entertained a motion to close the public hearing at 8:30 p.m. Commissioner Boyd made a motion, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Commissioner Berner asked if the VFW currently has a sign at Route 30 and Vine Street.

Robin Ellis informed that the sign located at Route 30 and Vine Street is grandfathered, and because it is non-conforming, it would not be allowed to be erected again.

Mr. Walter added that there is a sign at Route 30 and Vine Street. The sign was put up by a member of the club that worked for the Rock Island Railroad. The Rock Island Railroad was bought out by Metra. Metra cut the power to that sign but did not force its removal. Metra can eliminate this sign at any time.

Chairman Muehlnickel entertained a motion to recommend denial of the three variance requests to permit an electronic message center sign for a business that is not a defined public use, to permit the electronic message center sign to be placed along a minor residential street and not an arterial roadway, and to permit the electronic message center sign to be located within 250 feet of residential uses for the VFW Post # 9545 located at 323 Old Hickory Road. Commissioner Berner made a motion, seconded by Commissioner Kuchler. Roll call vote was taken. Ayes: Commissioner Kuchler, Commissioner Moss, Commissioner Berner, and Chairman Muehlnickel. Nays: Commissioner Boyd. Motion carried.

REQUEST FOR TEMPORARY USE FOR SPECIAL EVENT
Tom Kelly's Restaurant
495 DeGroate Road
Tom Rowan - Petitioner

Tom Rowan of Tom Kelly's Restaurant was present to request a temporary use for a tent party to celebrate St. Patrick's Day for Friday, March 16 and Saturday, March 17, 2012, between the hours of 9:00 p.m. to 12 a.m.

Jeff Smith informed that the conditions and arrangements are the same as the previous years.

Chairman Muehlnickel entertained a motion to approve the requested temporary use for a special event. Commissioner Boyd made a motion, seconded by Commissioner Berner. Voice vote was taken. Motion carried unanimously.

OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 8:39 p.m. Motion was made by Commissioner Boyd, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

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Lorrie M. Sowko – Secretary