

MINUTES OF A REGULAR MEETING OF THE
VILLAGE OF NEW LENOX PLAN COMMISSION

Held in the New Lenox Village Hall, 1 Veterans Parkway

Tuesday, June 7, 2011 7:00 p.m.

#11-06-A

CALL TO ORDER

A regular meeting of the Village of New Lenox Plan Commission was called to order at 7:00 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 Joan Byerley, Rob Moss, John Kuchler, Gary Berner, Annette Boyd and Tony Orsini.

The following were absent: None.

Also present were: Planning and Development Administrator Robin Ellis, Senior Planner Jeff Smith, and Secretary Lorrie Sowko.

REQUEST FOR APPROVAL OF MINUTES OF A REGULAR PLAN COMMISSION MEETING OF MAY 17, 2011

Chairman Muehlnickel entertained a motion to approve the minutes of the May 17, 2011, Plan Commission meeting. Commissioner Boyd made a motion, seconded by Commissioner Kuchler. Voice vote was taken. Motion carried.

REQUEST FOR COUNTY REZONING AND SPECIAL USE FOR LIVING QUARTERS
2571 East Lincoln Highway
Marilyn Farmer / Morningstar Mission Ministries - Petitioner
Lyman C. Tieman – Attorney

Attorney Lyman C. Tieman and Marilyn Farmer, the Executive Director of Morningstar Mission Ministries, were present to request County rezoning and a Special Use for the property located at 2571 East Lincoln Highway.

Mr. Tieman explained that the County notified his client that there is split zoning for this property. The building is located on three parcels of land that abut Route 30, and are currently zoned C-1 in the County. The vacant property behind this building is zoned C-2 in the County.

Furniture is being sold out of the building, which is not allowed in the County C-1 District, and if rezoned to the C-2 District, would be a permitted use. All four parcels will be combined into one parcel zoned C-2.

There is an apartment above the building that is occupied by a Morningstar Mission tenant, and a Special Use permit is necessary for the apartment to exist in the County C-2 District.

Senior Planner Jeff Smith stated that this property was previously presented to the Village for annexation and proposed for C-3 District zoning, as well as a Special Use for the upper story apartment. The public hearing process was started and a number of conditions were discussed, but the proposal did not proceed. The property is contiguous to the Village limits, and it is encouraged that the petitioner moves forward with the annexation process. There are items that need to be discussed with the Village Board, such as the timing for extending utilities which are located on the south side of Route 30, and the timing of improvements to West Circle Drive.

In the interim, per the Country's request, Staff recommends that no legal objection be filed against the rezoning to the C-2 District, which complies with the Village's Comprehensive Plan.

In terms of the County Special Use request, Staff recommends no objection be filed, subject to the four conditions for a Special Use recommended in Staff's Report.

The parking lot will need some resurfacing and restriping within one year of approval from the County.

Commissioner Berner asked for the measurements of the apartment.

Marilyn Farmer responded that the apartment is approximately 1,200 to 1,400 square feet and is rented as a 2-bedroom, 2-bathroom apartment with access through a separate entrance located at the back of the property. It is not a caretaker residence. The apartment has parking in the rear of the building for the tenant(s).

Lyman Tieman added that a caretaker residence is allowed in the C-2 District, but the petitioner does not want to be limited to only be able to rent to a caretaker.

Marilyn Farmer stated that the only part of the development that is tax exempt is the resale store. The apartment is taxed.

Chairman Muehlnickel entertained a motion to recommend that the Village not file a legal objection against the County rezoning from C-1 Local Shopping District to the C-2 Community District for the 1.52-acre property located at 2571 East Lincoln Highway. Motion was made by Commissioner Berner, seconded by Commissioner Boyd. Voice vote was taken. Motion carried unanimously.

Chairman Muehlnickel entertained a motion to recommend that the Village not object to the County Special Use request to legally establish the existing second-story residence located at 2751 East Lincoln Highway, subject to the County's consideration of the four conditions mentioned in Staff's Report:

1. The Special Use shall be limited to the existing upper-story residence in the current building at 2571 East Lincoln Highway.
2. The existing upper-story residence shall be occupied by no more than two unrelated persons, which does not include the children under the ages of eighteen (18) years of the two unrelated persons.
3. The existing upper-story residence abides by all Will County Building Code and New Lenox Fire Protection District requirements.
4. The existing parking lot shall be resurfaced and re-stripped within one year of approval of the County Special Use.

Commissioner Kuchler made a motion, seconded by Commissioner Boyd. Voice vote was taken. Motion carried unanimously.

REQUEST FOR ANNEXATION AND REZONING FROM R-1 TO C-3

Weber Commercial

12.52-acre site generally located approximately 570 feet north of U.S. Route 30 and approximately 500 feet west of Marley Road

Andrew C. Dystrup – Petitioner/Attorney

Chairman Muehlnickel explained the rules and procedures for the public hearing. He then invited public speakers to be sworn in. The speakers stood, raised their right hands, and were sworn in by Secretary Lorrie Sowko.

Chairman Muehlnickel entertained a motion to open the public hearing at 7:12 p.m. Commissioner Berner made a motion, seconded by Commissioner Orsini. Voice vote was taken. Motion carried.

Attorney Andrew Dystrup was present to request annexation and rezoning for Weber Commercial, located north of U.S. Route 30 and west of Marley Road.

The 12.5-acre parcel has no frontage on Route 30. The property to the east is right-of-way owned by Northern Illinois Gas, then a bank and the Charley Horse Restaurant further to the east. County single-family homes are to the north of the bank and restaurant, and to the north of the railroad tracks is an R-1 District subdivision in the Village. To the west of this property is Wal-Mart, which is zoned C-7 in the Village. The old Mobil gas station and car wash is also to the west, and across the street is the Walona Motel.

The property is contiguous to the Village limits, and the petitioner is requesting annexation and C-3 District zoning in order to market the property. There are no potential users for the property at this time. Village water and sewer will service the property. A lift station may need to be installed.

Jeff Smith stated that Staff recommends approval of the annexation, as the property is contiguous to the Village, utilities are feasible, and it would allow for further commercial use.

The Comprehensive Plan recommends Medium Density Residential uses for this property, but based on its location near Route 30, Staff feels commercial use is feasible. Staff has concerns that some C-3 District uses may not be compatible, and Staff is recommending through the annexation agreement that certain uses be prohibited, including gas stations, auto repair, motor vehicle dealers, warehouse uses, as well as outside storage.

Staff recommends approval of the annexation and rezoning, subject to the annexation agreement considering prohibiting certain commercial uses.

Trent Clark of 239 North Marley Road asked if a planned entry point for the property from Bittersweet Lane would be utilized or not.

Andy Dystrup stated his recollection that the Village previously determined that there will not be a connection with Bittersweet Lane into this commercial development. The Village would more than likely require landscaping on the east perimeter to buffer the residential properties.

Trent Clark wanted to know if there is wetland on the subject property that is not buildable.

Jeff Smith informed that there is a small band of wetlands along the southwest portion of the property.

The detention would probably be placed near the railroad tracks.

Commissioner Berner questioned the access to the proposed C-3 District development.

Andy Dystrup stated that there is a private 66-foot easement that would be dedicated or become part of the entrance to the retail center that would be developed with the 4 acres along Route 30.

Robin Ellis stated that it is a platted access for ingress / egress that was done several years ago when the gas station was developed.

Commissioner Berner wanted to know if the bike trail will be extended from the south.

Andy Dystrup was not aware of any future extension of the bike trail.

Commissioner Berner announced that his personal preference would be to not allow for a 4-story building on this property.

Chairman Muehlnickel asked for the height of the Wal-Mart building.

Robin Ellis noted that the approximate height of the Wal-Mart building is 30 to 35 feet.

Commissioner Kuchler agreed with Commissioner Berner that a 4-story building would not be appealing.

Commissioner Boyd felt that any height restrictions of the potential building could hinder development.

Commissioner Berner feels that the nearby County R-2 District does not have a significant buffer from the pipeline, and that this property was proposed for future residential development.

Chairman Muehlnickel entertained a motion to close the public hearing at 7:29 p.m. Motion was made by Commissioner Moss, seconded by Commissioner Orsini. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion to recommend approval of the annexation request, subject to the successful negotiation of an annexation agreement. Motion was made by Commissioner Orsini, seconded by Commissioner Kuchler. Roll call vote was taken. Motion carried unanimously.

Chairman Muehlnickel entertained a motion to recommend approval of rezoning to the C-3 District for the subject 12.52-acre parcel, known as the Weber Commercial property, subject to the successful negotiation of an annexation agreement. Motion was made by Commissioner Byerley, seconded by Commissioner Moss. Roll call vote was taken. Motion carried unanimously.

REQUEST FOR SPECIAL USE FOR OUTDOOR PATIO

Gatto's Restaurant

1938 East Lincoln Highway

Frank Gatto – Petitioner

Chairman Muehlnickel entertained a motion to open the public hearing at 7:31 p.m. Commissioner Kuchler made a motion, seconded by Commissioner Byerley. Voice vote was taken. Motion carried.

Attorney Kendall Lynchey and Frank Gatto, the petitioner, were available to request a Special Use for an outdoor patio for Gatto's restaurant to be used for outdoor dining.

The proposed site is located behind the atrium area at Atrium Pointe, and includes a plan with five tables. There will be no music or outdoor games such as bean bags. The appearance of the outdoor area will be aesthetically pleasing. The enclosure will have a decorative wood railing and lattice fence, with potted plants and flowers added to accent the patio area.

Jeff Smith noted that there are criteria for a Special Use for an outdoor patio. The main criteria include the general welfare of the area regarding noise, screening, visibility and lighting.

The proposed patio location is approximately 330 feet from the nearest single-family homes on the north side of Cornell Drive and approximately 500 feet from the homes to the south side of Cornell Drive.

The proposed patio is approximately 430 square feet in size. A 4-foot tall decorative lattice fence is proposed for the perimeter, with landscape planters at certain locations.

There is a 3- to 4-foot tall berm from the south looking north into the site with taller evergreen trees and shrubs. From viewing the site from the south, there are taller evergreen trees on the berm.

Staff and the Fire District agreed that there should be a gate added to the enclosed patio area and designated as an emergency exit only.

There are parking stalls that abut the patio. The owner agreed to add bumper guards or decorative concrete blocks adjacent to the patio for additional safety and security for that area.

When the Atrium Pointe project was approved through a P.U.D., it included lighting shut-off requirements. The lights behind the building must be shut off at 10:00 p.m., and the lights to the farthest point south must be shut off at 9:00 p.m. The lights on the north side of the building, facing Route 30, must be shut off at midnight. All building-mounted lights must be shut off at midnight. No additional lighting is necessary for the patio, which will be part of the Special Use.

No speakers, music or live entertainment will be allowed in the patio area, and Staff recommends that these items be prohibited for the outdoor patio area through the ordinance granting the Special Use.

Staff feels that with the conditions listed in the Staff Report, the general welfare of the neighborhood will be addressed.

The other concern Staff has is the hours of operation. Staff recommends that the patio close at 10:00 p.m. daily. The petitioner wishes to stay open until 10:00 p.m. daily and 11:00 p.m. on Friday and Saturday, but the issue is that the parking lot lights in the rear of the building are shut off at 10:00 p.m., which could pose as a safety / security issue. No additional lighting will be allowed for the outside patio, which must comply with the Atrium Pointe lighting shut-off requirements.

A special liquor license granted by the Village Board would be required, as well as compliance with all Will County Health Department requirements.

Subject to the seven conditions in the Staff Report, Staff recommends approval of the Special Use for the outdoor patio for Gatto's Restaurant.

Commissioner Orsini asked if there will be an outdoor bar on the patio.

Kendall Lynchey responded that there will not be an outdoor bar.

Chairman Muehlnickel read an e-mail from Robert Reitz of 1940 Cornell Drive, dated June 2, 2011.

The contents included Mr. Reitz's concerns with the proposed outdoor seating area for Gatto's Restaurant. Mr. Reitz suggested a berm, that lighting be turned down or turned off at 9:00 p.m., and had concerns regarding additional noise from the patio area.

David Holley of 562 Vanderbilt Drive lives directly behind Gatto's and stated that every night around 1:00 a.m. he hears loud motorcycles and cars coming out of Gatto's. He claims there are quite a few DUI arrests on Route 30 and votes "no" for the outdoor patio proposal.

John and Lisa Annolino of 1933 Cornell Drive live in the first house southwest of Gatto's and expressed that they are the people that constantly call Gatto's at approximately 10:00 p.m. and complain about the employees playing loud music in the rear parking lot and "peeling" through the parking lot when exiting. Mr. Annolino stated he hears the vacuum from the cleaning crew at 5:30 a.m. every morning and announced that he is opposed to the proposed patio. Refuse pick-up from Gatto's by NuWay Disposal is also an annoyance for the Annolinos.

Lisa Annolino feels that the existing screening will not buffer the sound from the patio. John Annolino requested speed bumps be installed in Gatto's parking lot.

Bob Reitz of 1940 Cornell Drive expressed his opinion that the patio will be just like a speaker with sound bouncing off of the brick walls, and is concerned about the noise.

Frank Gatto informed that the reason for the patio is to enhance the business, and he wants to be a good neighbor to the residents in the area. Frank Gatto stated that 85% of Gatto's business is food and only 15% is liquor service.

No additional lighting is being proposed. There should be no additional traffic to the rear of the building. The only entry to the patio will be through the building, with no access through the back. The only entrance to the restaurant is through the front doors of the building.

Commissioner Berner wanted clarification on a closing time of 10:00 p.m., and questioned congregating in the outdoor patio.

Frank Gatto stated that the kitchen closes at 10:00 p.m. during the week and later on Friday and Saturday. To limit the hours of the patio to 9:00 p.m. would mean he could not sit new customers on the patio after 7:15 p.m.

Congregating will not take place in the outdoor patio area. There is an indoor bar where congregating takes place.

Commissioner Kuchler asked if there will be employees stationed on the patio.

Frank Gatto responded that there will be employees inside and servers inside and outside, but no one permanently stationed on the outdoor patio.

Chairman Muehlnickel asked if there will be screening, such as a canopy, to provide shade from the southwest exposure.

Frank Gatto noted that there may be umbrellas for the tables, but no canopy.

David Holley stated that “you can put lipstick on a pig, but it still a pig.” He begged to differ that the restaurant’s business is 85% food and claims that it is an alcohol-serving establishment. He feels that people will be on the patio drinking and it will be a nightmare for the neighborhood.

Chairman Muehlnickel asked where the employees park.

Frank Gatto stated that the employees park in the rear, and he has directed his staff not to congregate or play loud music. He also reiterated that his restaurant is 85% food business and 15% liquor business, and his books can confirm those numbers. The kitchen closes at 11:00 p.m. on Friday and Saturday.

Commissioner Boyd recommended that the patio should close earlier than 11:00 p.m.

Chairman Muehlnickel recommended that the patio close at 10:00 p.m.

Commissioner Berner suggested the possibility that the patio be located in front of the building.

Kendall Lynchey informed that there is not sufficient sidewalk space in front of the building. The only other option for a location of this patio would be at the large, half-moon patio located at the end of the building that would allow for more tables, but would not allow access to the restaurant portion of the building.

Robin Ellis added that the other patio option would be forcing parking to the rear of the building.

Commissioner Berner feels that people do not dine after 9:00 p.m. and recommended that the patio close at 9:00 p.m., 7 days per week.

Commissioner Byerley voiced that this is a precarious situation already, because there are current issues with the employees in back of the building, and recommends a higher fence, with closing times of 9:00 during the week and 10:00 p.m. on Friday and Saturday.

Commissioner Berner agreed with the 6-foot fence recommendation.

Commissioner Orsini recommended a 10:00 p.m. closing time for the patio.

Commissioner Kuchler asked if the patio can be restricted to just dining purposes.

Frank Gatto reiterated that the patio is for dining purposes, and it would not be economically feasible to use the patio solely for drinking purposes.

Mr. Gatto does not favor the 6-foot fence as it will appear to be a wall, instead of a comfortable dining area with a nice 4-foot tall fence and decorative planters.

Commissioner Moss agreed that the outdoor seating proposal from the petitioner is aesthetically pleasing and agreed that the outdoor seating area should be closed at 9:00 p.m. during the week and 10:00 p.m. on Friday and Saturday.

Kendall Lynchey added that the nearest house to the patio is more than 300 feet.

Commissioner Boyd asked if there is some type of drapery panel to buffer the noise of the patrons of the outdoor patio between the hours of 6:00 p.m. and 9:00 p.m., and possibly adding signs to keep noise at a minimum.

Jeff Smith and Robin Ellis were not aware of any type of drapery screening.

Chairman Muehlnickel prefers the closing time for the patio to be 9:30 p.m. during the week and 10:00 p.m. on Friday and Saturday. He did not think the 6-foot fence would make a difference over the 4-foot fence.

Chairman Muehlnickel entertained a motion to close the public hearing at 8:20 p.m. Motion was made by Commissioner Berner, seconded by Commissioner Moss. Voice vote was taken. Motion carried.

Chairman Muehlnickel entertained a motion to recommend approval of the Special Use request to allow an outdoor patio for dining and drinking for Gatto's located at 1938 East Lincoln Highway, subject to the following conditions:

1. The outdoor patio area, per the size and location depicted on the submitted patio exhibit, shall be solely used by patrons of Gatto's Restaurant.
2. A minimum 4-foot tall lattice fence, per the design included on the submitted photograph, along with landscape planters, shall be installed as shown on the submitted outside patio exhibit. A revised patio exhibit must be submitted that shows the inclusion of a gate that would fully enclose the patio area, but still allow for an emergency-only exit from the outside patio area. The gate shall be posted as "Emergency Exit Only."
3. Wheel / bumper guards or concrete blocks, which cannot interfere with the minimum required parking stall area, shall be placed within the parking stalls abutting the outside patio area and be shown on a revised patio exhibit plan.

4. No additional lighting shall be permitted for the outside patio. The existing building wall lights to be utilized for the outside patio shall be turned off no later than midnight in order to comply with the condition included in the ordinance granting a Special Use for a Final P.U.D. Plat for Atrium Pointe (Ordinance # 1597).
5. External speakers, live entertainment and makeshift bars shall be prohibited on the outside patio.
6. The outdoor patio shall be closed by 9:30 p.m. Sunday through Thursday, and by 10:00 p.m. on Friday and Saturday, provided the Plan Commission's recommendation is approved by the Village Board.
7. The petitioner must obtain all necessary licenses and abide by requirements specified by the Village and Will County Health Department, including the issuance of a separate liquor license if alcohol is intended to be served on the outside patio.
8. Some sort of notation, whether it be on the menu or when people are seated, shall be provided in the form of a sign that states "Please be respectful of the surrounding residential neighborhood."

Commissioner Orsini made a motion, seconded by Commissioner Boyd. Roll call vote was taken. Ayes: Commissioners Boyd, Byerley, Orsini, Moss and Chairman Muehlnickel. Nays: Commissioners Kuchler and Berner. Motion carried.

OLD BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 8:24 p.m. Motion was made by Commissioner Berner, seconded by Commissioner Boyd. Voice vote was taken. Motion carried unanimously.

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, June 7, 2011 7:00 p.m.

#11-06-A ZBA

CALL TO ORDER

A regular meeting of the Village of New Lenox Zoning Board of Appeals was called to order at 8:25 p.m., by Chairman Mark Muehlnickel, with a quorum present.

ROLL CALL

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

The following were absent: None.

Also present were: Planning and Development Administrator Robin Ellis, Senior Planner Jeff Smith, and Secretary Lorrie Sowko.

REQUEST FOR APPROVAL OF MINUTES OF A REGULAR ZONING BOARD OF APPEALS MEETING OF MAY 17, 2011

Chairman Muehlnickel entertained a motion to approve the minutes of the May 17, 2011, Zoning Board of Appeals meeting. Commissioner Boyd made a motion, seconded by Commissioner Berner. Voice vote was taken. Motion carried.

OLD BUSINESS

None.

NEW BUSINESS

Planning and Development Administrator Robin Ellis announced that there will be additional County cases at the next June meeting.

ADJOURNMENT

Chairman Muehlnickel entertained a motion to adjourn the meeting at 8:26 p.m. Motion was made by Commissioner Kuchler, seconded by Commissioner Orsini. Voice vote was taken. Motion carried.