

VILLAGE OF GRAFTON

PLAN COMMISSION MEETING MINUTES

AUGUST 25, 2009

The Plan Commission meeting was called to order at 6:00 p.m. by Chair Jim Brunnquell. The Pledge of Allegiance followed.

Board members present: Jim Brunnquell, Amy Plato, Alfred Schlecht, Carl Harms, and Richard Rieck

Absent: Mark Paschke and Randy Silasiri

Staff/Officials present: Darrell Hofland/Village Administrator, Michael Rambousek/Director of Planning and Development, Mary Kay Buratto/Planner, Tom Johnson/Building Inspector, and Deborah Brown/Administrative Secretary II.

MINUTES

Motion by Commissioner Rieck, seconded by Commissioner Harms, to approve the minutes of the July 28, 2009, Plan Commission meeting, as presented.

HEAR PERSONS REQUESTING TO BE HEARD

None

COMMENCE PUBLIC HEARING

Statement of Public Notice

Administrative Secretary Deborah Brown stated the purpose of the Public Hearing is to review resolutions on the proposed amendments of the project plans of Tax Incremental Districts (TIDs) 2 and 5 in the Village of Grafton, Wisconsin.

Chair Brunnquell stated that Village Staff, as well as the Village's financial consultant, Ehlers and Associates, are recommending that the Village of Grafton take advantage of a recent State of Wisconsin TID law change that allows for the creation of donor TIDs to aid less financially successful districts.

Village Administrator Hofland summarized the current financial strength of TID 2 (Grafton Business Park) and TID 5 (Grafton Commons). He explained that these two TIDs are financially stable and have excess increment available to become donor TIDs. Unfortunately, TID 3 (Downtown) is projected to be not financially solvent and is in need of additional funds to be viable.

Administrator Hofland informed the members that the process to amend a TID plan includes the Plan Commission public hearing and subsequent adoption of an approval resolution. The Plan Commission makes a recommend to the Village Board to adopt a similar approval resolution. The Village Board then forwards the approved amendment to the Joint Review Board for final approval and certification. Ultimately, the Wisconsin Department of Revenue has the final approval of the plan amendment.

Administrator Hofland introduced financial consultant Todd Taves, Executive Vice President of Ehlers and Associates.

Mr. Taves gave a brief overview on each TID District. He explained that this specific type of amendment, under state law, is called an allocation amendment. This type of amendment allows a municipality to divert revenue from one TID (called the "donor TID") to another TID in their municipality (called the "recipient TID"). This option is desirable when one TID is generating revenues above what was forecasted, and another is performing below expectations.

He further explained that there are two sets of criteria for allocation amendments – one for TIDs created before October 1, 1995, and one for TIDs created after that date. For TIDs created before October 1, 1995, the donor and recipient TIDs must have the exact same overlying taxing jurisdictions, and the donor TID must be able to demonstrate that the current increment is sufficient to pay off all costs incurred by the TID and provides enough surplus revenue to pay some of the costs for the recipient TID.

For TIDs created after October 1, 1995, the donor and recipient TID must also have the exact same overlying taxing jurisdictions (school district, technical college, etc.), the recipient TID must be a blighted or a rehabilitation/conservation TID, or if not a blight or rehabilitation TID must have projects to create, provide, or rehabilitate low-cost housing or remediate environmental contamination.

In addition, the donor TID(s) must each have sufficient increment to satisfy all of its current year debt service and project cost obligations. Most importantly, once a district is made a donor district, Village cannot request an extension for the life of that TID.

Both TID 2 and TID 5 meet the post October 1, 1995 criteria and TID 3 (the recipient TID) meets the blighted/rehabilitation TID standard.

Mr. Taves also stated that TID 2 currently has more revenue than debt, and TID 5 is a new TID District created in 2006, and has done very well. The revenue of the districts exceeds the outstanding debt making them eligible to become a donor TID.

Mr. Taves informed the members that funds allocated from one TID to another; do not have to be repaid to the donor TID.

There were no public comments on this matter.

It was the consensus of the Plan Commission to take action on this matter at this meeting and make a recommendation to the Village Board for their action.

With no other comments or concerns, Chair Brunnuell closed discussion on this matter.

RESOLUTION APPROVING AMENDMENTS THE PROJECT PLANS OF TAX INCREMENTAL DISTRICTS NO. 2 AND NO. 5

Resolution No. 003, Series 2009 amending the project plan of Tax Incremental District No. 2 to create a donor TID to aid Tax Incremental District No. 3 as the recipient TID was offered by Commissioner Harms.

Motion by Commissioner Schlecht, seconded by Commissioner Rieck, to adopt Resolution No. 003, Series 2009, as presented. amending a resolution amending the project plan of Tax Incremental District No. 2 to create a donor TID to aid Tax Incremental District No. 3 as the recipient TID. Approved unanimously.

Resolution No. 004, Series 2009 amending the project plan of Tax Incremental District No. 5 to create a donor TID to aid Tax Incremental District No. 3 as the recipient TID was offered by Commissioner Harms.

Motion by Commissioner Schlecht, seconded by Commissioner Rieck, to adopt Resolution No. 004, Series 2009, as presented. amending a resolution amending the project plan of Tax Incremental District No. 5 to create a donor TID to aid Tax Incremental District No. 3 as the recipient TID. Approved unanimously.

RECOMMENDATION TO THE VILLAGE BOARD – TID PLAN AMENDMENTS

Motion by Commissioner Schlecht, seconded by Commissioner Harms to recommend to the Village Board adopt a resolution amending the project plan of Tax Incremental District No. 2 to create a donor TID to aid Tax Incremental District No. 3 as the recipient TID. Approved unanimously.

Motion by Commissioner Schlecht, seconded by Commissioner Harms, to recommend to the Village Board to adopt a resolution amending the project plan of Tax Incremental District No. 5 to create a donor TID to aid Tax Incremental District No. 3 as the recipient TID. Approved unanimously.

SIGN VARIANCE REQUEST BY FORM AND FITNESS, 2020 CHEYENNE COURT

Planner Mary Kay Buratto reviewed a request from Form and Fitness for a sign variance to allow the placement of seasonal banners on light poles in the parking lot of their facility at 2020 Cheyenne Court.

Ms. Buratto stated the purpose of the signage is to provide a seasonal aesthetic element to the parking lot and to help identify the site as Form and Fitness. The Village of Grafton sign ordinance only allows permanent banner signs in parking lots of commercial properties in the CBD Central Business District.

The proposed banner signs would be rotated on a seasonal basis and would incorporate the words - Form and Fitness, its logo and the words, "Improving Lives". Each banner would have two faces measuring six square feet each face for a total of twelve square feet in area for each sign. The banners would be anchored at the top and the bottom and mounted high enough on the poles to clear the tops of vehicles parked in the parking lot. The banners would be able to be seen from Cheyenne Court, but would not be easily seen from Washington Street (STH 60).

Planner Buratto indicated that Planning and Development Staff has reviewed the proposed banner signs and believes that the number and size of the banners proposed would be appropriate given the location of Form and Fitness off a main arterial street. The Planning and Development Staff also believes that as a compromise the logo and tag line should be eliminated to make the signs look cleaner and less commercial.

Planner Buratto then introduced Form and Fitness owner Ben Quist and employee Bobby Groh.

Mr. Quist stated that the intent of the banners is to beautify the exterior of their site. It is his belief that these banners would break up the asphalt parking lot. It was not intended to be signage but to soften up the look of the parking lot.

He also informed the Plan Commission that he has already purchased the banners; however, he is willing to re-order them if requested by the Plan Commission members to have the logo and business name removed.

Mr. Groh presented one of the banners for Plan Commission review.

Bob Meier, 1967 W. Acorn Drive, expressed concerns with the ability of the light poles to support the weight of the banners. He asked if the sign contractor had looked into the standard load or weight on the specific poles installed at Form and Fitness. His suggested that the Village consider creating a policy or standard guidelines if they are going forward with these types of banners around the Village. All criteria should include area regulations. It is a safety issue that should be looked at further.

A brief discussion took place on setting a precedence for future requests for banners of this type. Most of the members liked the banners for the sole purpose of beautifying the site and not for advertising. It was the consensus of the Plan Commission to review the placement of banners on a case by case basis. In addition, staff was directed to draft guidelines and rules for banners of this nature.

Motion by Commissioner Rieck, seconded by Commissioner Plato, to approve a sign variance to allow permanent parking lot light pole banner signs as presented with the following conditions; 1) the purpose is to beautify the site and not to advertise, 2) before permit will be issued, sign contractor must sign off on the load standards and must provide the Village with the engineering standards set for the light poles in the parking lot to make sure the light poles are made to hold the weight of the banners, 3) when signs begin to show wear and tear or fading that they will be removed and replaced immediately with the identical signs, and 4) any change to the signage as presented must be brought back to the Plan Commission for review and approval. Approved 4-1 (J. Brunnuquell-nay).

Discussion on check cashing and pawn shop use regulations.

Planner Mary Kay Buratto explained to the Plan Commission members that the Village has received a request from a resident questioning if check cashing stores and pawn shops are appropriate uses in the Village of Grafton, specifically in the commercial zoning districts. Planning and Development Staff has reviewed the permitted and conditional uses listed in the C-1 through C-4 Districts to determine the SIC code that includes such uses and to provide the Plan Commission and ultimately the Village Board with suggestions on how to classify and manage these uses within the Village.

Ms. Buratto stated that while researching the current availability of these uses in each of the existing commercial zoning districts, she discovered that SIC #5932 Miscellaneous Retail Trade was actually a category that included various second-hand and used retail types of establishments, in addition to the pawnshop use. With the exception of the

pawnshop use, Staff believes that the other uses fit into the category together. Similarly, SIC 6099 relates to depository banking, not elsewhere classified, and related banking industry uses. The check cashing component does not appear to have been an anticipated use when the SIC codes were established. For this reason, one could make the argument that today's check cashing stores are a different category altogether and do not belong in this SIC code. However, because the zoning code relies on the SIC code and not individual uses, we must take everything that is included in the category, even if the use is not necessarily wanted.

Planner Buratto introduced John Enright, 2360 Caribou Lane, a Village resident who wrote a letter expressing his concerns on cash checking establishments.

Mr. Enright gave a brief background on his involvement with Habitat for Humanity. He explained that when he deals with some of the applicants for Habitat homes, he is aware that some individuals have been taken by Pay Day Loan Stores. He first wanted to clarify that these two establishments which are referred as Check Cashing businesses in the Village currently, do not cash checks, they simply loan money at a high interest rate. They are strictly a business that gives out high interest loans to people who already have financial difficulties. In Mr. Enright's opinion, these types of businesses prey on the poor.

Mr. Enright is requesting that the Village consider not allowing these types of establishments, in the future. He also suggested that it would be beneficial to request the closure of the existing establishments.

Mr. Enright thanked the Plan Commission members for hearing his concerns and hopes that the Village will take a serious look at these types of establishments.

Planner Buratto indicated that Staff is concerned with removing uses from the zoning ordinance that are currently in place and upon which owners of certain businesses have relied. Recent case law involving the regulation of what are known as locally unwanted land uses (LULUs) makes it clear that by deliberately excluding certain uses from local zoning ordinances can provoke a legal challenge to the zoning ordinance, which is usually based on first amendment grounds. It may be a more prudent approach to instead manage certain land uses that the community believes are incompatible with the community's overall goals by managing where the uses may be located and under what conditions they may be approved.

Planner Buratto stated that Staff's ultimate recommendation is to make both the pawnshop and the check cashing agencies conditional uses and only in one district. The C-2 Community Business District would be an appropriate location for these types of uses. This would provide business locations, not currently available, in the downtown or in the C-4 Freeway Interchange Districts.

Ms. Buratto reviewed possible changes to the conditional uses found in Division 19.03.0700 Conditional Use Standards and Regulations (Section 19.03.0701 General Standards For Conditional Uses C.1, Public benefit). The uses could be amended to add the following: "and whether or not the proposed use will over saturate the available market for such use within the Village." Ms. Buratto also indicated that even if the language is not amended, making the uses conditional and only in one zoning district will allow the Plan Commission to manage land uses of this type more effectively. Any

proposed text amendment to the zoning ordinance should be reviewed by the Village Attorney prior to sending the change on for a public hearing.

The Plan Commission members discussed the conditional uses and the zoning districts within the Village. It was the consensus of the Plan Commission members that Staff do more research and bring back this item at a future Plan Commission meeting.

DISCUSSION OF RUMMAGE SALE USE REGULATIONS

Director of Planning and Development Michael Rambousek stated that Staff has received several complaints, this summer, regarding rummage sales held within the Village. Specifically these complaints pertain to frequency, untidiness and proximity of merchandise to public right-of-way, which could potentially create a hazardous situation.

He indicated that the Village has some issues with repeat rummage sale offenders and that starts to dominate the neighborhood. He explained that the Village regularly receives complaints regarding three specific residents' on-going rummage sales.

Administrator Hofland added that there is one offender that appears to be purchasing merchandise with the intent to sell it in his front yard. The type of merchandise is large scale equipment and machinery.

Director Rambousek explained that some of the sites have safety issues that need to be addressed. He gave an example of a 15 foot ladder placed at the end of a driveway next to the sidewalk. He explained that the ladder could have easily bumped and fall onto a pedestrian walking by the residence.

Director Rambousek stated that there are currently no regulations regarding rummage sales or flea markets in the Village of Grafton. He added that, at the very least, some regulation is needed to ensure clean, safe and responsible operations that do not negatively impact the surrounding neighborhood in which the sale is located.

Mr. Rambousek stated that the most appropriate place for these regulations would be in Section 19.03.0802 Detailed Standards For Accessory Uses In Residential Districts. This section includes items such as automobile repair and home occupations located in residential districts.

Mr. Rambousek reviewed a rough draft of possible guidelines and regulations.

He explained that the regulation of rummage sales and flea markets in Section 19.03.0802 should focus on specific areas including:

- Frequency – residential property owners should be allowed no more than 3 rummage sales per year;
- Length – One rummage sale will be categorized as last between 1 and 4 days; this would allow a Thursday thru Sunday rummage sale;
- Daily Hours of Operation – Daily hours of operation should be from 7:00 a.m. to 7:00 p.m., with all outdoor items being picked-up by 8:00 p.m. on the final night of the rummage sale. Rummage sales (other than clean-up) will not be permitted between the hours of 7:00 p.m. and 7:00 a.m.

- Setbacks – In order to protect public safety and use of public right-of-way a minimum setback of 10 feet is recommended for all merchandise

Director Rambousek indicated that the proposed regulations will typically be applied on a complaint basis. It is expected that most residential property owners, who chose to have rummage sales, will abide by the regulations. However, when a rummage sale begins to dominate the neighborhood, these regulations will provide the neighborhood property owners with the assurance that the Village has the appropriate tools to address problematic situations.

Chair Brunnquell express his concern that the Village would be over regulating rummage sales since only a handful of residents are really causing problems. The majority of rummage sales are not a problem.

Commissioner Harms asked if the Village would require a permit to be pulled for rummage sales.

Director Rambousek responded by stating that he saw no need for permits.

Commissioner Schlecht commented that going forward with the regulation of rummage sales would be attacking Americana at its roots. He was not in favor of creating any restrictions of rummage sales.

It was the consensus of the Plan Commission to direct the Planning Staff to research this matter to determine what is being done in other communities and draft possible language for some type of regulation on rummage sales for review at the next Plan Commission meeting.

DISCUSSION OF PROPOSED CHANGES TO PERMITTED AND CONDITIONAL USES IN THE CBC CENTRAL BUSINESS DISTRICT AND HOW PERMITTED AND CONDITIONAL USES ARE LISTED IN THE ZONING ORDINANCE.

Planner Buratto indicated that Staff has prepared a very preliminary draft document for the listing of permitted and conditional uses that can be used for each of the residential and non-residential districts in the Zoning Ordinance. In addition, changes have been made to the list of uses for the CBD Central Business District. Uses that are not currently included but which fit into the plans for the CBD to provide the types of retail and certain service type uses that will draw people into the downtown for shopping, dining, entertainment, the arts and to complete personal errands are included.

Staff identified reasons for the suggested changes to the listing of uses currently by Standard Industrial Classification System codes: 1) The Standard Industrial Classification System (SIC) was created by the Federal Government in the 1930s to track the various sectors of the American economy and was never intended to categorize uses by intensity for the purposes of zoning,

2) The use of SIC codes to identify uses by economic groupings does not achieve the intended purpose of zoning, which was created to separate uses by intensity to prevent the development of nuisances. This was done by separating high intensity uses (foundries, for example) from low intensity uses (single family residences) into different “zones” ,

3) The Standard Industrial Classification System is now only hopelessly out of date for purposes of tracking the economy (it was replaced by the North American Industrial Classification System – NAICS – first in 1987 and most recently in 2007) it does not allow the Village to consider the approval of the many new and appropriate types of businesses that have sprung in the information age and does not properly address the growth in the service sectors, and

4) Each four digit classification within the SIC and NAICS codes contains a long list of uses that while helpful for tracking the economy, juxtapose uses of different intensities which may not fit into the zoning district in which that particular SIC/NAICS code is listed. When a four digit SIC or NAICS code is used the law of unintended consequences tells us that some of the uses included are not appropriate for the zoning district but are brought along because they fell within the classification number.

Ms. Buratto also indicated that she believes that the proposed changes, to the way the Village identifies uses, will further the Village's goals for development and redevelopment within the Village. Eventually uses within each district will be brought forward for discussion and possible public hearing.

Ms. Buratto identified that the biggest challenge Staff encounters with the present system is that so many of today's businesses did not exist when the SIC codes were created; therefore, some are not included in the listing and thus not permitted. Ms. Buratto also stated that many of the uses included within the SIC codes, and listed in the zoning ordinance, are either not the type of businesses we encourage, or they do not exist anymore, or do not fit within the district in which they are listed.

Ms. Buratto stated that a good zoning ordinance should provide the Plan Commission with some flexibility when asked to consider a use not specifically listed in the code but that is similar in terms of its nature, size and intensity to one that is listed, and which is appropriate in the proposed location. Good zoning ordinances also strike a reasonable balance between those uses allowed versus those that are strictly prohibited. This balance is necessary given that variances from the zoning ordinance for uses are prohibited by law.

The Commission briefly discussed the changes use table for the CBD. Staff was directed to continue their review and submit any changes for review at the next Plan Commission meeting.

BENCHMARK MEASUREMENTS

The Plan Commission reviewed the 2009 benchmark report through July 31, 2009.

OLD BUSINESS

Commissioner Schlecht inquired about the status of the residential portion of the Highland Ridge development.

Director Rambousek indicated that in the next week, Administrator Hofland and he have a meeting schedule to discuss the project with the developers.

NEW BUSINESS

None

ADJOURN

Motion by Commissioner Harms, seconded by Commissioner Schlecht to adjourn at 7:08 p.m. Approved unanimously.