

MINUTES
SPECIAL PLAN COMMISSION MEETING
October 7, 2021

Call to Order and Roll Call

The meeting was called to order at 7:04 p.m. by Chairperson Tim Loftus, who, in light of the COVID-19 pandemic requirements, asked all participants to wear masks for the duration of the meeting. He explained the Plan Commission's advisory role to the Village Board relative to Code relief, and went over the hearing format, including public input procedure. He introduced Village Board Trustee Liaison Steve Thompson, Community Development Director Staci Springer, and Recording Secretary Barbara Dutton-Thomas.

Roll was called. Present: Chairperson Loftus and Plan Commissioners Lloyd Berry, Angela Fanella, Peter Cooper and Jamie Vondruska. Absent: Commissioners Laura Brown, Matt Halkyard and Mohammed Saeed.

Public Comment Non-Agenda Items

There was no public comment pertaining to non-agenda items.

Public Hearing 400 N. Main Street – Apex 400 PUD Amendment Request

A motion to open the Public Hearing made by Commissioner Vondruska and seconded by Commissioner Fanella was passed by voice vote.

Staff Introduction

Sworn in, Community Development Director Staci Springer introduced the Public Hearing's topic, and reviewed the activity to give notice of the meeting. The Petitioner, she explained, is seeking an amendment to their special use for a previously granted Planned Unit Development (PUD): an additional height deviation to allow rooftop mechanical equipment and any screening that might be needed, to be installed on the building, at a height up to 64 feet, when the maximum building height approved was 61 feet. She displayed an aerial image of the property and reviewed public appearance activity in the project's process. The preliminary PUD was approved January 28, 2019 and the final PUD plans were approved in April 2019, she related, adding that this amendment came before the Plan Commission in January 28, 2021. At that time, she continued, the Petitioner was the restaurateur who was going to locate in the space, but couldn't without the black iron ductwork located on the roof. While the Commission recommended approval of the request, she explained, the Village Board tabled the request twice for further discussion, and the now Village President asked for a copy of the restaurant lease, which failed to be provided. The tenant subsequently decided not to move into the space, Springer continued, explaining that the property owner then came forward as the Petitioner, as he would need the approval in order to put restaurants in the space. Since so much time has passed since the March 22nd agenda item before the Village Board, the application expired and the Petitioner had to reapply. The building's commercial area, she stated, comprises approximately 8,900SF of space and has drawn attention from parties that are interested in potentially opening a restaurant in the building. The project

is under construction, she stated, with completion expected in spring 2022. Director Springer introduced Petitioner Lawrence Debb and his partner Mr. Kosich, who are owners of the subject property, for which an extension to the height deviation is sought to place three HVAC units and two black iron exhaust fans can be installed on the roof. Director Springer showed illustrations of intended placement, which, she said, are all located towards the center of the building. She stated that she doesn't anticipate the items being visible from the right-of-way, and displayed imagery delineating sight lines. She outlined suggested conditions for approval of the PUD request, including requiring screening if the equipment is visible.

Commissioner Questions

Chairperson Loftus asked Director Springer to list the purposes of the various floors in the complex. She replied that the first is the public parking garage and the commercial square footage; the second is the resident parking area and dwelling units; the third and fourth and fifth are apartments (with the amenity deck on the third floor). The Chairperson then asked if additional units beyond those under discussion are anticipated; Director Springer stated that there none planned beyond these. Mr. Loftus asked if the rooftop location specified for the black iron exhaust is dictated by Glen Ellyn code since the ICC allows through-wall exhaust. Ms. Springer thought perhaps there was a local amendment to this effect, but the interpretation is it has to be on the roof. Chairperson Loftus observed that some units were 4 ft. 10" above the parapet line, and wondered at one point is considered visible from street level. Director Springer said the height still doesn't exceed 64 feet, and that the trigger for requiring screening would be visibility from the adjoining streets: Glenwood, Hillside, Duane or Main. Referencing PUD application language indicating rooftop equipment "would not be seen from any ground location near or far from the building," Mr. Loftus, listed intersections in the Village from which the rooftop can be seen, and asked for clarification on the point. Reiterating that Code specifies "the adjoining streets," Ms. Springer said that even if the units could be seen from Anthony they would be small and trees are in the way. Citing what he termed "contradicting" language about screening (i.e., "if the screening will be provided" vs. "will be provided"), Chairperson Loftus asked who makes the decision about screening, to which Director Springer replied that Staff would if the equipment is visible, and would specify a neutral color.

Commissioner Cooper asked the height of the black iron vent and the HVAC units, and wondered how Staff verifies if the site-line rendition is accurate. Director Springer said the height of the black iron ducts is about 2 feet, and that Staff doesn't verify drawing accuracy, hence the "just in case" condition, (which Commissioner Cooper reckoned is a "bandage" approach). Director Springer stated Staff relies on architect-certified plans submitted as part of the standard process. Commissioner Vondruska asked where the air-condition units are going in the existing plans, to which Director Springer replied they are specified as being on the third floor.

Petitioner's Presentation

Sworn in, Laurence Debb, 1111 Touhy, Des Plaines, Ill., asserted that, while Glen Ellyn is an attractive place for dining establishments, restaurant owners are reluctant to commit to space in the Apex building without an approved variance. Each restaurant would have one black iron duct, he stated, explaining that even though Code allowed outside placement, the developer opted for a more expensive, through-

building approach to prevent restaurant odors from disturbing tenants. The height extension request, he attributed to belatedly learning that the Village includes parapets in calculating height.

Chairperson Loftus asked if the Petitioner had prospects for the space, and Commissioner Fanella asked if the Commission had requested larger retail/restaurant space in the project's pre-app; Mr. Debb replied affirmatively to both questions. Chairperson Loftus pressed for details on the height the black iron duct. Mr. Debb explained that the fan sits on top of the duct, adding height, and stated that requirements for greater air velocity call for bigger fans. Chairperson Loftus asked what the A/C units on the lower-level roofline are to serve and if some of those desired for the rooftop could be put here. Mr. Debb said the units on the pool deck serve yoga, party and exercise rooms and offices, and that placement of the restaurant units would be physically challenging given the need for ductwork to conduct fresh air. Chairperson Loftus asked if particular elements shown in the plans are for one restaurant. Mr. Debb said, "No," and that two restaurants are envisioned: one on the south and one on the north, both with outside dining. To a query from the Chairperson regarding an earlier location of units on a lower floor, the Petitioner stated that the units were originally specified for the roof, but due to height restrictions discovered were put on the pool deck. Not knowing what type of commercial tenant might come in (but perceiving that the Village wanted restaurants), the Petitioner said the units were moved to the pool deck "to keep things going," and that if it turned out a restaurant was expected, the Petitioner would go back in front of the Commission. Chairperson Loftus asked if all of the units would be installed whether or not the Petitioner had a restaurant client for the spaces. Mr. Debb responded that the black-iron ducts were already installed, but fans of the type being discussed would not be added, though said two restaurants are ready to sign a contract. Commissioner Cooper asked if the Commission could agree to allow the black-iron ductwork on the roof but not the HVAC. Mr. Debb stated that he needed both to accommodate restaurants. Commissioner Fanella asked if the HVAC on the roof wouldn't benefit the community from a sound perspective, and make for better ventilation. Mr. Debb said that the rooftop is the proper location, and that it wouldn't be desirable to have exhaust from the black iron duct emitted out to the street.

Public Comment

Director Springer read into the record the following letters:

Zak Wilson, 716 Crescent Blvd., Glen Ellyn: *"The developer has been granted too many variances as it is.*

When do we say enough is enough?

The development was already given a height when the building was first proposed.

What are we saying to the next developer when they come before the Village for a height variance.

"Don't worry about it, we gave it to Apex, so all is good". We are setting a bad precedence for the Village's future . Please do not approve this variance."

Priscilla Anderson, 616 Davis Terrace, Glen Ellyn: *"Hello Plan Commission,*

Thank you for the time you generously give in service of GE!

Unfortunately I'll be out of town for this meeting. But I needed to express my concern about the Apex development needing MORE height on top of their already crazy huge building!

What concerns me greatly, and it must be considered carefully by the Plan Commission and the Village Board, is the precedent that we have set with the variances we've allowed for this building. And that they need another variance, however minor it may seem, is just salt on a gaping wound.

In order to dissuade developers from thinking of us as a Village that caves in to their demands, we should be known as a Village that is not UNfriendly to development, but one that holds firm to its vision and its unique aesthetic. Please seriously consider imposing a SIGNIFICANT fine on the Apex developers, if you decide you must allow this additional variance. A BIG fine would speak to our future resolve to stick to the Village's agreed upon limits of building height and volume.

I appreciate you reading this comment aloud.

Thank you."

Tracy Heming-Littwin, 350 Oak St., Glen Ellyn: *"I am in support of the Apex 400 PUD Amendment Request. I do not believe that where the rooftop equipment will be located will be able to be seen from the ground or surrounding properties. Therefore, it will not be an eyesore. I also believe by moving this equipment and installing the standpipe for a restaurant or restaurants now will give flexibility to the retail space on the first floor. Since the building is not going to go away anytime soon it's important that as much flexibility be given to ensure that the first floor provide flexibility to different types of businesses long term. Limiting what could be on the first floor to not include a restaurant could result in empty spaces. The retail market is in constant flux and the first floor of this building will bring much appreciated additional tax revenue to the village which would be welcomed by village residents. Finding new tax sources outside of property taxes has and continues to be one of the biggest complaints from village residents."*

Kathy Cornell, 678 Forest Avenue: *"I understand that the Apex 400 developer has asked for another variance, this time to permit a large air conditioning unit (one or more?) on the roof atop the already too-tall structure. This appears to be a bait and switch situation, again. This proposal should have been included in the original plans submitted to the commissions and the trustees. Already, the building imposes itself in and around the downtown - it is visible from every angle, and as has been stated many times, it is way too large and disproportionate to the rest of the downtown buildings. If allowed, the proposed unit(s) will be visible from all angles - with the possible exception of standing on the sidewalk next to the building and looking up. I urge the Plan Commission to insist on a solution that is in keeping with the best interests of our community - not just to benefit the developer, investors and small number of people who will reside at Apex 400. Thank you."*

Sworn in, Pam Albrecht, 587 Hillside, Glen Ellyn, lauded the Commission members for their service. Calling Apex 400 a "monstrously inappropriate building," she said the project's tentacles now seem to reach three blocks east from Hillside, past Park, as an enlarged gas main is being installed down the street, and 20 parkways and front yards have been dug up to accommodate this building. Citing 15 variances allowed (despite opposition), TIF money thrown at the development, what she called "the parking lot giveaway," and the Petitioner's rendition of locating the subject equipment, Ms. Albrecht expressed the hope that the Commission will "stand firm and stop this constant abuse." She advocated putting the equipment on the lower floor.

Sworn in, Christine Wilson, 537 Philips Ave., Glen Ellyn, declared that the Apex building has “devastated the character of Glen Ellyn,” and said that more variances were granted to the project than ever should have. She demanded no more be given, and said that such relief sets a precedent. She said she suspects that the current request was known in the beginning of the project that the height variance wouldn’t get passed, so determined to wait and bring it up later. Ordinances, rules and regulations should be adhered to, she said, urging the Commission not to grant this latest variance.

Sworn in, Eleanor Saliamonas, 626 Newton Ave., stated that the Petitioner refused to compromise in 2019 on a size and style of the Apex 400 building to conform to the historic village. She referenced a newspaper report about a catastrophic building project that listed “developer tactics” use to get their way. She asked the Commission to say “No” to the rooftop air-conditioner, which she said would add insult to injury.

Sworn in, Julie Spiller, 473 N. Main St., asserted that Mr. Debb told an untruth, and went on to cite testimony he gave at a previous Village meetings. She contended that the Petitioner knew the height for the HVAC was problematic before the permit went through, and suggested that he is now seeking to get the equipment placed where he originally wanted it. She complained about a pattern of multiple variances in the project, and expressed dissatisfaction with the type of brick being applied.

Motion to Close the Public Hearing

Commissioner Vondruska, seconded by Commissioner Fanella, moved to close the Public Hearing. The motion passed by voice vote.

Commissioner Discussion

Saying he tries to be fair and balanced in making decisions, Commissioner Vondruska pointed to evolving trends in building height as problematic. While saying he’s not sure how the situation at hand came to be, he asked whether economic viability should be limited over an additional three feet. He said he could support the variation with the caveat that Staff ensures that the first three performance clauses in the approval are met, and expects that the Board would determine the appropriate wording regarding the course to address screening. Commissioner Berry stated that he agrees with Commissioner Vondruska, noting that the building is largely built. Mr. Berry said that in his work he sees large buildings with lots of restaurants on the first floor, and said the black iron needs to exhaust to the roof. While he said he is not a fan of screening, he said he trusts Staff would determine if screening is appropriate. He voiced support for the variance.

Commissioner Cooper said he has concerns over exceeding the 61-ft. height cap, and again brought up the veracity of the sight-line rendering. He related that he’d spent “quite a few minutes” at the corner of Hillside and Glenwood and had difficulty not imagining one could not see the HVAC units 3-4 feet above the parapet. He said he perceives the black duct work to be a separate issue from the HVAC, seeing the latter as a cost and convenience consideration for the developer. He posited that the screening alternative anticipates that the placement won’t work, so effectively says, “Here will be the patch.” Calling the screening “an inadequate solution,” the Commissioner expressed the view that the equipment has to be removed if it can be seen from the ROWs adjoining the building.

Suggesting the issue be thought about in a different way, Commissioner Fanella said that the Village's tightly written Code forces developers to seek variances, giving the jurisdiction more control over what goes into the community. She advised removing consideration from emotion surrounding the development, and to seek the best possible situation for a building that is already constructed, particularly in light of the current economic reality. She stated that she doesn't think it's in the Village's best interest to "tie the hands" of the developer in attracting tenants. She will vote to grant the PUD amendment, confident that Staff will ensure screening is installed if it is necessary.

Chairperson Loftus countered by saying that the Code defines what is expected, rather than merely being a guideline. When taxpayer money is used to help fund development, he said, citizens should have input into what is built, and builders should follow the Code. He said he agrees with Commissioner Cooper on the point concerning the expectation of screening. While he can't see the Apex rooftop from Busy Bee Barbershop, he said, he would be able to see it from the Firehouse. Director Springer said only adjoining streets are of concern, which Commissioner Fanella said Code spells out. Mr. Loftus said he agrees with Commissioner Cooper that the roof exhaust would be acceptable but he would not support the HVAC units on the roof. Commissioner Vondruska ventured that placing these on the second and third floors would be disruptive to neighbors/residents. Chairperson Loftus commented that there will be two units up there already. Commissioner Cooper said there would be concerns from the top floor over noise from rooftop units, and suggested obtaining information about decibel levels in making a determination. Chairperson Loftus declared that he would vote "no" on the motion "as is."

Commissioner Cooper said he'd approve exhaust but not HVAC on the roof. Commissioner Vondruska said he'd support the motion to approve as written, and leave it to the Board to add conditions.

Commissioner Berry moved for the following:

After conducting a public hearing and deliberating on the requests of the petitioner, Lawrence Debb, of Apex 400 LLC, for approval of an Amendment to the Special Use Permit for a Preliminary and Final Planned Unit Development plan, as approved by Ordinance No. 6672 and Ordinance No. 6690, to allow roof top mechanical equipment to be installed, exceeding the height deviation previously granted for the development, the Plan Commission hereby recommends approval of the requests based on the findings of fact, as discussed or amended at the Plan Commission public hearing on October 7, 2021, which are hereby incorporated into the Motion by reference as though fully set forth herein, and a copy of which will be attached to the minutes of this meeting and kept on file as part of the permanent records of the Village. The Plan Commission makes this recommendation of approval of the requests with the following conditions:

1. That the project be constructed, maintained, and operated in substantial conformance with the plans and testimony presented at the Plan Commission public hearing and before the Village Board of Trustees;
2. That updated building permit plans for the additional mechanical equipment be submitted to the Village for review and that an amended building permit be issued prior to work on the subject mechanical equipment taking place.

3. That should any of the roof top mechanical equipment, once installed, be visible from the public right-of-way, such equipment shall be appropriately screened from view. In such case, the developer will submit cut sheets for any screening to the Community Development Department for approval prior to installation.

Seconded by Commissioner Vondruska, the motion passed by roll call vote: Commissioners Berry, Vondruska and Fanella voted "yes;" Commissioner Cooper and Chairperson Loftus voted "no."

Trustee's Report

Trustee Thompson said that the Board is to begin discussing the budget, which is to be the topic of several meetings. He urged public interest.

Chairman's Report

Chairperson Loftus had nothing to report.

Staff Report

Director Springer reported that the applicant for the proposed US Bank property redevelopment wants to go back to the Village Board to discuss a TIF request. She indicated that the Leslie Car Wash property will be the subject of an upcoming meeting; the site, she said, has been purchased by Jet Brite Car Wash. Chairperson Loftus wondered if projects to be discussed can be scheduled two meetings out to encourage full Commission attendance. Director Springer reviewed the timeline to process applications leading to a Public Hearing.

Other Business

None.

Adjournment

Chairperson Loftus adjourned the meeting at 8:29 p.m. following a voice vote on a motion to adjourn by Commissioner Berry, seconded by Commissioner Vondruska.

Respectfully submitted,

Barbara Dutton-Thomas

Recording Secretary