MINUTES
REGULAR PLAN COMMISSION MEETING
September 10, 2020

Call to Order and Roll Call

The meeting was called to order at 7:02 p.m. by Chairperson Mary Loch. Roll call was taken. Present: Chairperson Loch, and Plan Commissioners Lloyd Berry, Laura Brown, Angela Fanella, Tracy Heming-Littwin and John Mulherin. Absent: Plan Commissioners Mohammed Saeed, David Rodemann and Jamie Vondruska.

Chairperson Loch described the Commission's role in the review process, and listed the various methods used to notify the public of the meeting – a public hearing – and ways to invite feedback from the public. She also gave a statement of remote meeting procedures, and outlined the meeting's approach employing the Zoom platform, adopted because of the Covid-19 pandemic.

She introduced meeting participants Village Community Development Director Staci Springer, Village Planners Kelly Purvis and Katie Ashbaugh, Associate Planner Cole Jackson, Recording Secretary Barbara Dutton, Glen Ellyn Police Department Chief Phil Norton, and Bill Enright, Village Board of Trustees liaison to the Plan Commission.

Adoption of Emergency Allowance of Remote Participation by the Plan Commission

A motion to allow remote participation in the meeting was made by Commissioner Heming-Littwin, and seconded by Commissioner Fanella. The motion carried with a roll call vote of six (6) yes and zero (0) no as follows: Commissioners Heming-Littwin, Mulherin, Berry, Brown and Fanella and Chairperson Loch voted "yes."

Public Comment Non-Agenda Items

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

Approval of July 9, 2020 Plan Commission Meeting Minutes

Commissioner Heming-Littwin moved to approve the draft minutes of the July 9, 2020 Regular Plan Commission meeting; seconded by Commissioner Brown, the motion carried with a roll call vote of six (6) yes and zero (0) no as follows: Plan Commissioners Heming-Littwin, Berry, Brown, Fanella, Mulherin and Chairperson Loch voted "yes."

Public Hearing - 535 Pennsylvania Avenue -The Enclave - Special Use Permit

A motion to open the Public Hearing to consider a Special Use Permit for the property at 535 Pennsylvania (The Enclave) was made and seconded by Commissioners Brown and Fanella, respectively. The motion carried with six (6) yes votes and zero (0) no votes as follows: Commissioners Brown, Fanella, Berry, Heming-Littwin, Mulherin and Chairperson Loch voted "yes."

Staff Introduction

Sworn in were Associate Planner Jackson, Director of Development Springer, Planner Purvis with the Village of Glen Ellyn, 535 Duane Street in Glen Ellyn, and Glen Ellyn Police Chief Phil Norton, 65 S. Park Boulevard, Glen Ellyn.

Associate Planner Cole gave an overview of the subject property at 535 Pennsylvania Avenue, for which use alteration is contemplated to develop a space to accommodate work-from-home activity, as well as an environment that would have a social aspect that would feature "liquor lockers." Operating through a membership arrangement, the members could use the space during the day, and socialize in the building at night. Planner Cole described the surrounds, noting 13 parking spaces associated with the site, as well as the existence of nearby public parking. He added that a retail component would operate around uses of the building; items in the building would be offered for sale. He noted that doors are locked during the day. A Special Use Permit, he reiterated, was being sought.

Commissioner Heming-Littwin asked Police Chief Norton for his thoughts on the concept, and whether he had any concerns. Chief Norton responded, Yes," and explained that anytime a business serves alcohol, it can lead to all types of problems for the Department.

Commissioner Brown wondered whether, given the business model description of an experiential retail environment, whether the enterprise envisioned would have back stock or whether customers would place orders for items to be delivered. Planner Purvis said she didn't think there would be storage of products on the premises.

Commissioner Heming-Littwin indicated that she understood that the back two-thirds of the building would be used for office space, while the front would serve as a retail area.

<u>Petitioner's Presentation</u>

After being sworn in, Petitioner Robert Kellman, 535 Pennsylvania Avenue, Glen Ellyn, presented his case to attain a Special Use Permit applicable to the property at the aforementioned address.

Mr. Kellman explained that potential customers visiting the establishment would be able to try out furniture on display and get a feel for the merchandise before deciding whether or not to buy it. He cited what he said is a popular trend on the East and West Coast, and went on to explain that he is looking to partner with interior designers, and that items employed in unusual uses – such as a kitchen chair being deployed in an office – will be a theme of the business, and related that a focus on recruitment of members has contributed to business growth. The advent of Covid-19 and associated business closure had altered his plans. After a "false start," he said he moved to ramp back up and focus on the co-working space model more than retail.

<u>Commissioner Questions</u>

Observing that the social media campaign to garner members seemed aggressive, Commissioner Heming-Littwin asked Mr. Kellman how many members the club would have and what the requirements to join are. He responded that membership would cap out at 70, and that profits are expected to come from the retail side of the business. The Petitioner said that interior designers and community members would be charged a $95 monthly membership fee, and would have use of a shared staff. Commissioner Heming-Littwin inquired as to the hours of operation, the staffing level and Covid-19 safety measures.

Mr. Kellman said the hours of operation would be from 7 a.m. to 1 a.m., that there would be a staff of four, and listed hand sanitizer, mask and social-distancing protocols, oversized HVAC units, daily cleaning, and furniture removal as preventative actions. Heming-Littwin said she hadn't seen a sign posted near the door requiring masks, but Mr. Kellman responded that a sign was there.

Commissioner Heming-Littwin asked what the level of sales was pre-Covid and how sales tax gets back to the Village. The Petitioner said that the business has been filing a monthly retail sales tax forms with the State, but that the previous month saw only light business. The first month of business – prior to Covid – generated about $1,800. Mr. Kellman says he hopes to sell $15,000-$20,000 worth of furniture a month, but pointed out that the focus since the restart has been on attracting interior designers. Commissioner Heming-Littwin remarked about the potential appeal of low-traffic to shoppers in the Covid-19 era. The Petitioner said his marketing strategy excluded curbside and "no-interaction" engagement, so had to pivot to consider other uses, but expressed optimism in the plan.

Commissioner Berry wondered why he didn't see any information on The Enclave website about furniture sales. Mr. Kellman said furniture sales information had been posted but was removed while a focus was placed on generating membership. He added that the business has two separate marketing channels: one for co-working/membership and another directed toward interior designers, with different marketing methods used. Commissioner Berry asked if information about furniture for sale was available inside the building, to which the Petitioner responded affirmatively.

In citing a web posting calling for art to be displayed for sale, Commissioner Fanella asked the Petitioner if he anticipated a more traditional retail experience down the road. Mr. Kellman explained that while his business doesn't sell art, it allows opportunities for local artists to gain exposure for their work, while decorating the building space, and that they had had a more traditional retail focus, but didn't have the opportunity to explore it. To a question about such plans from Chairperson Loch, he indicated that they continue to evaluate this direction, but under Covid-19 conditions are currently concentrating on the membership/co-working model, until such time opening for retail activities is more feasible.

Commissioner Brown asked about pricing structures and the composition of recent retail month sales. Mr. Kellman said they were for chairs and various other items sold through an interior designer, noting that interior designers are given discounts, based on relationships.

Relating that Facebook ads promoting an alternative workspace had been captured, Chief Norton asked whether a member can share alcohol out of a locker with another member. Mr. Kellman said there would be no prohibition on doing so as far as he's aware. The Chief asked if the member could sell alcohol, but Mr. Kellman said he didn't see such a situation arising. Chief Norton cited from a piece in the *DuPage Policy Journal* a quote, "You can come to Enclave and you can make it into whatever you want it to be," and asked if this was accurate. The Petitioner suggested the quote was cherry-picked. The Chief said the messaging makes him suspicious, to which the Petitioner said the Police are invited to meet with him to go over any concerns. The Chief observed that the focus of the enterprise has changed, which the Petitioner acknowledged, but said he expected to return to a retail emphasis.

Commissioner Heming-Littwin asked the Petitioner what would prevent a member from bringing more than two additional people into the building at one time. Mr. Kellman responded that cameramonitoring and staffing would address this and that violators would be sanctioned. Social media ads, she believes, emphasize the social club aspect of the business. Mr. Kellman said various ads are running, but the focus has pivoted toward co-working/retail purposes, and the social dimension is "icing on the cake." To queries about current work space usage, the Petitioner responded that six, seven or fewer individuals are in the space during daytime work hours, and that that place was empty the majority of weeknights and on weekends.

Commissioner Brown asked how usage is limited to the stated hours for use and whether any members had been punished for violating rules. Mr. Kellman responded that the biometric key is used to stop off-hour entry, and that no members have thus far been booted for banned activity.

Commissioner Fanella asked Chief Norton what hour would the business have to close if it was viewed as a bar, restaurant or social venue. He said it depends on the type of liquor license and service, but the latest is typically 1 a.m., and that locking doors during open hours would not be permitted. He said he could check the Code, and then asked the Petitioner who had participated in conversations about the BYOB part. Mr. Kellman recalls discussions began with Meredith before she left the Economic/Planning Department, but continued with Mark Franz and A.J. Covid, Kellman said, precipitated tonight's meeting, as the emphasis of the business direction had shifted.

Commissioner Berry asked Chief Norton if there had been any incidences at the requiring Police response at the establishment, to which the Chief responded no, but mentioned a discussion concerning a situation wherein undercover agents were able to be served alcohol at a private party despite not being on a guest list. Kellman attributed this to miscommunication.

Commissioner Mulherin asked if the storefront will change, as it is stark and lacking signage. Mr. Kellman said signs have been produced and are planned for placement.

Commissioner Heming-Littwin asked what will prevent liquor from being served to underage individuals. Mr. Kellman cited the biometric locks, cameras, membership agreements and the small number of members. He confirmed that no one would be checking IDs.

Commissioner Berry asked what the number of members currently is. Mr. Kellman said 60.

<u>Public Comment</u>

Thomas LaMantia, 535 Pennsylvania Ave., sworn in, directed his comment to the Police Chief, saying that the building cameras are motion-sensitive, only visible to the building owner and primarily focused on the exterior. He said back-of-building space is used by his growing IT business.

Recognized was Anne Gould, 609 Newton Avenue, Glen Ellyn, who recalled reading varying maximum occupancy limits in different documents, and asked if a staff member would be present at closing time to make sure everyone leaves. She commented that the proposed establishment seems like a private club promoted as a shared living room and wondered how the model is compatible with maintaining and protecting the Village's primary downtown retail core. She asked Chief Norton whether the usage sought would allow for the same activities permissible in a private residence. He said no, and that under the license – designated A-5 – there is no (closing) time limit and that legal alcohol is allowed, however, the The Enclave would be subject to certain regulations, and would be subject to Dram Shop liability.

Planner Purvis interjected that, despite being a private club, cannabis use would not be permitted. Community Development Director Springer stated that maximum occupancy for the space is 49 people, and that higher numbers were related to the membership.

Associate Planner Jackson read the following received written comments into the record:

Marilyn Peretti, 515 N. Main St., 1B-S: *"What is the definition of a 'private social club'? Is there one within 10 miles of this location at 535 Pennsylvania Ave.? If yes, where is it and its name. Please describe what happens at this 'private social club'. Who is eligible to join? How many members can join, and where is the parking for them at this Glen Ellyn location?*

Thank you."

Pete Ladesic, 615 Scott Ave: *"Dear Plan Commission Chair and Members,*

I am writing with some observations and or concerns about an item on your agenda this evening.

I do not see a real benefit to our village of allowing a use other than retail for this location.

We have a limited amount of retail space in our central business district and by all planning standards the best and highest use of this space would be retail space in order to generate some sort of retail sales tax and or food and beverage tax.

I do support the idea of a collaborative business space but feel that this use should best be kept out of our core retail district.

I question how the space could generate any retail sales tax revenue for the following reasons:

During the day if it were used to represent the sale of retail products but not actually have point of sale retail products those taxes would go to the place of the manufacturer and designers (who) typically do not pay sales tax as they have resale exemptions.

The concept of a BYOB social club by its nature it will actually compete with other restaurants and bars in our downtown that are already struggling due to Covid as no food or alcohol will sold so no taxes will be generated by this space.

Maybe I am missing something but that is for you all to figure out.

Thank you for your service to our village!"

Community Development Director Springer asked if an upcoming wine-tasting is open to the public and whether more such events are to be held at The Enclave. Mr. Kellman responded future such events are probably unlikely, and that the event was scheduled to promote the opening of the ko-ze wine business. The event –one of two – is capped at 15 people, by invitation only, and the wine proprietor will be serving the wine.

A motion to close the Public Hearing concerning 535 Pennsylvania was made and seconded by Commissioners Heming-Littwin and Fanella, respectively. The motion carried with a roll call vote of six

(6) yes and zero (0) no as follows: Commissioners Heming-Littwin, Fanella, Berry, Brown and Mulherin and Chairperson Loch voted “yes.”

Commissioner Discussion

Commissioner Berry asked if a Special Use Permit could be granted for a specific period of time. Chairperson Loch interpreted the question to mean that The Enclave had changed its business model in response to Covid-19, and that the Commission would like to see the business return to their intended retail focus, so a check on the business would be made in a couple of years to see if it can function in the manner originally intended. Commissioner Berry confirmed this was the point of his question. Community Development Director Springer stated that an SUP could have conditions attached and be monitored.

Chairperson Loch sought clarification about taxes potentially generated by interior design sales. Commissioner Heming-Littwin explained that if the business sells to a designer who in turn sells to a customer, collection of the tax would be incumbent on the interior designer, who is subject to tax requirements of the jurisdiction in which the designer is located. Director Springer stated that some tax had been collected from The Enclave by the Village. Commissioner Heming-Littwin, who is disinclined to approve the Special Use Permit, thought the focus of the venture seemed to be on membership rather than retail, and expressed concern about the potential for underage drinking. She said the Village’s “vibrant” restaurant business should be supported, and is uncomfortable with the obscured windows at The Enclave, and doesn’t see goods on offer as being exclusively available there. If a timeframe is attached, she feels it should only be extended until December. The upshot: She’s against the SUP.

Taking “a little bit different approach,” Commissioner Berry saw the potential for engagement with local restaurants, which would generate sales, and considered the benefit of co-working to be an important component that could contribute to a progressive business environment – especially given Covid-19 limitations. He said the owner appears to cooperate with the police, and that the site is vacant space at the end of the retail row. As such, he advocated that a conditional Special Use Permit be granted for a two-year period, and that window shades at the location be up during specified hours to present the appearance of a retail establishment. He advocated that a conditional permit cover a two-year period, as three months does not give the business owner adequate time to create the opportunity to re-pivot back into retail – a business plan he sees as valid, given news reports about the home-improvement business sector. Commissioner Berry said such social environments are popular in the City, and that he would vote to approve a permit for a conditional period of time.

Commissioner Mulherin agreed with Commissioner Berry.

Commissioner Fanella said she didn’t think the usage proposed is appropriate for the District, feeling that it doesn’t adhere to the spirit of the Code. She expressed concerns about how the venue has been marketed, and would not support approval of a Special Use Permit, temporary or otherwise.

Commissioner Brown said her thoughts on the matter are closer to those of Commissioners Fanella and Heming-Littwin, and that the business has not looked to her, from a consumer standpoint, to be a retail establishment.

Chairperson Loch determined the opinions expressed signal insufficient support for recommending approval of the Special Use Permit.

Commissioner Berry asked what The Enclave would do if approval is not granted. Community Development Director Springer said the Department would work with the Petitioner to find another location if the Village Board concurs with a negative Plan Commission recommendation. Commissioner Loch suggested the Petitioner could potentially change the business model to do more retail.

Commissioner Heming-Littwin moved for the following:

After conducting a public hearing and deliberating on the request of Robert Kellman, representing The Enclave at the property at 535 Pennsylvania Avenue for approval of a Special Use Permit to allow a social club and office on site, the Plan Commission hereby makes the following findings of fact: The proposed use will not be harmonious and in accordance with the general objectives, or within the specific objectives of the C5A zoning district, based on testimony provided this evening, and so the Plan Commission is not recommending approval.

Seconded by Commissioner Brown, the motion carried by roll call vote with four (4) yes and one (1) no as follows: Plan Commissioners Heming-Littwin and Fanella and Brown and Chairperson Loch voted "yes," and Commissioner Berry voted "no."

Chairperson thanked the Petitioner, praised the co-working concept and offered a reminder that the question of approval still must go before the Village Board.

<u>Public Hearing - 37 Briar Street - Iron Gate Apartments - Fence Variation</u>

A motion to open the Public Hearing concerning a fence variation for 37 Briar Street (Iron Gate Apartments) was made and seconded by Commissioners Berry and Brown, respectively. The motion carried with a roll call vote of six (6) yes and zero (0) no as follows: Commissioners Berry, Brown, Heming-Littwin and Fanella, and Chairperson Loch voted "yes."

<u>Staff Introduction</u>

After being sworn in, Planner Ashbaugh, Village of Glen Ellyn, 535 Duane Street in Glen Ellyn, described the subject of the evening's public hearing as a project, requiring two zoning variations, to replace a deteriorated fence at the subject property with a closed fence she described as having a height of 6 feet (as opposed to the Code-specified 4-foot height) along approximately 683 feet of the corner side (south) lot line and approximately 30 feet of the rear (east) lot line on the property located at 11 – 37 Briar Street. She related the public hearing notice actions effected, which included a mailing to more than 300 property owners in the area. The property, which is comprises approximately 8 ½ acres north of Roosevelt Road, carries the R4 (residential) zoning classification, and holds a fence that was shown in photos to be in a state of disrepair. A wood, "shadowbox" style fence is proposed as a replacement.

Commissioner Berry inquired what the rationale was for a 6-foot vs. a 4-foot fence. Planner Ashbaugh understood that it would provide a screen and offering a buffer and security. Community Development Director Springer stated that the fence currently in place does not provide much screening. Chairperson Loch asked if the Plan Commission had input into the fence choice. Commissioner Heming-Littwin wondered if Chief Norton thinks there's a safety issue in having such a solid fence along Roosevelt.

Commissioner Brown asked if there was any traffic safety concern relative to right-hand turns onto Roosevelt. Planner Ashbaugh said she thought the fence was positioned far enough to the east on the lot line that it doesn't interfere with the sightline. Heming-Littwin mentioned concern about left-hand turns, too. Chairperson Loch said it appears to be a setback from the street. Planner Ashbaugh said IDOT right-of-way is the parkway.

Commissioner Fanella inquired whether landscaping between the fence and Roosevelt Road could be a condition of approval. Planner Ashbaugh replied that the right of way is IDOT property, and the agency is strict, typically proscribing landscape directives.

Petitioner's Presentation

Sworn in was Petitioner Iman Jalali, 25 Briar Street, Glen Ellyn, Ill., who stated that his company purchased the complex approximately a year ago, and recognized that a number of things at the site needed to be addressed, including the fence. He related that "a more appropriate fence" had been recommended by the fence company with which he was working, and that a 4-foot height would not provide adequate privacy screening and durability on a major road. He said he's seeking a solution that is both sturdy and presents a better aesthetic look.

Commissioner Questions

Commissioner Berry asked if the Petitioner had plans to stain or treat the wood after the fence is installed. Mr. Jalali said, no, that there is no need for the type of wood to be used.

Chairperson Loch asked if the board-on-board style had been selected for a particular reason. The Petitioner said he went with recommendations from three fence companies for the shadowbox style, and that the style was seen to provide a greater level of screening and durability.

Community Development Director Springer related Chief Norton's opinion that "you can conceal more behind a 6-foot solid fence than you can a 4-foot solid fence," so for public safety, he favored the latter.

Public Comment

There was no public comment.

Commissioner Heming-Littwin moved to close the Public Hearing; seconded by Commissioner Brown, the motion carried with a roll call vote of six (6) yes and zero (0) no as follows: Plan Commissioners Heming-Littwin, Brown, Berry, Fanella and Chairperson Loch voted "yes."

Commissioner Discussion

Commissioner Berry said he was in favor of a fence replacement, but thought a new fence with an open part at the top of the panel might be a nice compromise. He supports a 6-foot fence but hopes the Petition would consider one that emits light the top.

Commissioner Brown agreed with Commissioner Berry, calling for a hybrid approach.

Commissioner Mulherin agreed with Commissioner Berry.

Commissioner Fanella said she had no problem with a replacement fence, so long as the Police Chief and the Village are satisfied with the type.

Commissioner Heming-Littwin said she was fine with the fence, but wants to make sure Chief Norton has the ability to go on record speaking on it. She is in favor of approving the fence, but will only vote to approve if the recommendation is put on the non-consent agenda.

Chairperson Loch said she is okay with a 6-foot fence, but conditional on choosing a model with a decorative top.

Commissioner Mulherin agrees with all that was said.

Commissioner Heming-Littwin moved for the following:

After conducting a public hearing and deliberating on the requests of Iman Jalali of SIM Briar Street LLC, owner of Iron Gate Apartments to the construction of a closed fence with a height of 6 feet along approximately 683 feet of the corner side (south) lot line and approximately 30 feet of the rear (east) lot line on the property located at 11 – 37 Briar Street, the Plan Commission hereby makes the following Findings of Fact:

In regard to the request for approval of the Zoning Variations from Section 10-5-5(B)(4) #11(a)(1) to allow a closed fence in the corner side and rear yards where a fence is required to be 33 percent open; and Section 10-5-5(B)(4) #11(b)(4) to allow a fence in the corner side and rear yards to be 6 feet in height where a fence of no more than 4 feet in height is permitted, the Commission finds:

Due to the character of the property in question and it being along Roosevelt Road, it's harder to be in strict guideline, therefore, having considered the petition of requests of Iman Jalali of SIM Briar Street LLC, owner of Iron Gate Apartments for improvements to 11 – 37 Briar Street, the Plan Commission recommends that the plans and the presentation which included the findings associated with the Zoning Variations have been satisfied and therefore recommends that the Village Board approve the variations as requested subject to the following conditions:

1. The fence shall be constructed in substantial conformance with the plans as submitted and the testimony as presented in tonight's meeting;
2. That the petitioner submit a building permit application and the required plans and documents for the Village staff to review the structural integrity of the accessory structures on the lot.
3. The Petitioner look into possibly having a more open top on the fence.
4. That the item not be put on the consent agenda, so that proper input from the Chief of Police of Glen Ellyn can be obtained regarding the height requested for the fence.

Seconded by Commissioner Brown, the motion carried by roll call vote with five (5) yes and zero (0) no as follows: Plan Commissioners Heming-Littwin and Berry, Brown and Fanella and Chairperson Loch voted "yes."

Chairperson Loch thanked Mr. Jalali for his investment in Glen Ellyn.

<u>Trustee's Report</u>

Village Board Trustee Bill Enright pointed out that the Apex project has started, and that parking and traffic flow is being adjusted to accommodate businesses. The parking garage, he reported, won't be returned until April 1, 2021, and the budget process is expected to begin in the next month or so.

Chairman's Report

Chairperson Loch declared that she is "threw her hat into the ring" by seeking the Village Board President post.

Staff Report

Planner Purvis stated that the Streetscape Committee had received a bid for surface mock-ups, which will be at Crescent and Main, as part of an outreach campaign to obtain resident feedback as to preferred treatments.

A third review by staff of the Comprehensive Plan has concluded, she continued, and that direction was given to the consultants for revision. More engagement is in order, she explained, outlining a number of events, including an open house, subsequent Zoom-facilitated meetings and a workshop.

A 3-D model was presented to the Village Board, related Planner Purvis, who explained that the technology involved offers an "immersive" model that could serve as a visualization tool. Such a model of the Downtown is in the works, she added.

According to Community Development Director Springer and Planner Ashbaugh, the subject of the proposed McChesney site redevelopment project is expected to be on an autumn agenda.

Other Business

None.

Adjournment

Following a motion by Commissioner Heming-Littwin to adjourn, Chairperson Loch concluded the meeting at 9:40 p.m.

Respectfully submitted,

Barbara Dutton
Recording Secretary