

**MINUTES OF A REGULAR MEETING OF THE KENILWORTH PLAN COMMISSION HELD  
AT THE KENILWORTH VILLAGE HALL, 419 RICHMOND ROAD  
AT 7:30 P.M. ON MONDAY, JANUARY 5, 2009.**

The regular meeting of the Plan Commission of the Village of Kenilworth was held at 7:30 p.m. on Monday, January 5, 2009. Chairman Smietana called the meeting to order at 7:32 p.m. The following Commissioners were present:

Present:	Robert Smietana	Chairman	
	Henry Mawicke	Member	
	Elizabeth Bannon	Member	
	Tom Feeney	Member	
	Frank Cavalier	Member	
	Gwen Sommers Yant	Member	
	Dirk Degenars	Member	
	Tolbert Chisum	Member	arrived 9:00 pm
Absent:	Jim Junewicz	Member	
Other Village Officials Present:	Bradly Burke	Village Manager	
	Susan Criezis	Community Development Director	
	Barbara Adams	Attorney	

The minutes of the November 3, 2008 meeting were placed before the Commission. No corrections were made.

**Member Bannon made a motion to approve the minutes. Member Degenars seconded the motion, which was unanimously carried, and the November 3, 2008 Meeting Minutes were approved.**

Chairman Smietana introduced the meeting agenda and began a discussion of the proposed amendments to the Kenilworth Zoning Ordinance related to business district regulations. He asked Village Manager Burke to lead the Plan Commission through the document.

Village Manager Burke explained the history of the proposed Business District amendments and discussed questions that arose in assembling specific language. He proposed starting with the use list and then proceeding to other regulations in the draft ordinance prepared for discussion by the Plan Commission. He said a draft Planned Unit Development ordinance will be discussed at a later meeting. He then explained the use list and what was kept in based on the existing ordinance and past Plan Commission discussions. Village Manager Burke initiated discussion about restaurant uses and the distinctions between types of food service.

Attorney Adams said other Villages' zoning regulations were reviewed to understand how different communities regulate food service. She reviewed past Kenilworth code changes regarding food services. Member Degenars asked what the safety issues were when coffee shops such as Starbucks were considered by the Village Board a few years ago.

Member Bannon expressed her opinion she would like to see all food service uses, including meat markets and coffee shops, to be treated as special uses. Member Mawicke asked what the objective of doing a special use is. He asked why a distinction is needed between full

service and limited service restaurants as currently found in the Zoning Ordinance. Chairman Smietana agreed and expressed his opinion a distinction between these types of food uses is not needed. Attorney Adams said the reason was to prevent fast food and carryout restaurants, such as Burger King, from opening up. Member Degenars said he saw a "limited service restaurant" as a fast food, carryout establishment. Member Bannon expressed her opinion she saw candy stores as the similar to a limited service restaurant use, but Member Degenars disagreed.

Chairman Smietana said restaurants are usually a special use in most communities. He asked about coffee shops, and expressed his opinion parking and traffic are the two biggest issues to be addressed. Member Yant said the issues are smells, vermin, deliveries, and trash related to food service uses. Member Degenars expressed his opinion meat markets or bakeries have more issues with garbage or odors, than coffee shops.

Member Mawicke expressed concern Kenilworth's special use application process is complicated. Member Bannon expressed her opinion residents need control and a say over restaurant uses and expressed concerns that may be raised by a restaurant use situated on the ground floor with residential uses on the upper floors. Chairman Smietana said the free market usually controls these things, and developers do not put potentially problematic restaurants below high end condos.

Chairman Smietana said the community wants food service, and Member Degenars said putting too many controls might hinder independent shops from opening. Chairman Smietana said full service or limited service restaurants should be held to a higher standard than a coffee shop or ice cream store. Member Cavalier said we used to have these types of food services ten years ago, but the Village has become more restrictive over time.

Attorney Adams asked about the 10,000 square foot size needed for a special use permit. She asked if a food use could be tied to this size. Chairman Smietana said it is unlikely that size would make a difference for food service. Member Feeny said "on-site" preparation could be a distinction. Chairman Smietana said an ice cream shop is different than a full service restaurant. Member Degenars expressed his opinion the Village should not put too many road blocks in front of potential food service places.

Member Yant asked if the draft ordinance on food service uses should stay as presented. Member Degenars proposed having food stores and meat markets as special uses. Member Bannon agreed with this.

Member Mawicke asked about catering and what the issues are with that use. Chairman Smietana said an industrial kitchen that produces food for off-site consumption is the concern. Member Cavalier said, currently in the Village, it is difficult to get a permit for a commercial kitchen, because of all the health department requirements.

Member Bannon wanted to be on record that she felt all food related items should be a special use. The other members of the Plan Commission disagreed. Village Manager Burke gave an example of a sandwich place in Lake Bluff and its limited impact on the surrounding area.

Member Cavalier asked what the special use process would be. Village Manager Burke explained the proposed process and said the Plan Commission would review special uses in the Business District rather than the Zoning Board of Appeals. He said in most instances it would be a minimum three month process from the date the application is submitted.

Member Yant asked about nuisance regulations to address overflowing dumpsters, etc. Village Manager Burke said the Village Code does include nuisance regulations for such issues and these regulations would be used in enforcement activities.

Member Degenars asked about liquor controls and Attorney Adams explained the liquor licensing process that would need to be added to the Village's municipal code and outlined the different categories of liquor controls. She said liquor licensing is a separate function and is typically a provision found in the municipal code and is not part of a zoning code.

Chairman Smietana mentioned a wine bottle shop in Wilmette that would be a good concept for Kenilworth. Village Manager Burke said the Plan Commission should give the Village Board a recommendation to adopt different classes of liquor licenses. Village Manager Burke explained liquor licenses are issued to a person, rather than a location, and are not a "right", but a privilege.

Attorney Adams questioned why liquor stores, such as a wine shop, should be a special use, even though they have the same land use impact as a store selling soft drinks. She said control should be handled through liquor license regulations. A specific number of licenses would be available in the Village and would be heavily controlled.

Chairman Smietana asked if a wine shop should be a permitted use since it is controlled by liquor regulations. Attorney Adams explained the public process and said liquor licensing is usually a separate process. Chairman Smietana asked why a wine shop could not be treated as a special use. Attorney Adams said the question raised regarding differential treatment of a wine shop is based on defense of the code. Village Manager Burke said one option is to go back to John Houseal and ask how he would defend treating a wine shop as a special use when other retail uses are permitted as of right.

Next, Village Manager Burke asked about automotive supply stores and if they should continue to be allowed. Member Mawicke discussed problems they create. Members Bannon and Mawicke said they wanted automotive supply stores taken out and a consensus of the members of the Plan Commission was to remove these uses.

In light of the Plan Commission's previous concerns raised regarding pawn shops, Village Manager Burke brought up the subject of antique stores and asked if consignment items would be allowed. Member Mawicke expressed his opinion he does not care about if new or used items are being sold; however, there needs to be a clear definition of the term "antique". Staff will bring back a definition of "antique" store to the Plan Commission.

Discussion of the commission members turned to animal hospitals. It was the consensus of the Plan Commission agreed to eliminate them, because of the outside animal areas needed with such a use.

There was discussion was about dry cleaners and the members agreed on-site cleaning was not to be allowed. There should not be a dry-cleaning plant on the premises.

The Plan Commission discussed cosmetic procedures that might be part of a day spa and did not have concerns over the type of procedures allowed.

Village Manager Burke began a discussion of assembly uses, such as educational or fitness classes, theater, and potential religious land use. Attorney Adams explained recent case law

and said in Kenilworth's current code, places of religious worship are a special use in all zoning districts. She recommended all assembly uses should be treated the same as special uses, including religious uses.

Village Manager Burke discussed personal training/fitness and theater/entertainment uses and said they should be also be special uses because they are congregate activities. It was the consensus of the Plan Commission to treat classes for fitness as special uses. Member Bannon requested one-to-one tutoring classes be a permitted use, rather than a special use.

Member Cavalier asked about recent bank litigation. Attorney Adams explained recent case law regarding banks on first floors and restrictions other communities tried to place on banks. Member Cavalier asked why some Villages can tax banks. Attorney Adams said only home rule communities can apply such a tax. A general discussion about banks within the corridor followed.

Member Degenars proposed banks as special uses and financial services as permitted uses. Attorney Adams said a definition would need to be developed.

Member Mawicke asked about thresholds for special uses such as the proposed minimum area of 10,000 square feet. He thought it was intended to be the first floor area only, not upper floors. Member Cavalier thought 10,000 square feet was too high for an entire building and would prevent the improvement of buildings on Green Bay Road with a planned unit development. Member Yant and Chairman Smietana disagreed and explained the difference between special use and planned unit development. The Plan Commission agreed the 10,000 square foot minimum area for special use is for the first floor area only.

Next, the Plan Commissioners discussed the minimum front yard requirement and Member Yant asked for an explanation of the 70 foot dimension in the current code. Community Development Director Criezis explained her understanding of the basis of the dimension. Chairman Smietana expressed his opinion this confusing language be eliminated or revised if possible. Attorney Adams expressed concern about removing it and felt more research should be done. She said an IDOT (Illinois Department of Transportation) survey should be obtained to check on the Green Bay Road right-of-way.

Member Cavalier asked about eliminating any reference to front yards and proposed not requiring them. Member Yant said the Comprehensive Plan recommends a street wall along Green Bay Road. Chairman Smietana agreed with the comment regarding the Comprehensive Plan; however, it was the consensus of the Plan Commission to leave the front yard and side yard requirements unchanged.

Attorney Adams brought up the issue of "compatible use" interpretation language and referenced the Glencoe code language included in the Plan Commission's packet. She also explained accessory uses in Glencoe's code. The Plan Commission agreed with using Glencoe's language for compatible and accessory uses, but not accessory structures. They agreed no accessory structures should be permitted within the business district.

Village Manager Burke explained existing code Section 7.5: Restrictions on Permitted Uses, which contains various provisions for the Business District. Attorney Adams discussed the minimum 600 square foot apartment size. Staff will research existing apartment sizes and code requirements of room sizes.

The Plan Commission discussed sign provisions and said many changes are needed in the future. Attorney Adams said the draft Business District ordinance organizes the current requirements, but does not revise them.

Member Yant expressed concern about the role of the Architectural Review Commission and if the Plan Commission should consult with them. Chairman Smietana said he serves on the Architectural Review Commission, and the Plan Commission has had more training and experience on this topic with the Commission's involvement in drafting the Comprehensive Plan and Design and Development Guidelines. Chairman Smietana expressed his opinion the Architectural Review Commission should be folded into the Plan Commission. Member Yant expressed her opinion training is essential for whichever body ultimately is charged with the responsibility of reviewing construction within the business district.

**Member Feeney made a motion to adopt the 2009 Plan Commission Meeting Schedule. Member Bannon seconded the motion, which was unanimously carried, and the 2009 Plan Commission Meeting Schedule was approved as presented.**

**Member Cavalier made a motion to adjourn. Member Bannon seconded the motion, which was unanimously carried, and the meeting adjourned at 10:05 p.m.**

Respectfully submitted,

Susan Criezis