

CITY OF GLENDALE -- PLAN COMMISSION

Tuesday, October 4, 2016

Pursuant to adjournment, the City Plan Commission met in the Common Council Chambers of City Hall, 5909 North Milwaukee River Parkway.

Mayor Kennedy called the meeting to order at 6:00 p.m.

Roll Call: Present: Mayor Bryan Kennedy, Commissioners JoAnn Shaw, Karn Cronwell, Fred Cohn, Gary Lippow, Robert Pfauth, and Tomika Vukovic. Absent: None.

Other Officials Present: Rachel Reiss, Deputy City Administrator, Todd M. Stuebe, Director of Community Development.

In accordance with the Open Meeting Law, the North Shore NOW, the City's official newspaper, was advised on Thursday, September 29, 2016, of the date of this meeting, the agenda was posted on the official bulletin board in City Hall, copies of the agenda were made available to the general public in the Municipal Building and the Police Department, and those persons who have requested were sent copies of the agenda.

PLEDGE OF ALLEGIANCE.

The Members of the Plan Commission, City staff and all those present pledged allegiance to the flag of the United States of America.

ADOPTION OF THE MINUTES.

Motion was made by Comm. Lippow, seconded by Comm. Vukovic, to approve the minutes of the meeting held on Tuesday, July 5, 2016, with correction to item II in view of the fact that Comm. Cole was not present September 6, 2016 (the second to the motion was by Comm. Cronwell rather than Comm. Cole). Roll Call: Ayes: Mayor Kennedy, Commissioners Shaw, Cronwell, Cohn, Lippow, Pfauth, and Vukovic. Noes: None. Abstain: None. Motion carried unanimously.

MATTERS FOR CONSIDERATION.

- I. Sign Appeal, Arby's, 5260 North Port Washington Road. Review and approve proposed sign appeal variance.

Mr. Stuebe stated that the Plan Commission Report was distributed to the Plan Commissioners and Applicant and is incorporated herein as follows:

Plan Commission Report:

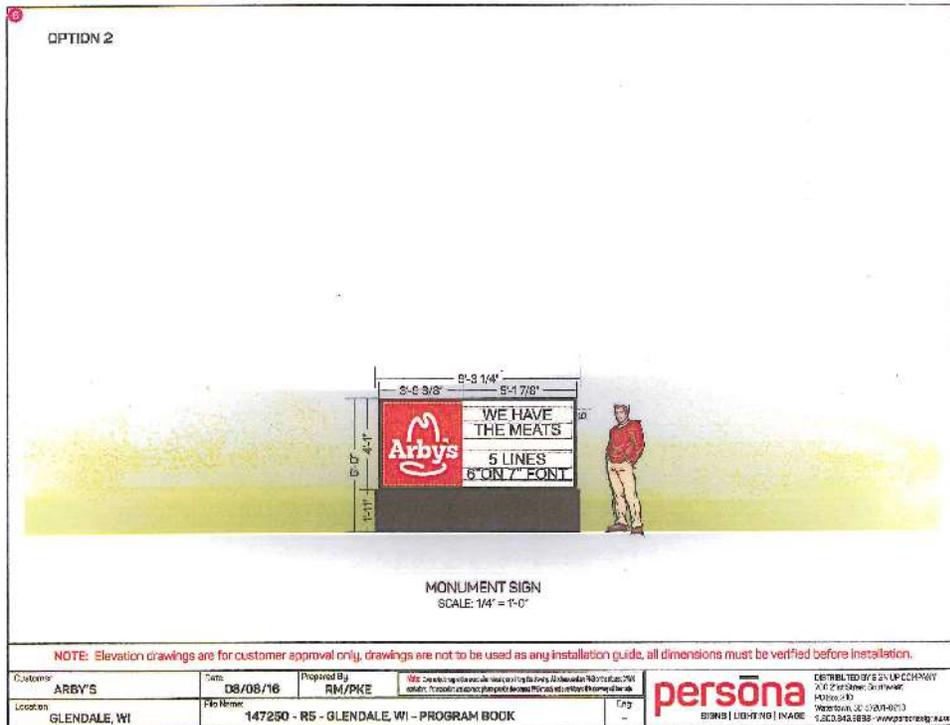
Elite Sports River Glen will present a proposed change to the Site Plan that will modify the enclosed fenced perimeter in the southwest of the Elite Sports-River Glen site located at 2001 West Good Hope Road (Refer to drawings). The site is zoned S-1 Special (Institutional) District, and the

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proposed change to the Site Plan requires Plan Commission review and approval.

Arby's representative will present a proposed monument sign (Refer to Exhibit A) that asks for signage that is beyond what is permitted under the Glendale Sign Code. Sign Permits were previously completed for the wall sign and side entry sign (Refer to Photograph A) that have been installed on the under construction building. Signage variances require Plan Commission review and approval.

Exhibit A: Proposed Monument Sign.



Arby's initially included a pole or pylon type of sign in the signage package, and was informed that such signs are not a permitted type, and that the amount of requested signage was not permitted. The Sign Code provides for either a wall sign or a monument sign.

Note that Burger King had a monument sign (refer to Photograph B) and a small wall sign on the side wall. Over the years Burger King made adjustments to its signage as it became antiquated and changes were made to the Sign Code in the early 1990's.

The proposed Arby's monument sign is proposed to be located in its own front yard, essentially where the prior Burger King Monument sign was located.

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Photograph A: Existing Arby's Signage per Permit (Wall Sign and Side Entry Door "Arby's")



Photograph B: Burger King Monument Sign



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Glendale Sign Code Requirements

The Plan Commission may grant a variance to the Sign Code. Per the Sign Code sign variances are intended to allow flexibility to the sign regulations while still fulfilling the purpose of the regulations, with the caveat that it is not intended to permit the erection or maintenance of signs that are prohibited. The Sign Code states that the Plan Commission shall make the final decision using the following criteria:

- a. The basic rule of thumb should be that there be no public harm and there be a public benefit.
- b. Variance considerations will include proposals for signs which would enhance the overall character of a neighborhood, or to mitigate unusual site conditions.
- c. The sign as proposed will not result in an undue concentration of signage which renders it difficult or confusing to read existing signs.
- d. The effect of a proposed sign may have on depreciating property values of a neighborhood.
- e. The Plan Commission, in its deliberation of an adjustment, may consider the location of the proposed sign, the height, the size, the appearance, number, and location of other signs in the vicinity of the proposed sign, and any other factor the Plan Commission deems appropriate.

The necessary action by the Plan Commission is to grant, require to modify, or to deny the sign variance request.

The Plan Commission discussed the proposed signage in view of the existing Sign Code and other establishments in the City of Glendale.

Comm. Cohn seeks a response to his inquiry as to the whether Arby's may simply have a monument sign in lieu of the hat wall sign and not require a variance. As the Arby's representative was not able to be present a response was not possible.

The Plan Commission also indicated that it wants to review signage of establishments in the vicinity to help formulate its understanding of whether the request will establish precedent that does not exist at this time.

Motion by Comm. Cohn, seconded by Comm. Shaw, that the Plan Commission table this matter until next month so that an Arby's representative may be present and allow more time for the Plan Commission to review signage of other establishments in the vicinity. Roll Call: Ayes: Mayor Kennedy, Commissioners Shaw, Cronwell, Cohn, Lippow, and Pfauth. Noes: Comm. Vukovic. Abstain: None. Motion carried 5-1.

II. Plan Commission Review, La Causa, 5235 North Ironwood Road. Review and approve proposed social services agency administrative office use and occupancy.

Mr. Stuebe stated that the Plan Commission Report was distributed to the Plan Commissioners and Applicant and is incorporated herein as follows:

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Plan Commission Report:

George Torres seeks Plan Commission approval for La Causa, Incorporated, a social services agency that provides professional services with administrative support services, to use and occupy the 30,000 square-foot office-warehouse building located at 5235-37 North Ironwood Road. The site is zoned B-1, Sub-Area C-1, and the proposed use and occupancy requires Plan Commission review and approval. La Causa has acquired the 5235-37 North Ironwood Road property.

La Causa has 160 to 175 employees, and contemplates that 80 to 100 will be working at 5235-37 North Ironwood, which Applicant reports has 120 parking places with 50 more available to La Causa. La Causa business hours are typically between 8:00 a.m. and 5:00 p.m. Monday through Friday, with some work evenings and Saturdays.

Parking should be satisfactory for the proposed use.

Community Development Director Stuebe stated that staff recommends that the Plan Commission grant use and occupancy approval for La Causa, Incorporated, a social services agency that provides professional services and administrative support services, per the following requirements: 1) All landscaping and lighting features being maintained and replaced and/or replenished when necessary; and 2) All City of Glendale building and fire codes being carried out to the satisfaction of the Building Inspector and the North Shore Fire Department.

George Torres introduced himself as the president and chief executive officer of La Causa, Incorporated, and thoroughly described both the larger La Causa mission and enterprises and activities in the metropolitan area and the specific services that will be provided within the 5235 both Ironwood Avenue facility, as well as proposed improvements to the building and grounds.

Motion by Comm. Pfauth, seconded by Comm. Cronwell, that the Plan Commission grant use and occupancy approval for La Causa, Incorporated, a social services agency that provides professional services and administrative support services, per the two requirements. Roll Call: Ayes: Mayor Kennedy, Commissioners Shaw, Cronwell, Cohn, Lippow, Pfauth, and Vukovic. Noes: None. Abstain: None. Motion carried unanimously.

- III. 6:00 P.M. Conditional Use Permit, Jet's Pizza, 6813 North Green Bay Avenue (Glendale Square 6801-6823). Review and approve proposed pizza restaurant use and occupancy.

Mr. Stuebe stated that the Plan Commission Report was distributed to the Plan Commissioners and Applicant and is incorporated herein as follows:

Plan Commission Report:

Nathan Jordan seeks Plan Commission Conditional Use Permit review and approval for Jet's Pizza to use and occupy the tenant space (former Curves and Sonja's Subs tenant space) in the Glendale Square multi-tenant center for the purpose of operating a Jet's Pizza restaurant. The site is zoned B-2

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Community Business District and, under the requirements of Section 13.1.35, the proposed use and occupancy requires Plan Commission Conditional Use Permit review and approval.

Jet's Pizza will mostly provide delivery and carry-out with limited table seating. Jet's Pizza will join Glen Café and Royal Wok as restaurant uses within Glendale Square. There were previously three restaurants when Sonia's Subs and Sweets occupied the same tenant space within Glendale Square.

Jet's Pizza proposed business hours are Sunday through Thursday from 10:00 a.m. to 10:00 p.m., and Friday and Saturday from 10:00 a.m. to 11:00 p.m. Due to the proximity to a district zoned residential (<500') Jet's proposed business hours will require approval within the Conditional Use Permit requirements of 7.15.4(a)(1)b.1. Jet's Pizza anticipates having a total of 20 employees with as many as 12 employees working at the same time.

Glendale Square has a standard signage theme that includes white letters on a bronze/brown panel. Jet's Pizza has indicated that it will follow the existing theme rather than maintain the request for a red and white sign. At the time of the hearing the signage request should be verified and included in the approval.

Community Development Director Stuebe stated that staff recommends that the Plan Commission Conditional Use Permit review approval be granted for Nathan Jordan to operate Jet's Pizza, a pizza restaurant with principally delivery and carry-out with limited table seating per the following six requirements: 1) Jet's Pizza proposed business hours are Sunday through Thursday from 10:00 a.m. to 10:00 p.m., and Friday and Saturday from 10:00 a.m. to 11:00 p.m.; 2) Signs consistent with the Glendale Square white letter on bronze/brown panel; 3) Signs require a Sign Permit per the Glendale Sign Code; 4) Delivery vehicles shall not be parked on the property so as to constitute signage display; 5) All landscaping and lighting features being maintained and replaced and/or replenished whenever necessary pursuant to tenant/owner lease responsibilities; and 6) All City of Glendale building and fire codes being carried out to the satisfaction of the Building Inspector and the North Shore Fire Department;

Nathan Jordan introduced himself as the franchise representatives of Jet's Pizza, and presented Jet's Pizza concept to the Plan Commission. Mr. Jordan stated that Jet's will stay consistent with the ivory white letters and bronze/brown signage program concept that all of the other tenancies utilize at Glendale Square (in lieu of red and white signage).

Douglas Buck introduced himself as the owner of the Glendale Square property and said that they are very pleased to bring Jet's Pizza to Glendale Square and the City of Glendale.

Motion by Comm. Cohn, seconded by Comm. Cronwell, that the Plan grant approval of a Commission Conditional Use Permit for Nathan Jordan to operate Jet's Pizza, a pizza restaurant with principally delivery and carry-out with limited table seating per the six requirements. Roll Call: Ayes: Mayor Kennedy, Commissioners Shaw, Cronwell, Cohn, Lippow, Pfauth, and Vukovic. Noes: None. Abstain: None. Motion carried unanimously.

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- IV. 6:00 P.M. Conditional Use Permit, Chubby's Cheesesteaks, 430 West Silver Spring Drive (Bayshore Town Center). Review and approve proposed request for business hours (proximity to single-family residential zoning).

Mr. Stuebe stated that the Plan Commission Report was distributed to the Plan Commissioners and Applicant and is incorporated herein as follows:

Plan Commission Report:

Murad Hamdan of Chubby's Cheesesteaks seeks Plan Commission Conditional Use Permit review and approval to have business hours that are beyond what is permitted for retail uses located within 500 feet of a district zoned residential.

Glendale Code of Ordinances 7.15.4 requires that retail businesses located within 500 feet of a district zoned residential be closed between the hours of 10:00 p.m. and 6:00 a.m., with an exception for certain uses. At present, not being licensed for the sale and on-premise consumption of beer and liquor and not having drive-up windows, Chubby's Cheesesteaks is eligible, upon Conditional Use Permit review and approval, to be open until 11:00 p.m. Sunday through Thursday, and until 12:00 a.m. (midnight) Saturday and Sunday mornings. The approval as stated in the Code is at the sole discretion of the Plan Commission, with such conditions may be imposed by the Plan Commission (Refer to attached 7.15.4(a)(1)b.2.).

Chubby's Cheesesteaks proposed business hours in this request reach beyond what is provided for above as follows:

	Chubby's Proposed	Permitted w/CUP
Review		
Sunday – Wednesday:	10:00 a.m. – 2:00 a.m.	Close 11:00 p.m.
Thursday – Saturday: (midnight)	10:00 a.m. – 3:00 a.m.	Close 12:00 p.m.

Chubby's Cheesesteaks has framed its request as a request for Extended Hours. Glendale Code of Ordinances 7.15.4(b) Extended Hours – Special Events states that the Common Council, in its sole discretion, may extend the hours of any retail business, upon request of such retail business, for special events, based on the criteria stated. The frequency of Chubby's Cheesesteaks request is every day of the year, making the request as a Special Event somewhat dubious, however, the Plan Commission may approve the business hours provided for within the bounds of 7.15.4(a)(1)b.2., and this matter may be further considered by the Common Council should it be determined that the request satisfies the requirement of being a Special Event.

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Community Development Director Stuebe stated that staff recommends that the Plan Commission Conditional Use Permit review approval be granted for Murad Hamdan to operate Chubby's Cheesesteaks, a cheesesteak specialty restaurant with delivery and carry-out and dine-in seating, per the following requirement: 1) Closing time as provided for per the exception provided in Glendale Code of Ordinances 7.15.4(a)(1)b.2., with a closing time of 11:00 p.m. Sunday through Thursday, and 12:00 a.m. (midnight) Saturday and Sunday mornings.

Timothy Baldwin introduced himself as legal counsel to Chubby's Cheesesteaks, and also introduced Chubby's Cheesesteaks owner Murad Hamdan.

Mayor Kennedy inquired which establishments in the Bayshore Town Center possess full liquor licenses and are under the State requirements.

Community development Director Stuebe stated that Bar Louie, Devons, Hom, Applebees, and Buffalo Wild Wings were some of the establishments that have a liquor license that places them under the State operating hour requirements.

Murad Hamdan said that Chubby's Cheesesteaks wants to serve sports lovers without any liquor served, and that their demographic is party kind of food usually consumed during the evening time, and that he thinks that their South Milwaukee store (2147 Miller Parkway) is how they would like the hours to work, and therefore asks the Plan Commission to consider the variance.

Mayor Kennedy asked about the tenant space where Chubby's Cheesesteaks will be.

Mr. Hamdan identified that the proposed store is located along West Silver Spring Drive.

M.P Theriault of Bayshore Town Center was present for this item and shared that Bayshore Town Center has 24-hour security staffing and said that she hopes that Chubby's Cheesesteaks will increase business for them after the movies.

Mr. Hamdan said that they have a \$25,000 security camera system that includes the parking lot area. Mr. Hamdan also said that they will lock the West Silver Spring Drive door at 9:00 p.m. and that customers will have to drive into the mall (Town Center) to park and enter Chubby's Cheesesteaks. Mr. Hamdan said that Chubby's Cheesesteaks Miller Parkway store has been open for one and one-half years without any problems.

Inquiry was made about whether Chubby's Cheesesteaks has a drive-thru there.

Mr. Hamdan replied that Oak Creek will be their first drive-thru store, and that they are making a significant investment.

Comm. Lippow said that he does not see how the Plan Commission has the authority per the City Code to approve the requested hours, and that the only way is under the Special Event, and does not see how the Plan Commission has any authority to grant more than stated in the Code.

Attorney Baldwin interjected that if it is being suggested that they add beer to their services that is something they are willing to consider, although Chubby's does not want to attract a bar crowd and any problems with that, and that Chubby's wants to serve the movies that exit between 12:30 a.m. and 1:00 a.m.

Mayor Kennedy reiterated that what the Staff has stated is all that the Plan Commission can approve at this time.

Attorney Baldwin said that they want to ask, because it came up in South Milwaukee, about closing the interior to customers but allowing delivery service.

Inquiry was made whether there is any precedent for that.

Community Development Director Stuebe stated that at the time Kinko's (now Fedex Kinko's) was reviewed and approved there was a similar request to allow Kinko's to

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continue its production work (making copies and compiling jobs) within the store and that there would be provision to have a window that would allow completed jobs to be received by clients.

Mr. Hamdan stated that Chubby's Cheesesteaks is known for nighttime, and that at their Miller Parkway store they lock the doors at midnight and deliver until 2:00 a.m.

Comm. Lippow stated, in reference to the City Code, that not open for business means not open for business.

Comm. Cohn sought to clarify the request being that at midnight Chubby's Cheesesteaks would lock the door, and that only delivery service would continue until 2:00 a.m.

Mr. Hamdan stated that their Chubby's Cheesesteaks store on the East Side is active between 12:00 midnight and 3:00 a.m. and that there is more of a college crowd and that is seven days per week.

Comm. Lippow made a motion, seconded by Comm. Shaw, that the Plan Commission approves the Conditional Use Permit per the City Code as recommended by City Staff.

The Plan Commission sought clarity as to whether the City Code allows for delivery service after closing to the public.

Community Development Director Stuebe stated that the Code is silent on whether delivery service may be provided.

Comm. Cronwell inquired what time the movies get out.

Mr. Hamdan said that they start at either 10:00 p.m. or 10:30 p.m. and that with what is available in the area they go home and are hungry.

Community Development Director Stuebe stated that the terms of the City Code are that a Conditional Use Permit is probationary for the first 90 days, with annual review with possible revocation at earlier times as determined by the Plan Commission.

Mayor Kennedy inquired about what other restaurants deliver.

Community Development Director Stuebe said that Jimmy John's delivers until about 9:00 p.m.

Mr. Hamdan said only a few pizza places and Wendy's.

Comm. Vukovic said that she lives nearby and walks the streets, and that she is not concerned with traffic flow, and that she looks forward to growth and development.

Mr. Hamdan said that he grew up in Shorewood, Wisconsin, and lives in Whitefish Bay, and that Chubby's Cheesesteaks does community involvement.

Attorney Baldwin stated that they turn in from Silver Spring Drive, and then at Kohl's turn into the parking lot, and there are not a lot of lights.

Mayor Kennedy observed that there is nothing else open in that area of the Mall.

Mr. Hamdan said that they are only asking for a chance.

Comm. Shaw stated that she walks past there all the time.

Mr. Hamdan said that they are finding the hours, and always wanted to be in Bayshore, and that all they ask is that they can stay open for delivery.

Comm. Shaw suggested review with the City Attorney and observed that with the holiday store hours Bayshore goes through hoops to have extended business hours, and the City Code says that at midnight the stores are closed, and asked what precedent exists or will we establish, and that Mr. Fuchs review is required and that if he denies it Chubby's Cheesesteaks will have to be notified, and that Common Council review of the City Code may be required.

Mr. Baldwin stated that they would address the Common Council as necessary to assure that this is amenable to the City.

The Plan Commission agreed that it only wanted to act on the matter to the extent that it is within its purview to do so, and that for this to go to the Common Council the City

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Administrator will do this to determine that these are the limits that the Common Council has put in place.

Mr. Baldwin said that he would discuss this further with his clients.

Motion by Comm. Lippow, seconded by Comm. Shaw, that Plan Commission Conditional Use Permit be granted for Murad Hamdan to operate Chubby's Cheesesteaks, a cheesesteak specialty restaurant with delivery and carry-out and dine-in seating, with limits per the requirement stated in 7.15.4(a)(1)b.2. Motion was made by Comm. Cohn to amend the first motion, seconded by Comm. Vukovic, to approve the original motion and that, after the doors are locked per the City Code as originally recommended by Staff, to permit delivery only until 2:00 a.m. every day, and that Staff check with the City Attorney about whether there can be delivery until 2:00 a.m., and that if he denies it that Chubby's Cheesesteaks be notified and, that the first year there will be a review by the Plan Commission each quarter and that the reviews will be Plan Commission agenda items. Roll Call: Ayes: Mayor Kennedy, Commissioners Cohn, Lippow, Pfauth, and Vukovich. Noes: Comm. Shaw and Cronwell. Abstain: None. Motion carried 5-2. Roll Call on the first motion as amended: Ayes: Mayor Kennedy, Commissioners Cronwell, Cohn, Pfauth, and Vukovich. Noes: Comm. Shaw and Lippow. Abstain: None. Motion carried 5-2.

- V. Plan Commission Review: Request to Modify Planned Development District Agreement as to Use(s) Permitted, 6524-6744 North Sidney Place (Glen Hills Apartments, AKA Sidney Place Apartments, AKA Mill Pond PUD), Review proposal to install a fence enclosure within the 6554 North Sidney Place parcel for the purpose of a dog park (pet playground) for renters at the Glen Hills Apartments.

Mr. Stuebe stated that the Plan Commission Report was distributed to the Plan Commissioners and Applicant and is incorporated herein as follows:

Plan Commission Report:

Munson, Incorporated, has submitted a Building Permit to install a 40' x 60' fence enclosure within the Glen Hills Apartments complex that is proposed as a "Dog Park." Several Site Plan exhibits, photographs of the environs, and rules for the Dog Park are included in the submittal review documents. The Glen Hills Apartments complex lands are zoned PD-Planned Unit Development District and, as such, the use of the site is per the original development project plan and Agreement and as subsequently amended by agreement.

The approved use of the site is for 224 multi-family housing units with 345 surface parking spaces, with lighting and landscaping, all in the existing configuration, and maintained per the Agreement. An Amendment was approved to construct a community facility whose plan was approved by the Plan Commission June 11, 2013, although the project has not yet moved forward.

The proposal for a Dog Park use on the property must first be considered by the Plan Commission per Zoning Code 13.1.55(c). If, in the opinion of the

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Plan Commission the proposed change does not constitute a substantial alteration of the original plan and the modification is recommended by the Plan Commission, the change may be made with the approval of the Common Council. The alternative is that the Plan Commission opinion is that the proposed change in use is a substantial alteration, which requires a complete review per the procedure given in Zoning Code 13.1.53 and 13.1.54, which essentially requires a petition to rezone the property with fee, complete plan submittal, and both the Plan Commission and Common Council public hearing requirement. The community facility followed the former process that did not include the public hearings.

City Staff are not aware of any other or similar pet enclosures within any of the Planned Unit Development projects located within the City of Glendale. Several years ago Coventry Apartments broached the possibility of such a facility but never submitted a formal request to do so.

The necessary action by the Plan Commission is to formulate an opinion as to whether introduction of a 40' x 60' fenced enclosure to be operated and maintained as Dog Park constitutes a substantial alteration to the original project which is a 224 unit multi-family housing complex, which will determine the procedure for further review by both the Plan Commission and the Common Council.

Community Development Director Stuebe stated that the Plan Commission

Donna Holzberger introduced herself as the manager of the Glen Hills Apartments for Banner property management, and another person from Glen Hills Apartments.

Bob Fetherston introduced himself as the owner of Munson Fence Company.

Ms. Holzberger presented the project to the Plan Commission and informed the Plan Commission that Glen Hills requires a Pet Agreement, that pets must be kept on-leash, that pet owners pick-up pet feces, and that pets be spade/neutered. Ms. Holzberger stated that the proposed fence enclosure is 40' x 60' and will include way stations and a couple of benches, and that she does not foresee problems or barking, and said that 32 of their 224 apartment renters have dogs.

Mayor Kennedy asked how close the fenced enclosure is to the property line, and asked if there was a neighbor sign-off.

Ms. Holzberger also stated that there is a six-foot privacy fence along the east boundary of the Glen Hills Apartment complex, and that the single-family residence neighbors have not been contacted.

Comm. Vukovic commented that with the six-foot height fence the single-family residence neighbors to the east would not be able to see the chain-link fence.

Comm. Cronwell said that she knows that there is a six-foot fence there and suggested that the single-family residential neighbors to the east should be petitioned.

Ms. Holzberger stated that they petitioned the residents of Glen Hills Apartments and have 66 signatures, not all of whom are dog owners.

Commissioners noted the proposed guidelines and inquiry was made whether there were any breed restrictions or weight limits, or number of dogs, and suggested perhaps six dogs.

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Ms. Holzberger responded that there are not any breed or quantity restrictions proposed.

Commissioners asked how the rules will be enforced, will there be a monitor, and could they be left unsupervised.

Ms. Holzberger said that there is not a monitor proposed to oversee or enforce rules, and that they would be following the honor system, and concluded stating that she believes that the neighbors have been sure to inform her if the rules were not being followed.

Comm. Pfauth commented that it is an amenity like a swimming pool that would typically have limited hours of operation, and advocated a vestibule lock with two gates so that dogs could not escape.

Ms. Holzberger stated that they had not proposed to limit the hours or have a lock time for the facility, and that a vestibule with two gates was not proposed.

Comm. Lippow observed that a six-foot height fence along the east boundary of Glen Hills Apartments is a substantial physical fence, and asked if the dogs are allowed to congregate on the property now, and to run around.

Ms. Holzberger said that dogs are allowed to be on the property now on-leash.

Comm. Cohn observed five dogs on the golf course today and that they were not responsive to voice commands and suggested that the proximity of the fence enclosure to the boundary privacy fence should be a significant enough change to allow neighbors to voice opinions on the proposal.

Comm. Vukovic inquired if there is a significant enough change and commented that she did not find it to be significant.

Mayor Kennedy agreed with Comm. Vukovic.

Comm. Vukovic observed that with 32 dogs was there a problem there now with noise?

Ms. Holzberger said no, and that she does not think all 32 would be there at the same time.

Comm. Vukovic suggested talk to the neighbors.

Plan Comm. Pfauth observed the fence enclosure proximity and asked the reason for the location.

Mr. Munson stated that he selected the place for the fence enclosure based upon it being flat.

Ms. Holzberger said that there are about 32 apartment dwellers that own dogs and dogs are only allowed in those apartments with separate entrances, and that those units are located in that general vicinity, and that dogs are not permitted in the buildings that have a locked lobby.

Comm. Pfauth advocated tucking the fence enclosure further into the development away from the property line.

Mr. Fetherston commented that it is one of the few flat areas on the site.

Comm. Cohn asked if the Community Building is still on the table.

Ms. Holzberger confirmed that the Community Building is off the table, and that the purpose of the fenced enclosure is to provide pet owners with a pet playground. Ms. Holzberger stated that Glen Hills personnel will do the maintenance of the grass and collect trash, and that the facility users would be expected to pick-up feces and dispose of it properly.

Mayor Kennedy stated that he does not see the proposal as a significant change and that he does not see a problem, and that nearby neighbors should be notified, the two homes immediately to the east and one house to the north and south of those two, and that there should be limited hours, and appropriate signage.

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Commissioner Cohn stated that he does not see how the Plan Commission can approve until Glen Hills comes back with answers about the neighbors being notified and about the lock and that it is not only the neighbors.

Commissioner Lippow commented that a Community Facility in a structure was not a substantial change, and does not see how it can be a substantial change if there are 32 dogs on the property and the dogs can go on the grass.

Motion by Comm. Vukovic, seconded by Comm. Lippow, that the Plan Commission opinion is that the proposed fence enclosure for a pet playground is not a substantial change to the Planned Unit Development as originally approved by the City, and that the Plan Commission recommends approval with the requirement of neighbor sign-off.

Commissioner Pfauth commented that it is then within the Plan Commission authority to add some requirements and made the motion to amend the original motion to also limit the hours of operation and that there be a vestibule.

Commissioner Shaw seconded the motion of Comm. Pfauth to amend the original motion. Roll Call: Ayes: Mayor Kennedy, Commissioners Shaw, Cronwell, Lippow, Pfauth, and Vukovic. Noes: Comm. Cohn. Abstain: None. Motion passed 6-1.

The original motion by Comm. Vukovic, seconded by Comm. Lippow, as amended, is that the Plan Commission opinion is that the proposed fence enclosure for a pet playground is not a substantial change to the Planned Unit Development as originally approved by the City, and that the Plan Commission recommends approval with the requirements of neighbor sign-off, limited hours of operation, that there be a vestibule, and Amendment to the Development Agreement.

Dir. of Community Development Stuebe asked to verify the height of the proposed fence and noted that residents seeking fence permits routinely believe that a four-foot height fence will not keep their dogs in the yard. Staff also advised that the pet owners will have some liability risk if their dogs injure a human being and other dog per State Law (Wisconsin Statutes 174.02)

Bob Fetherston stated that the fence enclosure is four feet in height.

Karn Cronwell moved to amend the motion to limit the number of dogs to five. The motion failed for lack of a second.

The original motion by Comm. Vukovic, seconded by Comm. Lippow, as amended, is that the Plan Commission opinion is that the proposed fence enclosure for a pet playground (dog park) is not a substantial change to the Planned Unit Development as originally approved by the City, and that the Plan Commission recommends approval with the requirements of neighbor sign-off, limited hours of operation, that there be a vestibule, and Amendment to the Development Agreement. Roll Call: Ayes: Mayor Kennedy, Commissioners Shaw, Cronwell, Lippow, Pfauth, and Vukovic. Noes: Comm. Cohn. Abstain: None. Motion passed 6-1.

VI. Referral from Common Council: Request to Consider Allowing Restaurants with Drive-Through Window Service along North Port Washington Road between West Marne Avenue and West Silver Spring Drive.

Mayor Kennedy stated that this is a referral from the Common Council for the Plan Commission to review and recommend to the Common Council pertaining to the matter of allowing restaurants with drive-up window service at properties along North Port Washington Road between West Marne Avenue and West Silver Spring Drive. The Mayor said that he has received numerous inquiries from establishments that have drive-up window service and the City has had to turn them away due to the fact that at this time the only place that these may be

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considered is at places where there is an existing drive-up window services which at present includes Arby's (former Burger King), MacDonald's, Taco Bell, and Cousin's.

Director of Community Development Stuebe suggested two possible ways to move forward to consider restaurant establishments with drive-up window service. Given the sentiment found in the Vision Plan process opposed generally to fast-food restaurants, with or without drive-up window service, a process to involve citizens to revision the study area and determine how the community views the idea of opening the North Port Washington Road corridor within the span of West Marne Avenue to West Silver Spring Drive and, if it is supported, then amending the Zoning Code to permit drive-up window service. Another approach, considered on a site specific and qualitative basis by the City, is to require Planned Unit Development (PUD) district zoning for establishments that include drive-up window service within the specified area. This may be accomplished as a policy decision. Since the City is not obligated to approve a Planned Unit Development the City will be assured that developments satisfy qualitative requirements (architectural design including materials and colors, site plan, landscaping, lighting, signage, etc.) and functional requirements (parcel size, traffic safety, internal traffic flow, parking, pedestrian/bicycle safety, etc.), will follow a review process that includes public input, and require a Development Agreement between the City and the developer, attributes that are included in the existing Planned Unit Development District Code.

The Plan Commission discussed their views about how to respond and recommend to the Common Council and concluded that under the existing Zoning Code the City may consider requests for restaurant uses that include drive-up window service utilizing the Planned Unit Development District. The Plan Commission did not take any formal action on the matter.

ADJOURNMENT.

Motion by Comm. Cohn, seconded by Comm. Lippow, to adjourn the Plan Commission until 6:00 p.m. on Tuesday, November 1, 2016. Roll Call: Ayes: Mayor Bryan Kennedy, Commissioners Shaw, Cronwell, Cohn, Lippow, Pfauth, and Vukovic. Noes: None. Motion carried unanimously.

Todd M. Stuebe, Director of Community Development

Recorded: Tuesday, October 18, 2016
Wednesday, October 26, 2016