

1. CALL TO ORDER

Chairman Johnson called the meeting to order at 6:30 p.m. on February 8, 2023.

2. PLEDGE OF ALLEGIANCE - None

3. ROLL CALL

Present were Commissioners Kasper, Hyken, Sprague, Riles and Johnson. Commissioners Berke and Myer were absent with previous notice. Also, present were Marcy Knysz, Village Planner and Mallory Milluzzi, Village Attorney.

4. CHANGES TO THE AGENDA - None

5. CITIZEN CONCERNS AND COMMENTS - None

6. CONSENT ITEMS - None

7. ITEMS FOR REVIEW

A) Plan Commissioner Training Presentation by Klein, Thorpe, and Jenkins, Ltd.

Village Attorney Milluzzi presented.

Tonight's refresher meeting will go through the different types of zoning and property reviews that go before the Plan Commission.

One of the most significant powers the Village has is through its zoning and has ample zoning authority under municipal code Title 19. The Village has the ability through their police power. The Village can regulate a lot of aspects of what happens in town through zoning.

The Plan Commission in Wheeling is a combination of the Zoning Board of Appeals, the Sign Review Commission, and the Plan Commission. They had been individual at one time. The Zoning Board includes variations, Special Uses and the Plan Commission includes site reviews.

In general, the Plan Commission is a recommending body to the Board of Trustees and does not approve or deny matters with the exception of minor site plan reviews, appearance reviews, site permits and similar use interpretations. When the Plan Commission has final review, the applicant has the ability to appeal the decision to the Board. The Plan Commission also has the authority to adopt their own rules and procedures. The default is following the Village Board's rules and procedures.

Plan Commission's authority:

- Comprehensive Plan and Updates
- Special Uses
- Variations
- Text Amendments
- Rezoning
- Planned Unit Developments
- Site Plans
- Sign Appearances
- Subdivisions

Text amendments are required any time there is a change to Title 19 or changes to Zoning Districts or boundaries. The text and zoning amendments must first go to the Plan Commission.

Public Hearings – Certain matters before the Plan Commission require public hearings such as Planned Unit Developments, Special Uses and variations and are open to the public and must be published, offer public participation and at a minimum include the opportunity to cross examine. The Village of Wheeling in general follows very informal procedures to make sure they are met. When Staff believes it will be controversial or that people will be present to introduce their own evidence or cross examine, the Village follows more detailed public hearing rules.

Signs, site plans and subdivisions don't require public hearings.

The role of a Plan Commissioner, is to be a representative of the Village and assigned with a task of reviewing land use developments within the Village to ensure that they meet the vision the Village Board has established through the existing codes or other documents such as the Comprehensive Plan, the Station Area Plan, etc. The focus is on land use and building appearance and not a business model or how someone runs their business. Plan Commissioners should come to meetings prepared and familiar with the proposed projects. The Staff Report is a great resource since staff are professionals and review site plans to prepare the Staff Report as a tool for the Plan Commission.

The Plan Commission should remember that it can be intimidating for people to come before the Plan Commission since it may be the first time someone interacts with Village officials. The Commissioners should be cognizant with their interactions since the petitioners don't know Commissioners personally and could misinterpret a comment said in a joking manner. It is important to be aware of how comments can be interpreted.

Comprehensive Plans –

Municipal Code 1125 provides that the Village can prepare Comprehensive Plan that lay out the current and future development or redevelopment in the municipality. From time-to-time, the Plan Commission can make changes to the plan and prepare and recommend specific improvements to the Comprehensive Plan. A Comprehensive Plan involves future land uses where public sewer and water service will be laid out or school or other government sites potentially being planned. The Plan Commission can amend small portions of the

Comprehensive Plan and create more unique plans for more separate geographically or functional parts. The Station Area plan is part of the Comprehensive Plan that focuses on a specific area of the Village. Other examples in Wheeling include the active transportation plan and the industrial lane redevelopment plan.

The Comprehensive Plan can be helpful to consider when looking at the validity of a zoning action, but the Village is not bound by it since it is not a controlling legal authority. It is most relevant when considering rezoning. It can't be relied on when considering Special Uses because it is bound by the Zoning Code.

Special Uses –

Special Uses are activities due to their unique characteristics that can't be allowed without considering their impact on neighboring land uses and the public need for that public use at that particular location. By making something a Special Use, the Village has already found that the use is in harmony with the general zoning plan and will not adversely affect the neighborhood and is expressly permitted as long as it meets certain criteria or conditions. It has unique or unusual impacts and can't be used to prohibit otherwise lawful uses. Certain business choices would not be part of the review such as menu items, leasing, parking assignments, but there are rare times when it might impact the use and standards. An example of OK questions to ask for an auto repair business which is often a Special Use would be the storage of cars outside or not, either for aesthetics or parking storage requirements. It would not be OK to ask where each piece of machinery would be located inside the building unless there was a concern about noise impacting neighbors or other concerns.

Standards are looked at on an individual basis reviewing the standards and imposing reasonable restrictions to make them more compatible in the zoning district so that they meet the standards. In order to deny an application, they need to show the particular use at the particular location that would have an adverse impact upon the adjoining properties and that the impact is different and unique from the impact of the development of a permitted use at that location.

Conditions imposed must be aimed at ensuring public health safety, morals, and general welfare to mitigate the adverse effects of the use on public safety health and welfare. If that condition is imposed, then the standard would be met. Certain conditions will relate to the site plan aspects. Special Use looks at the use and the site plan looks at the building appearance and property layout. They don't often crossover, but there are limited times where it applies.

The specific standard does not need to be referred to when voting against an item, but it should be articulated in the discussion and/or questions.

Following examples when the site plan can lead to conditions:

- landscape or fencing is a buffer for either appearance, safety or noise.
- a car wash building often has a tree buffer to dim the noise of blowers.
- location of driveways because it mitigates the impact of the use such as traffic and flow
- a lighting plan can impact if near residential and light pollution could be an issue.

These are times when elements of the site plan are related to the Special Use itself. If the aspects impact the surrounding areas or addressed to mitigate the impact of the use.

Items such as colors, building materials, architectural style, storm water or grading are almost never going to be related to the impact of the use. When it would be relevant, is when a use goes into an existing building, and they are not changing the building. The Plan Commission cannot dictate through a Special Use changes to the building appearance or site plan or landscaping unless it relates to the use itself. If it relates to the site plan (landscaping, lighting, building), it would only be discussed during the Special Use if it impacts the aspects of the use on residents. If leasing, the building owner would be the person getting sited by the Village.

Variations –

Variations are modifications of the literal provisions of the Zoning Ordinance that would allow someone to do something that is normally prohibited by the Code. These are usually not allowed and are being asked to consider an exception to the Zoning Code. It should be difficult to obtain, and they need to show the difficulty or particular hardship as to why it should be allowed a modification to the Zoning Code. An example is if someone is moving into a property where the building has already been built and when it was built there was no setback requirements or different setback requirements and because the brand new use needs to ask for a variation to the setback requirements. It isn't their fault because they didn't build the building in violation of the Code and can't do anything to change it, so it would be a unique hardship that would be allowed.

Variations run with the land. Uses can run with the land if it's the same type of use and not limited to that particular applicant. Older builders only have so much parking they can build on the property and may not be able to meet the strict Zoning Code parking requirements but if they can demonstrate that it would not have a negative impact, then they may be granted a variation to the parking requirement.

There are two different types of variations. There are use variations (allowing the use of a land that is otherwise prohibited) and area variations (setback lines, height limitations, lot size requirements, density regulations, frontage and yard requirements). There are times when variations are OK and encouraged (PUD).

Commissioner Sprague referred to the recent parking situation at the Korean Cultural Center that didn't meet the requirements but there wasn't a variance. Ms. Knysz explained that the original approval of the development of the four cluster building included parking across the street, so it was already preapproved.

For a variation, all the standards must be met. It can't be a self-imposed hardship, something they created themselves. No reasonable return on investment.

Text and map amendments –

A map amendment is rezoning. The changing of the zoning designation of a lot or area. A text amendment is changing the actual text to the Zoning Code. There have been a number of text amendments done to the Code recently that needed Public Hearings. Amendments can be initiated by the Board of Trustees, the Plan Commission, Staff or a petitioner. Text amendments apply to the community as a whole and not to a specific project. If a use is coming in and the use is not allowed or they want to rezone a property from I-1 to I-2, the new use would impact the

use anywhere in the district. It is important to think about the future and is a bigger consideration to consider.

The standards for making changes –

- Comply with the intent and purpose with the Comp Plan and official map
- Physical or economic conditions have changed that would make the existing zoning inappropriate and the proposed zoning appropriate and it's desirable and needed in the Village.
- Is it compatible?
- Would it depreciate the values?

PUDs –

Planned Unit Developments are unique zoning tools that is promoted to foster creative zoning development. The Village wants a harmonious variety of uses, building types that have high level amenities. It typically includes a lot of zoning relief and gives the Village and developer a lot more flexibility. It is very typical and OK to see variations withing a PUD. They don't have to meet the same standards that a normal variation has to meet. They are also not listed as a separate variation. The application includes the list of variations, so the Plan Commission is aware of them. They are not each being approved separately. A PUD requires a concept review.

The uses within a PUD shall be specified in the preliminary PUD application. Residential use can be proposed for any PUD and non-residential uses need to be consistent with whatever is permitted in the underlying Zoning District with the exception of the R-4 District. A mixed proposal of uses can be permitted if found that it is compatible and necessary to achieve the objectives of the PUD. For example, the town center is a PUD and has a mix of residential and a variety of permitted and Special Uses listed on their plan. When each use comes before the Plan Commission, the Special Use gets a separate approval. The Board and the Plan Commission reviewed and approved the PUD as a whole which laid out the roads, landscaping and the buildings but didn't necessarily spell out the individual business. Each restaurant then received their own Special Use approval.

There are three steps for a PUD approval – concept review, preliminary PUD and final PUD.

Concept review -

A concept review is the general outline of the plot with just the building placement and general layout without detail. It provides general feedback and Staff provides a checklist. A concept plan does not require landscaping, colors, material selection, parking count/ratios or detailed site plan.

When the Commission is asking questions or providing comments at the review level, the Commissioners should be general and respectful that the details hadn't been prepared or reviewed by the petitioner's staff. It isn't fair to ask petitioners about items they are not prepared or required to present at this time. It's OK to ask in general about parking, fencing, buffering, etc., but should not get into specific details about materials, heights, or other items. Tone is also important.

The Village Board may ask questions about operations or money, but they have a different role than the Plan Commission. A lot of times PUDs come with TIF money requests so they can ask those types of questions.

Preliminary PUD –

A preliminary PUD has more details and a general outline of things. You can see what the buildings and landscaping look like. It is a well-developed initial plan before final approval. It is an opportunity to receive some good, detailed feedback before developing real detailed plans for the site. This isn't going to be significant changes to the plan, but there will not be final detailed drawings. There will be less details than the normal site plan approval. It will include preliminary landscaping plans with buffers and parking lots, preliminary elevations including labels for proposed building materials, preliminary engineering and etc.

Final PUD –

A final PUD includes all the full details.

There are phased PUDs for large multi-use developments. Each multi-phased PUD must first receive a preliminary PUD proposal of the full PUD and then each phase may be submitted separately for final PUD approval. This was done for London Crossing.

A site plan review is required for all development of land, etc. except for single or two- family residences. When looking at a site plan, the Commission is considering aesthetics aspects of the property including landscaping, appearance, etc. and not the use or operations of the business. Site plans involve the site plans itself, the landscape plans, lighting plans, building plans and grading and storm water plans for new construction only. A site plan includes property boundaries, wetland delineation, easements, building footprint, driveways, curb cuts, parking areas, sidewalks, location of signs, lighting, fire hydrants and the existing land use and zoning of adjacent properties within 100'.

A building plan shows architectural elevation drawings of all sides that are new. One coloring rendering of the front façade of the principal building showing the proposed color and material samples. A building plan does not include floorplans. Building permits and license approvals require floorplans, but not at a site plan review level. Setbacks fall under site plans.

Storm water and grading plans only need to show spot elevations, draining patterns, existing topography, location of storm water retention or detention basin and including calculations of anticipated of storm water impact to the site. The Zoning administrator can waive any of these requirements.

There are major site plan, minor site plan and amending a site plan. Any conditions on the site plan have to be reasonable and related to the relief sought. An example of a site plan approval of a single tenant in a shopping center is the focus on the single unit and the appearance of the unit and not the entire shopping center. If it is an amended site plan and the scope is only for the parking lot, then the building appearance wouldn't be discussed. Major site plans also have a concept review component.

Sign Code – The Plan Commission is the Sign Code Board of Appeals including amendments to the Sign Code and also reviewing the signs for appearance review. There can be variations from the Sign Code. Wall signs are now seen at Staff level and ground signs and variations are brought to the Plan Commission.

The Plan Commission also has authority over planning subdivisions and developments.

Responsibilities of the Plan Commissioners are to attend the meetings, study the Zoning Ordinance, preparing for the meetings, touring the community and visiting the site, preparing questions, training, avoiding conflicts of interest and being a positive representation of the Village by treating all petitioners, Staff and other petitioners with respect. The Staff is present as a resource to answer questions and explain items. It is helpful to reach out to Staff before a meeting to allow developers to fix plans or to have the answers to questions before a meeting.

Plan Commissioners need to notify Staff in advance if they want something removed from the consent agenda so they can let the petitioner know they need to be present at the meeting.

A project isn't done once it receives zoning, they need to receive multiple permits and approval from Staff who are training in reviewing detailed plans.

Giving Staff the heads up on questions, allow for a smoother meeting so they can be prepared to answer questions.

Commissioner Sprague asked about deviations to the Code for a PUD. Ms. Milluzzi explained there will be a list of all the ways the petitioner does not meet the Code, but they are allowed and encouraged in a PUD. A PUD is designed to create flexibility. One might relate to the height of the building, parking stall size, density, setbacks, etc. Town Center, London Crossing and Northgate, Uptown 500 are all PUD projects with mixed use unique areas. A PUD is a larger developer on at least 2 acres.

The Staff Report usually includes Staff's concerns. All departments review the plans prior to going to the Plan Commission.

Conflicts of interest – Because the Plan Commission is a recommending body, there is very little the Commissioners need to be concerned about from a statutory conflict of interest. There can't be financial interest in a property and Commissioners can't own or lease property whose value could be affected or be employed by an engineering, law firm or consultant which may be representing the petitioner.

Being a relative of a proponent or opponent under consideration or a close friend or having a longstanding personal relationship with someone coming before the Commission is a reason to be excused from discussion/voting.

If there is a question about having a conflict of interest, Commissioners should contact Mallory. She will decide if someone should refrain from participating.

Open meetings act – A meeting is a gathering and majority of a quorum and helps with the purpose of discussing public business. Three people is a majority of a quorum for the Plan Commission, and they cannot get together and discuss Plan Commission business. A meeting can be contemporaneous communication. There can't be group text chats, back and forth group phone calls or email chains. Meetings always require 48 hours' notice unless there is an emergency. The regular meeting dates and times are approved in December. Appropriate notice needs to be given for changes.

Items on the agenda – Final actions cannot be taken on any items not listed on the agenda. Things can be discussed, but final actions cannot be taken. Special meetings – items on the agenda can only be discussed.

Minutes are kept and approved.

Anyone that violates the Meetings Act can be tried in criminal court (Class C misdemeanor) and fined with 30 days in jail.

Public notices get published a minimum 15 days in advance.

Commissioner Sprague asked what would happen if no one made a motion or seconded the motion. Ms. Milluzzi explained the next motion would be to table or continue the item. Some type of motion would need to be made.

Chairman Johnson asked if he could make a motion as chairman. Ms. Milluzzi was uncertain, but normally a chairperson does not make a motion. The petitioner has a right to move forward as presented.

If a petitioner wants a vote even if they aren't going to make any of the proposed changes, they have the right to go to the Board.

Commissioner Kasper asked if an explanation was needed if someone voted no. Ms. Milluzzi confirmed it was not required. For a variation or Special Use, the commissioner may want to include their concerns.

Commissioner Sprague asked if there was pushback with the hazardous waste. Ms. Milluzzi explained the Findings of Fact currently summarizes what gets said in the meeting and there wasn't enough detail in the record for this petition. The Findings of Fact need to be a little stronger and the process will be reviewed during the upcoming update of standards.

Highlights are provided in the Staff Report, but it is the petitioner's responsibility to give a presentation.

Chairman Johnson asked about having a Village tour in the future. There had been tours in the past using the Park District bus.

8. APPROVAL OF MINUTES

A) Approval of Minutes of the Regular Meeting of January 25, 2023

Commissioner Sprague moved, seconded by Commissioner Hyken to approve the Minutes of the Regular Meetings of January 25, 2023

On the roll call, the vote was as follows:

AYES: Commissioners Sprague, Hyken, Kasper, Riles, Johnson
NAYS: None
ABSENT: Commissioners Berke and Myer
PRESENT: None
ABSTAIN: None

There being five affirmative votes, the motion was approved.

9. OTHER BUSINESS

10. ADJOURNMENT

Commissioner Hyken moved, seconded by Commissioner Kasper to adjourn the meeting at 7:53 p.m. The motion was approved by a voice vote.