

Village of Weston, Wisconsin
OFFICIAL PROCEEDINGS OF THE PLAN COMMISSION AND
JOINT TOWN & VILLAGE EXTRATERRITORIAL ZONING COMMITTEE
SPECIAL ZONING CODE WORKSHOP

held on Monday, January 8, 2018, immediately following the 6:00 p.m. Regular Meeting, in the Board Room, at the Municipal Center

OPENING OF SESSION.

Roll call of the Plan Commission by PC Chair White at 6:54 p.m.

Roll call indicated 6 Plan Commission members present.

<u>Member</u>	<u>Present</u>
Diesen, Dave	YES
Gau, Duane	YES
Kollmansberger, Tina	YES
Lawrence, Dennis	NO
Mumper, Roy	YES
White, Loren	YES
Zeyghami, Hooshang	YES

Roll call of the ETZ Committee by ETZ Vice Chair Hull at 6:00 p.m.

Roll call indicated 3 Joint Town & Village of Extraterritorial Zoning Committee members present. No quorum.

<u>Member</u>	<u>Present</u>
Christiansen, Randy	NO
Diesen, Dave	YES
Hull, Mark	YES
Kollmansberger, Tina	YES
Lawrence, Dennis	NO
Olson, Milt	NO

Village Staff in attendance: Guild, Higgins, Donner, Wehner, Tatro, and Van Swol. President Barbara Ermeling was present. There was 1 audience member present.

OPPORTUNITY FOR CITIZENS TO BE HEARD.

None.

SPECIAL ZONING CODE WORKSHOP TO DISCUSS CHANGES AND MODIFICATIONS TO CHAPTER 94 ZONING REQUIRED BY ACT 67.

1. Discussion on proposed Amendments to Zoning Code in response to Homeowner Bill of Rights Law (Act 67). Guild reported with the current political environment, the regulatory power is being shifted from local communities to Madison. Guild feels once the power is in Madison it will stay there. This puts the Village of Weston at a disadvantage. When we started the zoning code re-write in 2013 it was determined that we wanted to have a code that was flexible and allowed staff, plan commissioners, and the Board of Trustees to look at individual circumstances and decide what is the best way to respond. Looking at the allowable uses chart that are throughout our code the constancy appears often. The goal was to have less regulations and be more flexible. With the passage of Act 67 the Homeowner Bill of Rights we are moving away from the desire to have that flexibility. The flexibility is now being construed legally both in court cases and by law to see more specific permitted uses. The November briefing from the American Planning Association Wisconsin Chapter states when the board writes its zoning code the board considers amendments is the stage at which the board has the greatest discretion in determining what may and may not be allowed in various tracts of property upon adding a conditional use to a zoning district the municipality rejects by that very act the argument that the listed use is incompatible with the district. The application for a conditional use permit is not an invitation to reopen that debate. A permit application is instead an opportunity to determine whether the specific use can be accomplished within the standards identified by the zoning ordinance. Guild perceives the challenge to be is what is the difference between a conditional use and a permitted use? The village will need to identify those things that are identified as conditional uses that we want to add as permitted uses or we need to create additional language in the conditional use. Previously a conditional use requires a public hearing and notifying the neighbors. With the new changes when a citizen speaks we can no longer consider their preferences solely in the ultimate decision. There is both a legislative component and a public relations

component to this. We need to figure out how to inform our citizens as to what is happening and explain to them the procedure we need to follow. Guild added staff discussed this issue and found that this is not part of the administrative responsibility it is in the realm of policy making and place making as to what we want this community to look like. Before we can even begin to move forward we need direction from our officials as to how we should accomplish this. The commissioners asked what other communities are doing. Guild said some of his colleagues are getting rid of planners and hiring more attorneys. He does not want to react this way. Act 67 preserves the legislative function of the municipality. The village needs to decide what the requirements are. We already have performance standards built into our zoning code. In the past a conditional use required a public hearing and neighbors were notified. With Act 67 neighbors will still be notified, however, their testimony and opposition can no longer be a deciding factor for denying a conditional use permit. Citizens are going to be disappointed that they will no longer have any say in the decision making. Guild added this is called exclusionary zoning. We can have conditional use but it needs to be reasonably justified.

The Plan Commission identified some of the potential property uses that tend to be the most problematic that need to be looked at first (i.e. non-metallic mining, salvage yards, storage facilities, recycling/compost processing, multi-family, outdoor alcohol use, mineral extraction, manufactured home community, etc.).

Guild stated before staff is authorized to engage in any type of activity that has legislative implications we should solicit feedback from the Plan Commission. Guild added we need to be careful about open records/open meetings. When staff is delegated to work on legislative functions they become part of the legislature and it needs to be scheduled and noticed for public meeting. We could create a steering committee or bring in a consultant for discussions. Guild has contacted Attorney Yde for his opinion on the process.

Staff will administratively implement some items and update the commission at the next meeting.

No action taken by Plan Commission.

POLICY QUESTIONS REGARDING.

- 2. Amendments to Section 94.4.09(16) Outdoor Alcohol Areas.** Higgins reported we had MDRoffers make changes to the performance standards. She felt, based on past Commission discussion, the recommendations from MDRoffers may not have went far enough for the Plan Commission. It was the consensus of the Plan Commission they were ok with the changes and to direct staff to schedule a public hearing based on the proposed changes.

REMARKS FROM PLAN COMMISSION/ETZ COMMITTEE MEMBERS.

None.

SET DATE OF NEXT ZONING CODE WORKSHOP DATE, IF NECESSARY.

None.

ADJOURN PC/ETZ UNTIL NEXT REGULAR MEETING DATE OF MONDAY, FEBRUARY 12, 2018.

Motion by Zeyghami, second by Mumper to adjourn Plan Commission at 8:07 p.m.

Loren White, Trustee/Plan Commission Chair
Jennifer Higgins, Director of Planning & Development
Donna Van Swol, Recording Secretary