

**VILLAGE OF OAK LAWN
ZONING & PLANNING COMMISSION**

Village Hall Auditorium

Monday, February 3, 2020

Meeting Minutes #2020-2

ROLL CALL: Meeting called to order at 7:34 p.m.

A. Chairman: Rich Piazza

B. Members: Dave Bennett (*ABS*) Pina Paruta
Tom Duhig Rich Piazza
Bill Lundy Vernon Zumhagen
Mike Moriarty

C. Staff: Jack Gallagher, Village Engineer/Director
Kevin Casey, P&DC Attorney
Kevin McGuinness, Village Planner
Dee Adasiak, Recording Secretary

I. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was led by Chairman Piazza.

II. APPROVAL OF PRIOR MEETING MINUTES:

A motion to approve the Regular Meeting Minutes #2020-1 dated January 6, 2020 was made by Commissioner Duhig and seconded by Commissioner Lundy.

Roll call: Zumhagen, abstain; Piazza, yes; Paruta, yes; Moriarty, yes; Lundy, yes; Duhig, yes.

Motion to approve passes: 5-0-1.

The Oath was administered by Commissioner Piazza.

III. STREET VACATION:

A.) Pet. #2020-2 – Request for Street Vacation at 105th St. East of Central Ave., School District 218, Petitioner

Mr. Jason Green, Vice President, WT Group, 2675 Pratum Ave., Hoffman Estates, IL.

Mr. Richard Kocek, DLA Architects, Ltd., Two Pierce Place, Suite 1300, Itasca, IL.

Mr. Rodger Ford, Community H.S. District 218, 10701 S. Kilpatrick Ave., Oak Lawn, IL.

Mr. Green explained the request to vacate the east-west 66' wide right of way commonly known as 105th Street. He showed a rendering that shows the PLU zoning of the property

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and he said there is a small piece of property north of 105th Street that is zoned R-1. He said a survey was completed of the property and they discovered that the school, a 40-acre site, is split by 105th Street. Mr. Green showed the athletic field, the school building, and the small parcel that separates where the 105th St. extension would be; he said it is right where the creek follows through. Mr. Green said that when 105th St. was constructed it veered off to the north and followed the creek to avoid having to build a bridge over the creek. He said when they did that they left the small parcel platted as a public right-of-way.

Mr. Green said the school purchased the property in 1963 for \$360,000. He expressed that it was understood or presumed that the small parcel came with it but it appears that it did not. Mr. Green showed an aerial view of the property and also showed an exhibit for the vacation request (shows a more visible creek) and a topographic survey. He mentioned that it is a significant flood plain in this area.

Village Counsel reiterated that the District purchased the property in 1963 and the documents show the purchase of Lots 24 through 1 which would start from the south of 105th St. downward; he asked when the school purchased the area north of 105th St. Mr. Green responded that *all* parcels were purchased at the same time in 1963. He said the assumption was that the District was procuring the entire property. Village Counsel commented on the documents that show Lots 1 – 24. Village Counsel expressed that it was the District's understanding that the property was purchased as one giant tract before 105th St. was constructed. Counsel said that the Village does not know why the small parcel was vacated. Mr. Green said that the District has been maintaining the small parcel and using it for their athletic programs.

Village Counsel asked why this is now coming before the Zoning Commission as a proper vacation request. Mr. Green responded that they are proposing a review of stadium improvements that include synthetic turf and they want to add long jump and shot put to that improvement but there was not enough space. Mr. Kocek added that the proposed shot put area will consist of a 10 x 10 concrete pad. He expressed that it is very minimal. He showed the area on the rendering.

Commissioner Lundy asked who owns the subject parcel. Mr. Green replied the Village of Oak Lawn. He reiterated that the School District would like the property to make proposed improvements. Commissioner Lundy asked if the petitioner if they expect to be given the property or if there has been discussion about the cost of the property. Mr. Green responded that the District is proposing to not pay for the property as it will be used for a public school not to generate profit. Commissioner Lundy asked the petitioner if they have discussed the land swap with the Village. The petitioner responded that they have a submittal in process. Commissioner Piazza asked the petitioner how the Zoning Board should move forward if there has not been discussion with the Village. The petitioner asked if the petition can be approved with a contingency.

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Commissioner Zumhagen expressed that the purpose of the Zoning & Planning Commission is to recommend to the Village Board the highest and best use of the land in question. He said he feels that this Board can all agree that the subject parcel will never become a street. Commissioner Zumhagen said they are not removing the athletic field, they are only adding to the field. He said he feels that as far as discussion about the sale of the land, this Board does not have any authority over the negotiating or accepting price, or suggesting value for the land, rather only what the use of the property will be. Commissioner Zumhagen said it has been established very well that the parcel is not a street. Commissioner Zumhagen said within the purview of what the Zoning & Planning Commission Board is then ultimately it is making a recommendation. Commissioner Duhig asked if there can be a land swap between the Village and the School District. Commissioner Zumhagen said that is not something that should be negotiated with the Zoning & Planning Commission. Mr. Ford asked the Board to keep in mind that the District thought that they had already purchased the property. Commissioner Zumhagen said that as people dig deeper they will find it may or may not be true. Village Counsel said that is very correct. Counsel said they can pull the Ordinance from 1963 as well as the Meeting Minutes and maybe they can find out why it was left the way it was left. Village Counsel stated that today he cannot say with 100% accuracy that the Village of Oak Lawn owns or does not own the property. He said if the Commission wants they can proceed with voting assuming that the Village of Oak Lawn owns the property. Commissioner Zumhagen said if the Village of Oak Lawn does not own the property the District would not have to be here at all. Mr. McGuinness commented that staff has reviewed records including easement paperwork and this particular parcel was not found among Village records. He added that the County keeps records and if this property was vacated there would be a document number. Village Counsel said that is something to consider as well; this may have been an oversight back in 1963-64 and the item was never recorded. He said that could be the case but we do not have any evidence to show that any easement was released or any street was vacated. Commissioner Zumhagen said we do not have any record to say that the Village does not own the property. Counsel said that is correct. Commissioner Piazza asked Counsel if this Board can proceed forward with a recommendation. Counsel responded yes.

Commissioner Lundy asked the petitioner if there is a plan in place to do additional improvements on that property. Mr. Rodger replied that they are only adding a turf field and he said that they are looking to relocate the long jump and that area was the best fit.

District Trustee William “Bud” Stalker, 10418 Linus Lane, Oak Lawn, IL.

Trustee Stalker expressed that there are a few things he feels that need to be understood. He said the Village of Oak Lawn will probably never move 105th Street to use this parcel. He said he feels the petitioner is in the wrong place to ask for approval. Trustee Stalker said *this* Board can suggest that they are not opposed to the street vacation but he does not feel that this Board has the ability to approve the vacation because they have no control

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over easements in the Village. Trustee Stalker said after this Board determines that they do not oppose the vacation the petitioner will start their negotiations in earnest with the Village and then the real facts on who owns it, whether it is valuable to the Village – which he doubts – is the way to go. Village Counsel expressed to Trustee Stalker that the petitioner has to come before this Board first. Trustee Stalker said he understands but he does not want the action to be that this Board approved it. Village Counsel said this Board can only make a recommendation. Trustee Stalker said he would recommend that the Board not oppose the street vacation.

Trustee Terry Vorderer, 9609 S. Kolin Avenue, Oak Lawn, IL.

Trustee Vorderer said he is curious if the Village does not know if they own the property and the District thought they owned the property for 60 years how did the District find out that the Village owned the property. Mr. Green responded that when the surveyors prepared the plat of survey for the property that is when they discovered this small parcel. Trustee Vorderer said that must be on record at the County. Mr. Green responded right and said that they did their due diligence research and that is what they found.

A motion was made by Commissioner Zumhagen to approve the Request for Street Vacation at 105th St. East of Central Ave., School District 218, Petitioner contingent on discovery of ownership of the plat and if the Village does own it then this Board recommends the vacation to the Village Board of Trustees. The motion was seconded by Commissioner Moriarty.

Roll call: Duhig, yes; Lundy, yes; Moriarty, yes; Paruta, yes; Piazza, yes, Zumhagen, yes.

Motion to approve passes: 6-0-0.

The Public Hearing opened at 8:04 p.m.

IV. PUBLIC HEARING:

A.) Pet. #2020-1 – Request for a Special Use Permit for a Restaurant in an “O” Zoning District at 9600 S. Pulaski Rd., 96th & Pulaski, LLC, Petitioner (returning)

Mr. Fahim Lakhani, 96th & Pulaski, LLC, 1205 W. Adams, Chicago, IL.

The petitioner explained that they are trying to backfill a former Slice Factory space in a retail shopping center with a BBQ restaurant called Smerqs. He mentioned that the business owner is also present.

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Ms. Crystal Clay, 7841 S. Michigan Avenue, Chicago, IL.

Ms. Clay said that Smerq is a BBQ themed restaurant. She explained that their name Smerq is derived from “smoked” and “BBQ”. She said they are proposing a bar & grill. Ms. Clay explained that she has been in business since 2015 but that their two previous locations are now closed. Ms. Clay said that she is hoping to get the proposed space for their new business model.

Commissioner Moriarty asked the petitioner if there is a rendering on what the exterior of the business will look like; he asked about signage. Ms. Clay said she will use letter board signage (Signage review goes before the Architectural Review & Preservation Commission). She showed a rendering of her logo/signage to Commissioner Moriarty.

Commissioner Moriarty asked about the hours of operation. The petitioner responded that they will be open Monday – Thursday from 10:00 a.m. – midnight; Friday and Saturday 10:00 a.m. – 2:00 a.m.; and they will be open on Sundays.

Commissioner Zumhagen asked Ms. Clay about her two other locations. Ms. Clay said they do not have any current locations. She said their hope was to keep their operation on 79th Street going but it did not work out. Commissioner Zumhagen asked about seating. Ms. Clay said they could seat approximately 50 people which includes the bar area. Commissioner Zumhagen asked the petitioner if there are any plans to expand the footprint. Ms. Clay responded no but that they will add a patio space for outside seating. Commissioner Zumhagen asked the petitioner if she intends to procure a liquor license and whether that discussion has been started. Ms. Clay responded that at this time they have the liquor application but it has not yet been submitted.

Commissioner Zumhagen expressed that one of the concerns has been the condition of the strip mall but he believes those concerns have been addressed. Commissioner Zumhagen asked the petitioner if everything goes well when they anticipate opening. Ms. Clay responded early April. She said she does not feel the build out will take that long. Commissioner Zumhagen asked Ms. Clay if she has any renderings of her previous locations. Ms. Clay responded that she does not have any renderings. Commissioner Zumhagen suggested that it might be helpful to have renderings for the Village Board meeting so that the Board can conceptualize what will be going into that space. Ms. Clay commented that their proposed location will look nothing like what they had before. She said their former location was mainly carryout and delivery. Commissioner Zumhagen asked how long the former locations were in operation. Ms. Clay responded that their first location stayed open 1 ½ years and their second location was in operation for the last two years.

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Commissioner Duhig asked the petitioner if she intends to add video gaming. The petitioner responded no. Commissioner Duhig asked the petitioner about the seating capacity. The petitioner responded 50.

Commissioner Piazza asked how many employees will be on site. Ms. Clay replied five (5). Commissioner Piazza asked Ms. Clay if she intends to add lighting around the building. Ms. Clay said she may add string lighting on the patio.

Trustee Vorderer explained that he is the District Trustee and he feels that the subject property as far as conditions is the worse shopping mall in our community. He said that in the last six years he has worked very hard to bring that area up to code. He said he does not feel that there has been any improvement to that property.

Trustee Vorderer asked Ms. Clay when she is cooking her product whether the product will be cooked on an open flame or grill top. Ms. Clay explained that an encased smoker will be used and it would not be an open flame. She said for some dishes they may use a grill top. Ms. Clay said that they will have to have a stack for their product.

Commissioner Moriarty asked Ms. Clay if there will be an air scrubber on the stack. Ms. Clay replied that she is not sure. Commissioner Moriarty explained that smokehouses will typically have an air scrubber to take the mesquite smell out of the air. He said the neighboring buildings may have an intake and the air scrubber will help with that smell. Trustee Vorderer mentioned that the area is a high density residential area and there may be some concerns. He asked Ms. Clay as far as her liquor license if she intends to have beer and wine only or a full liquor license. Ms. Clay replied that she intends to have a full liquor license.

Commissioner Lundy expressed to Trustee Vorderer that the people have been before the Zoning Board three times. Commissioner Piazza clarified Commissioner Lundy's comments and said Ms. Clay has not been before this Board rather it has been the property owner petitioning three different times. Commissioner Lundy said the discussion for the Zoning Board is the petition for the restaurant not the condition of the property. Trustee Vorderer said he understands but he was stating his opinion for the record and for the representative of the property. Commissioner Lundy said this Board had requested the code violations be addressed at the last meeting. Commissioner Lundy said he appreciates the support of the District Trustee ensuring that the code violations are cleared up.

Village Counsel explained that Village staff is in the process of making an Ordinance change to ensure that there are no code violations on a property before someone requests a variance. Village Counsel said as far as the subject property the violations are still in the adjudication process and he feels it would be best to allow that process to run its course. He added that daily fines are being assessed against the property if they remain in non-compliance. Commissioner Lundy asked Counsel if a condition could be added to the

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motion with the stipulation that the property has to be in compliance. Village Counsel said that since the petitioner is the property owner, a condition could be added to the motion.

Ms. Joan McClorey, 10420 Millard Avenue, Chicago, IL.

Ms. McClorey indicated that she is the realtor that found the space for Ms. Clay. She said Ms. Clay is trying to open their business, they signed a lease, and the code violations are prohibiting Ms. Clay from doing their build out. Ms. McClorey commented that the parking lot has nothing to do with the interior space of the BBQ restaurant. Village Counsel said that those concerns would be best resolved between the lease holder and the lessee. He explained that the petition is for a change in Zoning and that a Special Use permit will allow someone else to come in and if the property owner does not live up to their end of the bargain based on the stipulations of the Adjudicator and/or this Commission, then it becomes a contract issue between the client and the owner of the property.

Mr. Lakhani said not much can be addressed with the parking lot during the winter months. He said if there is a condition placed on this petition with a contingency about resolving the parking lot code violation, this petition could be held up for months because of the climate. Mr. Lakhani said if the subject property were an accounting office that business could open by right and would not have to appear before this Zoning board. He said these issues are coming up at this Board for the restaurant use and the code violations are already before an Administrative Hearing process. He expressed that the issues will be resolved. Mr. Lakhani said he does not feel that Ms. Clay should be prevented from opening her business because of the code violations. He said there are two separate processes in place. He mentioned an email from “Kevin Casey” that stated that there are separate processes in place and the violations should be handled separately. Village Counsel expressed to Mr. Lakhani that he also explained to his attorney that by being the petitioner a contingency could be added; he said he told the attorney that his was a possibility. Mr. Lakhani said he was not aware of that specific communication.

The Public Hearing was closed at 8:24 p.m.

Commissioner Moriarty expressed that he still has concerns of the smoke stack and the “unknown” of whether there will be an air scrubber on the stack. Commissioner Piazza said it would most likely be looked at during inspection. Commissioner Moriarty said he would almost like to know what type of system will be used before saying okay. He also asked about the specifications for the hood system. Ms. Clay said that although she cannot explain the system there have never been issues with her other businesses. Village Counsel told Commissioner Moriarty that the mechanical plans will have to be inspected and approved by the Village and those issues will be addressed during plan review.

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A motion was made by Commissioner Zumhagen to approve the Request for a Special Use Permit for a Restaurant in an "O" Zoning District at 9600 S. Pulaski Rd., 96th and Pulaski, LLC, Petitioner. The motion was seconded by Commissioner Lundy.

Roll call: Duhig, yes; Lundy, yes; Moriarty, yes; Paruta, yes; Piazza, yes, Zumhagen, yes.

Motion to approve passes: 6-0-0.

V. OTHER BUSINESS:

A.) Chairman: *None.*

B.) Members:

A motion was made by Commissioner Paruta to cancel the February 17th scheduled meeting due to the holiday. The motion was seconded by Commissioner Zumhagen.

Voice vote: All in favor, aye; all opposed, none.

Motion passes.

C.) Staff: *None.*

VI. ADJOURNMENT:

A motion to adjourn was made by Commissioner Zumhagen and seconded by Commissioner Duhig.

Voice vote: All in favor, aye.

Motion carries.

The meeting adjourned 8:29 p.m.