PLAN COMMISSION MINUTES
November 12, 2012

CALL TO ORDER: Chairman Wolter called the meeting to order at 6:31 p.m.

ROLL CALL: Chairman Wolter, Commissioners Stauffacher, Warren, Gray, Yokes and Peck. Trustee Representative David Baum was absent and excused. Staff members in attendance included Village Planner Jeff Retzlaff, Village Attorney Brian Sajdak and Planning Assistant Lori Johnson.

PUBLIC INPUT: The following residents spoke against the proposal from Gehl Foods to extend trucking hours at the Crusader Court facility: Dan Wing, John White, Diane Weisenburger, Michael Trowbridge, Joe Clanton and Tom Weisenburger. They expressed concerns with truck noise when dumpsters are picked up, trucks beeping horns, truck headlights shining through windows, the smell from production at the Main Street facility and fan noise.

PREVIOUS MINUTES: ***MOTION Warren second Peck to Approve the Minutes from October 8, 2012.***
MOTION carried unanimously.

Gander Mountain/Gun World – W190 N10768 Commerce Circle. Site Plan application for exterior improvements to the 31,100 sqft Gun World store. Planner Retzlaff summarized the proposal. In September, Plan Commission reviewed a proposal to paint the exterior of the building. This proposal was rejected and Plan Commission directed representatives to come back with a plan that included some articulation and additional features on the exterior of the building. Eventually, Gander Mountain submitted a revised proposal that included the same paint scheme but left the mountain features on the wall. The plan was rejected again by Plan Commission and told representatives to come back with some articulation and additional features. A new proposal with a horizontal green stripe across the top of the building was presented to staff who responded that the proposal was not what Plan Commission wanted. Subsequently, Gander Mountain went ahead and painted the green stripe on the building including painting of the entire building.

Village Attorney Brian Sajdak said a Notice of violation had been issued. He said the Village has been in contact with the Attorney's representing Gander Mountain. He explained Gander Mountain determined they needed to paint the building for maintenance and that if after it was painted there was a determination it was not something consistent with what the Village wants, they would consider looking at additional options. He said the Village is looking for a determination if painting is something that should be regulated on every property or is it something that is considered maintenance and don't want to be bothered with.

Chairman Wolter said Plan Commission had determined this was a major

architectural change because of how much it changed the look of the building. He questioned if Gander Mountain felt the changes to the building were maintenance only, why didn't they argue that and not come forward with two proposals. He said at the time Plan Commission decided it was a major change; Gander Mountain should have argued and disagreed.

Susan Sager, Michael Best, representing Gander Mountain, said when they became legal counsel, she asked where in the ordinances it states that a commercial business needs to come in for Plan Commission approval for a permit to paint a building. She read the site plan approval language stating no approval is required that does not substantially change the character of use or add additional substantial core area. She said Gander Mountain is repainting the building. There is no structural addition, no new building, nothing is being added, no alteration, no change of use. She asked where in the code does it give the Village authority that if a building is being repainted with no substantial changes, they are required to come in. She feels no action is necessary.

Commissioner Gray said this is not just repainting a building. This is a significant change in the character of the building that was approved. It wasn't just a color change; it was a significant change in what the public sees.

Attorney Sajdak said if the argument is based on the code, the actual code should be cited in its entirety. He proceeded to read from Chapter 17.43 which states no approval is required for site improvements or interior or exterior building improvements that does not substantially change the appearance, which is the part Attorney Sager skipped over, character of use or adds substantial floor area. Attorney Sager said she printed a copy of the code from the internet today. She said it is their position there are no alterations.

Commissioner Stauffacher asked if Attorney Sager had checked the original site plan approval process for Gander Mountain. what was included in the discussion, what was passed when they came forward with their presentation and renderings and what the Village requested they do to approve the site plan. He said if she had done that there would be no objection of what the exterior should look like. Gander Mountain went ahead without Village Planning Commission approval and changed the look of the building which does not coincide with the original site plan that was proposed and is a violation. The maintenance issue would have been painting the same color. This was a change of character in the building.

Discussion continued.

MOTION Peck second Stauffacher to require Gander Mountain to repaint the original mountain paint scheme by April 1, 2013 or submit alternate plans in time for review at the February Plan Commission meeting.

MOTION Fails 3-4 (Warren, Peck, Yokes)

MOTION Wolter to accept the paint scheme as presented.
MOTION Fails no second.

Attorney Sajdak said the process at this point would be a municipal citation be issued and brought before the municipal court at which time a decision for or against the Village would be rendered. At that point either party could appeal to the circuit court and from there continue all the way up.

Chairman Wolter said if Plan Commission does nothing the process will continue on the path it's on. Planner Retzlaff suggested giving Gander Mountain a chance to reconsider and add other features such as a canopy or more elaborate entry way. The consensus of Plan Commission at this point was to do nothing and let it stand and take its course. No action was taken.

Gehl Foods, Inc. – W160 N11736 Crusader Court. Tim Preuninger is requesting to Amend Conditional Use Permit #5-01 to modify the truck time restriction. Planner Retzlaff summarized the proposal. In response to the comments from neighboring residents, he said the Police Department had received 2 noise complaints since 2001 relating to early morning truck activity. He said although the Village Code does not have a specific quiet time, it does have a noise restriction pertaining to loud music and power equipment between 10 pm and 6 am. He said there is a business noise limit of 72 decibels at all times. Retzlaff said he is recommending approval of extending the trucking hours from 6 am to 10 pm, which is the time permitted for most businesses in the Village.

Tim Preuninger, representing Gehl's Foods, said Gehl's has seen significant growth in their business. He said Gehl's has been a good corporate citizen citing the landscaping and signage put up to help with the noise concerns, spending a significant amount of money on technology to reduce odors and increased hiring.

Commissioner Warren asked for clarification pertaining to the complaints from neighbors. Mr. Preuninger said the noise is the backup sound from the Waste Management trucks. Chairman Wolter suggested Gehl's schedule the dumpster pick-up for a different time. Mr. White commented Crusader Court is the entrance to a school with many activities going on and the trucks will have problems delivering with all the traffic. He also said the shuttle trucks are very noisy going back and forth. Dan Wing commented that all the surrounding properties protested this building coming in. The promise to the neighbors at that time was that trucking would be cut off at 6:00 pm. Chairman Wolter asked how the Village can help a business grow and at the same time try to make it work within the confines of where it is. Commissioners were sympathetic to the neighbors concerns. Mr. Preuninger said he was willing to look at scheduling the dumpster trucks at different points of the day. Commissioner Peck said Gehl's should make

an effort to look into electric or quiet jockey trucks. Commissioner Gray suggested Gehl's buy all the affected surrounding properties. Chairman Wolter asked that the Conditional Use Amendment go on to the Village Board and through the public hearing process. The Board can choose to include additional conditions that will look at solutions that will work for both places.

MOTION Peck second Warren to send a Recommendation to Deny the Gehl Foods request to amend Condition #6 in CUP #5-01.

MOTION Fails 3-3 (Wolter, Yokes, Gray)against

MOTION Stauffacher second Peck to Postpone until Gehl's comes back with a proposal to satisfy some of the issues of the residents; assurance trash pick-up is after certain hours, use a different type of sub-transport vehicle, keep noise down and other issues the neighbors brought up.

Chairman Wolter said he would not support postponing. He said if Plan Commission wants additional conditions they should list as conditions of approval. Commissioner Stauffacher said he is not an expert on the issues and Gehl's may not be able to comply with the issues. He said Gehl's should be given an opportunity to accommodate the issues of the neighbors. Chairman Wolter said the issues have been addressed at Public Safety meetings and as a result of those meetings, Gehl's has put sound buffers on Church Street, is working on the fan noise and other issues.

Commissioner Warren suggested putting conditions on the approval such as no dumpster noise between 7 am and 7pm and the jockey drivers need to change their procedures so they are not honking horns and look at way to eliminate background noise. Mr. Preuninger said he can control the honking horns and will ask Waste Management about a different pick-up time.

MOTION Withdrawn Stauffacher

MOTION Gray to send forward No Recommendation to the Village Board
MOTION dies – No Second.

MOTION Stauffacher second Yokes to send forward a Negative Recommendation to the Village Board.

MOTION Fails 3-3 (Wolter, Warren, Gray)against

MOTION Peck second Yokes to Approve the Gehl Foods, Inc. request to Amend Condition #6 in CUP #5-01 for the warehouse facility located at W160 N11736 Crusader Court subject to the following conditions:

1. ***Revise the time period within which truck activity can occur on the property***

to be 7:00 am to 10:00 p.m.

2. ***The noise level for the jockey trucks should be below 72 decibels between the hours of 6:00 pm and 10:00 pm.***
3. ***The back-up noise from dumpster pick-up will be restricted to the hours of 7:00 am to 6:00 pm.***
4. ***Change the procedure of jockey drivers so they are not using their horns between the hours of 7 am and 6 pm.***

MOTION carried 3-2 (Wolter, Stauffacher) Gray abstained.

Chairman Wolter said the Conditional Use Permit would go to the Village Board on December 17, 2012 and a Public Hearing would be scheduled. Resident Bonnie White asked who would monitor the noise levels. Resident Tom Weisenburger suggested the school be contacted for their input on the increased truck traffic. Tim Preuninger said Gehl's is working on fixing the concerns of the residents. He said a new procedure to fix the smells has recently been implemented.

A recess was called at 9:00 p.m.
The meeting was reconvened at 9:10 p.m.

Ellsworth Corporation & Glue Dots International – N117 W18711 Fulton Drive.
Zimmerman Architectural Studios is seeking approval of Phase 1 site development & building plans for a 38,016 sqft addition to the existing facility. Planner Retzlaff summarized the proposal.

MOTION Stauffacher second Peck to Approve the Phase 1 site development & building plans for a proposed 38,016 sqft addition to the existing facility located at N117 W18711 Fulton Drive in the Germantown Industrial Park subject to the following conditions:

1. ***Phase 1 approval is for the site development and building plan set dated October 22, 2012 (unless otherwise revised by a subsequent plan set approved by the Village Planner pursuant to revisions required herein.***
2. ***All landscaping, screening, grading, and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.***
3. ***A monitored sprinkler system and Knox Box shall be installed in the building as required by the Fire Department.***
4. ***All exterior doors shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access as required by the Police Department.***
5. ***State approved plans and a $20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.***

6. ***All technical corrections and issues raised in the Village Engineer's November 6, 2012 memo shall be addressed and reflected in a revised plan set submitted to the Village Engineer for review/approval prior to issuance of a building permit.***

MOTION carried unanimously.

Signworks for Ellsworth Adhesives and Kitpackers/Resin Labs – N109 W13300 Ellsworth Drive. Request for approval of a monument ground sign. Planner Retzlaff summarized the proposal.

MOTION Warren second Yokes to Approve the proposed monument sign for the Kitpackers/Resin Lab facility located at N109 W13300 Ellsworth Drive subject to the following conditions:

1. ***Electrical permits shall be obtained from the Building Inspection Department prior to installation.***
2. ***All electronic components shall be inspected and labeled by a licensed lab.***
3. ***The proposed masonry base needs to be redesigned so that the address coordinates contain a minimum of 5" lettering.***

Heidi Schaefer, Signworks, said that Ellsworth intends to put a flood light on the sign. Commissioner Peck was concerned the light could interfere with traffic.

MOTION to Amend Peck second Stauffacher to add a 4th Condition that the sign shall not be lighted in such a way as to cause glare or impair driver visibility upon public ways.

MOTION to Amend carried unanimously.

MOTION to Approve as Amended carried unanimously.

Construction Supply & Erection – N112 W19515 Mequon Road. Thomas Henke has submitted site development and building plans for a 12,000 sqft industrial building addition and 4,000 sqft accessory building for the existing facility. Planner Retzlaff summarized the proposal.

MOTION Stauffacher second Warren to Approve the site development and building plans for the proposed 12,000 sqft addition and 4,000 sqft accessory building for the existing CSE facility located at N112 W19515 Mequon Road subject to the following conditions:

1. ***Approval is for the site development and building plan set dated October 5, 2012 (unless otherwise revised by a subsequent plan set approved by the Village Planner pursuant to revisions required herein.***
2. ***All grading and paving improvements shown on the approved site plans shall be installed as proposed prior to issuance of an occupancy permit unless a***

cash bond or letter of credit in an amount equal to 120 percent of the estimated installation and material costs reviewed and approved by the Village is submitted to the Village as necessary to ensure that installation of the proposed features and improvements will be completed within one (1) year after issuance of the occupancy permit.

3. ***A monitored sprinkler system shall be installed in the building addition as required by the Fire Department.***
4. ***All exterior doors shall be clearly marked with reflective 5" or larger letters/numbers to aid emergency personnel access as required by the Police Department.***
5. ***State approved plans and a $20,000 occupancy bond are required by the Building Inspection Department as part of the building permit application.***
6. ***All technical corrections and issues raised in the Engineering Department's October 25, 2012 memo shall be addressed and reflected in a revised plan set submitted to the Village Engineer for review/approval prior to issuance of a building permit.***

MOTION carried unanimously.

Jon Guenther for Charles & Susan Rusch, property owners of a 49-acre parcel on Pioneer Road is seeking a 2-lot Certified Survey Map to create a 10 acre parcel and a Rezoning from A-1 to A-2. Planner Retzlaff summarized the proposal.

MOTION Peck second Yokes to Approve rezoning 10 acres (proposed Lot 1) from A-1 to A-2 and Approve the 2-lot Certified Survey Map land division for the 49.85-acre Rusch property located on Pioneer Road subject to the following conditions:

1. ***All technical corrections identified by the Engineering Department as summarized in their September 27, 2012 memo shall be made prior to recording the CSM by the Village Board.***
2. ***The surveyor's note on the CSM shall be revised to indicate that no further land division of or construction of any habitable structure on Lot 2 shall occur until such time as an appropriate soil evaluation indicating Lot 2 can support an on-site septic system has been prepared and approved by Washington County and/or the Village, and, the wetland delineation across Lot 2 has been completed.***

MOTION carried unanimously.

Kevin & Donna Nash, W140 N10816 Country Aire Drive, property owners of a 1.99 acre parcel are seeking approval of a 2-lot Certified Survey Map and Rezoning in order to create two .91-acre residential lots. Planner Retzlaff summarized the proposal.

MOTION Stauffacher second Peck to Approve Rezoning the 1.99 acre Nash property on Country Aire Drive from Rs-3 to Rs-4 and Approve the 2-lot Certified Survey Map land division for the 1.99-acre Nash property located at W140 N10816

Country Aire Drive subject to the following conditions:

1. ***All technical corrections identified by the Village Surveyor in the September 27, 2012 memo shall be made prior to recording the CSM by the Village Board.***
2. ***Soil evaluation results for Lot 2 shall be prepared and submitted to the Village prior to Village Board review of the CSM.***

MOTION carried unanimously.

ANNOUNCEMENTS: Chairman Wolter said the next Plan Commission Meeting is scheduled for November 26, 2012. Commissioner Yokes asked if the Plan Commission packets could be distributed sooner than the weekend before the meeting.

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:50 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant