

**Minutes of the Joint Historic Preservation Commission and Planning Commission
Thursday, December 4, 2008**

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1. **CALL TO ORDER** – Chair Greg Schnelle called the Planning Commission meeting to order at 6:32 pm.
2. **ROLL CALL** – Present: Greg Schnelle; Jeff Groenier, Larry Mahr, John Bieno, Scott Meier, Phil Harms, and Pat Molzahn. Absent: John Deininger. Also Present: Village Administrator Mike Gracz, Public Works Director Mark Below, Village Planner Mike Slavney and Deputy Clerk/Deputy Treasurer Tracey Hicks
3. **CALL TO ORDER** – Chair Arlan Kay called the Historic Preservation Commission meeting to order at 6:33 pm.
4. **ROLL CALL** – Present: Arlan Kay; Joan Gefke; Beth Sever; Al Miller; Patrick Molzahn, and Phil Harms.
5. **Discussion re: Proposed signage for Senor Peppers Located at 113 South Main Street.**
Daniel T. Richter, owner of Senor Peppers, was in attendance to present the proposed sign for the property located at 113 South Main Street. Richter explained they have been in business for 2 years, and would like to put a sign up. Below noted the sign does conform to the Village ordinances. Gracz stated the owner of the building did sign off to install the sign. Bieno questioned if it was a backlight sign? Richter stated no, it is a flat panel. Kay explained the HPC had a concern the sign would not cover the architectural detailing, window sills, and the beam expressed over the door way. Molzahn observed the proposed sign seems to be toned down from the original proposal. Molzahn questioned if Richter thought the HPC would not approve a sign with more color. Richter stated he tried to match the rest of the signs downtown. It was noted the first sign proposed was denied because the HPC was concerned with the proportions and the fact that it came up against the sill and down to the beam, than with the content of the sign. There was discussion regarding dimensions of the sign. Marechiel from the Chamber of Commerce was also in attendance to speak regarding the signage. Marechiel noted the sign dimensions are different than what is presented in the packet. The length is 200 inches and the document in the packet shows 228 inches. The change was to make the sign center on the building. Kay noted the sign is 28 inches shorter. It was noted the height stayed the same.
6. **Historic Preservation Commission – Recommendation to Planning Commission re: proposed signage for Senor Pepper’s located at 113 South Main Street.** Molzahn moved to recommend to the Planning Commission approval of the proposed signage for Senor Peppers located at 113 South Main Street with the length change to 200 inches. Second by Gefke. Motion carried 5-0.
7. **Planning Commission – Possible Action re: proposed signage for Senor Pepper’s located at 113 South Main Street.** Groenier moved to approve the proposed signage for Senor Peppers located at 113 South Main Street with the length change to 200 inches. Motion carried 6-0.
8. **Discussion re: Scott MacWilliams’ Second Floor Windows for property located at 107 South Main Street.** Kay discussed the finding regarding the windows installed, noting the windows installed did not conform to what was represented to the HPC by MacWilliams. Kay discussed the HPC wants the windows to be replaced with the correct size. Schnelle requested Kay explain why the HPC would direct a landowner to replace the windows. Schnelle also asked if Kay would give a summary of what has been going on with this. Kay stated the windows that were installed are too small. Kay discussed the standards required in a Historic District. Kay discussed the importance of windows, commenting it messes badly with the appearance of the

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building. Kay stated the windows installed are significantly shorter than the windows replaced. Schnelle clarified by stating the glass is smaller not the overall opening. Kay noted the trim and molding increased in size. Kay stated the windows installed exceed the allowable standards as established by the Secretary Department of Interior Restoration and guidelines that have been put forward by the State Historical Society. Kay felt the windows did not comply with the representation by MacWilliams at the time the HPC approved the windows. Kay explained he is not telling MacWilliams he has to change the windows; he's telling him the windows that he changed have to be of a certain specification. It was stated the building is in a Historic District, and everything in a Historic District has to meet the standards. Kay stated this is by the Village's ordinances and by the standards that have been adopted by the HPC. Kay stated this is a local issue. Groenier questioned why the windows were not put in originally. Schnelle questioned what is the repercussion for not complying with the ordinance. Kay stated the process is to obtain a building permit and if it is in a Historic District the HPC has to approve the proposed exterior work. It was noted the HPC reviews changes only to the exterior of buildings. Kay addressed Schnelle's question regarding the repercussion, noting he feels it is the same as any other code violation. There was discussion of who reviews the work and establishes if it is in compliance or not. It was noted it is typically either the Building Inspector or the Zoning Administrator. Groenier questioned what the standards are. Kay stated the State Historical Society allows an inch to an inch and a quarter variance. Kay noted the replacement windows came in four to five inches in width and eight to nine inches in height over the variance allowed. Bieno questioned why this issue is before the Planning Commission. Gracz stated the original windows should have been before the Planning Commission. There was discussion regarding if the windows need to be enforced and by whom. Gracz stated the HPC asked staff to talk with MacWilliams to try and find a solution, and the solution developed was MacWilliams would put what windows need to be put in and use the façade grant to pay for them. Gracz also stated the HPC and Planning Commission should in a sense re-approve the windows. Gracz noted that the façade grant only has approximately \$3,650 (NOTE: it was determined that approximately \$8,600 is available) left to put towards the windows. Gracz explained if MacWilliams is going to re-install the windows the Planning Commission should have some say and an approval of the windows. Schnelle stated it seemed the HPC has made a motion prior to the meeting. Schnelle discussed the problem for the Planning Commission and it is the first time they have seen this and would like to review the information before they make a decision. Schnelle suggested tabling this item. There was discussion regarding how to proceed with this. MacWilliams spoke with regards to statements made at the meeting. MacWilliams noted his concerns regarding the statements. MacWilliams explained he feels he did what he said he would do and there was miscommunication between the HPC and himself. MacWilliams stated he would not have intentionally replaced the windows with something he knew would be sub-size. MacWilliams noted he wants to do the right thing by his building and the community, but he is very concerned with the statements made that he would intentionally misrepresent the windows. Schnelle suggested getting the standards by what this is determined by. Schnelle wanted to see the standards in writing, read through the minutes, and any other document that can be reviewed. Mahr stated if no changes are made or standards are not changing it should go back to the HPC for a resolution. There was discussion of looking at all the options instead of replacing the windows. Kay stated he is not aware of any options that would increase the size of the molding. Molzahn stated he stands against the HPC's view point on this noting he feels mistakes were made during the process along with miscommunication on both parties. Molzahn state he feels the windows are an improvement of what was there. Molzahn stated allowing a variance for this particular case as a possibility and require proper drawings in the future. Schnelle discussed getting all the facts and suggested the HPC look at this again along with the Planning Commission. Gefke stated the HPC is governed by a set of standards that are federally implemented and the HPC needs to uphold them. Schnelle noted coming back to this with all the facts and discuss this again. There was discussion of having another joint meeting with the HPC.

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Slavney stated under the new zoning code a change to the exterior of the building is seen as a complete replacement of identical material in appearance it would not come before the Planning Commission, but if there is a change in appearance in material or appearance then the HPC makes a recommendation to the Planning Commission. It was stated that MacWilliams could work under the current application. Gracz noted this may be a legal question and will speak with the Village Attorney.

9. **Historic Preservation Commission – Recommendation to Planning Commission re: Scott MacWilliams’ Second Floor Windows for property located at 107 South Main Street.** No motion was made.
10. **Planning Commission – Possible Action re: Scott Mac Williams’s property located at 107 South Main Street for Second Floor Front Windows.** **Bieno moved to table this item, second by Groenier. Motion carried 6-0.** It was noted there would be a statement from the Village Attorney.
11. **HISTORIC PRESERVATION COMMISSION ADJOURNMENT:** **Miller moved to adjourn the Historic Preservation Commission meeting at 7:28 pm. Second by Molzahn. Motion carried 5-0.**
12. **Planning Commission continues with its regularly scheduled meeting.**
13. **APPROVAL OF MINUTES:**
 - a) **8/14/08 - Bieno moved to approve the minutes of August 14, 2008. Second by Mahr. Motion carried 7-0.**
 - b) 9/4/08 – Being Prepared
 - c) 10/2/08 Being Prepared
 - d) 11/5/08 Being Prepared
14. **PUBLIC APPEARANCES:**
 - a) **Public Hearing** on the proposed amendments to the zoning ordinance, Chapter 17-105(5)(a) **to consider a text amendment that would allow vehicle repair and maintenance and upper storey dwelling units as a conditional use in the Planned Industrial Zoning District.** *The Public Hearing was opened up at 7:29 pm.* There was no public input. Slavney explained based on the previous discussion of this matter with the Planning Commission it seemed apparent to him that the Commission was interested in the possibility of both the upper story residential and the possibility of vehicle maintenance and repair in the Industrial District. Slavney stated it seemed the Commission would like it on an ‘it depends’ basis so he suggested using the Conditional Use Permit procedure. Schnelle gave a brief summary of why the Commission looked into the text amendment, noting a property owner was looking into this for their proposed building. *The Public Hearing was closed at 7:32 pm.* Slavney stated the complication with the property is that it is in a TIF District, which cannot be rezoned. Slavney noted this property maybe very appropriate for the Business Zoning District, but it is not zoned that way. Slavney explained they are trying to provide for some of the uses that are allowed typically in the Business District to also be allowed in the Planned Industrial District. Slavney stated he recognizes there maybe circumstances where it would be appropriate and others where it is not, commenting the conditional use process combines flexibility but control to address the situation. Schnelle stated every conditional use permit will be reviewed by the Planning Commission. Slavney explained with a Conditional Use Permit the Commission can approve, deny, or approve with conditions. Meier commented he finds this troublesome to open up an avenue to provide dwelling units in an Industrial District. There was more brief discussion regarding the text amendment

Slavney suggested adding to the text 'limited to residential uses above commercial or office uses' and clarify that residential use would not be allowed above industrial uses. Meier noted he is not concerned about what is underneath, but what is next door. Meier explained part of his hesitation is the industrial park is not built up yet and the uses are uncertain at this point. Schnelle suggested making this generic, commenting not to think of a specific site within the Village. Meier commented he is not and this would create a generic avenue where this could happen in any industrial area. Schnelle stated this text amendment would be more of a tool to the Planning Commission and Village Board. Slavney stated from a theoretical stand point he agrees with Meier, however what if a text addition is added regarding being zoned industrial use with a condition in place stating the use would only be permitted where the subject property is adjacent to property zoned something other than industrial. Slavney noted this could clearly show the property would be at the edge of the Industrial District rather than in the middle. Meier stated he would feel more comfortable with this, noting it would be more of a buffer property. Schnelle stated this takes away the thought of an applicant coming in and trying to put residential units in the middle of an Industrial District. Below stated this is an accessory land use, which is similar to other commercial areas in the Village. Harms stated his concern would be to put a sidewalk in on the north edge off of Netherwood Rd. Below commented the full road build out on Netherwood shows sidewalks, but that is 10-15 years from now. Harms noted that is a long time to wait for a sidewalk. Schnelle questioned if a building were put up, would a sidewalk be required? Below stated the Planning Commission could require a sidewalk as part of the Site Plan approval process. There was more discussion regarding putting a sidewalk in. Bieno questioned if there were any guidelines to quiet businesses that border residential areas down. Slavney stated there are no additional requirements in the Village where residential is adjacent to industrial. The limits set on Industrial Districts are typically sufficient to control nuisances to where they are not a problem. Meier questioned if the two different uses could be put into two motions instead of bundling them together. Slavney stated in the zoning code they have pre-identified conditions for certain types of land uses. Slavney gave an overview of the changes the Planning Commission discussed. There was discussion regarding the park area across from the property. **Meier moved to approve as drafted to allow vehicle repair and maintenance and upper story dwelling units as a conditional use in the Planned Industrial Zoning District. Second by Bieno. Motion carried 6-0-1. Groenier Abstaining.** Slavney gave an overview and stated in addition to regulating as a conditional use the Planning Commission would identify two other conditions limited to locating above an office or commercial land use and not above an industrial land use and second, the proposed upper story dwelling units be located on a property that is adjacent to a residential office or commercial zoning district. **Bieno moved to approve two conditions to apply to the Industrial Zoning District (1) conditions limited to locating above an office or commercial land use and not above an industrial land use and (2) the proposed upper story dwelling units be located on a property that is adjacent to a residential office or commercial zoning district. Second by Mahr.** Mahr questioned if this puts the Commission in a bind for someone to build out on the area that is adjacent. Schnelle stated there is vacant area all over and if the vacant area is zoned industrial the only way they could have other dwelling units and/or building is if it's on the peripheral of the plat and adjacent to a residential, commercial, office or business. Slavney noted the point is in any of those zoning districts residential uses are approved. Below questioned the zoning of the adjacent properties. There was discussion regarding the park area and conservancy. It was noted conservancy land is not within the Urban Service Area. It was noted there could potentially be some sites along Netherwood Road by the park that may want upper story residential units above their business. Below stated he reviewed the zoning map and found there is one residential property on Netherwood on the south side of street and both parcels east and west touch. Below noted this maybe more of a legal

question. It was stated the property to the east is zoned General Industrial and across the street is also zoned General Industrial with the exception of the Veterinary Clinic which is zoned Planned Industrial. It was questioned if the conditions even apply with the surrounding zoning parcels. There was discussion of the surrounding parcels and their zonings. Below noted his concern with the way the amendment is worded because once you start specify things in the code it becomes more complicated. It was stated to go with what was on the agenda verses what had been specified. There was discussion of using the Conditional Use Permit with the new zoning code. Slavney stated the way the wording was originally drafted was putting faith in the Planning Commission to continue to do a good job, noting a lot of things in the ordinance are written that way. Gracz stated the new zoning code allows more discretion and flexibility for the Planning Commission. **Bieno withdrew the motion. Second by Mahr. Schnelle moved to approve the text amendment to allow upper story dwelling units as conditional use in the Planned Industrial Zoning District. Second by Mahr. Roll Call Vote: Groenier – abstaining; Harms – no; Meier – no; Bieno – no; Mahr – yes; Schnelle – yes; Molzahn – yes. Motion Failed 3-3-1 Groenier Abstaining.** There was discussion of how to proceed. Harms explained he was fine with the first motion, but when it changed to the current motion he changed his mind. Harms felt better with more stipulations on it. Meier stated he doesn't feel comfortable with the broad change to the zoning code. It was decided this item would be moved to the Village Board for discussion, and it was stated Harms and Schnelle would be present at the December 15th Village Board meeting.

- 1) Consideration and possible recommendation to the Village Board of the text amendment to chapter 17 of the zoning ordinance. This item was discussed with 14 (a).
- b) Continued discussion with Dave Payne re: Lot 3 in Alpine Meadows Business Park. It was noted that the applicant will have to wait until the Village Board meeting on December 15th to determine this. Schnelle gave a brief summary of the proposed project.
- c) Discussion and possible action regarding the proposed minor amendment to the SIP regarding additional signage at 600 Pleasant Oak Dr. Marty Verhelst was in attendance to speak with regards to the proposed additional signage at 600 Pleasant Oak Dr. Verhelst stated this would enhance the building making it more visible. The sign would be 70 feet from the sidewalk and 10 feet off of the parking lot. The sign would be visible from Highway MM. There was brief discussion regarding what types of messages are allowed on the sign. Verhelst stated he is proposing to replace the sign because he has had complaints from his tenants in the building, noting people have a hard time finding them. Verhelst discussed putting landscaping around the sign. The sign is 10 feet high and 7 feet wide. The sign has a red LED color. There was discussion regarding a utility easement. **Groenier moved to approve the minor amendment to the SIP regarding additional signage at 600 Pleasant Oak Drive contingent upon the Zoning Administrator approving the landscaping. Second by Mahr. Motion carried 6-1. Harms voting against.** Harms discussed his concern with the red LED light and he felt it may be a hazard to drivers. Harms inquired if the red could be softened some. Verhelst noted he could look at the sign and see. There was a brief discussion regarding the lighting on the sign.

15. **COMMUNICATION AND MISCELLANEOUS BUSINESS -**

- a) Update regarding the Town of Oregon Farmland Preservation Plan Amendment. It was stated this is for informational purposes. Gracz stated this will go to the County Board for discussion next week. Gracz will keep the Planning Commission updated on this.

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- b) Response from Dane County lakes and Watershed Commission to Forbes McInosh Dane County Cities & Villages Association regarding proposed Dane County Shore Land Zoning. Gracz stated this could affect up to 12,000 properties. It was noted the Cities and Village's Association is keeping a close eye on this. It was stated properties near Bad Fish Creek could be impacted by this. Gracz will keep the Planning Commission aware of what is going on.
- c) ATC Material Available in Clerk's Office. This is for information purpose only.

16. UNFINISHED BUSINESS - There was no discussion.

17. NEW BUSINESS – There was no discussion.

18. STAFF REPORT – Below gave brief updates regarding the downtown construction, the Jefferson St. railroad bridge and the 72" culvert replacement.

- a) Status of Developments/Projects
 - 1) Alpine Meadows, Bergamont & Oregon Parks Neighborhood
 - 2) Alpine Business Park
 - 3) Update on the status of the Downtown Project
 - 4) Update on the status of the Jefferson St. railroad bridge

19. ITEMS FOR FUTURE MEETINGS -

- a) Discussion and Possible Action re: Expansion of Oregon Pharmacy 815 North Main Street: Possible Amendment to SIP and Site Plan. There was no discussion.
- b) Extraterritorial Zoning. There was no discussion.

20. ADJOURNMENT - **Bieno moved to adjourn the Planning Commission meeting at 8:50 pm. Second by Meier. Motion carried 7-0.**

Submitted by
Tracey Hicks, Deputy Clerk