VILLAGE OF THIENSVILLE
PLAN COMMISSION
AGENDA

DATE: Tuesday, May 12, 2020 LOCATION: Village of Thiensville
250 Elm Street
TIME: 6:00 PM
Join Zoom Meeting

https://us02web.zoom.us/j/85013741752?pwd=Vk5YQytPSmQ2T3FWcnNIL2Z6WHJaQT09

Meeting ID: 850 1374 1752

Password: 527695

+1 301 715 8592 US

+1 312 626 6799 US

Meeting ID: 850 1374 1752

I. CALL TO ORDER

II. ROLL CALL
Plan Chairman: Van Mobley
Commissioners: Mike Dyer
Rick Gattoni
Carol Gengler
Sarah Hughes
Ken Kucharski
Dan Luedtke
Administrator: Colleen Landisch-Hansen
Planner: Jon Censky
Director of Community Services/
Public Works: Andy LaFond

III. BUSINESS
All applicants <u>or</u> their contractors must be present for any approvals.

A. Approval Of Minutes

1. April 14, 2020

Documents:

4-14-2020 PLAN MINUTES.PDF

B. Review And Discussion Regarding Noise Ordinance And Outdoor Seating

Documents:

NOISE ORDINANCE AMENDMENTS PATIOS AND BEER GARDENS.PDF

C. Review And Discussion Regarding Small Business Temporary Measures During Social Distancing Restriction

IV. STAFF REPORT

V. BUSINESS FROM THE FLOOR
Open to any citizen who wishes to speak on items not on the agenda. Please step to the podium and give your name and address for the record.

VI. ADJOURNMENT

Amy L. Langlois, Village Clerk
May 8, 2020

Please advise the Thiensville Municipal Hall, 250 Elm Street (242-3720) at least 24 hours prior to the start of this meeting if you have disabilities and desire special accommodations.

Notice is hereby given that a quorum of the Village Board and/or Village Committees may be in attendance at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take any formal action thereto at this meeting.

VILLAGE OF THIENSVILLE
PLAN COMMISSION
MINUTES

DATE: **Tuesday, April 14, 2020** **LOCATION:** **Village of Thiensville**
250 Elm Street

TIME: **6:00 PM**

Join Zoom Meeting
https://zoom.us/j/390516292?pwd=eWM2dkxlTys1T2pOMHJ2cWdPb0d0QT09

Meeting ID: 390 516 292
Password: 471927
Dial by your location
+1 253 215 8782 US
+1 301 715 8592 US

Meeting ID: 390 516 292
Password: 471927
Find your local number: https://zoom.us/u/adCfQkZYiW

Anyone wishing to speak during the Public Hearing or during Business From the Floor must register with Amy L. Langlois, Village Clerk at alanglois@village.thiensville.wi.us or at 262-242-3720 by 4:30 PM on Tuesday, April 14, 2020

I. CALL TO ORDER

Chairman Mobley called the meeting to order at 6:00 PM.

II. ROLL CALL

Chairman:	Van Mobley	
Commissioners:	Mike Dyer	Sarah Hughes
	Rick Gattoni	Ken Kucharski
	Carol Gengler	Dan Luedtke
Administrator:	Colleen Landisch-Hansen	
Planner:	Jon Censky	
Director of Community Services/Public Works:	Andy LaFond	

III. PUBLIC HEARING

A. The applicants, Jesse Daily and Matthew Buerosse, are Seeking a Conditional Use Permit Amendment to Have Outdoor Beer Garden at 107 Buntrock Avenue Hours of 11:00 AM to 10:00 PM Changed to 11:00 AM to 11:00 PM on Fridays and Saturdays

1. Motion to Open Public Hearing

MOTION by Commissioner Gattoni, **SECONDED** by Commissioner Kucharski to open the Public Hearing at 6:03 PM. **MOTION CARRIED UNANIMOUSLY.**

2. Administrator Colleen Landisch-Hansen to read and explain Notice

Administrator Landisch-Hansen read the Notice. Applicants Jesse Daily and Matthew Buerosse are seeking a Conditional Use Permit amendment to have the hours of operation for the baaree at 107 Buntrock Avenue of 11:00 AM to 10:00 PM changed to 11:00 AM to 11:00 PM on Fridays and Saturdays.

Mr. Daily would like to allow customers to sit on the patio until 11:00 PM. Customers only have a 3-1/2-hour window for business. Mr. Daily also stated that he will be cognizant of his neighbors and will not have music go past 10:00 PM.

3. Comments from anyone present requesting to be heard

Resident, 103 Buntrock Avenue – The resident next door to the cheel state that it is not the bar, but the music that is his concern. He has a special needs child and the music is too loud to the point where the windows shake and a picture has fallen off the wall. It was also stated that people need to sleep.

Erin and Greg Mueller, 121 South Main Street – The Muellers stated that if the music were to end by 9:30 PM that would be great and do not support extending the hours of operation. The volume also needs to be addressed.

4. Administrator Colleen Landisch-Hansen to read any Correspondence received related to the request

Administrator Landisch-Hansen read correspondence received by the Village related to this request

Michael and Linda Koepke, 127 South Main Street, wrote in an email that they are opposed to expanding the operating hours. The Koepkes live 60 feet from the courtyard and stated that they would not have a problem with the expanded hours, however, on numerous occasions the music went after the 10:00 PM closing time. The Koepkes also added that cleanup and customers leaving the property now extend past 10:00 PM. Also, noted was that there does not seem to be problems with noise from Remington's, which is across the street from their residence.

Thomas Montaine, 120 South Main Street, wrote in a letter that the restaurant is a nice addition to the area, but is opposed to the expanded hours. Mr. Montaine lives and rents five apartments in the area. The current 10:00 PM closing time provides his tenants time to relax and sleep. Mr. Montaine would like to keep the outdoor beer garden as a positive addition and keeping the outside noise level down after reasonable hours is important.

Erin and Greg Mueller, 121 South Main Street, said in a letter that Barkha Daily told Plan Commission members when the beer garden was approved that last call would be at 9:45 PM and everyone would be out of the outdoor beer garden by 10:00 PM. This rarely happens. The Mueller's added that the site has become a live music venue with amplified bands five or six nights a week. The music can be heard as far away as Village BP, 246 North Main Street, and by homes on Buntrock Avenue. The Mueller's also stated that they often sit in their home with the windows closed due to the volume of some of the bands.

Village Planner Jon Censky explained what is allowed in the B-1 Business District and stated that other communities prohibit amplified music in similar venues, but allow acoustic music.

Commissioner Gattoni inquired how many complaints the Police Department has received related to the outdoor beer garden. Commissioner Gengler noted that this request is for music not to go past 10:00 PM and asked if patrons could continue congregating inside the cheel. Commissioner Hughes supports this request. Commissioner Kucharski stated that it is important to be business-friendly, however, the Village also has a responsibility to the residents.

5. Motion to Close Public Hearing

MOTION by Commissioner Luedtke, **SECONDED** by Commissioner Gattoni to Close the Public Hearing at 7:00 PM. **MOTION CARRIED UNANIMOUSLY.**

IV. BUSINESS

A. Approval of Minutes
1. February 4, 2020

MOTION by Commissioner Kucharski, **SECONDED** by Commissioner Gattoni to approve the February 4, 2020 Minutes. **MOTION CARRIED UNANIMOUSLY.**

B. Review and approval of a Conditional Use Permit Amendment for Jesse Daily and Matthew Buerosse, 107 Buntrock Avenue to Have Outdoor Beer Garden Hours of 11:00 AM to 10:00 PM Changed to 11:00 AM to 11:00 PM on Fridays and Saturdays

Commissioner Gattoni questioned the exceptions that the Village Board is granting for special events.

Commissioner Luedtke does not support approving the amendment for the Conditional Use Permit. Commissioner Kucharski believes that the 10:00 PM closing time is fair. Commissioner Hughes supports having the music end at 10:00 PM with a hard shut-down at 11:00 PM. Commissioner Gengler agrees with Commissioner Hughes and added she is concerned the time will creep beyond that. Commissioner Dyer believes the music is too loud and needs to stop by 10:00 PM adding that there are residences nearby.

Chairman Mobley said there has been a directive to revive the downtown area and suggested leaving the current Conditional Use Permit in place. Chairman Mobley also stated that the Plan Commission then could explore a policy for the entire district.

Commissioner Gattoni noted that this is an outdoor beer garden and is not comparable to other bars in the area due to outdoor music. Commissioner Luedtke added that band noise is different from the sounds of people chatting. Commissioner Gattoni mentioned that Mr. Daily stated that his musicians are booked from 6:00 PM until 9:00 PM and suggested restricting the Conditional Use Permit for amplified music to end by 9:00 PM.

Staff was directed to look into the possibility of changes in the Zoning Code for discussion in May.

MOTION by Commissioner Hughes to approve Conditional Use Permit Amendment for Jesse Daily and Matthew Buerosse, 107 Buntrock Avenue to Have Outdoor Beer Garden Hours of 11:00 AM to 10:00 PM Changed to 11:00 AM to 11:00 PM on Fridays and Saturdays. **MOTION FAILED.**

C. Review and approval of Storage Shed, Douglas Chimenti, 587 Rosedale Drive

Douglas Chimenti, 587 Rosedale Drive, addressed the Plan Commission and presented plans for a shed. Mr. Chimenti is using wood siding painted to match the color of the home. The proposed shed measures 10 x 14 feet (140 square feet) and will have a height of 12 feet. The front of the shed will have a double-door system and the rear elevation a single door. There will be a 3 x 3-foot window on each side.

Planner Censky stated the shed fully complies with the Code. Commissioner Kucharski inquired about the fence indicated on the plans. Planner Censky stated that the fence had been approved by the Plan Commission years ago.

MOTION by Commissioner Kucharski, **SECONDED** by Commissioner Luedtke to approve Storage Shed, Douglas Chimenti, 587 Rosedale Drive. **MOTION CARRIED UNANIMOUSLY**.

D. Review and approval of New House, Hillcrest Builders, Lot 7 North Orchard Street

Hillcrest Builders is requesting approval of the architectural plans for the first single-family home to be constructed on the recently approved Orchard Street development.

Oyvind Solvang, owner of Hillcrest Builders, submitted drawings of the spec home. Mr. Solvang stated that they will manage the color and façade of the homes so there is variety and is discussing potential home sales with three or four prospects.

Commissioners Gattoni, Luedtke, Kucharski, Hughes, Gengler and Dyer all support the new residence.

MOTION by Commissioner Gattoni, **SECONDED** by Commissioner Kucharski to approve New House, Hillcrest Builders, Lot 7 North Orchard Street. **MOTION CARRIED UNANIMOUSLY**.

E. Review and recommend Rezoning from B-2 Shopping Center Business District and R-4 Multiple-Family Residential District to R-5 Multiple-Family Residential District, B-4 Highway Business District and PDO Planned Development Overlay District for NexJenn Real Estate LLC, Patricia Jennings Ullrich, Parcels Located at 266-286 North Main Street and 217-227 Green Bay Road

Greg Zastrow, Project Manager, T. J. Morley, Architect, Eppstein Uhen Architects, and developers Trish Jennings Ullrich and Joe Ullrich of NexJenn Real Estate LLC presented to the Plan Commission a request to rezone the parcels located at 266-286 North Main Street and 217-227 Green Bay Road.

Proposed is 94,000 square feet of leasable space in Buildings A and B, 47 one-bedroom apartments, 30 two-bedroom apartments, 6 three-bedroom apartments and 6 three-bedroom townhomes, 89 parking spots under the buildings and an additional 63 surface parking spots, 14,000 square feet of retail space in Buildings C and D and 68 surface parking spots. The total project area is 8.13 acres.

The setback from the north and south property lines will be 15-feet and the setback from the west property line is 5-feet.

Mr. Morley stated that he broke the retail up to create an appropriate scale and a pedestrian walkway. Also explained was that more robust building materials, such as stone and cedar shake, will be used. The roofs will be vaulted and the building height is 33 feet at the eaves and 54 feet at the peak.

Mr. Morley stated that there will be parking under both buildings as well as an elevator.

This building is a little higher than Willowbrook, however, Willowbrook's pad is higher. Commissioner Gengler remarked that the steep pitch adds to the character and hides the utilities and also believes that 89 units is a lot.

Chairman Mobley inquired about the height of the ceilings. Mr. Morley stated that they are 9 feet high.

Commissioner Gattoni said he likes how the utilities are hidden on the roof.

Commissioner Dyer asked about the total number of surface parking spots. Mr. Morley indicated that there will be an additional 131 spaces to the existing Walgreens spots. Commissioner Dyer likes the plans.

Director LaFond stated that Walgreens has 73 parking spaces, which is 27 parking spaces more than Code requires.

Planner Censky noted that proposed is a mixed-use development and that shared parking is preferred for this type of development.

Commissioner Luedtke inquired about the water table. Commissioner Hughes added that the plans look great. Commissioner Gattoni likes the amount of stone that is proposed.

Chairman Mobley stated that 89 units is a lot of apartments and hopes they will be absorbed into the market. Chairman Mobley noted that the Village Board will want to see occupancy rates and urged the developers to think about the mix of housing being provided. The Village is adding 10 single-family homes. Chairman Mobley also added that this project could be exactly what is needed in the area as it might help encourage development to the north.

Commissioner Kucharski likes the retail portion of the development and added it is important to have that mix.

Commissioner Censky noted that Section 17.0307(F)(1) of the Village Code requires a minimum building setback of 25 feet from the street right-of-way, but 15 feet is proposed. This deviation to the Code is to be noted in the PDO petition.

MOTION by Commissioner Gattoni, **SECONDED** by Commissioner Kucharski to recommend to the Village Board to Rezone from B-2 Shopping Center Business District and R-4 Multiple-Family Residential District to R-5 Multiple-Family Residential District, B-4 Highway Business District and PDO Planned Development Overlay District for NexJenn Real Estate LLC, Patricia Jennings Ullrich, Parcels Located at 266-286 North Main Street and 217-227 Green Bay Road. **MOTION CARRIED UNANIMOUSLY**.

All applicants <u>or</u> their contractors must be present for any approvals.

V. STAFF REPORT

Director LaFond presented the monthly staff report. A deck application from Joel and Debbie Belter, 753 Grand Avenue, was reviewed and approved by Village staff on April 7, 2020.

VI. BUSINESS FROM THE FLOOR

Open to any citizen who wishes to speak on items not on the agenda. Please step to the podium and give your name and address for the record.

VII. ADJOURNMENT

MOTION by Commissioner Luedtke, **SECONDED** by Commissioner Kucharski to adjourn the meeting at 7:48 PM. **MOTION CARRIED UNANIMOUSLY.**

Submitted by,	Approved by,	Signed by,
Amy L. Langlois Village Clerk	Andy LaFond Director of Community Services/ Public Works	Colleen Landisch-Hansen Administrator

Village of Thiensville

250 Elm Street
Thiensville, WI 53092-1602

Phone (262) 242-3720
Fax (262) 242-4743

TO: Thiensville Plan Commission
From: Andy LaFond, Director of Community Services
Date: 5/12/2020
Re: Noise Ordinance Amendments

Background: The Plan Commission recently took up a request to extend the patio hours at an outdoor beer garden at a public hearing to amend a conditional use permit. The current operational hours of the beer garden are listed in a conditional use permit. The owners asked to continue to end live music at the required time of 10:00 PM but keep the patio open an extra hour until 11:00 pm on Fridays and Saturdays in order for people to clear out. The request was denied by the plan commission. After the meeting, staff discovered there had only been one police report filed regarding noise since the beer garden has opened. There are other businesses in the Village that operate outdoor patio areas without time restrictions. In addition to this specific request, the Village board receives multiple requests a year from various businesses to hold events and live music until either 11pm or midnight. The current ordinance does not list specific times for enforcement however past practice has been that events past 10pm require special Board approval. The board usually permits these requests.

Intent: Village staff were tasked with looking into the existing ordinance and drafting changes for discussion by the Plan Commission and action by the Village board. These changes are intended to provide clarity to the ordinance as it pertains to outdoor patios, live music, and events in the business district, provide a schedule of acceptable times for these activities, and reduce the amount of reoccurring special requests to the Village Board. The spirit of this ordinance should provide regulations for these actives yet maintain the Village's desire to have a vibrant and lively business district.

Existing Ordinance and <u>Changes:</u>

Sec. 30-1. - Loud and unnecessary noise.

No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises which may annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence. No commercial deliveries or pickups that cause loud and unnecessary noise are to be performed outside of the hours of ~~7:00~~ <u>6:00</u> a.m. to 7:00 p.m.

<u>The ordinance does not limit normal and ordinary snow removal activities within 24 hours of the end of a snowfall or ice accumulation. Ordinance does not limit municipal snow removal activities anytime.</u>

Noise Ordinance (Outdoor Music Venues and Patios):

Definitions:

OUTDOOR MUSIC VENUE means a commercial property in a zoning district that's primary use is commercial where sound equipment is used to amplify sound that is not fully enclosed by permanent, solid walls and a roof

SOUND EQUIPMENT means loudspeaker, public address system, amplification system, or other sound producing device including acoustical, brass, or percussion instruments

PATIOS AND BEER GARDENS means plan commission approved outdoor-seating areas in a zoning district that's primary purpose is commercial, intended for the use of patrons of a business serving food, drinks or alcohol. Where service or self-service is provided.

General Restrictions

Outdoor Music Venues, Patios and Beer Gardens

(A) A person may NOT
- **(1)** use or permit the use of sound equipment at a business in excess of the decibel limits prescribed by this chapter;
- **(2)** use or permit the use of sound equipment at an outdoor music venue
  - (a) Anytime Nov 1st to April 30th
  - (b) From 10:00 PM to 10:00 AM May to the Thursday preceding Memorial Day and the Monday after Labor Day until October 31st
  - (c) From the Friday preceding Memorial Day to Labor day 10:00 PM to 10:00 AM Monday to Thursday and (10:00 – 10:30 - 11:00? PM for discussion) to 10:00 AM Friday and Saturday.
- **(3)** Outdoor Music Venues must submit a schedule of events and a site plan showing where the sound equipment will be located and what direction it is pointing on a Village provided form prior to the April Committee of the Whole meeting.

Patios and Beer gardens

(A) A person may NOT
- (1) use or permit the use of beer gardens and patios from 12 Midnight to 7:00 AM

Restriction on Decibel Level

(A) A person may NOT operate sound equipment at a business that produces sound:
- (1) in excess of 75 decibels during the allowed outdoor music venue hours listed as measured at the property line of the business in a commercial district;
- (2) is audible at the property line of the business between 12:00 a.m. and 10:00 a.m.

Special Permits

Special permits to request hours outside of what is listed above can be issued only for events on a Friday or Saturday or federally recognized holidays. Special permits shall be limited to a single day and no more than two permits shall be issued to any premise in any 12 month period regardless of change of ownership.

Enforcement Thoughts

Outdoor music venues, patios and beer gardens could be tied to existing liquor licenses. Or a new business license could be created for the operation of these outdoor facilities. Alternatively, the penalties otherwise used to enforce the noise ordinance could be used. It is possible that a coffee shop, sandwich shop or similar could create an outdoor music venue and not have a liquor license to use for enforcement.