

November 10, 2015 (Plan Commission Meeting)

**PLANNING COMMISSION MEETING  
TUESDAY, NOVEMBER 10, 2015  
4:30 P.M., DENMARK VILLAGE HALL**

CALL TO ORDER/ROLL CALL

Chairperson Mleziva called the meeting to order at 4:35 p.m.

Present: G. Steinberger, A. Schilke, M. Lax, D. Kralovetz, K. Peterson, J. Duckart,  
G. Mleziva

Also Present: S. Konkol, K. Coogle, E. Sisel, E. Runge, Planner from Ayres and Associates

REVIEW A CONDITIONAL USE APPLICATION FOR COMMERCIAL STORAGE ON GREEN  
BAY ROAD. APPLICANT: BAYLAND BUILDINGS

Runge presented the staff report to the Planning Commission.

- Parcels are located on Green Bay Road
- Applicant is requesting a re-zoning from General Commercial (B-2) to Limited Industrial (I-1) which was recommended for approval by the Plan Commission on October 27, 2015.
- The rezoning will next go to the Village Board for consideration following the required public hearing and notification process.
- Applicant is proposing to develop commercial storage units on these parcels. Commercial storage units are only permitted within the Village of Denmark Limited (I-1) and Heavy (I-2) Industrial districts as a conditional use. Thus, a re-zoning of the parcels is necessary if this use is to be allowed. The applicant will require a conditional use permit and a site plan review of the proposed development should the re-zoning receive approval by the Village.

Staff Review:

Planning staff reviewed the conditional use permit request as follows:

Consistency with Zoning District: The parcels identified are currently in the process of a re-zoning consideration. The Plan Commission recommended approval of the re-zoning from General Commercial to Limited Industrial to allow for the proposed project of commercial storage. In order for commercial storage to occur, it is a conditional use and therefore a conditional use permit is also to be approved.

Consistency with Comprehensive Plan: The Plan Commission evaluated the development trends in the area of the proposed project. The determination was that there has not been development and this proposal will be needed development for the Village and will possibly attract additional development.

Compatibility with Existing and Permitted Uses on Adjacent Lands: This use was determined to be compatible.

Standards for review of the Conditional Use:

Section 17.34(10) Conditional Use Permits, states that in passing a conditional use permit application, the Planning and Zoning Commission and Village Board shall consider the following factors:

1. *The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.*
2. *The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or existing, nor substantially diminish and impair property values in the neighborhood.*
3. *The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.*
4. *Adequate utilities, access road, drainage, storm water facilities and /or necessary facilities have been or are being provided.*
5. *Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.*
6. *The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is to be located.*

Staff Recommendation:

Based on the standards for review, below are conditions for the Denmark Planning Commission and Village Board to stipulate for the conditional use permit for the Bayland Building commercial storage project:

1. The re-zoning request is pending and requires approval by the Village Board.
2. The site plan requires approval by the Plan Commission.
3. The construction should commence and be complete within one year of the issuance of the building permit or the conditional use permit will expire.
4. The responsible party is to be identified for future repairs and site maintenance, cutting of grass and clean-up/pick-up of trash on the property.
5. Meet all requirements of Chapter 17 Signage of the Zoning of the Denmark Code of Ordinances for any signage that may be placed on structure.
6. Meet all other local, state, and federal laws.

**Kralovetz/Schilke moved to approve the Conditional Use Permit Request based on the staff recommendations with the conditions listed and approval by the Village Board.**

Discussion:

- Is it during the site plan review that the variances (storm water main) will be discussed?
- That will be in the site plan and will be about the easement discussion.

**Motion carried.**

REVIEW SITE PLAN APPLICATION FOR COMMERCIAL STORAGE LOCATED ON GREEN BAY ROAD APPLICANT: BAYLAND BUILDINGS

Runge presented the staff report to the Planning Commission.

- The four parcels are located on Green Bay Road.
- Applicant is also requesting a re-zoning from General Commercial (B-2) to Limited Industrial (I-1). The Plan Commission, at their October 27, 2015 meeting, recommended approval of this request to the Village Board.
- Applicant is proposing to develop commercial storage units described as mini and maxi and with a “condo” component to these storage units which add a business user component to this development. Discussion with the applicant following the Plan Commission Meeting on October 27, 2015, the applicant has indicated the condo units are no longer part of the project. Clarification from the applicant will be needed along with some of the other items listed within the criteria for review.
- Two access points are identified onto Green Bay Road.
- The project and preliminary site plan was discussed with the previous administrator.

Plan Commission Considerations:

Based on the Site Design Criteria, if the Plan Commission recommends approval, staff recommends **APPROVAL** of the site plan with the following **CONDITIONS**:

1. Ayers Associates engineering staff evaluated the storm water management of the site plan and provides recommended changes to the plan(s). A DNR storm water management permit for the development of this site, as it appears to disturb more than 1 acre which is the threshold for state requirements, is needed before the Village issues building permits for construction to begin.
2. There are two utility easements on the site. The east 20 foot utility easement holds a 48 inch storm sewer pipe that provides drainage from the north to a conveyance swale to the south of Green Bay Road. It is recommended that this easement not be vacated by the Village. The site plan shows a building to be constructed on this easement. It is recommended the building site plan be re-configured so there is not a building on this particular easement. *(Per Mike Liebman, Engineer for Ayres: The utility easement is a 20' easement which holds an existing 48" storm sewer pipe. This pipe provides drainage from lands north of the site to a conveyance swale south of Green Bay Road. As such, this easement should not be vacated as local drainage is dependent on this piping system. In addition, the site plan shows one of the storage buildings to be located directly over this 48" storm sewer. This would generally be considered unacceptable, as any maintenance or deterioration of that storm sewer would bring liability issues to the Village.*
3. With regard to locations of the buildings, the construction timeline indicates the most easterly building is not being constructed at this time. Clarification about the construction timeline and the status of the condo units is needed for the Plan Commission.
4. The Plan Commission provides an approval of the building materials. *(Changed the plan and added masonry to the front of the building and the building is metal and will not corrode).*
5. A conditional use permit is pending. The Plan Commission reviews this request and then based on their decision it also requires Village Board approval. *(Approved 11-10-2015)*
6. A re-zoning application is pending Village Board approval. This requires Village Board approval.
7. Applicant to submit a CSM of tax parcels to be combined which is to be approved by Plan Commission and Village Board. *(Submitted to Brown County today).*

8. Meet all requirements of Chapter 17 Signage, in the Zoning Code of the Denmark Code of Ordinances.
9. Any other additional permitting or other requirements to meet village, county, state, and/or federal requirements, as applicable.

Discussion:

- When we first met on October 27, the lot furthest to the east was going to have “condo” units on it. Is that now out of the question? Would like clarification.
- Concerned about the fifth building going over the easement. Feels the easement should remain where it is and be accessible.
- Will there be issues with storm water management, where we are locking in landowners and they have water and no drainage access?
- We have to look beyond this property for the storm water management?
- Elevations are over the drainage patterns.
- Drainage and water needs to stay on site.
- The 12’ easement is not owned by the Village, but the 20’ one is.

**Schilke/Peterson moved to suspend the rules of the meeting and open the floor for clarification on pending conditions of the plan. Motion carried.**

O’Brien

- Stated the 20’ easement is going to stay there. The buildings might shift, and if they do not, and stay like the plan shows, Bayland will re-route the storm sewer pipe or adjust the building and get it off of there.
- Regarding the 12’ utility easement, there is a request in to get a release of this easement that is for electric, gas and phone, and once Bayland gets the release, that easement is gone.
- CSM was submitted to Brown County today.
- On the plan, it shows 13 courses of masonry, and that will be reduced to 5 courses.
- Condo units were not put on the plan, as they are not a for sure thing, and will leave the most easterly lot vacant for now.
- If the storage goes well, they may just keep moving to the east with the storage buildings.
- They are going to put a sign on that lot that says for sale, build to suit.
- On the timeline for the buildings, buildings number two and three will be built right away.
- As far as the other lots, the first two, depending on how they are filling up, are going to dictate when the next ones will be built.

Discussion:

- What kind of lighting will be on the facility? *LED wall pack lighting that is dark sky compliant. The lights will light up the driveways. There will be three on one building staggered with three on the building next to light up the whole area. There will be 4 wall packs on each end wall staggered and one dead center on the gable, just in the front. The longer #1 building will have 5 or possibly 6 lights because it is an extra 60 feet long.*

November 10, 2015 (Plan Commission Meeting)

- Will there be signage on the buildings? *There will be eventually, on the building, and once the construction starts; there will be temporary signs up too.*
- Who will be doing the maintenance on the building? *The property owner will be responsible for the upkeep and appearance of the buildings.*

Runge summarized and wanted to clarify what was said on the easements:

- At this point they do not plan on building on the easement.
- Should they want to do that, it would have to be re-located, so what that means for the village, they would have to get permission, and there is a negotiation. It would be at the property owner's expense.
- It would require a legal arrangement and a legal discussion if it would get to the point of relocating the easement.

Discussion:

- If the easement is moved, then the pipe has to be removed too, correct? *That is correct.*
- That is where the legal concerns come in regarding the drainage.
- You want to be covered for your liability and good drainage.

O'Brien

Does anyone know when the 48" pipe went in, and what is the purpose of the pipe? Is it to drain the field that is to the north, and if it is, why is the Village taking someone else's water and dispersing it to your storm sewer?

Discussion:

- How long have you owned this property? *Mid 1990's*
- Are you thinking that easement was put in after you purchased the property? *There was no storm sewer to go to until the owner put it in on the road.*
- If you are looking at changing it, the Village is not changing it.
- We need to put a requirement if this is approved, in the motion that moving the easement will be at the owner's expense if they want to construct a building on top of it.

**Duckart/Steinberger moved to return to the regular rules of the meeting. Motion carried.**

Discussion:

- Concerned about lot #9 that was supposed to have a "condo" unit be built on it.
- That was a big selling point when the Plan Commission approved the re-zoning, because there was a potential for a business opportunity, and now it is off the table and not going to happen.
- Would hate to have mini, maxi storage units put up on all of the properties, without a potential for any business.
- The approval of re-zoning was prompted by the "condo" units and potential for business.
- This is not quite the same development that was originally presented on October 27, 2015.
- Would like to see new plans with the building that is on top of the 20' easement removed.

November 10, 2015 (Plan Commission Meeting)

- Disappointment that the Commission was presented a different set of plans, when the emphasis was focused on the potential for business.
- Would like it in writing that a building will not be put on top of the easement.

**Schilke/Steinberger moved to suspend the rules of the meeting and open the floor. Motion carried.**

O'Brien

The owner is ok if you put the condition of the "condo" units in your motion. That is what was proposed, to put the condos in there, but I am not going to show you something on a plan that the orientation or the length, or the change in direction might change. "If you want me to throw something on a piece of paper, I will". A sign will be put up that says condo storage available or build to suit, so if the condos don't go in there and they could build something better than a condo unit, like a business, "you are going to tell us no." *No, we prefer better than storage if the potential is there.*

Property Owner

What you see on the plan for storage is our goal, and then condos will go on the corner lot. Would propose to the Plan Commission to leave lot #9 out of the site plan approval and out of the conditional use.

Runge

Suggestion to staff and this Commission is that there are too many alterations being made, and the applicant should come back with a final, because if it doesn't get constructed because we have an ultimate goal of higher use, the conditional use will expire if it is not constructed, so you would need to come back either way.

Property Owner

We are planning on having this done by December 10.

Runge

Your goal is to have a condo use, let's say it doesn't happen, and then you want to come back in 2017, after 12 months, then you will have to go through this whole process again. The Plan Commission is making so many changes; I suggest to you that you bring in another site plan for the Plan Commission for a final review.

O'Brien

What is the reasoning for scheduling a meeting with a new plan in December? When we are going to go through the same motions that we are going through now.

Runge

The Plan Commission needs to have a site plan that is finalized.

O'Brien

The plan they have now is final. We are showing the buildings we are going to build. When you say the conditional use permit expires in 12 months, are you saying that all 5 of these buildings need to be built in one year?

Runge

The conditional use permit will expire 12 months after issuance of the building permit.

O'Brien

Is it correct then, with those 6 buildings that are shown, that the only time we should have to come back to build any of those buildings, is if we determine that we will have to move the easement. It is not true as Mleziva said that we cannot put a building on top of the easement, because in talking with Liebman, and Jared from Robert E. Lee, we can re-locate that easement.

Property Owner

There are no buildings shown on the plan, other than the six that you are approving, so the lot that was going to have a condo unit on it does not show a building, therefore you are not approving anything for that lot, and if we want to build on it, we will have to come back.

**Steinberger/Peterson moved to return to the rules of the regular meeting. Motion carried.**

Discussion

- We need to put some type of restriction for lot #9, so the intent is known for lot #9.
- The approving of the re-zoning was based on the condo building with the potential for business.
- There are an awful lot of conditions on this plan, and there are concerns of approving this with all the changes that are being proposed.
- Not comfortable approving a list of conditions.
- Would like to see a plan that is laid out exactly how it will be developed, and feel this plan is just not thorough enough.
- Concerned about a building going on the easement.
- If the building is left where it is on the plan, would like to see where the easement will be re-routed.

**Peterson/Kralovetz moved to suspend the rules and open the floor. Motion carried.**

O'Brien

If you can conditionally approve the plan as is presented with the stipulation that no building can be built on the 20' utility easement. That would satisfy it. The easement will likely have to be re-located if they decide to build there.

November 10, 2015 (Plan Commission Meeting)

Runge

The staff can be given the ability to review and approve the site plan with it excluding the building over the easement. So, if you draw up a new plan, without the building over the easement, and bring it in, staff can approve it and you will not have to come back.

**Steinberger/Duckart moved to return to the rules of the regular meeting. Motion carried.**

**Schilke/Lax moved to approve the submitted site plan application for commercial storage located on Green Bay Road with these conditions,**

- 1.) DNR permitting is required to be submitted to the Village before construction, and**
- 2.) The Plan Commission gives the authority to staff to approve the revised site plan excluding the building over the 20' easement.**

**Motion carried.**

SCHEDULE NEXT PLAN COMMISSION MEETING: DISCUSS COMMISSION MEMBERS' AVAILABILITY ON TUESDAY, DECEMBER 1, 2015

Next Plan Commission meeting will be held on Monday, November 30, 2015 at 4:30 p.m.

DISCUSSION REGARDING 2016 PLAN COMMISSION MEETING SCHEDULE

Plan Commission meetings will be scheduled on the third Tuesday of every month, and will meet if needed.

ADJOURN

**Peterson/Steinberger moved to adjourn at 5:55 p.m. Motion carried.**

Minutes submitted by Sherri Konkol, Village Clerk