

Memo

To: Plan Commission, Village Board

Fr: Trevor Fuller, Planning and Zoning Administrator

Re: ACTION RE: APPROVAL OF AMENDMENT TO ARTICLE VII OF CHAPTER 475 OF THE VILLAGE ORDINANCES, CONDITIONAL USES

Date: 15 December 2017

The Plan Commission has been discussing amending Chapter 475 of the Village Ordinances; the Zoning Code. Recent discussions have been around stop-gap solutions to allow for more mixed-use development. Both Brown County and the Center for Land Use Education have recommended adding additional uses to the Commercial District by way of a Conditional Use Permit as a possible stop-gap solution.

Before additional uses can be added as conditional uses, it is suggested that our Conditional Use Permit process be updated to be more specific in required plans needed to make an informed decision. Attached are the recommended amendments to the Conditional Uses Section of the Village Ordinances. The changes include language taken from the City of West Allis Special (Conditional) Use process. Furthermore, recommended additions to our Conditional Use Permit application are below.

The Plan Commission reviewed the recommended amendments to the ordinance and application at the November 27, 2017 meeting and made the recommendation to the Village Board to adopt the amendments.

The Village Board is asked to review and discuss the proposed amendments and schedule a public hearing for January 16, 2018.

Suggested Additions to the Application for Conditional Use Permit:

- Completed Conditional Use Application
(already required)
- Written statement to Village Board stating reasons for the request *(already required)*
- Filing fee *(already required)*
- Site plan
- Elevations of structures
- Proposed construction schedule
- Other reports and studies, as requested by the village, which are necessary for ensuring that the standards in Section 475-58 are met

Article VII Conditional Uses

§ 475-56 Purpose and authority.

- A. In recognition that there are certain uses which because of their unique characteristics cannot be properly limited to any particular district or districts, there are hereby established conditional uses for all districts. Such conditional uses shall be either uses publicly operated or traditionally affected with a public interest or uses entirely private in character of such a nature that they are compatible as an accessory use with the designated premises and shall not present problems to neighboring property or public facilities. These problems cannot be predetermined or controlled by general regulations. In addition, these conditional uses cannot always be confined to specific zoning districts. Therefore, in order to ensure compatibility with the neighborhoods in which they may be located, it is necessary that these conditional uses not be permitted as a matter of right, but only after appropriate review and approval as provided by this Section.
- B. (2) Authority to Grant. Following due notice and a public hearing, conditional uses may be granted by the Village Board, as provided under the provisions of the Section, in the respective zoning districts in which they are permitted.

§ 475-57 Petition.

- A. **Petitioner.** Any natural person or corporation having a freehold interest, or an exclusive possessory interest, or a contractual interest legally enforceable to become a freehold or exclusive possessory interest, may file a petition for one or more of the conditional uses of the land as herein provided. ~~Such petition shall be made similar to a petition for a change of zoning and shall include a statement in writing together with adequate evidence to show that the proposed conditional use will conform to the standards hereinafter set forth.~~
- B. **Public Hearing.** The Village may prescribe from time to time a form for such petition. A public hearing shall be held on the proposed conditional uses, similar to a hearing as held on a petition for change of zoning, and notice of the time and place of such hearing shall be published as a Class 2 notice.
- C. **Application.** An application for a conditional use shall be filed with the office of the Village Clerk on a form prescribed by the Village Board. The application will include the information prescribed by the Village Board as well as a written statement by the applicant and appropriate supporting materials sufficient to demonstrate that the proposed use will conform to the standards set in **Subsection 475-58** below.

The application will also be accompanied by a designated filing fee. A schedule of fees has been set by the Village Board and is available in the office of the Village Clerk.

- (1) **Application Materials.** Where appropriate, any or all of the following materials shall accompany an application for a conditional use. An applicant shall confer with the Zoning Administrator prior to submittal to determine which materials are necessary for the specific application.
- (2) **Application Process.** Upon receipt of a proper application and appropriate supporting materials, the Plan Commission shall review and provide a recommendation to the Village Board. The Village Board shall then schedule and hold a public hearing for the conditional use request. The Village Board shall make a final decision on the application following the public hearing.

§ 475-58 Standards.

No conditional use shall be granted unless it shall be found that:

- A. 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 and will not otherwise conflict with the purpose and intent of this Section;
- B. The conditional use will not substantially reduce the use and enjoyment of other property in the immediate vicinity for the purposes already permitted and shall not substantially diminish or impair property values within the neighborhood;
- C. Adequate facilities, access roads, drainage, parking, and any other necessities have been or are being provided;
- D. Adequate measures have been or will be taken to provide ingress and egress so designated as to minimize traffic congestion in the public streets; and
- E. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for permitted uses in the zoning district.
- EF. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

§ 475-59 Conditions and guarantees.

Prior to the granting of any conditional use, the Village may impose such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as are deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified above, and in all cases in which conditional uses are granted the Village shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

The regulations that are established and any conditions and restrictions that are imposed shall be expressly set forth in the resolution granting the conditional use and shall govern the development, use and occupancy of the property, subject to such other required permits and approvals, including, but not limited to Site Plan and Design Review under **Article X** of this chapter and building, stormwater, and erosion control permits.

§ 475-60 Revocation.

In the event that the conditional use is not made of the premises within six months after the approval of the petition, there is a discontinuance of such conditional use for a period of six months, or there is a failure to comply with the conditions and guarantees of the grant of the conditional use, the Village may, after holding an appropriate hearing and giving notice of the same as required for a change of zoning, revoke the conditional use.