

**OFFICIAL MINUTES  
PLAN COMMISSION AND ZONING BOARD OF APPEALS  
VILLAGE OF MATTESON  
OCTOBER 1, 2009**

**ITEM # 1 CALL TO ORDER:**

Chairman Howard-Davis called the meeting to order at 7:30 p.m.

**ITEM #2 ROLL CALL:**

Commissioners Present:

1. Sebronella Howard-Davis, Chairman
2. William Harris
3. Albert Tyler III
4. Dr. Laurice Geanes
5. Veloid Cotton
6. Allan Johnson
7. Regan Stockstell

Also Present:

1. Trustee Burton
2. Pam Hirth, Director of Community & Economic Development
3. Ryan Franklin, Village Planner
4. Linda Leonard, Recording Secretary
5. Jesal Patel, Patel Realty
6. Babu Patel, Patel Realty
7. Tadgh O'Reilly, representative for owner of 21131 Vivienne Dr.

**ITEM #3**

No changes to the Agenda.

**ITEM #4 APPROVAL OF SEPTEMBER 17, 2009 MINUTES:**

Commissioner Tyler asked the following corrections be made:

- Page 3, par. Before "Recommendation", 1<sup>st</sup> sentence should read "...applicable to all properties zoned..."
- Page 4, under "Findings of Fact", "...were not presented nor discussed..."
- Page 4, next to last par., should read "The amount or percentage...", strike-out "a" in third sentence, third sentence should read "...15,000 square footage..."
- Page 5 – "Special (Legal) Counsel"

Commissioner Geanes asked the following questions in regards to the Sept. 17<sup>th</sup> Minutes:

- Page 6, 4<sup>th</sup> par. 1<sup>st</sup> sentence, "wanted"

Commissioner Harris made a Motion to accept the September 17, 2009 Minutes with corrections.

Commissioner Tyler seconded the Motion.

**VOTES:**

Cotton	: Aye		7 Ayes	0 Nays	0 Abstain	0 Absent
Geanes	: Aye					
Harris	: Aye					
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The September 17, 2009 Minutes were approved with changes.*

**ITEM #5 PUBLIC HEARINGS**

The Public Hearing for Petition #PC09-002 was opened at 7:33 p.m.

**Continued from September 17, 2009**

**Petition PC#09-002** Special Use Permit for a Resale Shop (Salvation Army)/140-142 Town Center Drive

Applicant: Jesal Patel, representative for Matteson Towncenter, LLC

Ms. Hirth gave the following summary information:

Mr. Babu Patel was in attendance at the Plan Commission meeting in which the Commission’s direction regarding a new public hearing was given. In addition, staff notified Mr. Jesal Patel by email the next day as well as so noted the same in the Plan Commission Action Report sent to him by standard mail. Mr. Jesal Patel responded via email correspondence that it did not make sense to move forward with this request until the text amendment has been considered by the Village Board. Therefore, staff will publish for a new public hearing for this agenda item upon Village Board consideration of the text amendment.

The Public Hearing for PC#09-002 was closed at 7:35 p.m.

Commissioner Tyler made a Motion to approve Staff’s recommendation to publish for a new public hearing for this agenda item upon the Village Board’s consideration of the Text Amendment (PC#09-001). Commissioner Cotton seconded the Motion.

**VOTES:**

Cotton	: Aye	
Geanes	: Aye	

Harris	: Aye		7 Ayes	0 Nays	0 Abstain	0 Absent
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The Motion was approved for staff to publish for a new public hearing for this agenda item upon the Village Board's consideration of the Text Amendment.*

**Continued from September 17, 2009**

**Petition #PC09-003** Amendment to Special Use Permit for a Planned Unit Development (PUD) with Site Plan Changes and Variances related to required parking and landscaping (Crossroads Plaza)

Applicant: Jesal Patel, representative for Matteson-Lincoln Investments, LLC

The Public Hearing for PC#09-003 was opened at 7:36 p.m.

Ms. Hirth gave the following summary information:

The applicant did not resubmit the remaining plans and documentation for consideration at tonight's Plan Commission Meeting. Therefore, as directed by the Plan Commission at the meeting of September 17<sup>th</sup>, staff will publish for a new public hearing upon receipt of all revised plans and documentation in which outstanding comments and issues have been resolved; thus allowing the project to move forward in the review process.

Mr. Babu Patel was in attendance at the Plan Commission Meeting in which the Commission's direction regarding a new public hearing was given. In addition, staff notified Mr. Jesal Patel by email the next day as well as so noted the same in the Plan Commission Action Report sent to him by standard mail.

The Public Hearing for PC#09-003 was closed at 7:38 p.m.

Commissioner Stockstell made a Motion that Staff will publish for a new public hearing upon the receipt of all revised plans and documentation in which outstanding comments and issues have been resolved. Commissioner Harris seconded the Motion.

**VOTES:**

Cotton	: Aye		7 Ayes	0 Nays	0 Abstain	0 Absent
Geanes	: Aye					
Harris	: Aye					
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The Motion was approved for Staff to publish for a new Public Hearing upon the receipt of all revised plans and documentation in which outstanding comments and issues have been resolved.*

**Petition #ZBA09-004** Consideration of a Variation from Section 159.30 (M)1.a of the Matteson Zoning Ordinance for the property located at 21131 Vivienne Drive  
Applicant: Tadgh O'Reilly, Owner's Representative  
Mr. Franklin gave the following summary information:

### **ANALYSIS:**

The attached final ("as built") Plat of Survey was received on August 28, 2009. Typically a final plat of survey is submitted prior to an occupancy permit being issued. Upon submission and review of the final plat of survey, staff noted a building overhang projecting 2.75 feet into the required side yard. The permit survey and the spot survey did not illustrate the building overhang. The building overhang is the result of a bump-out for an upstairs bathroom. The overhang is approximately 10 feet above the ground.

The Petitioner is requesting a variance to increase a projection into the required side yard from 2 feet to 2.75 feet for an elevated building overhang. This requires the formal variance process because the amount of projection (.75 feet) is greater than 6 inches. The Community Development Director has authority to approve a minor variance so long as the variance amount does not exceed 6 inches.

Public Notice for the proposed variance was published in the Star Newspaper on September 17, 2009. Notices were sent to the adjacent residents as a courtesy.

### **FINDINGS**

The Zoning Ordinance states that the Zoning Board of Appeals shall not recommend, and The Board of Trustees shall not grant any variation unless it has made findings, based on the evidence presented, that all of the following conditions exist:

- i. The property cannot yield a reasonable return if permitted to be used only by the conditions allowed by the zoning regulations. **This variance request is not related directly to the economic return on the property. The home has already been constructed and was designed with an overhang to accommodate an upstairs bathroom.**
- ii. The difficulties or hardships alleged by the applicant are suffered directly by the property and are the result of the application of this code, and have not been created by any action, performed subsequent to adopting this code, of any person presently or formerly having an interest in the property. **The hardship has been created because the home was constructed with a building overhang that accommodates an upstairs bathroom and the overhang was not illustrated on the permit survey or spot survey.**

- iii. The variation recommended or granted is the minimum variation that will enable the owner to realize a reasonable return from the property, and, the variation does not grant a special privilege inconsistent with limitations of the Zoning Code on other properties in the vicinity. **The variation grants the property owner relief from compliance with 2 foot maximum projection into the required side yard for a building overhang that accommodates an upstairs bathroom.**
- iv. The plight of the owner is due to circumstances that are unique to the property. **The plight of the owner is due to the fact that the building overhang was not illustrated on the permit survey or spot survey.**
- v. The unique circumstances consist of the particular physical surroundings, shape, or topographical condition of the property. **The home is designed to include this building overhang which is a bump-out for an upstairs bathroom and is approximately 10 feet above the ground. The building overhang does not impact the required side yard setback as applicable to the first floor of the building.**
- vi. The plight of the owner is not caused by circumstances that are applicable generally to other properties in the vicinity. **The circumstances on which this request is based are founded on Section 159.30 (M) 1.a. which addresses allowable projections into required yards; the fact that the building overhang is approximately 10 feet above the ground and upon the fact that the building overhang was not illustrated on the permit survey or spot survey.**
- vii. The variation will not alter the essential character of the neighborhood if granted. **The variance will not alter the character of the neighborhood.**
- viii. The variation will not substantially lessen the suitability of any nearby property for use and development in accordance with the Zoning Code; will not impair an adequate supply of light to any nearby property, will not substantially increase congestion in public streets, increase the danger of fire, or endanger the public safety or substantially impair or diminish property values in the neighborhood if granted. **This variance, if granted, will not negatively affect the surrounding neighborhood.**

### **RECOMMENDATION**

Staff recommends approval of the requested variance from Section 159.30 (M) 1.a of the Matteson Zoning Ordinance, to increase a building overhang projection into required yard from 2 feet to 2.75 feet for the property located at 21131 Vivienne Drive.

Ms. Hirth also reported that in the building permit review process there are three separate surveys that are submitted. The first survey is the permit survey, the second is the spot survey and the third is the as-built final survey. The overhang is elevated (approximately

ten feet) and was not shown on the Permit Survey or the Spot Survey. It was only disclosed on the As-Built Final Survey.

**Zoning Board of Appeals (ZBA) Discussion:**

The ZBA asked that, if this variance is issued, would this variance set a precedent for the future for surrounding homes. Ms. Hirth stated that she does not know why/how the permit survey and the spot survey did not illustrate the building overhang. Ms. Hirth stated that Building Services was strictly responsible for looking at setbacks, etc. in the past but now Zoning will also be reviewing the permits and hopefully this type of mistake will not occur again.

The ZBA stated that they noticed approximately nine other houses in the same development with the overhang and questioned whether or not each owner of those houses will need to come before the Zoning Board of Appeals for a variance. Ms. Hirth stated that in this situation, the buyer’s attorney caught the mistake. This mistake may or may not be an issue with other houses with the overhang. If it does become an issue with one or all of the other houses, each one would have to come before the Zoning Board of Appeals for a variance.

The builder, Tadgh O’Reilly, came forward at this time. The ZBA asked Mr. O’Reilly if the bathroom bump-out was part of the original plan and Mr. O’Reilly stated that the overhang was part of the original plan. The ZBA stated that, because of this error, the original plan was always going to require a variance. The ZBA asked the builder if the other nine homes have the same problem with the size of the overhang. Mr. O’Reilly stated that this is, in fact, the case. The ZBA asked Mr. O’Reilly if he is planning on building any other homes in this development in the future and, if so, the plans need to be altered with the overhang size. Mr. O’Reilly stated that he is not planning on building any other houses in this development as of this time. The ZBA confirmed with the petitioner if the original plans showed the bump-out. Mr. O’Reilly stated that it did and the ZBA stated that it appears that Building Services did not pick up on this mistake in the plans from the very beginning.

The ZBA did some calculations and arrived at an amount of 6.98 setback whereas it is being shown on the Plat of Survey as 7.43. The builder thought that his figures were within code. Staff indicated that the survey has been signed and sealed by the surveyor. The ZBA stated that all of the homes with the overhang have been built so refusing a variance is not an option. Consistency in approving a variance is necessary if any other houses with this problem come before the ZBA requesting.

ZBA member Stockstell made a Motion to approve the variance to increase a building overhang projection into required yard from 2 feet to 2.75 feet for the property located at 21131 Vivienne Drive. ZBA member Geanes seconded the Motion.

**VOTES:**

Cotton	: Aye	
Geanes	: Aye	

Harris	: Nay		6 Ayes	1 Nay	0 Abstain	0 Absent
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The Variation from Section 159.30 (M)1.a of the Matteson Zoning Ordinance to allow an increase in the maximum projection into a required side yard from 2 feet to 2.75 feet for the property located at 21131 Vivienne Drive was recommended for approval.*

**ITEM #6 OLD BUSINESS**

**Petition #PC09-001 Zoning Ordinance Text Amendments to Section 159.22 (Uses Permitted in Districts) & Section 159.05 (Definitions)**

**Applicant: Jesal Patel, representative for Matteson-Lincoln Investments, LLC. (Use) and Village of Matteson Community Development Department (Definition)**

Public Hearing was opened at 8:30 p.m.

Ms. Hirth gave the following report:

During the discussion at the September 17<sup>th</sup> meeting, a question was raised by the members of the Commission as to the reasoning for the recommended 15,000 square footage maximum prescribed by Special Legal Counsel. As directed, staff advised Special Legal Counsel of the Commission’s inquiry. Special Legal Counsel, Kathy Orr, provided the attached Memorandum.

In addition, the Plan Commission asked for clarification on building square footages as a means to understand what 15,000 square feet of space might look like. Staff has researched some examples of retail buildings, tenant spaces within the Village and provides the following:

- Wonder Bread Thrift Store: 3,892 square feet
- Kinkos Building: 5,000 square feet
- Multi-Tenant Bldg (Verizon): 6,000 square feet
- Former Pier One Building: 9,000 square feet
- Good As New Thrift Store: 10,600 square feet (total center: 23,800 sq. ft.)
- Multi-Tenant Bldg (Harolds) 17,700 square feet
- Former Circuit City Building: 23,000 square feet

Lastly, Special Legal Counsel makes reference to “an anchor tenant” in her memorandum. For the Commission’s clarification, staff has researched the definition of anchor tenant and offers the following from two sources:

*Anchor Tenant:* The major store or stores within a shopping center. (source: A Planners Dictionary, PAS Report 521/522)

*Anchor Tenant:* The major store or stores within a shopping center. (source: The Illustrated Book of Development Definitions, Harvey Moskowitz and Carl G. Lindbloom)

### **BACKGROUND:**

A petition to allow a resale shop as a special use in the Mixed Use District (MXD) was previously considered at the regular meeting of the Plan Commission meeting on June 4<sup>th</sup>. The original text amendment request came from the owners of the Matteson Towncenter and only included the request to allow a resale shop as a special use within the MXD. However, the June 4<sup>th</sup> public hearing was not properly conducted, thus creating the need to republish for a new public hearing on July 2<sup>nd</sup>. Based on discussion that occurred on this matter, staff expanded upon the request to establish a definition for resale shop as well as use criteria for a resale shop to ensure its compatibility within the MXD district. Subsequent to the date of the new public hearing date, there have been several continuances as a result of extensive discussion/staff meetings with the owners of the Matteson Towncenter.

### **ANALYSIS:**

At this time, the Village's Zoning Ordinance does not define a resale shop. This particular type of use can be subject to a variety of interpretations (consignment shop, thrift store/shop, charity shop, second-hand store/shop). To establish a consistent interpretation of a resale shop, staff proposes the following definition be added to the Definitions Section (159.05) of the Zoning Ordinance:

**Resale Shop:** an establishment that mainly sells second-hand durable goods that are obtained from members of the public by one of the following means: purchased from the original buyer or user, donated, or provided through consignment (the process by which a seller (consignee) pays the person who owns an item (consignor) a portion of the proceeds from the sale.

Currently, Section 159.22 of the Matteson Zoning Ordinance lists resale shops as allowable uses in C1, C3, C4, C5 zoning districts. Currently resale shops are not listed within the Mixed Use District. The applicant is seeking consideration of a Zoning Ordinance text amendment that would allow a resale shop as a special use in the Mixed Use District (MXD). The nature of a special use indicates that the particular use needs to be carefully considered with respect to its potential impacts on adjacent uses, its appropriateness for the proposed location, and whether applicable conditions are needed. In addition, criteria can be established to assist with the consideration of a special use permit request. As such, staff has drafted the following criteria to ensure that a proposed resale shop remains compatible with other allowable uses within the MXD:

1. *Building size or tenant space size* – the Mixed Use District is intended to provide for a mix of commercial, office research, and service development

that generates a higher than usual level of traffic, parking, and daily activity. To ensure that a complimentary mix of tenants is maintained on property zoned MXD and to support the intent of the district, staff is proposing that the square footage of a resale shop not exceed 15,000 square feet in area.

2. *Ancillary drop-off facilities* – by the proposed definition, a resale shop can obtain its durable goods via donations from members of the public. Typically donations are received directly (donator carries items into the building and leaves with a facility worker) or indirectly (donator places items in a drop-box or designated drop-off area). With the second method, items are removed from the drop-box or drop-off area periodically throughout the day and can be dropped-off during and after regular business hours. Maintenance problems can arise when there is a surplus of donations received, especially after business hours resulting in an unsightly appearance. To eliminate the possibility of this type of maintenance issue in these high visibility locations zoned MXD, staff is proposing that any ancillary activities associated with a resale shop take place inside the building with the donator entering the facility and leaving items with a facility worker. In addition, staff also proposes that donations be accepted only during regular business hours and that no donations are accepted (or left) after business hours. To assist members of the public, a resale shop operator might consider posting a sign visible to the public indicating the policy on accepting donated items.

If ultimately approved by the Village, the proposed definition text amendment would be applicable in all zoning districts that allow resale shops whereas the proposed use text amendment would be applicable to all property zoned Mixed Use District (MXD). The majority of the land that is zoned MXD is located along Lincoln Highway and Cicero Avenue, as well as the Village Commons area.

**RECOMMENDATION:**

Staff recommends approval of Petition PC #09-001 for the Zoning Ordinance Text Amendment to Section 159.05 Definitions for the establishment of a definition for *Resale Shop* as presented.

Staff recommends approval of Petition PC #09-001 for the Zoning Ordinance Text Amendment to Section 159.22 Uses Permitted to allow a Resale Shop as a Special Use within MXD, subject to the following criteria:

1. A resale shop cannot exceed 15,000 square feet in area;
2. Ancillary donation drop-off activities need to take place inside of the building with donators entering the facility and leaving items with a facility worker; and
3. Donations are to be accepted only during normal business hours; there are to be no donations accepted or left outside the facility after normal business hours.

## **FINDINGS OF FACT**

**If the Plan Commission chooses to recommend in favor of the proposed Zoning Ordinance Text Amendment related to a definition of a resale shop as presented, then the following findings shall be made as required by Section 159.90 (A) (7) (b) (i-v) of the Zoning Ordinance:**

- (i) Whether such change is consistent with the intent and purpose of the Zoning Code in establishing the particular zones affected. **The proposed amendment is consistent with the intent and purpose of the Zoning Ordinance as the proposed definition is needed to clarify a specific use that is currently allowed in the Village.**
- (ii) Which areas in the municipality are most likely to be directly affected by such change and in what way they will be affected. **The proposed definition would be applicable in all zoning districts that allow a resale shop use.**
- (iii) Whether any indirect effects are likely to result from such change in the foreseeable future and, if so, the nature of such indirect effects. **There are no perceived indirect effects as an established definition clarifies a proposed use.**
- (iv) Whether the amendment under consideration would correct an error or oversight in the ordinance as originally adopted. **The text amendment related to defining a resale shop corrects an oversight because this type of use is not currently defined in the Ordinance yet resale shops are allowed in several of the Village's established commercial zoning districts.**
- (v) Whether the amendment under consideration is made necessary because of changed or changing conditions in the areas and zones affected or in the municipality generally, and, if so, the nature of such changing conditions. **Establishing a definition for a resale shop is not related to market conditions, but corrects an oversight because this type of use is not currently defined in the Ordinance yet resale shops are allowed in several of the Village's established commercial zoning districts.**

**If the Plan Commission chooses to recommend in favor of the proposed Zoning Ordinance Text Amendments related to allowing a resale shop as a special use in MXD as presented, then the following findings shall be made as required by Section 159.90 (A) (7) (b) (i-v) of the Zoning Ordinance:**

- (vi) Whether such change is consistent with the intent and purpose of the Zoning Code in establishing the particular zones affected. **The special use permit review process and criteria ensures compatibility with other allowable uses within the Mixed Use Zoning District.**

- (vii) Which areas in the municipality are most likely to be directly affected by such change and in what way they will be affected. **Allowing a resale shop as a special use would only be applicable on land zoned Mixed Use District (MXD).**
- (viii) Whether any indirect effects are likely to result from such change in the foreseeable future and, if so, the nature of such indirect effects. **The special use permit review process with defined criteria ensures compatibility with other allowable uses within the Mixed Use Zoning District.**
- (ix) Whether the amendment under consideration would correct an error or oversight in the ordinance as originally adopted. **The text amendment related to allowing a resale shop in the Mixed Use District as a special use expands the limitations set forth by the current Zoning Ordinance.**
- (x) Whether the amendment under consideration is made necessary because of changed or changing conditions in the areas and zones affected or in the municipality generally, and, if so, the nature of such changing conditions. **The proposed amendment related to allowing a resale shop in the Mixed Use District is not caused directly by changes in the community, but in market conditions over time. A resale shop can provide an alternative means for residents to purchase durable goods (such as clothing, sporting goods, etc.) at a reduced cost.**

#### **Plan Commission Discussion:**

The Commission questioned how a resale shop outside area would be policed. They stated that they feel that many items would be left outside after operating hours. Staff stated that since there will not be any drop-off containers and/or areas provided outside there should not be a problem with goods left outside. The Commission stated that, even without a drop-off area, they feel that goods will be left outside and no matter what codes that may be put in place the problem of goods being left outside will be an issue.

The Commission asked whether in regards to the 15,000 square feet prescribed, if the suggestion of 10% square footage of entire mall size been eliminated. Staff stated that it had not and the Plan Commission could modify the use criteria to include a percentage.

The Commission asked what the purpose was of mentioning the anchor stores because 15,000 square feet is a very large building and that a percentage of the total should be used. The Commission stated that they thought the 15,000 square feet maximum or 10% of the size of the entire strip mall, whichever was less, was determined at the last Plan Commission meeting. However, it was pointed out that a Motion was never made to recommend this at the last meeting.

The Commission stated that a goodwill shop or resale store has never been a major anchor store in a mall and that the current owner wants to have a resale store because a

more prominent type of renter has not come forward. However, a resale shop is more desirable than an empty building. The Commission stated that the financial issues concerning a potential business are not the responsibility of the Plan Commission and should not even be discussed.

The Motion was made by Commissioner Cotton to recommend to the Board of Trustees to approve the caveat of 15,000 square feet maximum or 10% of the total size of the strip mall, etc., whichever is less, added to the recommendation that staff made. Commissioner Harris seconded the Motion.

**VOTES:**

Cotton	: Aye		7 Ayes	0 Nay	0 Abstain	0 Absent
Geanes	: Aye					
Harris	: Aye					
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The request for approval of a Text Amendment to Section 159.05 Definitions including use criteria related to maximum size was recommended for approval.*

Staff clarified that the use criteria was related to the text amendment to allow a resale shop as a special use in the MXD, and not the definition for a resale shop. Due to the misunderstanding, Commissioner Cotton made a Motion to withdraw his previous Motion. Commissioner Harris seconded the Motion.

**VOTES:**

Cotton	: Aye		7 Ayes	0 Nay	0 Abstain	0 Absent
Geanes	: Aye					
Harris	: Aye					
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The Motion to withdraw the previous Motion was approved.*

Commissioner Geanes made a Motion to approve the Zoning Text Amendment to Section 159.05 (Definitions) for the establishment of a definition for resale shop as presented. Commissioner Harris seconded the Motion.

**VOTES:**

Cotton	: Aye	
--------	-------	--

Geanes	: Aye		7 Ayes	0 Nay	0 Abstain	0 Absent
Harris	: Aye					
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The text amendment to Section 159.05 (Definitions) establishing a definition for a resale shop was recommended for approval.*

Petitioner (Jesal Patel) addressed the Plan Commission. He stated that he does not understand how the Plan Commission approved the square footage of 15,000 Square Feet maximum for a resale shop when the memorandum from Special Legal Counsel, Attorney Kathleen Orr, did not, in fact, answer staff’s question of how the figure of 15,000 maximum square feet for a resale shop was determined. Mr. Patel stated that this figure (15,000 square feet) has no legal foundation and neither does the figure of 10 percent decided by the Plan Commission. Mr. Patel also questioned the definition used for an anchor tenant. Mr. Patel stated that a workshop was held with his counsel and the village counsel and the 15,000 square foot question came up at this workshop. The petitioner had asked for 20,000 square feet or more and staff said that this amount of footage was acceptable and then went back to the petitioner and stated the amount of footage should be a maximum of 15,000 square feet without any known reason.

The Commission stated that they do not feel that their question to the staff to inquire of Special Legal Counsel how/where the amount of 15,000 square feet was derived was adequately addressed. Staff replied that they asked Special Legal Counsel for the answer to the Commission’s question and her response was in the form of the memorandum. Staff stated that they would go back to Special Legal Counsel again to get a clear answer to the 15,000 square feet or ask her to attend a Plan Commission meeting.

The Commission questioned if there is any information available as to what the average square footage for a resale shop is. The memorandum did not answer the question of where the 15,000 square feet came from. Staff stated that the Commission can modify the square footage. Staff also stated that the staff memo following the meeting with Mr. Patel and his counsel should have been sent to Administration for a final review prior to being sent to the petitioner.

The Commission stated that they feel that it is time to move forward from the issue of the 15,000 square feet and approve the 15,000 square feet.

The Commission stated that they feel that it is unfortunate to ask a question and not get an adequate answer. It is unfortunate to pay for the services of Special Legal Counsel and not get an accurate answer to the question. The Commission asked if it was determined why a resale shop was not allowed in a MXD District. Staff stated that they do not know.

Mr. Babu Patel stated that he thinks that it is wrong for the Commission to keep stating that a resale shop would not be good for the “gateway” to Matteson. Previously there was no “gateway” to Matteson at this intersection.

Commissioner Stockstell made a Motion to approve the recommendation and modify staff’s recommendation as it relates to use criteria number 1. Commissioner Harris seconded the Motion.

**VOTES:**

Cotton	: Aye		6 Ayes	1 Nay	0 Abstain	0 Absent
Geanes	: Aye					
Harris	: Aye					
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Nay					
Johnson	: Aye					

*The text amendment to Section 159.22 (Uses Permitted in Districts) to allow a resale shop in a Mixed Use District (MXD) subject to the following use criteria was recommended for approval.*

1. A resale shop cannot exceed 10% of the total leasable area of a single building or connected buildings forming a single center, or 15,000 square feet, whichever is less;
2. Ancillary donation drop-off activities need to take place inside of the building with donators entering the facility and leaving items with a facility worker; and
3. Donations are to be accepted only during normal business hours; there are to be no donations accepted or left outside the facility after normal business hours.

**ITEM #7 NEW BUSINESS**

No new business.

**ITEM #8 COMMISSIONER’S REPORT/INQUIRIES**

None

**ITEM #9 STAFF COMMUNICATIONS**

Ms. Hirth stated that, in the future, the Zoning Board of Appeals issues and the Plan Commission issues need to be addressed at separate meetings. The Zoning Board of Appeals meeting will be opened, discussed, voted, and closed. After Zoning Board matters have been heard, then the Plan Commission meeting will follow.

Ms. Hirth stated that Community Development is currently overseeing the engineering workload as well as the planning workload. Community Development is trying to work more closely with Building Services to prevent some of the mistakes that have occurred.

Ms. Hirth also stated that Location Maps are being developed to be included in Staff Reports.

**TRUSTEE REPORT**

Trustee Burton stated that the Board of Trustees approved the process of Administrative Adjudication for the Village. The Village will begin seeking qualified attorneys to serve as hearing officers for the Administrative Adjudication process. Special Legal Counsel will conduct the training. By the Village having an Adjudicator will hopefully help with the problem of residents and local business owners who are not in compliance with Village Codes and Ordinances.

Commissioner Tyler complimented Staff on getting the correct answer in regards to the owner of Kia Motors.

**ITEM #10 NEXT REGULAR MEETING**

The next regular meeting for the Plan Commission is scheduled for October 15, 2009 at 7:30 p.m.

**ITEM #11 ADJOURNMENT**

Commissioner Stockstell made a motion to adjourn. Commissioner Harris seconded the Motion.

**VOTES:**

Cotton	: Aye		7 Ayes	0 Nays	0 Abstain	0 Absent
Geanes	: Aye					
Harris	: Aye					
Howard-Davis	: Aye					
Stockstell	: Aye					
Tyler	: Aye					
Johnson	: Aye					

*The meeting was adjourned at 9:05 p.m.*

Minutes submitted by: Linda Leonard