



## **MINUTES OF THE REGULAR MEETING OF THE PLAN COMMISSION, VILLAGE OF TINLEY PARK, COOK AND WILL COUNTIES, ILLINOIS**

**January 5, 2023**

The meeting of the Plan Commission, Village of Tinley Park, Illinois, was held in the Council Chambers located in the Village Hall of Tinley Park, 16250 Oak Park Avenue, Tinley Park, IL on December 1, 2022.

**CALL TO ORDER** –ACTING CHAIR SHAW called to order the Regular Meeting of the Plan Commission for January 5, 2023 at 7:05 p.m.

Lori Kosmatka, Associate Planner called the roll.

Present and responding to roll call were the following:

Acting Chair Ken Shaw  
James Gaskill  
Angela Gatto  
Terry Hamilton  
Andrae Marak  
Brian Tibbetts  
Kurt Truxal

Absent Plan Commissioners:

Garrett Gray  
Eduardo Mani

Village Officials and Staff:

Dan Ritter, Interim Community Development Director  
Lori Kosmatka, Associate Planner  
Michael O. Whalen, Associate Planner

Petitioners:

Eugene Grzynkowicz, representing Pete's Fresh Market

Members of the Public:

Phil Lorenzi of 16127 Lake Villa Avenue  
Lynese (no last name or address provided)

COMMUNICATIONS – Lori Kosmatka, Associate Planner, noted CHAIRMAN GRAY was absent. COMMISSIONER SHAW served at Acting Chair. She also noted the Village has a new Staff member who will be further introduced in the Good of the Order.

APPROVAL OF THE MINUTES - Minutes of the December 1, 2022 Regular Meeting of the Plan Commission were presented for approval. A motion was made by COMMISSIONER TRUXAL, seconded by COMMISSIONER TIBBETTS to approve the December 1, 2022 minutes as presented. ACTING CHAIR SHAW asked for a voice vote; all were in favor. He declared the motion carried.

**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**

**FROM: VILLAGE OF TINLEY PARK PLAN COMMISSION**

**SUBJECT: MINUTES OF THE JANUARY 5, 2023 REGULAR MEETING**

**ITEM #1: PUBLIC HEARING – PETE’S FRESH MARKET, 16300 HARLEM AVE –  
SPECIAL USE FOR PUD DEVIATION AND SITE PLAN AMENDMENT**

Consider recommending that the Village Board grant Petros Drimonas, Pete’s Fresh Market, on behalf of 163rd & Harlem LLC (property owner) a Special Use for a Substantial Deviation of the Park Place Planned Unit Development (89-O-048 and 21-O050) with Exceptions to the Village Zoning Ordinance located at 16300 S. Harlem Avenue, Tinley Park. The granting of this request will allow for drive aisle realignment and reduction in parking count and extend the deadline of the grocery store occupancy in relation to the warehouse/distribution use to May 15, 2024.

Present and responding to roll call were the following:

Acting Chair Ken Shaw  
James Gaskill  
Angela Gatto  
Terry Hamilton  
Andrae Marak  
Brian Tibbetts  
Kurt Truxal

Absent Plan Commissioners: Garrett Gray  
Eduardo Mani

Village Officials and Staff: Dan Ritter, Interim Community Development Director  
Lori Kosmatka, Associate Planner  
Michael O. Whalen, Associate Planner

Petitioners: Eugene Grzynkowicz, representing Pete’s Fresh Market

Members of the Public: Phil Lorenzi of 16127 Lake Villa Avenue  
Lynese (no last name or address provided)

ACTING CHAIR SHAW introduced Item #1. COMMISSIONER GATTO made a motion to open the public hearing. Second was made by COMMISSIONER GASKILL. ACTING CHAIR SHAW requested a voice vote. Hearing no opposition, the motion was declared carried.

ACTING CHAIR SHAW confirmed that he received certification of public legal notice being posted. He invited staff to present their report.

Lori Kosmatka, Associate Planner, presented the staff report.

ACTING CHAIR SHAW confirmed the Petitioner was present and requested he speak at the dais if any questions needed to be answered.

ACTING CHAIR SHAW asked the Commissioners if they had any questions or comments, beginning with COMMISSIONER GASKILL.

COMMISSIONER GASKILL asked what was the purpose of reducing parking.

The Petitioner, Eugene Grzynekowicz was sworn. He stated that high volume drive-thru establishments need site plan adjustments to allow for proper stacking. The proposed Chick-fil-A quick service restaurant needed more space to accommodate its drive-thru stacking needs, so the developer shifted the drive aisle between the outlots and the Pete's Fresh Market grocery store to the west.

Dan Ritter, Interim Community Development Director, clarified that more land was added to the Chick-fil-A outlot which reduced parking. He stated that the developer would have to come in for final approval on the Chick-fil-A and the goal for that approval would be accommodating shared parking. He stated there would be shared parking, where grocery store customers and restaurant customers can park in either parking lot.

Mr. Grzynekowicz further explained that the parking reduction will not affect the grocery store operations.

Dan Ritter reminded the Commission that the Village gets parking reduction requests all the time because the parking requirements in the Zoning Ordinance are high as they were established in 1978. The 6.5 parking number was meant for Black Friday type situations, which is overparking and not meeting today's situation. We rely on developers to come before the Village to state what actually works. Things may change in the future. We don't want to make it so specific to a tenant. Anything above four has generally worked out well with retail at this point.

COMMISSIONER MARAK asked Dan Ritter if the shift to lower parking numbers is a function of the prevalence of online shopping.

Dan Ritter stated that online shopping plays a role, however it is likely that the parking requirements in the Zoning Ordinance were always too high. The Black Friday rushes are not the same as they once were. He stated that grocery stores do not have the same peak demand as other retail uses. He stated that when we plan for the worst case scenario, excessive parking is built. Staff anticipates to re-look at the code's parking numbers.

COMMISSIONER TRUXAL had the same question as COMMISSIONER GASKILL about the parking reduction. (Lori Kosmatka changed the slides back and forth to offer a comparison of the previously approved and proposed site plans). COMMISSIONER TRUXAL stated that he understood the response given and had no further concerns. He stated that the additional stacking space for the proposed Chick-fil-A drive-thru looks good as the drive-thru will be busy.

Dan Ritter elaborated that the Chick-fil-A will go through a final approval to confirm the specifics about the site plan, but that the restaurant was shown on the proposed grocery store site plan to illustrate why the drive aisle needed to move. He stated that it was also useful to see the drive-thru design to ensure there is space for sufficient stacking within that outlot.

COMMISSIONER GATTO questioned the need to extend the previously approved occupancy deadline and asked whether site planning issues were the cause of the requested extension.

Mr. Grzynkowicz stated that the extension request is due to the limited availability of materials needed to build and operate the grocery store. He stated that relocation of an existing gas line on site has been challenging. He stated that it is difficult to get contractors to commit to dates to perform work and the proposed date of May 15, 2024 is a conservative estimate that Pete's is comfortable with.

Dan Ritter confirmed that the opening estimate is conservative. He added that Chick-fil-A coming in later required adjusting the site plan, which may have further delayed the opening date.

COMMISSIONER TIBBETTS stated that he has no comments and that he understands the issues with building material availability and costs.

COMMISSIONER HAMILTON stated that he had no questions.

ACTING CHAIR SHAW stated that he agreed that the Villages parking standards are excessive. He said that he never has a problem with parking reductions. He questioned the draft site plan for Chick-fil-A, asking if the concept was based on Chick-fil-A's standards.

Mr. Grzynkowicz confirmed that the Petitioner has been working with Chick-fil-A for months and that the site plan is an accurate depiction of the proposed site plan. Pete's is enforcing that because they have conditions regarding bottleneck of traffic, and this was the only plan that would be allowed.

Dan Ritter noted it's good to have Pete's as the property owner furthering the interest of a good plan, otherwise sometimes the Village has to be the party to stop a bad plan. Pete's did a lot of the work here without having to get staff involved on stacking and access points. Staff has not done a full analysis on this yet, but it seems a lot of the concerns are already addressed here. That will make the process hopefully a lot quicker.

ACTING CHAIR SHAW noted that is good to have the reality of the developments considered with how Chick-fil-A would design as well. This is only relevant because his concern would be if we got to the next phase and realized there was still not enough space requiring another adjustment.

Mr. Grzynkowicz stated they went through multiple rounds of discussion, including a preliminary discussion with the Village to get a feel for it. He also noted that Chick-fil-A's proposal has 39 parking stalls.

ACTING CHAIR SHAW noted that this helps the current Pete's proposal, and hopefully the forthcoming Chick-fil-A proposal when it comes in.

Mr. Grzynkowicz noted they moved Chick-fil-A's egress so as you come in, you have more of a 45 degrees to turn with an easier lane to turn in off of the drive lane on Harlem. As you have more people getting into the Chick-fil-A site, you'll have more queuing area.

Dan Ritter noted it straightens that drive aisle as well. Staff looked at whether this makes sense overall, notably if Chick-fil-A ends up not developing at the outlot. Staff feels that regardless of the use in the outlot, the drive aisle realignment improves that site to be a little more usable overall. The proposed straightening of the drive aisle improves the overall site area whether Chick-fil-A comes or not.

ACTING CHAIR SHAW agreed with Staff. This is one of the better secondary access areas that we have. He then noted the small triangular piece being created. He noted that the proposal is down 37 parking spaces, but he is not looking for extra spaces as he is fine with the proposal. He struggled with looking at this part of the site, but didn't see any other better functional use for it. It should look great if landscaped.

Dan Ritter commented that most people will not see the property lines, and probably assume that it will be part of the old Applebee's, now becoming Ascend Cannabis dispensary currently under construction. It's along the drive aisle and now really available for parking for Pete's or Chick-fil-A. It's not really usable space.

ACTING CHAIR SHAW asked if there will be any concerns over property maintenance with the property line going diagonally through that landscaped area.

Dan Ritter responded it's mostly just grass with a couple trees, not heavily landscaped. It is good that Pete's owns it and if there's an issue, it can be resolved.

Mr. Grzynkowicz noted Pete's can make it clear of that property line's boundary with that property owner. Pete's also handles their own landscaping. The property will be maintained well.

Dan Ritter noted it's a unique situation with Ascend and Pete's moving forward making sure they're connected. There's a need for coordination during construction times. Eugene Grzynkowicz and the Ascend manager will have contact. He believes they already have each other's contact information.

ACTING CHAIR SHAW noted the recommendation was to exclude a few items including the landscaping and photometrics. He wanted to confirm that as part of that, those items are conditioned and subject to staff review and approval.

Dan Ritter confirmed it would be reviewed with the permits. They just do not have the plans right now. They'll have to meet the code requirements except for the slight reduction being seen in the end islands. What staff approves with the permits will become part of the approved plans. He advised that if this is something that the Commission is uncomfortable with, then the Commission may ask for these plans and continue this item.

ACTING CHAIR SHAW noted he's comfortable with the exclusion. He asked if any of the other Commissioners had any concerns. Hearing none, he noted that there were members of the public

present. He offered Mr. Grzynkowicz the opportunity to address or answer any of the public's concerns.

Phil Lorenzi of 16127 Lake Villa Avenue of Park Place Villas Subdivision was sworn in. He is a resident of Park Place Villas and a member of its HOA. Several of the constituents living toward south, near the Pete's, have expressed concerns about noise from loading dock operations. He noted a Village ordinance stating it is a violation to operate a loading dock by actively performing loading and or unloading functions in relation thereto between 10pm to 6am in any place within the Village in which the majority of the buildings within a radius of 300 feet are used exclusively for residential purposes. That would include Park Place Villas. He did not expect the Petitioner to move the buildings farther away. He would like to see some form of sound mitigation or barrier to reduce the noise of loading dock operations if they're going to occur between 10pm and 6am. He's aware it's not allowed per Village ordinance, but using a golf range finder from his house to Sam's Club, a current loading dock warehouse, he's 160 feet away. They operate their loading dock extensively between 10pm and 6am. Residents have made occasional calls to the non-emergency Police line. There has been some response, but there is no stopping Sam's Club from running their forklifts which made a loud banging noise. Currently there is a six-foot cedar fence and a line of pine trees which are useless for mitigating noise. For the current proposal, he suggests getting ahead of this to address sound mitigation. He believes Pete's is a great development for the Village rather than it be dead property, but the residents need sleep. He asked the Petitioner to take note of his concerns to see what can be done to mitigate the sound.

Mr. Grzynkowicz noted we had this discussion before in previous public hearings. He stated that Pete's deliveries operates from 7am to 5pm at the latest. There are no overnight deliveries. Also Pete's docks are enclosed.

Phil Lorenzi noted that noise doesn't occur inside the enclosure, but rather from a forklift running over the dock plate which extends from the dock.

Mr. Grzynkowicz reiterated the times and that usually, apart from holidays, they are done by 3pm.

Phil Lorenzi appreciated this and noted that he would relay that to his fellow residents.

Dan Ritter noted this previously was an extensive discussion which went through the same public hearing process, which went over the entire site, a lot more substantial than the request here today. There was discussion with about 4-6 residents here. Loading times, fence, and buffering of landscaping and parking lot were discussed. Noise information was also provided for the rooftop HVAC units. He offered to take their information so that Staff could forward the staff reports and approved site plans.

ACTING CHAIR SHAW asked if Staff or the Petitioner could address overnight parking and noise from trucks running.

Mr. Grzynkowicz responded that they purposely moved the building forward to give more of a buffer for the residents. The back area is for the employees and overflow.

Phil Lorenzi appreciated this and noted it was not so much concern of the distance as it was the hours. He noted the existing ordinance which is difficult to get compliance with.

Dan Ritter noted that Sam's Club has a long history which involves part of the reason the ordinance exists today. The Village couldn't enforce the ordinance they put in retroactively. He believes some residents sued prompting some changes. The Village wanted to protect residents. He offered to talk outside of this meeting on what the Village can do about that issue.

Phil Lorenzi confirmed he didn't have anything further to comment.

Lynese (no last name or address provided) was sworn in. She stated she is also a resident of the Park Place Villas. She didn't understand some of the language of the petition. She sees the piles of dirt. She asked for clarification on if the old K-mart was the warehouse, and that the Pete's Market and Chick-fil-A would also be built. Hearing a verbal confirmation, she noted it seems close to their fence.

ACTING CHAIR SHAW noted the Petitioner spoke to the placement of Pete's Market. The warehouse already exists.

Mr. Grzynkowicz provided visual reference per the site plan. He noted Parcels 4 & 5 will be the Chick-fil-A, and the gray shaded areas will be the parking lot with the building shown in white, and buffer zone with the building moved forward to the east about 150 feet of distance.

Lynese expressed concern about the parking adjacent to the residents. She felt insecure.

Mr. Grzynkowicz clarified that area is largely for the employees parking and trucks coming in. It is not really meant for the patrons coming to visit the store. He noted the curb line has not changed from the way K-Mart had it. We are leaving the curb line and putting our employees here with putting the patrons up in front. We moved the building forward to give that distance. We are also providing a new fence.

Lynese appreciated the Petitioner's clarification.

Dan Ritter noted while construction is not ideal, it is temporary. It will likely be a year for the Pete's Market building, and subject to our construction times.

Lynese asked when the Amazon business will open.

Dan Ritter noted they (Amazon) haven't responded much. Everybody's hope is that it will open sometime this year. It is basically finished on the inside. Amazon doesn't typically share plans as noted throughout the country. There might be struggles similar to other stores including employees or materials.

ACTING CHAIR SHAW asked if anyone else from the public wished to speak. Hearing none, he thanked the Petitioner for answering questions. He asked if there were any renderings for the Pete's Market, and if so, that perhaps they could be shared somewhere for the public.

Dan Ritter responded it's on the Village website under the Current Projects page. He offered to additionally share it and a copy of the original approvals so everyone is more familiar with the

overall project. Tonight we were more just focused on what is changing from the previous approval.

ACTING CHAIR SHAW asked if there were any more questions or comments from the Commissioners. Hearing none, he entertained a motion to close the public hearing. COMMISSIONER GASKILL made a motion to close the public hearing. Second was made by COMMISSIONER TRUXAL. ACTING CHAIR SHAW requested a voice vote. Hearing no opposition, the motion was declared carried. He asked Staff to present the Standards.

Lori Kosmatka presented the Standards.

ACTING CHAIR SHAW asked the Commissioners if there were any concerns on how the standards may or may not be met. Hearing none, he stated he believed that the result of the public hearing wouldn't result in any changes to the proposed motion.

Lori Kosmatka confirmed this.

There were two motions for this item.

ACTING CHAIR SHAW entertained Motion #1.

Motion 1-Special Use Permit (Substantial Deviation to the PUD)

COMMISSIONER GASKILL made a motion to recommend that the Village Board grant a Special Use Permit for a Substantial Deviation from the Park Place PUD, to the Petitioner, Petro Drimonas of Pete's Fresh Market, on behalf of 163rd & Harlem LLC (property owner), to permit site plan changes including parking reduction and drive aisle reconfiguration and extension of the grocery store occupancy deadline per Ordinance 20-O-061 Section 4.1 from September 1, 2022 to May 15, 2024 at 16300 Harlem Avenue in the B-3 PD (General Business and Commercial, Park Place PUD) zoning district, in accordance with the plans submitted and adopt Findings of Fact as proposed by Village Staff in the January 5, 2023 Staff Report.

Motion seconded by COMMISSIONER GATTO. Vote taken by Roll Call; all in favor.

Present and Voting in the affirmative:

COMMISSIONER GASKILL  
COMMISSIONER GATTO  
COMMISSIONER HAMILTON  
COMMISSIONER MARAK  
COMMISSIONER TIBBETTS  
COMMISSIONER TRUXAL  
ACTING CHAIR SHAW

ACTING CHAIR SHAW declared the motion carried.

Motion 2-Site Plan Approval

COMMISSIONER TRUXAL made a motion to grant the Petitioner, Petros Drimonas of Pete's Fresh Market on the behalf of 163rd & Harlem LLC, Final Site Plan Approval for various site changes including a realignment of the east drive aisle at 16300 Harlem Avenue in the B-3 PD (General Business and Commercial, Park Place PUD) zoning district, in accordance with the plans submitted and subject to the following conditions as listed in the Motions to Consider section of the January 5, 2023 Staff Report:

1. *Site Plan Approval is subject to the approval of the Special Use for a Substantial Deviation from the PUD by the Village Board.*
2. *Site Plan Approval is subject to final engineering plan review and approval including truck turning throughout the site.*
3. *Site Plan Approval is subject to Final Approval of the Plat of Subdivision and Site Plan for the adjacent outlot development east of the property.*
4. *Site Plan Approval is does not include approval of any landscaping or lighting plans. Site Plan Approval is subject to review and approval of updated Landscaping and Lighting plans at permit submittal. Lighting shall conform with all applicable Village codes and regulations. Landscaping shall comply with all code requirements, except for allowing for end island reductions as shown on the plans.*

Motion seconded by COMMISSIONER GASKILL. Vote taken by Roll Call; all in favor.

Present and Voting in the affirmative:

COMMISSIONER GASKILL  
COMMISSIONER GATTO  
COMMISSIONER HAMILTON  
COMMISSIONER MARAK  
COMMISSIONER TIBBETTS  
COMMISSIONER TRUXAL  
ACTING CHAIR SHAW

ACTING CHAIR SHAW declared the motion carried.

Lori Kosmatka noted this item is anticipated to go to Village Board on January 17, 2023.

**TO: VILLAGE OF TINLEY PARK PRESIDENT AND BOARD OF TRUSTEES**  
**FROM: VILLAGE OF TINLEY PARK PLAN COMMISSION**  
**SUBJECT: MINUTES OF THE JANUARY 5, 2023 REGULAR MEETING**  
**ITEM #2 PUBLIC HEARING – MASSAGE ESTABLISHMENTS – ZONING ORDINANCE TEXT AMENDMENT**

Consider recommending that the Village Board adopt a proposed text amendment to the Tinley Park Zoning Ordinance amending Section II and Section V defining massage establishment uses and designating them as a Special Use within certain zoning districts.

Present and responding to roll call were the following:

Acting Chair Ken Shaw  
James Gaskill  
Angela Gatto  
Terry Hamilton  
Andrae Marak  
Brian Tibbetts  
Kurt Truxal

Absent Plan Commissioners: Garrett Gray  
Eduardo Mani

Village Officials and Staff: Dan Ritter, Interim Community Development Director  
Lori Kosmatka, Associate Planner  
Michael O. Whalen, Associate Planner

Petitioners: None.

Members of the Public: None.

ACTING CHAIR SHAW introduced Item #2. COMMISSIONER GATTO made a motion to open the public hearing. Second was made by COMMISSIONER GASKILL. ACTING CHAIR SHAW requested a voice vote. Hearing no opposition, the motion was declared carried.

ACTING CHAIR SHAW confirmed that he received certification of public legal notice being posted. He invited staff to present their report.

Lori Kosmatka, Associate Planner presented the staff report.

ACTING CHAIR SHAW stated that the insertion the Legacy Zoning District is the only change from the Plan Commission Workshop and reminded the Commissioners to address that if desired.

He asked the Commissioners if they had any questions or comments, beginning with COMMISSIONER GATTO.

COMMISSIONER GATTO stated she did not have any questions and that she was in line with the staff report.

COMMISSIONER TIBBETTS stated that he had no concerns.

COMMISSIONER HAMILTON stated that he had no comments.

COMMISSIONER TRUXAL stated that he agreed that making Massage Establishments a Special Use was a good idea and that he was in line with the staff report.

ACTING CHAIR SHAW called on COMMISSIONER MARAK for comment and stated that COMMISSIONER MARAK had good comments at the Workshop.

COMMISSIONER MARAK asked about the location of the Legacy District.

ACTING CHAIR SHAW stated the Legacy District is applied a little north and a little south of downtown.

Dan Ritter confirmed the district is generally along Oak Park Avenue between 167<sup>th</sup> Street and 183<sup>rd</sup> Street.

COMMISSIONER MARAK stated that regulation is preferable to prohibition and that he was in favor of making Massage Establishments a Special Use.

COMMISSIONER GASKILL stated that he had no comments.

ACTING CHAIR SHAW stated that he agreed with the rest of the Commission and that discussion occurred during the workshop. He stated the inclusion of the Legacy District and the clarification of usable floor area were helpful. He stated that the Legacy District did not need any special treatment of the Massage Establishments use.

ACTING CHAIR SHAW stated that the addition of Massage Establishments as a Special Use serves as a good template for other uses that may be problematic in the future.

COMMISSIONER MARAK interjected that gambling and cannabis were good examples.

COMMISSIONER GATTO interjected that tobacco and smoke shops was another good example.

Dan Ritter stated that the Village does not want to prohibit uses and that the Special Use application is a good way to handle problematic uses. He explained that the Special Use approval standards are broad enough to handle issues with Special Use uses, including regulating the number of specific potentially problematic uses within the Village. He stated the flexibility allows businesses to operate while also allowing the Village to place restrictions in specific situations. He gave moral issues,

legal issues, parking issues and traffic issues as examples. He stated that the Village wants to be permissive so that there are productive commercial districts with few vacancies.

ACTING CHAIR SHAW stated that it was helpful that the addition of the Massage Establishments use as a special use was specific so as to not target a broad class of uses and that he agreed with the Village's approach.

ACTING CHAIR SHAW asked for public comment on Item #2. No one was present to give public comment. Hearing none, he requested a motion to close the public hearing.

COMMISSIONER GATTO made a motion to close the public hearing. Motion seconded by COMMISSIONER GASKILL.

ACTING CHAIR SHAW requested a voice vote. Hearing no opposition, the motion was declared carried. He requested a motion on Item #2.

COMMISSIONER GATTO made a motion to recommend the Village Board amend Sections II.B. (Definitions), Section V.B.1. Schedule 1 (Schedule of Permitted Uses – By Use Type), and Section XII, Section 3.A., Table 3.A.2. (Legacy Code – Special Uses) of the Zoning Ordinance as described in the January 5, 2023 Staff Report and drafted Ordinance by defining and regulating massage use establishments “to allow Massage Use Establishments as a Special Use in the B-1 (Neighborhood Shopping), B-2 (Community Shopping), B-3 (General Business and Commercial), B-4 (Office and Service Business), and Legacy Zoning Districts.

Motion seconded by COMMISSIONER GASKILL. Vote taken by Roll Call; all in favor.

Present and Voting in the affirmative:

COMMISSIONER GASKILL  
COMMISSIONER GATTO  
COMMISSIONER HAMILTON  
COMMISSIONER MARAK  
COMMISSIONER TIBBETTS  
COMMISSIONER TRUXAL  
ACTING CHAIR SHAW

ACTING CHAIR SHAW declared the motion as carried unanimously. The item goes to the Village Board on January 17, 2023.

Dan Ritter confirmed the first reading of the ordinance will occur on the 17<sup>th</sup>.

#### **Receive Comments from the Public**

- None

#### **Good of the Order**

Lori Kosmatka introduced Michael O. Whalen as a new Associate Planner. Michael Whalen noted he was originally from Chicago, previously worked for county government in Florida and expressed his interest in working at the Village.

Dan Ritter stated that with the new employee, staff will have capacity to work on some outstanding items like the Active Transportation Plan and fence regulations. ACTING CHAIR SHAW asked if the department is fully staffed. Dan Ritter stated one position is still unfilled.

Dan Ritter noted the recent fence Variation went to Village Board for first reading. Village Board takes the Plan Commission's recommendations seriously. The Board directed staff to alter the ordinance to alter the fence's location. The item will go again to Village Board on January 17<sup>th</sup>.

ACTING CHAIR SHAW appreciated the Commission receiving this feedback, and if the Board goes another direction it is good to get some guidance or direction. It's important for everyone to feel appreciated.

Dan Ritter noted corner fence variations may appear miniscule but does have a large overall effect. It can be challenging to find a middle ground.

ACTING CHAIR SHAW brought up the parking requirements. He noted there are various methods of analysis, where some communities measure via peak demand (Black Friday) and visiting shopping centers to count vehicles.

Dan Ritter noted it's valuable to look at the bigger picture. As a built-out community, resources such as developable land are getting harder to find. Menards parking lot is a good example where a majority of the parking lot now is not used. It's possible that an outlot building could fit there. The parking lot was previously designed for uses including the old shopping mall. Some land may be more valuable to develop rather than remain as unused parking lot space. He noted that more end islands were recently added around the Floor & Décor.

COMMISSIONER HAMILTON noted that the market may help dictate the parking spaces per square footage of building.

Dan Ritter noted that it may also depend on the use (warehouse, etc.).

Dan Ritter noted Odyssey has been paused at Village Board due to concerns with the HOA. It's currently unclear if what they're proposing was what the PUD was approved as. It was unrelated to the specific request, but the Village wants to make sure the HOA concerns are resolved. If there is no resolution soon, it may get remanded back to the Plan Commission.

Lori Kosmatka noted the following:

- The Village's residential online permitting is active and residents can now submit online. Commercial permitting is anticipated to go live in the next month or so.
- Gas N Wash will be resubmitting soon with republishing notice.
- Chipotle at 159<sup>th</sup> & 71<sup>st</sup> and the Marriott hotel are in the permitting process.

- Loyola is moving along quickly with construction, exterior facades up.
- Ascend Cannabis is also under construction.
- Crumbl Cookies is opening tomorrow.

COMMISSIONER MARAK made a motion to adjourn the Meeting. Second by COMMISSIONER GASKILL. ACTING CHAIR SHAW requested a voice vote. Hearing no opposition, he declared the Meeting Adjourned at 8:40PM.

# PLAN COMMISSION STAFF REPORT

January 5, 2023 – Workshop / Public Hearing

## Petitioner

Petros Drimonas of  
Pete's Fresh Market on  
behalf of 163<sup>rd</sup> & Harlem  
LLC

## Property Location

16300 Harlem Ave

## PIN

27-24-202-020-0000 &  
27-24-202-021-0000

## Zoning

B-3 PD (General Business  
and Commercial, Park  
Place PUD)

## Approvals Sought

Special Use Permit for a  
Substantial Deviation  
from PUD  
Site Plan/Architectural  
Approval

## Project Planner

Lori Kosmatka  
Associate Planner

Michael Whalen  
Associate Planner

## Pete's Fresh Market Site Plan Changes and Extended Occupancy Deadline

16300 Harlem Avenue



## EXECUTIVE SUMMARY

The Petitioner, Petros Drimonas of Pete's Fresh Market on behalf of 163<sup>rd</sup> & Harlem LLC for Pete's Fresh Market, is requesting Site Plan/Architectural Approval and a Special Use Permit for a Substantial Deviation from the Park Place Planned Unit Development (PUD) with Exceptions. The requests would permit changes to previously approved site plan for a drive aisle realignment and reduction in parking count, and extension of the deadline for the grocery store occupancy in relation to the condition for the warehouse/distribution use.

The previously approved 2020 Ordinance Ord. #20-O-061 conditioned the warehouse/distribution use upon grocery store occupancy by September 1, 2022. The current proposal will allow for extension to May 15, 2024. The Petitioner has cited delays due to post-COVID events and labor & material shortages that have made predicting the completion date difficult. However, it should be noted the permit has been issued and underground utility work on the project has begun.

The most recent previously approved 2021 plans (Ord. #21-O-050) included allowance to construct an 88,608 sq. ft. grocery store and 51,831 sq. ft. attached in-line retail tenant space, a reduced and reorganized parking lot, landscaping plan and architectural design approval, and horizontal development of 3-4 outlots. The Petitioner now proposes a revised site plan with reduced parking and drive aisle realignment to allow for additional width for the anticipated adjacent future development of a new Chick-fil-A drive-through outlot between the grocery store parking and Harlem Avenue. The outlot will require its own final site plan/architecture and Plat of Subdivision approvals.

## EXISTING SITE & HISTORY

Pete's Fresh Market currently operates 17 different existing locations with ongoing plans to open more stores in the Chicagoland area. Pete's purchased the former K-Mart property in September 2019. The subject site comprises 24.2 acres and is being developed in three phases.

Phase 1, approved in September of 2020 (Ord. 2020-O-061), included the granting of a Special Use for a Substantial Deviation to allow a small/ temporary warehouse and distribution use in the B-3 zoning district allowing the overnight storage of five delivery vehicles parked at the loading dock, subject to the following conditions:

1. The special use for the warehouse/distribution use is conditioned upon occupancy of the grocery store by September 1, 2022, and thereafter the warehouse/distribution shall be an accessory use to the grocery store. The special use for the warehouse/distribution use shall not operate independent of the occupancy of the grocery store after September 1, 2022.
2. Prohibition of outdoor storage; and
3. The planting of street trees prior to Phase 1 occupancy

Phase 2 of the project was approved by the Village Board in July 2021 (Ord. 2021-O-050) and January 2022 (Ord. 2022-O-005). The 2021 changes included the construction of an 88,608 sq. ft. Pete's Fresh Market store; ~51,831 sq. ft. of in-line retail tenant space north of the grocery store; a +12,400 sq. ft. expansion of the warehouse; an expansion of the existing dock area on the south side of the warehouse building to accommodate additional trucks, and the addition of a new dock area on the warehouse addition. Exceptions included reducing the parking ratio to 4.7 spaces per 1,000 sq. ft., allowing for overnight storage of no more than ten trucks and six cabs, allowing exception from the required turning radius for trucks exiting the site subject to final engineering, allowing Level 1 Outdoor Sales Display without limitation to the time of year within the designated areas to a height no greater than 5', and an additional Exception for signage relating to the ground sign, wall sign, and electronic message display sign.

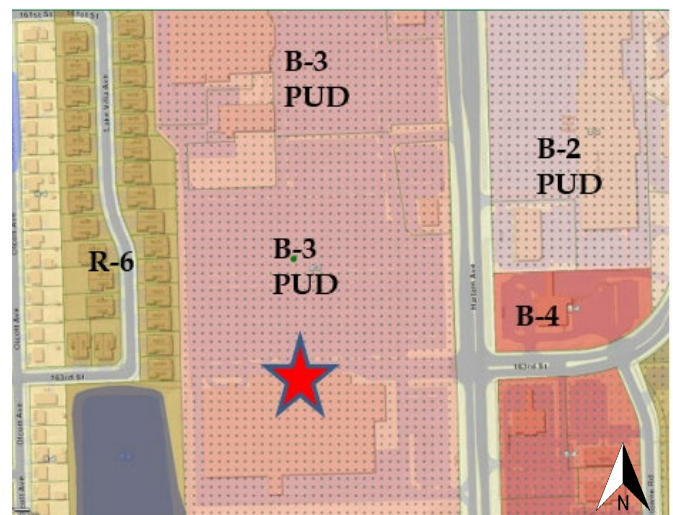
The 2022 amendment ("Phase 2.5") included two 1,790 sq. ft. additions to the adjacent Pete's warehouse building for additional office space. An Exception was approved permitting the building material to match the existing CMU instead of brick or stone. Permits have been issued for the warehouse expansion (Phase 2). The permits for the new Pete's Fresh Market store (Phase 2) and site work were issued in December 2022. The underground utility and site work has started already and building work for the Pete's Fresh Market store expected to begin in early 2023.

Phase 3 is planned to involve the subdivision of property along Harlem Avenue for outlot development upon completion of the grocery store building and site work.

## ZONING & NEARBY LAND USES

The subject parcel is in the Park Place PUD within the underlying B-3 General Business & Commercial Zoning District. It is located along Harlem Avenue, one of the Village's major commercial corridors.

The property to the north is also zoned B-3 PD (Park Center Plaza PUD) and is developed with various commercial uses. The property to the west is developed with residential duplexes, zoned R-6. To the east, across Harlem Avenue, the property is zoned B-4 (Office and Service Business District) and is occupied by a medical office building. Just north of the medical office building is the Tinley Park Plaza retail center and is zoned B-2 PUD. South of the subject property is an



unincorporated and undeveloped parcel that has been used for various recreational uses (frisbee golf and dog park) that is operated by the Tinley Park-Park District.

## **PROPOSED USE WITH EXCEPTION**

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The Petitioner currently proposes a drive aisle realignment of the Pete's Fresh Market property to allow additional lot width for the anticipated adjacent development of a new Chick-fil-A drive-through outlot between the grocery store parking and Harlem Avenue. The Petitioner has provided narratives and letters providing description of the scope and further details. The current proposal's reduction of parking triggers a new Exception from the Zoning Ordinance where the parking ratio per 1,000 sq. ft. is 6.5 required by code, 4.7 as a previously allowed Exception (Ord. 21-O-050), and 4.4 as currently proposed.

The Petitioner also is proposing adjustment on the required timeline of the grocery store's occupancy from September 1<sup>st</sup>, 2022, as currently conditioned under the warehouse use approval (Ord. 20-O-061), to a proposed extension by May 15, 2024. The Petitioner hopes it can open before that date but has cited delays due to post-COVID events and economic conditions including labor & material shortages that make anticipating the completion date very difficult.

## **PLAT OF SUBDIVISION**

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A proposed Plat of subdivision is not included in this submittal. The Petitioner has provided the existing plat of subdivision and the ALTA plat of survey for reference. The Petitioner has indicated new property lines as a result of the drive aisle realignment. The Pete's Fresh Market subject property can be conditioned upon the approval of the Plat of Subdivision and Site Plan for the adjacent outlot development to be operated by Chick-fil-A. It is anticipated Chick-fil-A will be coming forward with those requests in 2023 for their development.

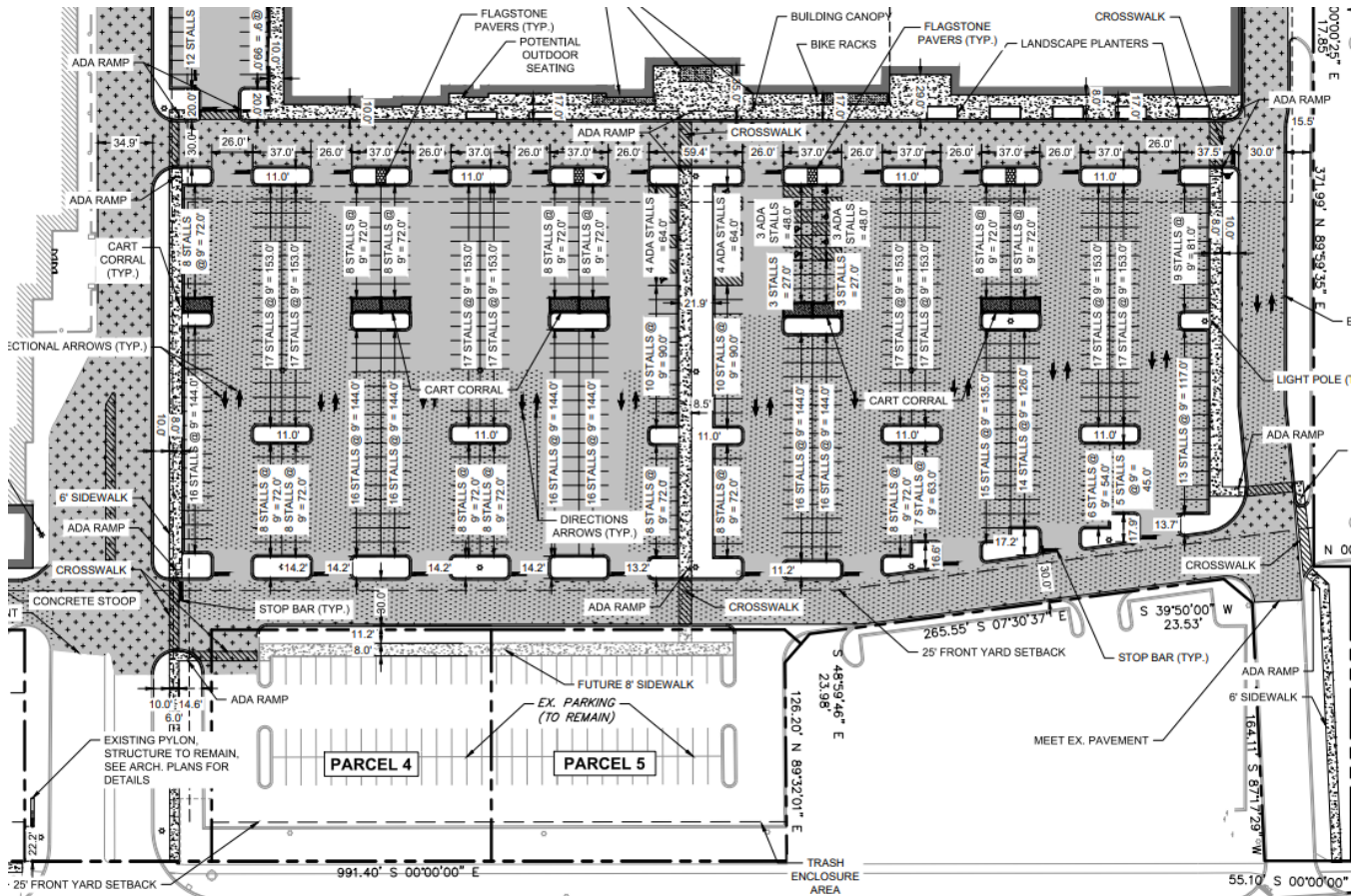
## **SITE PLAN**

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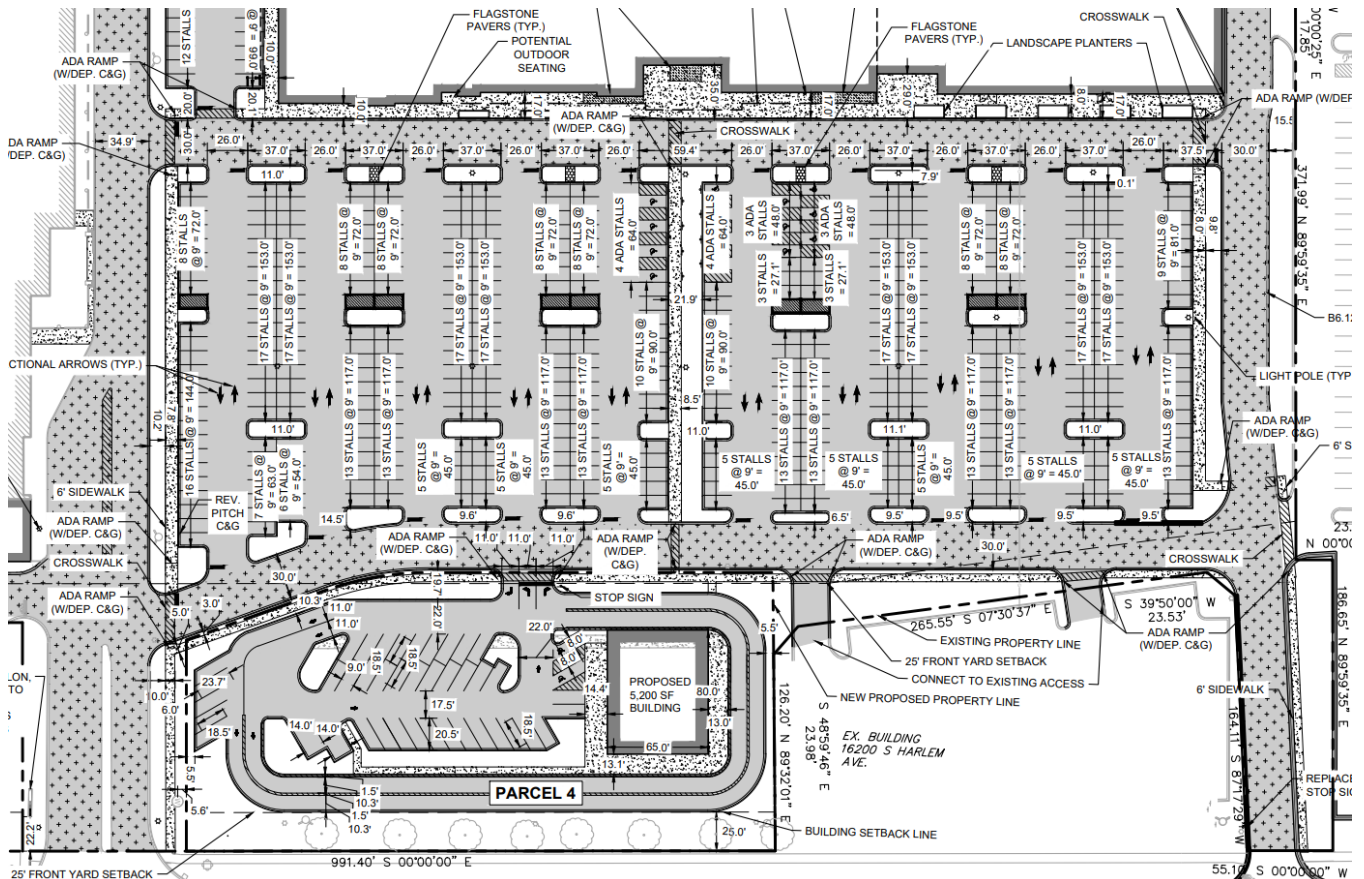
The proposed Site Plan includes realignment of the east drive aisle at the Pete's Fresh Market property (identified as "Parcel 1"). The proposed Site Plan also identifies a layout for the adjacent Chick-fil-A development (identified as "Parcel 4"), however, that adjacent future development is not yet proposed for consideration and is only added to help understand the context of the current request. The scope for this consideration is limited to the subject property "Parcel 1". The Petitioner has provided a Site Plan and semi-trailer truck turning exhibit in this submittal. Other development drawings such as plat, , landscape, lighting, and signage have not been provided.

The previous 2021 approval had the east drive aisle running north-south throughout the property perpendicularly meeting 163<sup>rd</sup> Street to the south, and at an angle to the north. The proposed Site Plan now shifts the 30-foot-wide drive aisle slightly west and with an angle to meet 163<sup>rd</sup> Street, and perpendicularly meeting to the north.

The proposed Site Plan shows dimensions for the property, with various details including parking end islands, pedestrian walkways, and parking stalls. The quantity of the end islands remains the same as previously approved. The proposed location and size of the islands adjacent to the east drive aisle have shifted slightly west from the previous approval, resulting in a slight reduction of parking, and appear to be reduced in width for some of the end islands. End island dimensions are provided on both the previously approved and propose site plans. The proposal retains the three pedestrian walkways running east-west throughout the parking lot in front of the grocery store. The walkways are relatively direct, straight accessible routes consisting of ramps and crosswalks throughout the property connecting the grocery store to the outlots and ultimately to Harlem Avenue. The site plan will required to meet Illinois Accessibility Code requirements at the permitting process.



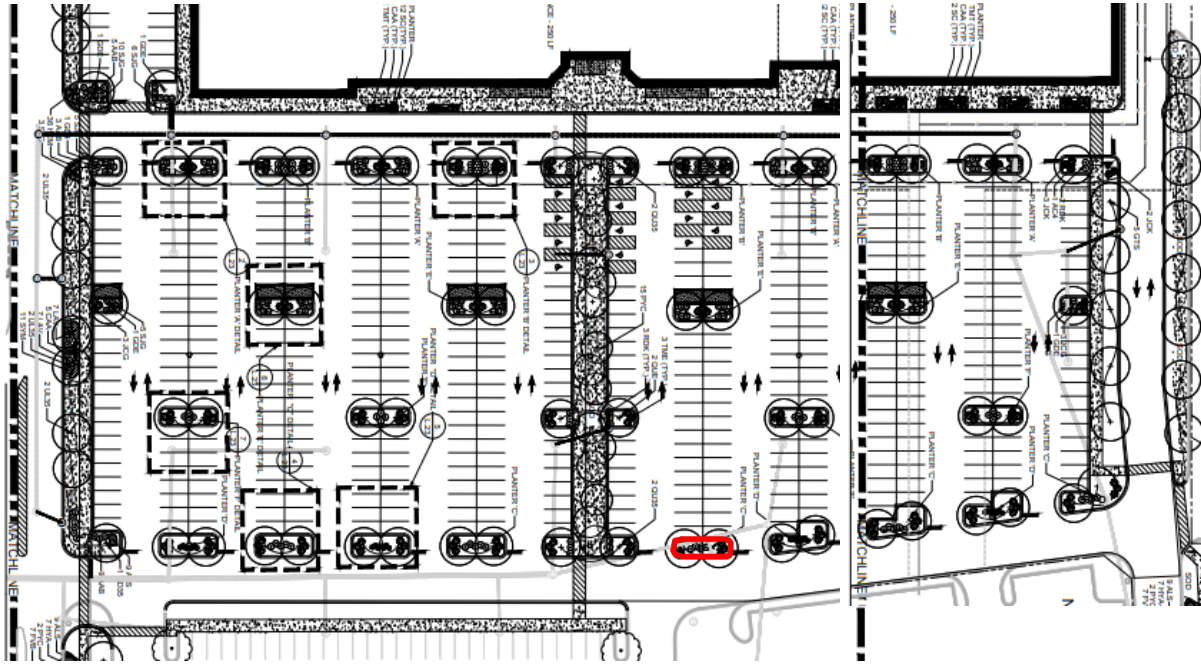
Previously Approved Site Plan (2021)



Proposed Site Plan (rec'd 12/29/2022)

## LANDSCAPE

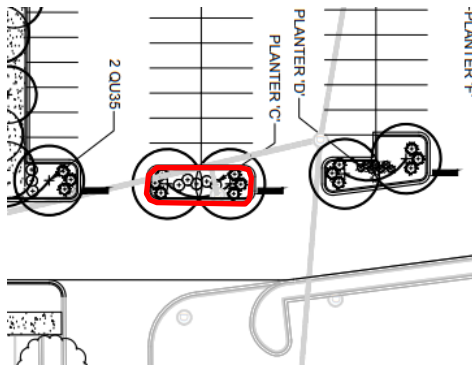
The Petitioner did not provide a revised landscaping plan as part of this submittal. The previous 2021 approval's landscaping plan showed landscaping throughout the site, including end islands in the front parking lot. Six island planting types ("A" through "F") were illustrated on the previously approved plan.



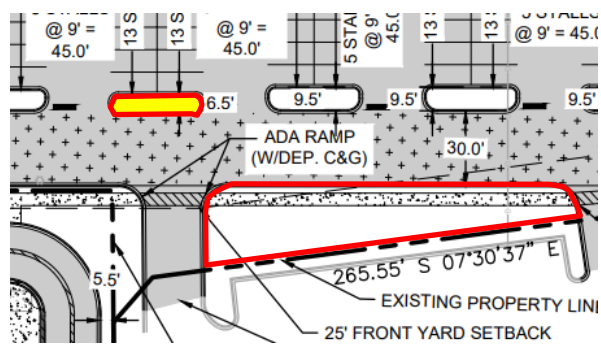
*Previously Approved Landscape Plan: Excerpt Front Parking Lot*

The parking end islands as shown on the proposed Site Plan do not identify landscaping. Some of the islands are narrower. The end island immediately north of the long central island was reduced from 11.2' wide to 6.5' wide (highlighted). The Petitioner's team has stated that the quantities of plants will be adjusted to meet Village requirements, with all calculations to be rerun and included in a new landscaping drawing. They note the revision will probably have a small reduction in landscaping area due to the alignment and would be the only anticipated waiver.

The proposal also now includes a triangular area east of the east drive aisle toward the north adjacent to an existing development, which also would be subject to landscaping requirements. The Petitioner's team has noted existing landscape in this area will be preserved as feasible by necessary construction activities, with restoration of disturbed plantings and groundcover as needed. They note previous landscape plans for the adjacent site included a hedge and canopy trees. They state that once confirmed on site, any additional plantings required in this area will be provided to meet the buffer yard requirement. They anticipate this to include 3.6 canopy trees, 1.2 understory, and 20 shrubs per 100 LF.



*Prev. Approd. Landscaping: Island Excerpt*



*Currently Proposed Site Plan: Island Excerpt & Adjacent Area*

Staff recommends conditioning Site Plan Approval to not include approval of any landscaping plans as they are not yet available. The Petitioner must submit updated landscaping plans at the permitting stage and shall conform with all applicable Village landscaping codes and regulations.

## PARKING

The previous 2021 approval included an Exception from Section VIII to allow 4.7 parking spaces per 1,000 sq. ft. The Zoning Ordinance requires 6.5 parking spaces per 1,000 sq. ft. The current proposal requests 4.4 spaces per 1,000 sq. ft. The current proposal reduces the subject property's ("Parcel 1") standard parking stalls from 638 to 601, while the 14 additional accessible stall count remains the same. The reduction in parking is within the eastern portion of the rows as a result of the drive aisle realignment. Parking end islands are still provided, however.

No changes have been requested to the previously approved Exception from Section V allowing for overnight storage of no more than ten trucks and six cabs.

**Open Item #1: Discuss the appropriateness of a reduced parking ratio.**

## LIGHTING

The Petitioner did not provide a revised lighting or photometric plan as part of this submittal. Lighting shown on the proposed Site Plan is not complete as the site plan does not include some of the parking lot lighting from the previously approved photometric plans (2021-07-20). The proposed Site Plan similarly does not include foot candles. The Petitioner's team intends to place lights in the same locations on the shifted islands. They state the new photometric plans will be provided during permit submittal concurrent with the Chick-fil-A final design. They also state that if additional lighting is necessary to remain code compliant, then it will be determined during permit submittal. The previous 2021 approval included lighting plans with a photometric identifying parking lot light locations. Some of the parking lot lighting pole locations were at the east end islands.

Staff recommends conditioning Site Plan Approval to not include approval of any lighting or photometric plans. The Petitioner must submit lighting and photometric plans at the permitting stage. Lighting shall conform with all applicable Village lighting codes and regulations.

## SIGNAGE

No changes are proposed to signage. A sign permit request will be submitted after the approval of this petition. The previous 2021 approval included an Exception from Section IX to allow a ground sign 20' in height with a total sign area of 256 Sq. Ft. in area; allow a wall sign of 147 Sq. Ft. in size along each of the grocery stores two frontages; allow for an electronic message display sign measuring 85.28 Sq. Ft. in size, which represents 33% of the overall sign area.

## **STANDARDS FOR SITE PLAN APPROVAL**

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Section III.T.2. of the Zoning Ordinance requires that the conditions listed below must be met and reviewed for Site Plan approval. Specific findings are not required but all standards shall be considered to have been met upon review from the Plan Commission.

### Architectural

- a. **Building Materials:** The size of the structure will dictate the required building materials (Section V.C. Supplementary District Regulations). Where tilt-up or pre-cast masonry walls (with face or thin brick inlay) are allowed vertical articulation, features are encouraged to mask the joint lines. Concrete panels must incorporate architectural finishes that comply with “Building Articulation” (Section III.U.5.h.) standards. Cast in place concrete may be used as an accent alternate building material (no greater than 15% per façade) provided there is sufficient articulation and detail to diminish it’s the appearance if used on large, blank walls.
- b. **Cohesive Building Design:** Buildings must be built with approved materials and provide architectural interest on all sides of the structure. Whatever an architectural style is chosen, a consistent style of architectural composition and building materials are to be applied on all building facades.
- c. **Compatible Architecture:** All construction, whether it be new or part of an addition or renovation of an existing structure, must be compatible with the character of the site, adjacent structures and streetscape. Avoid architecture or building materials that significantly diverge from adjacent architecture. Maintain the rhythm of the block in terms of scale, massing and setback. Where a development includes outlots they shall be designed with compatible consistent architecture with the primary building(s). Site lighting, landscaping and architecture shall reflect a consistent design statement throughout the development.
- d. **Color:** Color choices shall consider the context of the surrounding area and shall not be used for purposes of “attention getting” or branding of the proposed use. Color choices shall be harmonious with the surrounding buildings; excessively bright or brilliant colors are to be avoided except to be used on a minor scale for accents.
- e. **Sustainable architectural design:** The overall design must meet the needs of the current use without compromising the ability of future uses. Do not let the current use dictate an architecture so unique that it limits its potential for other uses (i.e. Medieval Times).
- f. **Defined Entry:** Entrance shall be readily identifiable from public right-of-way or parking fields. The entry can be clearly defined by using unique architecture, a canopy, overhang or some other type of weather protection, some form of roof element or enhanced landscaping.
- g. **Roof:** For buildings 10,000 sf or less a pitched roof is required or a parapet that extends the full exterior of the building. For buildings with a continuous roof line of 100 feet or more, a change of at least five feet in height must be made for every 75 feet.
- h. **Building Articulation:** Large expanses of walls void of color, material or texture variation are to be avoided. The use of material and color changes, articulation of details around doors, windows, plate lines, the provision of architectural details such as “belly-bands” (decorative cladding that runs horizontally around the building), the use of recessed design elements, exposed expansion joints, reveals, change in texture, or other methods of visual relief are encouraged as a means to minimize the oppressiveness of large expanses of walls and break down the overall scale of the building into intermediate scaled parts. On commercial buildings, facades greater than 100 feet must include some form of articulation of the façade through the use of recesses or projections of at least 6 inches for at least 20% of the length of the façade. For industrial buildings efforts to break up the long façade shall be accomplished through a change in building material, color or vertical breaks of three feet or more every 250 feet.
- i. **Screen Mechanicals:** All mechanical devices shall be screened from all public views.

- j. Trash Enclosures: Trash enclosures must be screened on three sides by a masonry wall consistent with the architecture and building material of the building it serves. Gates must be kept closed at all times and constructed of a durable material such as wood or steel. They shall not be located in the front or corner side yard and shall be set behind the front building façade.

#### Site Design

- a. Building/parking location: Buildings shall be located in a position of prominence with parking located to the rear or side of the main structure when possible. Parking areas shall be designed so as to provide continuous circulation avoiding dead-end parking aisles. Drive-through facilities shall be located to the rear or side of the structure and not dominate the aesthetics of the building. Architecture for canopies of drive-through areas shall be consistent with the architecture of the main structure.
- b. Loading Areas: Loading docks shall be located at the rear or side of buildings whenever possible and screened from view from public rights-of-way.
- c. Outdoor Storage: Outdoor storage areas shall be located at the rear of the site in accordance with Section III.O.1. (Open Storage). No open storage is allowed in front or corner side yards and are not permitted to occupy areas designated for parking, driveways or walkways.
- d. Interior Circulation: Shared parking and cross access easements are encouraged with adjacent properties of similar use. Where possible visitor/employee traffic shall be separate from truck or equipment traffic.
- e. Pedestrian Access: Public and interior sidewalks shall be provided to encourage pedestrian traffic. Bicycle use shall be encouraged by providing dedicated bikeways and parking. Where pedestrians or bicycles must cross vehicle pathways a cross walk shall be provided that is distinguished by a different pavement material or color.

## STANDARDS FOR A SPECIAL USE

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Section X.J.5. of the Zoning Ordinance lists standards that need to be considered by the Plan Commission. The Plan Commission is encouraged to consider these standards (listed below) when analyzing a Special Use request.

X.J.5. Standards: No Special Use shall be recommended by the Plan Commission unless said Commission shall find:

- a. That the establishment, maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - *The proposal will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare. The proposed Exception is safe for the public, employees, and neighboring properties.*
- b. That the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
  - *The proposal will not be injurious to the use and enjoyment of other property in the immediate vicinity nor substantially diminish and impair property values within the neighborhood. The drive aisle realignment will provide additional width for development of the adjacent outlot property.*
- c. That the establishment of the Special Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
  - *Neighboring properties are either already developed or currently under development and the proposal will not negatively affect any future development or redevelopment of the neighboring properties.*
- d. That adequate utilities, access roads, drainage, and/or other necessary facilities have been or are being provided;
  - *The site is already developed with adequate utilities and no additional utilities are needed.*
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
  - *Site layout is designed to allow for safe circulation by delivery trucks, employees, and the general public within the site and on adjacent public streets*
- f. That the Special Use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the Village Board pursuant to the recommendation of the Plan Commission. The Village Board shall impose such conditions and restrictions upon the premises benefited by a Special Use Permit as may be necessary to ensure compliance with the above standards, to reduce or minimize the effect of such permit upon other properties in the neighborhood, and to better carry out the general intent of this Ordinance. Failure to comply with such conditions or restrictions shall constitute a violation of this Ordinance.
  - *All other Village code requirements will be met.*
- g. The extent to which the Special Use contributes directly or indirectly to the economic development of the community as a whole.
  - *The proposal will allow Pete's Fresh Market to open as anticipated due to post-COVID events and economic conditions, and operate successfully. The proposal will generate sales tax revenue for the Village as well as re-activating a vacant, high visibility property.*

## MOTIONS TO CONSIDER

If the Plan Commission wishes to act on the Petitioner's requests, the appropriate wording of the motions are listed below. The protocol for the writing of a motion is to write it in the affirmative so that a positive or negative recommendation correlates to the Petitioner's proposal. By making a motion, it does not indicate a specific recommendation in support or against the plan, it only moves the request to a vote. The conditions listed below are recommended by staff but can be added to, changed, or removed by the Commission based on their discussion of the approval of recommendation.

### Motion 1 (Special Use for a Substantial Deviation)

*"...make a motion to recommend that the Village Board grant a Special Use Permit for a Substantial Deviation from the Park Place PUD, to the Petitioner, Petro Drimonas of Pete's Fresh Market, on behalf of 163<sup>rd</sup> & Harlem LLC (property owner), to permit site plan changes including parking reduction and drive aisle reconfiguration and extension of the grocery store occupancy deadline per Ordinance 20-O-061 Section 4.1 from September 1, 2022 to May 15, 2024 at 16300 Harlem Avenue in the B-3 PD (General Business and Commercial, Park Place PUD) zoning district, in accordance with the plans submitted and adopt Findings of Fact as proposed by Village Staff in the January 5, 2023 Staff Report.*

### Motion 2 (Site Plan Approval)

*"...make a motion to grant the Petitioner, Petros Drimonas of Pete's Fresh Market on the behalf of 163<sup>rd</sup> & Harlem LLC, Final Site Plan Approval for various site changes including a realignment of the east drive aisle at 16300 Harlem Avenue in the B-3 PD (General Business and Commercial, Park Place PUD) zoning district, in accordance with the plans submitted and subject to the following conditions:*

- 1. Site Plan Approval is subject to the approval of the Special Use for a Substantial Deviation from the PUD by the Village Board.*
- 2. Site Plan Approval is subject to final engineering plan review and approval including truck turning throughout the site.*
- 3. Site Plan Approval is subject to Final Approval of the Plat of Subdivision and Site Plan for the adjacent outlot development east of the property.*
- 4. Site Plan Approval does not include approval of any landscaping or lighting plans. Site Plan Approval is subject to review and approval of updated Landscaping and Lighting plans at permit submittal. Lighting shall conform with all applicable Village codes and regulations. Landscaping shall comply with all code requirements, except for allowing for end island reductions as shown on the plans.*

## LIST OF REVIEWED PLANS

Submitted Sheet Name	Prepared By	Date On Sheet
Application (Redacted)	Petitioner	11/22/22
Narratives and Letters	Petitioner and CAGE*	Received 12/2022
Existing ALTA Survey	Joseph A. Schudt	Received 12/29/2022
Revised Site Plan Sheet C1.1	CAGE*	Revision received 12/29/2022, plan dated 10/20/22
Truck Turning Exhibit	CAGE*	Received 12/29/2022
Existing Subdivision Plat	Petitioner	Received 12/29/2022

\* CAGE = CAGE Civil Engineering, Inc.

# PLAN COMMISSION STAFF REPORT

January 5, 2023 – Public Hearing

## Zoning Text Amendment – Massage Establishments

### Petitioner

Village of Tinley Park

### Zoning Code Sections

Section II (Rules and Definitions)

Section V (District Regulations)

Section XII

### Approvals Sought

Text Amendment

### Project Manager

Jarell Blakey

Management Analyst



## EXECUTIVE SUMMARY

The Village of Tinley Park Zoning Ordinance currently regulates massage use establishments as part of Personal Service Establishments zoning use classification. The municipal code mentions a specific definition for purposes of business licensing however, there is no specific definition in the zoning code. Due to recent violations of the municipal code by multiple business, there is a need to create a separate definition and use allowances for massage-related businesses.

The proposed text amendment is specific to massage establishments which are service-based businesses by nature but focus on massages as the primary function. The proposed amendment will define what a massage is, what constitutes a massage establishment, what a massage therapist is, who is defined as a patron, and exceptions. In addition to providing definitions, the ordinance will modify the current zoning regulations to require a Special Use Permit for massage establishments in certain districts to ensure they have proper licensing, a clear businesses model, and can comply with all other municipal and state regulations. Currently, under the Personal Services Establish zoning use classification, the use is permitted in the B-2 (Community Shopping) and B-3 (General Business & Commercial) Zoning Districts. Direction is needed to understand if any other districts would be appropriate to locate in with a Special Use permit.

Staff is proposing the text amendment to the zoning ordinance to allow the village greater oversight of these establishments, **requiring a Special Use Permit in B-1, B-2, B-3, B-4, and Legacy Zoning Districts.** Staff's intent is to mitigate further violations of the Village Code of Ordinances by requiring the applicant to be subject to the Special Use approval process.

Changes to the December 1, 2022 Workshop Staff Report are indicated in Red.

## EXISTING DEFINITION AND REGULATION

Currently, massage use establishments are not specifically defined within the zoning ordinance. As it is currently written, these uses are considered to be part of Personal Service Establishments, which are permitted only in the B-2 (Community Shopping), B-3 (General Business and Commercial), and Legacy Zoning Districts. In addition to massage, similar service uses without specific definitions would fall into this category. Barbershops, beauty parlors, salons, and day spas are considered a separate, more permissive category additionally permitted in the B-1 (Neighborhood Shopping) and B-4 (Office and Service Business) Zoning Districts. The Plan Commission and Village Board may consider if it is appropriate to include a Special Use in the B-1 and B-4 Zoning Districts.

PERSONAL SERVICES	R-1 thru R-7	B-1	B-2	B-3	B-4	B-5	ORI	M-1	MU-1	Legacy
Service establishments, personal – which services are performed on the premises	X	X	P	P	X	X	X	X	X	P
Barbershops, Beauty Parlors, and Day Spas	X	P	P	P	P	X	X	X	X	P

The Zoning Ordinance describes the intents of the Village's Zoning Districts. The B-2 (Community Shopping) Zoning District as "intended to provide for a wide variety of related retail-type businesses along with personal uses and other complementary uses", not only serving nearby residents, but also neighboring communities. The B-3 (General Business & Commercial) Zoning District is "designed to accommodate a wide range of specialized commercial uses. intended to include those uses which would not be compatible in a neighborhood or community-type shopping center".

Comparatively, the B-1 (Neighborhood Shopping) Zoning District and B-4 (Office & Service Business) allow for less intense commercial use. The B-1 district is "intended to provide areas for retail and service establishments to supply convenience goods or personal services for the daily needs of the residents living in adjacent residential neighborhoods". Neighborhood centers in these districts are among the hardest hit with vacancy due to a downturn in traditional retail, they also have some of the most restrictive use allowances due to location near residential. These are typically located in residential areas and have lower traffic volumes that lead to additional difficulties in leasing. A massage use that complies with all laws and ordinances would not create any external negative affects like noise, parking, odors, etc. and could be a good fit in these districts.

The B-4 district is "intended to provide areas used primarily to provide office space for service-type businesses . . . as a buffer or transition between residential and commercial areas". Similarly, to B-1, these office districts suffer from higher vacancy than the traditional business zoning districts and have been designed for service uses like massage.

The Legacy district is part of the Village's 2009 Legacy Plan. The Legacy Code (Section XII of the Zoning Ordinance) is intended to work in conjunction with the Legacy Plan. The Legacy Plan identifies a preferred urban design arrangement for the downtown and beyond using a form-based approach.

## PROPOSED NEW DEFINITION AND REGULATION

Staff has proposed the following definitions based on research from comparable communities. The proposed definitions will be located in Section II “Rules and Definitions” Subjection B “Definitions”

**MASSAGE:** Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating of the external soft parts of the body with hands or with aid of any mechanical electrical apparatus or appliances, with or without rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments or other similar preparations used in this practice, under such circumstances that it is reasonably expected that the person to whom treatment is provided, or some third-party on such person's behalf, will pay money or give other consideration or any gratuity therefore.

**MASSAGE ESTABLISHMENT:** A corporation, partnership, limited liability company (LLC), or business having a source of income or compensation derived from the practice of massage as defined above, and which has affixed place of business where any person, firm, association or corporation engages in or carries on any of the activities described above as twenty-five (25) percent or more of the Usable Floor Area of the business, and is owned by licensed massage therapist as defined by the laws of the State of Illinois. For purposes of corporations, partnerships, and limited liability company, an owner is defined as any person or other legal entity who owns fifty (50) percent of the corporation, partnership or limited liability company.

**EXCEPTIONS:**

- Hospitals, nursing homes, specialty physicians, or similar uses
- Any barber, cosmetologist, esthetician or nail technician lawfully carrying on their respective businesses to the extent authorized under a valid unrevoked license or certificate of registration issued by the State of Illinois. Provided, this exemption is only intended to permit normal and customary barbering, cosmetology, esthetic and nail technology services which involve incidental physical contact, such as scalp rubs, facials, and hand manipulations which otherwise qualify as massage activities. This exemption is not intended, and does not permit, general massage activities as part of any barber, cosmetologist, esthetician or nail technician business beyond that authorized by their state license or certification.
- Any athletic trainer registered in the State of Illinois who administers such athletic-related massage in the normal course of training duties.
- Having less than twenty-five (25) percent of Usable Floor Area square footage for massage use.

The proposed changes would be housed in the following area; Section V “District Regulations” Subjection B “Schedules of Regulations, Schedule I – Schedule of Permitted Uses (By Use Type)”. Staff has added Legacy District as another area of consideration for allowance by Special Use Permit.

PERSONAL SERVICES	R-1 thru R-7	B-1	B-2	B-3	B-4	B-5	ORI	M-1	MU-1	Legacy
<u>Massage Establishment</u>	X	S	S	S	S	X	X	X	X	S

## WORKSHOP DISCUSSION

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Commissioners generally noted that the changes made sense and were in response to an emerging rise in violations of the municipal code that has been a cause for concern. It was noted that the proposed regulations make the process more difficult to deter illegal businesses yet not too difficult for legitimate massage use establishments. Overall the Commissioners were in support of the regulations and expanding into B-1 and B-4 zoning districts to attempt to address high vacancy rates. The Commission may additionally consider the Legacy District.

## MOTION TO CONSIDER

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If the Plan Commission wishes to act on the proposed Text Amendment, the appropriate wording of the motion is listed below:

**“...make a motion to recommend the Village Board amend Sections II.B. (Definitions), Section V.B.1. Schedule 1 (Schedule of Permitted Uses – By Use Type), and Section XII, Section 3.A., Table 3.A.2. (Legacy Code – Special Uses) of the Zoning Ordinance as described in the January 5, 2023 Staff Report and drafted Ordinance by defining and regulating massage use establishments “to allow Massage Use Establishments as a Special Use in the B-1 (Neighborhood Shopping), B-2 (Community Shopping), B-3 (General Business and Commercial), B-4 (Office and Service Business), and Legacy Zoning Districts.”**