

**Village of Gilberts  
Plan Commission  
Meeting Minutes  
August 25, 2010**

APPROVED MINUTES

**Call to Order**

Chairman Hagen called the meeting to order at 7:00 p.m.

**Roll Call/Establish Quorum**

Roll call: Members present: Commissioners Zoerhoff, McHone, Sullivan, Borgardt, and del Vecchio, Vice Chairperson Davidowski, and Chairman Hagen. Also present were ex-officio Biver, Administrator Keller, and Chief Building Inspector Swedberg. For members of the audience, please see the attached list.

Not present were Commissioners Fatigato and Hacker and ex-officios Brown and Mills.

**Approval of Minutes**

**A motion was made by Commissioner Zoerhoff and seconded by Commissioner del Vecchio to approve the minutes from August 11, 2010.**

Vice Chairperson Davidowski noted a correction on the second to last paragraph on page 3. She would also like a detailed explanation of what Attorney Tappendorf stated regarding the zoning restrictions on the last paragraph of page 4.

**A motion was made by Vice Chairperson Davidowski and seconded by Commissioner McHone to defer the approval of minutes from August 25, 2010 until the corrections have been made.** Vote: 6 ayes (Commissioners del Vecchio, McHone, Sullivan, Zoerhoff, Vice Chairperson Davidowski, and Chairman Hagen). 1 abstain (Commissioner Borgardt). Motion carried.

**New Business**

**Public Hearing: Amending a Special Use Permit for West End Recycling**

**A motion was made by Commissioner Sullivan and seconded by Commissioner del Vecchio to open the public hearing.** Vote: all ayes. Motion carried.

Attorney for the petitioner, John Regan of Early, Tousey, Regan, & Wlodek, spoke on behalf of West End Recycling. He stated that the petitioner has been working closely with the Village making sure they have been in compliance. West End Recycling is requesting to amend their special use permit. The prior special use did not permit the recycling of "white goods." The petitioner wants to stay competitive with other recycling companies that already allow "white goods."

West End Recycling feels they are losing business because those who are dropping off recyclables don't want to make two trips to two separate recycling locations, so those customers are going to companies that do accept "white goods."

Attorney Regan continued to give a definition of "white goods." He added that West End Recycling would be willing to not allow the acceptance of refrigerants, if the Village chose to make that stipulation.

Nely Diaz, Manager of West End Recycling, stated that washers, dryers, and stoves don't contain Freon, and West End Recycling would like to accept these. These products are crushed on site.

The commissioners questioned the consequences of what would happen if a component with a mercury switch was left at the site or an appliance containing Freon was left at the site. West End Recycling would have to call a company to come in and remove the Freon. The employees are trained to check and make sure the Freon is removed. If an appliance is crushed and Freon was to leak out, West End Recycling could face being fined from the IEPA. The Village would not be involved in the matter at all because West End Recycling would be liable. If "white goods" containing Freon are crushed on site, West End Recycling could be caught. This could be done by a complaint, an observation, or self-reporting on behalf of the business.

West End Recycling is subject to inspections, which are done in conjunction with the fire department.

Ms. Diaz stated that all of the products are dropped off in one location, and then the materials are relocated. She added that it is in the best interest of those dropping off the "white goods" to remove the Freon. Attorney Regan stated that most of the people who do drop off "white goods" know which deliveries are acceptable. They are able to tell whether the Freon has been properly evacuated, and it must be removed by somebody who is licensed to do the removal. West End Recycling is expecting an additional 30% business with accepting "white goods."

**A motion was made by Commissioner Borgardt and seconded by Commissioner Sullivan to close the public hearing.** Vote: all ayes. Motion carried.

The Rutland & Dundee Township Fire Protection District has a trained hazmat team in case of a spill.

**A motion was made by Commissioner del Vecchio and seconded by Commissioner McHone to recommend to the Village Board approval to amend the Special Use Permit for West End Recycling subject to numbers one (1) through fourteen (14) in the conclusions and recommendations in the memo entitled "Village of Gilberts Staff Report" dated August 20, 2010 with an additional condition number fifteen (15), requiring West End Recycling to adopt written procedures for dealing with "white goods components" and hazardous materials, should they be dropped off at their facility and on the provision that the offending "white goods components" are removed prior to recycling.** Vote: 6 ayes (Commissioners Borgardt, del Vecchio, McHone, Sullivan, Zoerhoff, and Chairman Hagen). 1 nay (Vice Chairperson Davidowski). Motion carried.

**Public Hearing: Amending the Zoning Ordinance to add new section 6.5 "ITO" Indian Trails Overlay District**

**A motion was made by Commissioner Sullivan and seconded by Commissioner del Vecchio to open the public hearing.** Vote: all ayes. Motion carried.

Administrator Keller wrote a revised draft ordinance based on the comments and concerns noted at the Plan Commission meeting dated August 11, 2010. He proceeded to explain the changes made. Under 6.5.4.3 Garages Required, section A. a change was made. Instead of having a minimum of a two car garage, the dimensions are stated. 6.5.4.4 Construction Timeline and 6.5.4.5 Signs Prohibited were removed.

6.5.4.7 was changed to 6.5.4.5 Outdoor Storage and Parking. The measurement of boats was clarified. A new paragraph C was added. The cost of the temporary loading/unloading permit was discussed. The residents could leave a deposit which would be returned if the recreational vehicle is removed in the given amount of time.

Under 6.5.4.6 Animals, the language was taken out that contradicts the Village Code.

Under 6.5.4.7 Landscaping and Grading, the landscaping and grading provisions were removed. At least two deciduous trees would have to be planted and maintained in the front yard.

Under 6.5.4.8 Site Improvements, paragraphs A and B were removed due to conflicts. Paragraph C was changed to A, which now defines a storage building. Chairman Hagen asked if detached garages were included. The response was yes. Paragraph G, regarding septic systems, was eliminated because a Village Ordinance is already in place.

Administrator Keller explained how the Village wouldn't be enforcing the Indian Trails covenants. Instead they would be enforcing the zoning (Overlay District).

Commissioner del Vecchio stated that she feels she wasn't presented with any over compelling evidence to enforce the Overlay District.

Chairman Hagen questioned 6.5.4.5 Outdoor Storage and Parking. He asked if the property owner would be in violation, if someone was visiting them and they had an RV parked on their property. The response was yes. Chairman Hagen suggested that the section needed clarification. If there is a complaint on a holiday or weekend, the complaints go to the police department. The residents would be able to call 911.

Commissioner del Vecchio stated her concern for the police enforcing the parking issue. She said there have been issues regarding enforcement of overnight parking of vehicles on Village streets. Administrator Keller informed her that the Board was currently discussing that topic. When asked if the police would respond to a complaint of this nature, the response was that it would depend on the priorities at that time. Something of a higher emergency would be dealt with first.

Commissioner Borgardt asked about the cost to the Village in enforcing the Overlay District. In response Administrator Keller stated that the Village Board adopted an Ordinance in 2005 and reconfirmed that Ordinance in 2009 stating they would help enforce the covenants. The Village found that the Overlay District was a better tool to enforce the covenants.

Chairman Hagen stated that he wasn't sure why some of the sections were in the Overlay District when there was only 1 lot that hasn't been built on.

Chairman Hagen called for a short recess at 8:06 p.m.

**A motion was made by Commissioner McHone and seconded by Commissioner del Vecchio to reopen the public hearing at 8:15 p.m.** Vote: all ayes. Motion carried.

Resident Cliff Surges of 206 Whitefeather Lane reviewed the dates of when the Village Board stated they would help enforce the covenants.

Mark Woodbury of 218 Red Hawk Path stated that most of the residents in Indian Trails don't want trailers stored on the properties at all times. He suggested that the language in Section 6.5.4.5, paragraph C be changed limiting the parking to no more than 48 hours or 24 hours.

Resident Rich Lees of 219 Shining Moon Path stated his concern for the dollar amount spent by the Village to discuss this matter. He said that he wasn't aware of the covenants when he first purchased his house, but now he is aware of them. He also knew that there wasn't an HOA in place. He feels that the Overlay District should include the entire Village.

Resident Michelle Sparks of 217 Red Hawk Path stated her concern for being charged to park her RV on her property. She feels that many residents would call 911 to complain about storage and parking issues. She added that she received a \$250 fine without warning. There was snow on the ground and she couldn't park her RV on the street. She feels that an HOA is in the best interest of the residents. She has spoken to an attorney who informed her that 51% of the residents would have to agree on an HOA in order to form one. Administrator Keller told her that the Village attorney informed him that 100% compliance was needed. However, Ms. Sparks' attorney could put that information into writing for the Village to consider.

The covenants cannot be changed without an HOA.

**A motion was made by Commissioner del Vecchio and seconded by Commissioner McHone to close public comment.** Vote: all ayes. Motion carried.

Chairman Hagen inquired whether the covenants were still enforceable by homeowners. The response was yes. The enforcement of private covenants would be a civil matter. The Village wouldn't be involved. The Village enforces Ordinances. A homeowner is subject to following both covenants and Ordinances.

There was a discussion regarding when the enforcement of Section 6.5.4.5 Outdoor Storage and Parking, would take place. The enforcement would be from the date in which the Building Inspector first notices the violation.

Commissioner del Vecchio stated her concern of the extra expenses involved and the man power that will be involved in the Overlay District.

Commissioner McHone stated that he has an issue with Section 6.5.4.5 Outdoor Storage and Parking. He feels better clarification is needed on the time allotment for temporary parking. Commissioner Borgardt recommended that "8 hours" be changed to "24 hours."

Next, fines were discussed. Chief Building Inspector Swedberg stated that fines are determined by the code enforcement officer. He typically starts with the lowest fine amount. However, others in his position have started with higher fines.

Commissioner del Vecchio questioned the past issues that have occurred regarding parking. Chief Building Inspector Swedberg said that most of the homeowners store their RVs elsewhere. However, some park the RV before the weekend and after the weekend to clean it out.

Commissioner del Vecchio asked how the Overlay District would affect future property owners. The properties in Indian Trails would be zoned R3 and ITO. Realtors and potential homeowners call the Village requesting the zoning classifications.

The Overlay District typically isn't recorded at the recorder's office. However, Administrator Keller can verify that with the Village attorney.

Vice Chairperson Davidowski suggested that the Ordinances be looked at because some were written many years ago.

**A motion was made by Commissioner del Vecchio and seconded by Commissioner Sullivan to close the public hearing.** Vote: all ayes. Motion carried.

Administrator Keller will work with the Village attorney in coming up with the language to best accomplish the intent of allowing RVs to be parked for non-consecutive 48 hour periods to allow for cleaning as well as loading and unloading.

**A motion was made by Commissioner Sullivan and seconded by Commissioner Borgardt to recommend to the Village Board approval of the Zoning Ordinance amendment to add the revised draft of the Indian Trails Subdivision Overlay District, subject to the provision of Section 6.5.4.5 Outdoor Storage and Parking, paragraph C. The temporary parking for a recreational vehicle will be revised allowing parking for non-consecutive 48 hour periods.** Vote: 4 ayes (Commissioners Borgardt, McHone, Sullivan, and Zoerhoff). 2 nays: (Vice Chairperson Davidowski and Chairman Hagen). 1 abstain (Commissioner del Vecchio). Motion carried.

**Public Hearing: Amending the Zoning Map to zone the Indian Trails Subdivision as "ITO" Indian Trails Overlay District**

**A motion was made by Commissioner Sullivan and seconded by Commissioner McHone to reopen the public hearing.** Vote: all ayes. Motion carried.

Chairman Hagen questioned some of the property that isn't covered by the Overlay District. The property North of Indian Trails is under a different ownership.

**A motion was made by Commissioner Borgardt and seconded by Commissioner Sullivan to close the public hearing.** Vote: all ayes. Motion carried.

**A motion was made by Commissioner Zoerhoff and seconded by Commissioner Sullivan to recommend to the Village Board approval to apply the Indian Trails Overlay District (ITO) Zoning to all of Indian Trails.** Vote: 5 ayes (Commissioners Borgardt, McHone, Sullivan, Zoerhoff, and Chairman Hagen). 1 nay: (Vice Chairperson Davidowski). 1 abstain (Commissioner del Vecchio). Motion carried.

#### **Old Business**

There wasn't any old business to report.

#### **Communication**

There currently aren't any pending applications to come before the Plan Commission.

#### **Adjournment**

There being no further business to discuss, **a motion was made by Commissioner McHone and seconded by Commissioner Borgardt to adjourn the meeting at 9:13 p.m.** Unanimous Voice Vote: all ayes. Motion carried.

Respectfully submitted,

Karen Danca, Recording Secretary