TOWN OF CORTLAND
Town Hall
59 S. Somonauk Road
Cortland, IL 60112
Planning Commission
Regular Meeting
January 3, 2019
7:00 PM

Call to Order/Pledge of Allegiance/Roll Call
Chair Lawson Called the regular meeting of the Planning Commission to order at 7 p.m. Roll call taken by the clerk showed as present Commissioners Ben Haier, Brad Lawson, Mark Hedrick, Chad Bergeson, Erick Stransky and Leah Rowe. Shown as absent was Julie Steadman. Quorum was present. Also present was Anna Kurtzman, Zoning Administrator.

Approval of the Agenda
Mr. Haier moved to approve the agenda as presented presented/amended; seconded by Mr. Hedrick. Unanimous voice vote carried the motion.

Approval of Minutes
Ms. Rowe moved to approve the minutes of November 1, 2018 as presented; seconded by Mr. Hedrick. Unanimous voice vote carried the motion.

Zoning Administrator's Report
With regard to the workshop Ms. Kurtzman reported that the presenters were impressed with the questions asked. You will each get a certificate for attendance. Update on PC 18-03 (Treescape Solutions – NE Corner Somonauk and Cortland Center Roads) Ms. Kurtzman reported that the proposal was approved by the Town Board and the zoning has been changed. There are no projects in the immediate future.

Public Hearing: PC18-05 (J18-6): Request for a Special Use Permit for a Planned Mixed-Use Unit Development and Concept Plan approval for property at 50 W Maple Ave.
Applicant: Northern Illinois Fence/Complete Fence, Inc. Owner: Destan Aliu.

The public hearing was called to order at 7:04 p.m. Clerk Aldis read the public notice into the record. The notice was published in the *Daily Chronicle* on December 12, 2018 meeting the requirements of the law.

Chair Lawson swore in those present wishing to testify.

Applicant Presents His/Her Case
Ms. Kurtzman reported that the applicant was not present. In the absence she provided a summary of the application for the Commission stating this is a 6.5-acre parcel. A Special Use Permit was requested. The intent is to move a current business from Lincoln Highway to this location. The application asks for two apartments on the second floor, office space on the first

floor and a contractor's yard for storage. Ms. Kurtzman pointed out page 12 and page 14, Group Exhibit A as graphic use of the property.

Public Testimony

Mr. Steve Martin reported that he lives in Cortland. This property is adjacent to his on the west. He asked if Ottawa Street is a public street? What will be the hours of work Monday through Friday? Eight (8) hour days? Will burning be allowed? Is the applicant in the business of distributing premade fencing or will they be manufacturing on property? He stated that this is a residential area surrounded by homes and that he is concerned about commercial being placed in the middle.

Mr. Dan Johnson stated that he is from Cortland and has lived here for 25 years. He stated he was wishing for something nice with this property and gave examples he believes would help the community. Industry and apartments are not fitting for the area. They have the potential to degrade value of properties and disrupt the neighborhood. He stated he received information from a reputable source that worked in the building several years ago that the owner needs to invest in asbestos abatement.

Mr. Jeff Czerwinsky stated that he is newer to the neighborhood (67 E Maple Avenue) and would like to reinforce what the neighbors have stated. He said he likes the neighborhood. It is Single Family now and should stay that way. The proposed construction yard is not fitting.

Ms. Donna Klemm stated that she lives behind this property to the south and has for 26 years. In 2015 neighbors met and came up with ideas to utilize the building for other uses. Because it has been sitting empty for so long the building should probably be taken down, at least the original part. The newer parts might be able to be saved. This is a residential area and does not need to be a contractor's yard. Items of concern, noise, hours of operation, storage of materials, water retention and how it affects the neighborhood to the south. She reported that the school district had built a berm at the south side of the parking lot to deter water from running into the subdivision; this is not helping a known problem. A drain was placed in the back yard, but it is unknown to what it might be connected. She reported this is an open area as it exists today. There is no kid equipment in the southwest part of town. It is used by the neighborhood for pickup baseball games, drone flying. If it were utilized in a park atmosphere local dollars could stay in town as all residents need to pay out of district fees to DeKalb, Sycamore or other park districts to participate in activities. There could be a zero-depth splash pad as one use. She stated burning is a concern and she is opposed to the fence at the perimeter as it shuts off the entire area. The town is trying to attract families to the area, we need positive and promote public health in its own community.

Mr. Mark Sawyer's letter was read into the record and attached to the minutes.

Ms. Laura Robinson stated that she has toured the building several times; it is a disaster; contaminants. EPA approval is needed. She reported her family has utilized the open area themselves. She questioned apartments on the upper level, she was not understanding of this. A list of other uses of the building and area were provided to the commission. She stated she is of the belief that the building needs to be torn down as it is an eye sore and will get worse with time. Commercial is not meant to be there; noise and burning are an issue.

Rebuttal (Applicant)
There was no rebuttal as the applicant was not present.

Public Opportunity for further questioning:
Mr. Martin asked if Ottawa Street south of Maple Avenue is a public street.
Ms. Kurtzman replied that the street is included in the legal description supplied by the applicant. The town has been maintaining the pavement for decades; the County has located no dedication in its public records. If approved a condition could be added to the Special Use to clean up this property question by requiring a dedication for this access way.

Mr. Martin asked the hours of operation. Ms. Kurtzman stated she could not answer the question.

Mr. Martin asked if burning would be allowed. Ms. Kurtzman stated she could not answer the question.

Special Use Carry over – does it run with the land or stop with this owner? Ms. Kurtzman stated that conditions could be placed in the document. If the use is being permitted the land could be sold with the same plan and a continuation of use would follow the same Special Use Permit.

Regarding apartments Ms. Kurtzman stated the second floor of the original school is proposed to be used for two apartment units. There appears to be no intention of a separate building. If approved the applicant would be limited to two units in the upper original building. The use would be limited to what is in the original application. Without an amendment they would not be able to add additional buildings or locations.

Mr. Martin asked if the building was being sold or leased. Ms. Kurtzman replied the owner is selling the property. She stated the contractor's yard, offices for their business and two apartments on the top floor are the proposal and the contract to purchase is contingent upon the approval of the Special Use Permit.

Mr. Johnson asked if the new owner would be responsible for meeting code requirements on the building and asked if it was reasonable to assume that parts of the building would be unsued.

Ms. Kurtzman replied that the town's building office has had contact with the applicant and informed them an architect would be needed to review the building and determine what would be needed to bring the building to code. Yes, parts of the building could remain unused. A condition could be placed in the Special Use, if approved, if not used within a specified time (fill in the blank) the permit would become invalid.

Ms. Robinson asked if the proposal includes a contractor's yard in the open space area. Ms. Kurtzman replied yes, south of the parking lot. They propose to fence the entire back yard area east to the extent of the building.

Mr. Johnson asked if the architect would inspect before a permit could be granted.
Ms. Kurtzman replied she did not know.

Staff Report:
Ms. Kurtzman reviewed her staff report with the Commissioners. The following is her incorporated report.

The request is for a Special Use Permit for a Planned Mixed-Use Development with Concept Plan Approval PC 18-05 (J18-06), 50 W Maple Ave

The applicant is: Northern Illinois Fence/Complete Fence, Inc.

The property owner is Destan Aliu.

The applicant is requesting:

1. A Special Use Permit for a Planned Mixed-Use Development with Concept Plan Approval

2. The Mixed-Use component consists of a contractors office/yard and 2 apartment units.

A copy of the site plan drawings #1, #2, and #3 are made a part of the minutes.

SUBJECT PROPERTY:
The 6.5-acre subject property is located on the south side of Maple Avenue, approximately 340 feet west of Somonauk Road. The property is developed with a two-story building which was previously used as an elementary school and includes pavement on the south and east side for parking and a playground. There is also a loop drive directly off Maple Avenue. The property is zoned R-1 (Single-Family Residence District).

HISTORY/CURRENT CONDITIONS:
The Subject property currently has a 2-story building which was used as an elementary school. In 2012 School District 428 sold it to Mr. Aliu and it has remained unused since then. Several reports of vandalism have been reported in recent years. At least one water pipe has been frozen in the past which caused water damage to portions of the basement. No permit to repair/replace this pipe has been applied for/granted. Properties that are immediately adjacent to the subject property (or across the street from) have the following zoning and uses:

Direction	Zoning	Use
North	R-1 Single-family Residence District	Single family residences
South	R-3 Two-family Residence District	Single family residences
East	R-1 Single-family Residence District	Single family residences
West	R-1 Single-family Residence District	Single family residences

STAFF ANALYSIS:
Comprehensive Plan:

The Comprehensive Plan's Future Land Use Map shows this area developing with civic uses, specifically tagged as a future elementary school. It is important to note that the Comprehensive Plan and the associated Future Land Use Map were adopted in 2006 – six years before School District 428 sold the property. It should also be noted that the approval of the applicant's request does not mean that the property couldn't be used as a school again in the future.

PUD Process:

The Planned Unit Development process is divided into three stages: Concept Approval, Preliminary Plan Approval and Final Plan Approval. The applicant is, at this time, seeking Concept Approval. There are two key questions associated with Concept Plan Approval - are the proposed uses acceptable at this location and are there issues/concerns that need to be addressed prior to the Town approving a Final Development Plan? Input towards addressing these two questions has been provided below.

Per Section 9-7-5D of the Municipal Code, a minimum of 300 sq. ft of common land is to be set aside for each residential unit. The proposed concept plan notes that there would be two residential apartments therefore a total of 600 sq. ft of common land needs to be provided. This provision has not been met, however, as there is over 81,000 sq. ft of undeveloped land to the west of the building this requirement can be met. If the Planning Commission decides to approve the Concept Plan, then it would be appropriate to add a condition stipulating that the Preliminary and Final Plans address this requirement.

Status of Ottawa Street:

The legal description of the property includes a driveway which provides access to a house immediately to the east of the subject property. However, the County's GIS system shows that this driveway is part of Ottawa Street. Upon query to the County's Mapping Department they indicated that they were unable to determine if/when this driveway was dedicated as public right-of-way, however, they included it on the County's maps as public as it has been used as a public street as far as anyone can recall. This information has been confirmed by both the Town's Public Works Director and the Town's Mayor – both indicating that the Town has maintained it for decades.

If the Planning Commission decides to approve the applicant's request staff recommends that a condition be added whereby the status of the driveway be clarified either by a right-of-way dedication or an access easement be established prior to the approval of the Final PUD Plan.

Parking:

The paved areas on the subject property are substandard (the pavement is cracked, and vegetation is growing in the cracked areas) and need to be brought up to the Town's standards. Since trucks will be accessing the property the paving standards found in Section 9-5-5C of the Municipal Code should be used in the access ways and any loading areas. The rest of the pavement should adhere to the standards found in Section 9-5-3D of the Zoning Code. Should the Planning Commission recommend approval of the applicant's request a condition be added that the paved area be re-paved prior to the issuance of a Final Certificate of Occupancy.

Section 9-5-6 of the Zoning Code provides standards for determining how much parking should be required based upon the use of the property. There is inadequate information at this time to determine exactly how much parking would be required however, based on what we do know over 29 parking spaces would be required. (Staff has been able to identify at least 7,584 sq. ft of commercial/office area with a ratio of 1 parking space per 300 sq. ft [requiring 25 parking spaces]. The required ratio of parking for apartments is 2 spaces if the apartment has 2 bedrooms or less and 3 spaces if the apartment has 3 bedrooms or more. Assuming that the 2 apartments will have 2 bedrooms or less, the required parking would be 4 parking spaces. 4 spaces for residential and 25 spaces for commercial/office = 29 parking spaces. This does not include the warehouse/manufacturing aspects of the property.) As part of the Preliminary Plan the applicant will need to provide more detailed information upon which a determination of the amount of required parking will be determined. The Preliminary Plan will also need to demonstrate how Sections 9-5-3 (parking design standards) will be met.

Given the nature of the business there will be some truck traffic. Compliance with Section 9-5-5 (Design and Location of Off-Street Loading Facilities) will also need to be demonstrated at the time the Preliminary Plan is submitted.

If trucks are to be parked at this site, then a Truck Parking Permit is required (Sections 6-2-2 and 9-5-4A3 of the Municipal Code specify that a Truck Parking Permit is needed when trucks are parked in a residentially zoned area). This permit should be acquired prior to the issuance of a Certificate of Occupancy.

Building Code:

The Building Code's list of "uses" is not the same as those within the Zoning Code. The Building Code's list of uses is used to help define how to apply other aspects of the Building Code aimed at keeping people safe. The architect who designed the old school would have designed it under the standards/requirements for an educational facility under the applicable codes at the time of construction (this building was built in stages over decades and different standards would have applied at different times). As the building will no long be used for educational purposes the applicants will need to hire an architect to determine what, if anything, needs to be modified to address the change in uses. The applicant has been informed that this information will need to be provided to the Town as part of the Building Permit application.

Condition of the Building:

Staff is aware that there is mold in the building which will need to be remediated prior to the issuance of a certificate of occupancy. Due to the age of certain parts of the building and the building supplies that were commonly used at the time of construction staff suspects that some parts of the building might have asbestos in them. The architect's report indicated above will need to address this concern, which will be handled at the time a building permit is applied for.

COMMENTS FROM THE PROFESSIONALS:

Director of Water/Wastewater stated: Water and sewer are currently available on site and there are no issues with capacity.

Public Works Superintendent: Pavement exists south of Maple Ave which lines up with the terminus of Ottawa Street. This pavement has been maintained by the Town but if a gate is

placed across the pavement then there would be no place to store plowed snow. If a gate is placed across the pavement then he recommends that the Town no longer maintain the pavement and that a shared access easement be established in order to give the adjacent property access to their garage.

Town Engineer's comment: The Engineering Department does not have any significant concerns regarding the Concept Plan presented.

STANDARDS UPON WHICH REVIEW SHOULD BE TAKEN:
The Town's Zoning Code has three different sets of criteria upon which the Planning Commission must use before rending a recommendation to the Town Board. Section 9-7-5 provides the conditions that need to be met prior to approving a Planned Unit Development. As all Planned Unit Developments are Special Use Permits the standards for granting a Special Use Permit must also be examined (Section 9-10-3). Finally, Section 9-9-2B outlines the responsibilities of the Planning Commission. Subsection 4 instructs the Commission that a Findings of Fact report is to be provided to the Town Board for every proposed change in the status of uses, such as special use permits.

Each of these sets of criteria are located on Attachment B. To assist the Commission with reviewing these requirements I have drafted proposed language (which is depicted using an italicized font). The Commission does not have to accept the proposed language and may craft its own language.

If the Planning Commission elects to recommend approval with conditions staff recommends the following conditions:

A. Status of the driveway/Ottawa Street south of Maple Avenue be clarified through the establishment of an access easement being dedicated prior to the approval of the Final Planned Unit Development Plan.

B. A common recreational area for the residents that comply with Section 9-7-5D shall be included with the Preliminary and Final PUD Plans.

C. Current on-site pavement shall be brought up to Town standards per Section 9-5-3D for the parking lot and Section 9-5-5C for the loading and accessway areas prior to the Town issuing a Certificate of Occupancy.

D. The applicant shall acquire a Truck Parking Permit prior to the issuance of a Certificate of Occupancy.

Motion to Close Public Hearing
Mr. Bergeson moved to close the public hearing, seconded by Ms. Rowe. Unanimous voice vote carried the motion; 8:01.

Ms. Kurtzman reviewed with the Commission its obligations as required by code.

She reviewed the Matters Entrusted to the Planning Commission (9-2-2), Standards/Findings of Fact; (9-10-3), and Conditions of Approval of a Planned Unit Development (9-7-5)
The Commission determined the following:

STANDARDS/FINDINGS OF FACT FOR:
Northern Illinois Fence/Complete Fence Inc (50 W Maple Ave)

9-9-2: MATTERS ENTRUSTED TO PLANNING COMMISSION:
Section 9-9-2 of the Zoning Code outlines the responsibilities of the Planning Commission. Subsection 4 indicates that, "within a reasonable time after the public hearing, the planning commission shall submit its advisory report to the town board of trustees. The report shall state the planning commission's recommendations regarding adoption of the proposed amendment, and its reasons therefor. If the effect of the proposed amendment would be to alter district boundaries or to change the status of any use, the planning commission shall include in its advisory report findings of fact concerning each of the following matters:"

A. Existing use(s) and zoning of the property in question.
   The Subject Property is zoned R-1, Single-Family Residence and is improved with a building which previously was used as an elementary school. The property also has pavement for associated parking and a playground. The building has not been used since it was purchased by its current owner (2012).

B. Existing use(s) and zoning of other lots in the vicinity of the property in question.
   The properties to the north, east and west are zoned R-1 (Single-family Residence District) and the properties to the south are zoned R-3 (Two-Family Residence District). All the adjacent properties are developed with single-family residential buildings.

C. Suitability of the property in question for uses already permitted under existing regulations.
   The Town's permitted use matrix primarily allows single-family detached housing within the R-1 Zoning District. Short of demolishing the existing building it is unlikely that the property will develop with single-family detached houses.

D. Suitability of the property in question for the proposed use.
   The 6.5-acre subject property, combined with the existing improvements, can accommodate the proposed contractors office/yard and apartments. It is anticipated that relatively minor improvements will need to be made externally from the building (i.e., pavement improvements, screening from residential properties, etc.). No public improvements are anticipated to accommodate the proposed uses.

E. The trend of development in the vicinity of the property in question, including changes (if any) which may have occurred since the property was initially zoned or last rezoned.
   The area has been zoned and, other than the elementary school, has developed with single-family housing since the Town initiated zoning.

F. The effect the proposed amendment would have on implementation of this Municipality's Comprehensive Plan.

The Comprehensive Plan's Future Land Use map depicts this site as an elementary school. By keeping the building intact, a school could eventually be re-established here.

9-10-3: STANDARDS (for granting a Special Use Permit):
Per Section 9-10-3 of the Town's Municipal Code, the following set of standards must be met before a Special Use Permit (or an amendment to such a permit) may be approved.

A. The proposed structure or use at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of the public and will contribute to the general welfare of the neighborhood or community;
   Keeping this company within the Town is desirable as the taxes generated by the business helps to fund governmental functions thus contributing to the welfare of the community. Public testimony expressed concern regarding the desirability of the Special Use and whether it would contribute to the general welfare of the neighborhood and community.

B. The proposed structure or use will not have a substantial adverse effect upon the adjacent property, the character of the neighborhood, traffic conditions, utility facilities and other matters affecting the public health, safety and general welfare; and
   Staff has indicated that there is sufficient capacity to provide water and wastewater facilities to/from this site. The Planning Commission received no testimony regarding traffic counts. Public testimony indicated that there may be adverse conditions present which may affect the general welfare, health, and safety of the community. Due to the absence of a building inspection report the general safety and welfare cannot be determined at this time.

C. The proposed structure or use will be designed, arranged and operated so as to permit the development and use of neighboring property in accordance with the applicable district regulations.
   The proposed improvements to the site will adversely impact the development or residential uses within the neighborhood. Additionally, the proposed Special Use deviates from the current comprehensive plan.

9-7-5: CONDITIONS OF APPROVAL (of a Planned Unit Development)
Per Section 9-7-5 of the Town's Municipal Code, the following criteria must be met before the development plan may be approved.

The development plan shall not be approved except under the following conditions:

A. Assurance shall be required from the developer that the project will be used for the specified purposes, and the planning commission shall require a trust indenture restricting the area to such uses.
   The applicant is seeking concept plan approval at this time. Trust indentures, if deemed necessary, would be accessed at the of Final Plan approval.

B. All residential planned unit developments shall make provision by trust indenture for common land, and commercial planned unit developments may make provision for common land, and a trust indenture shall be required.

Trust indentures for common land is not appropriate at this time as no common land is contemplated.

C. An acceptable site plan shall be presented, showing the area to be developed for buildings; the location, size and number of buildings; the areas and/or structures to be developed for common use; the areas and/or structures to be developed for parking; the location of pedestrian and vehicular circulation and the point of ingress and egress, including access streets where required; the provisions of spaces for loading; and adjustments to be made in relation to abutting land uses and zoning districts.

The applicant has not provided a plan that adequately addresses the concerns of lighting, screening, parking and traffic circulation; and the consideration of the effects the use would have on the adjacent properties. The plan also does not adequately address the status of Ottawa St.

D. At least three hundred (300) square feet of area per residential family unit shall be set aside and maintained for recreation area, under the common ownership of the owners of the area covered by the development plan.

This provision has not been met.

E. A statement of financial responsibility shall be filed with the zoning administrator to ensure construction of the planned unit development, including landscaping, in accordance with the plans and requirements of this chapter. (Note: Final plan acceptance shall be contingent upon meeting all financial requirements outlined in the subdivision ordinance.)

This statement shall be required at the time the Final Plan is approved.

F. Applications for approval of planned unit developments designed in accordance with the provisions of this chapter shall be accompanied by all of the necessary legal documentation relating to the conveyance of common areas as provided for in subsection 9-7-6D of this chapter.

The conveyance of any common land would occur at the time of Final Plan approval.

G. Reasonable additional requirements as to landscaping, lighting, screening, accessway and building setbacks may be imposed by the Planning Commission for the protection of adjacent residential property.

The applicant has provided a plan to screen the building and its operations via a fence. The building and access to the property are already in place. No external lighting has been proposed. However, the applicant has not provided a plan that adequately addresses concerns of lighting, screening and consideration of adjacent residential properties.

Approval of Findings of Fact

Mr. Bergeson moved to approve the amended Findings of Fact, seconded by Mr. Hedrick. Unanimous voice vote carried the motion.

Formal Recommendation to Board of Trustees
Mr. Lawson moved to approve the Special Use and Concept Plan for Northern Illinois Fence/Complete Fence Inc. The motion was seconded by Mr. Bergeson.
Roll call vote:
Ayes: None
Nays: Haier, Lawson, Hedrick, Bergeson, Stansky and Rowe
Absent: Steadman Motion failed.

Adjournment
With no further business to conduct Ms. Rowe motion for adjournment seconded by Mr. Lawson. Unanimous voice vote carried the motion. The meeting adjourned at 9:03 p.m.

Respectfully submitted by,

Cheryl Aldis
Town Clerk

Next Planning Commission Meeting is Thursday, February 7, 2019

Approved: _____
Attest: _____