

Plan Commission

Minutes of the Meeting on
September 7, 2023

Village of Homer Glen
14240 W 151st Street, Homer Glen, IL 60491
Community Room

1. Call to Order

The Meeting was called to Order at 7:02 PM

2. Pledge of Allegiance to the Flag was led by Commissioner Foley

3. Roll Call

Members present: Commissioner Bradarich, Commissioner Bugos-Komperda, Commissioner Stanly, and Commissioner Foley. Also present were Planning and Zoning Director King, Assistant Planner Udarbe, and Plan Commission Secretary Pesavento.

Not present: Commissioner Fiskow, Vice-Chair McGary, and Chairman Hand

4. Minutes.

a) August 3, 2023

A motion was made to approve the minutes from August 3, 2023 by Commissioner Foley, seconded by Commissioner Bugos-Komperda. All in favor, zero (0) opposed. The motion carried.

5. Public Comment.

None.

The Plan Commission Secretary swore in all wishing to speak. Commissioner Stanly provided a statement as to the order and operation of business for the Plan Commission process.

6. New Business and Possible Action or a Recommendation.

**a) Case No. HG-2320-A, Zoning Code Text Amendment (Public Hearing):
Consideration of a text amendments to Chapter 220, Article V Agricultural
Districts and Open Space Districts of the Zoning Code of the Village of Homer**

Director King presented the facts of this case. This is a consideration for a request for a text amendment to Chapter 220, Article V Agricultural Districts and Open Space Districts of the Zoning Code of the Village of Homer Glen. A little background in 2020, the Village established an open space district in which to zone properties for the purpose of open space, parks and recreation. Currently, the Homer Township is requesting to re-zone Welter Farm (a Homer Township Open Space property) to OS-1 District Open Space. As part of their application, they requested to be allowed to continue to legally farm their property in which they are currently doing. As they have been doing for over twenty (20) years. As the property is currently zoned E-1 Single-Family Estate Residence District, the farming use is currently considered a legal non-conforming use and would also be considered a legal nonconforming use in OS-1, where agricultural uses are currently not allowed. Staff does not typically support use variances. A use variance was requested by the applicant. We requested to go back and look at adding agricultural uses into the open space district. When this district was established in 2020, this is just a little bit of the history of the project. Staff had recommended at that time to include agricultural uses in the open space district and that also came out of Plan Commission with the same recommendation, no change. That included agricultural uses. At that time, it went to the Village Board and there were a number of board members that were concerned with all those agricultural uses, mostly because I think that the kind of general nature of the open space district was written for open lands, forest reserves and parks and things of that nature. At that time the Village Board actually had that section stricken from the code. It is not currently allowed

in the district. So just to give that kind of history, I think as staff's perspective on this, I feel pretty strong that agriculture uses as some capacity should be allowed in our OS-1 district. I can go into a little bit of this in my other slide.

I have not received any public comments on this, although sometimes we don't receive that in these types of things because they don't get letters. They just go on our website and the agenda (paper). So, sometimes people aren't calling about this specific item. We did get some public comment on the other item tonight. So, just like we do with every zoning text amendment, I do an analysis on the code change that we are going to be going through. In this one we looked at our peer communities that are adopted by the village. They include Lockport, Lemont, Mokena, New Lenox, Frankfort, Woodridge, Romeoville, Lisle and Darien. Those are our nine (9) peer communities that we use to analyze against other code. We also sometimes will go out and grab other codes if we feel like we don't have enough to kind of base our analysis on. You can see, this is a perfect example that there are quite a few peer communities that don't even have an open space district at all. There is quite a bit of a mix where you have, like in Mokena they allow gardening and farming private, but not commercial usage. They are both permitted uses. They also specifically exclude things like poultry and livestock animals. They also prohibit greenhouses for growing plants and vegetables. The other one that has an open space district is Romeoville. They allow farmer's markets and they do allow riding stables as a special use. Orland Park has a pretty extensive open space district. They do allow agricultural uses, including crop fields, orchards, vineyards, grazing and community gardens as permitted uses. Oak Park also has an open space district that allows farmers markets and community gardens. Campton Hills, which I don't know if you guys are familiar with this community, but I think they should be one of our peer communities. They are in Kendall County and they incorporated around the same time we did. They are around the same population. They also do very similar things that we deal with. They are very rural in nature. They like large lot development and have incorporated for similar reasons that we did so it is kind of an interesting community. They just redid their zoning code. They adopted it in 2022 because they were still working under Kendall County's zoning ordinance. Their open space district allows agricultural, farmstands, and community gardens as permitted uses. That is kind of a text review of peer communities.

I have had a few comments. I'm going to go over a few things that are related to some other zoning considerations that would come along with open space. Dave, you and I talked a little bit about the fact that when we adopted this district, we didn't have any other users, I guess you would say. No other public entities and no other private entities. At that time, we had no properties in OS-1 and now we have three (3). There are three (3) parcels the Village purchased for a drainage improvement project up in Old Oak I believe. I think this code change is allowing us to look at this district a little bit closer. A few things that come up in conversation and that is how fencing would be handled. This is not addressed in any code language tonight because this kind of came up in conversation after. To touch on this, specific fencing for open space is currently silent. That is similar to how agricultural is handled in our fence regulations. Typically, there has to be a permitted structure or a use on a property for a fence to be constructed. Any of the permitted uses in OS-1, including nature preserves and parks, would constitute that and allow for a property to be fenced. Taylor and I were talking about how even the park out here is fenced. Our own property even though this is zoned P-1 Governmental Buildings and Public Schools District, but our own park has that fencing all around where the residential lots are located. We don't have it all the way around the property, but I think what it provides adjacent to lots. So, just to keep that in the back of your head. I think we have a split

rail fence along the front of our property. I think Brent Porfilio just fenced his property, is that correct? He is not open space, but a public entity property that has been fenced. Just as an example. Another consideration that was brought forward is if we were to add these agricultural uses into the OS-1 and they include any of the animal uses, even if they were permitted or special uses, however they end up. That the regulations for how many of those animals you can have are not addressed in open space. There is another section in this the code. It is under 220-839 and that talks about how we regulate the keeping of farm animals. There are regulations for agricultural districts and there are regulations for residential districts. That is also where you will find the chicken and bee ordinance in the same section. In this instance, I think if we are going to regulate and allow any keeping of anything that we do need to address this. I think at a minimum, make them special uses that allow them to follow agricultural or we can regulate them only under special uses, right? Like only restrict them on a case-by-case basis. That could be a way we handle it. Then the other one is keeping of horses, which is not addressed under keeping of farm animals. It is all addressed under private stables and then also addressed within the agricultural district itself. So, commercial stables are allowed in agricultural. We could either address that not at all, like take it out completely or if we are going to have it again staff can recommend that we address it somewhere. Then we can put it right in OS-1 if we want under special uses or however the Plan Commission would like to proceed with that.

Just to kind of go over staff recommendations on this. A piece of this is I'm not sure was explained to the board at the time this went in front of the board. I don't know if they just were not thinking about other park districts and parks departments that have agricultural type assets in their park's portfolio. I used to work in Orland Park, so examples include Boley Farm and Stellwagen Farm. The farmer who used to own the land still leases the land and has a farmstand and works there all time. Stellwagen Farm is not owned by that owner anymore, but they have kept the structures and they are restoring all the structures. It is accessible to the public. I think they are hoping that will be a working farm long term. Another example would be Wagner Farm. I'm not sure where it is at, but I used to take some children there and again, they have horses and animals that you can feed. They have barn facilities that you can visit inside. Then where I live, the Bourbonnais Bradley Park District owns a property called Perry Farm. It has a little farmhouse and farmstead on it with agricultural animals. The museum is inside a farmhouse where they have kids' events and things. The back of the property is a lot like our property. It has prairie restoration on it. It goes all the way to the state park. It is kind of a cool property. I think sometimes we think that parks are just a park, like a traditional park. I think that sometimes they can be much more than just that. I think to dovetail with this, we have had a recent project come essentially come through the board twice. It is on the Dunn Farm property and it was explained in the meeting that they would like to dedicate that forty (40) acre piece to the village which includes the Dunn Farm farmstead on the front. I think there may be even a potential that this will come right in front of us sooner than later. Those are things that I always think about. I just wanted to mention that I think this village, as opposed to maybe some other villages, also sees open space different than other villages. I think that this village values rural landscapes, I think more so than other villages that I've worked with. I think status perspective, I support some version of agricultural uses in the open space district. I think when we presented this package, we went back to what we presented in 2020. I think that through this conversation, one of the things that we talked about changing is taking the animal uses like poultry husbandry, apiculture, aquaculture, dairying and pasturage out of the permitted and maybe put them in the special use category. Then the village on a case-by-case basis can look at those things. We

might still allow them, but because they come with particular nuisances such as smell and view, you might want to regulate them. It just depends on what is being presented to the village. I think this is all of my presentation so if you have any questions. We can obviously talk to the applicant and the public, but that is all I have.

I'm just going to show this one slide. I don't what happened tonight with the zoning text amendment. I don't know why I was thinking that a text amendment would go through with one night because they have never done that. I don't know what will happen and if we will be able to work through some of this stuff or if we will need to come back. However, the Plan Commission wants to handle it. I will go over this really quickly because we are going to do this with both items tonight. I have been working with our attorney to change a little bit how we are doing motions with Plan Commission. We are going to be doing two (2) motions on every case. The first motion will be a motion to approve or deny or condition the project itself. Then you will follow up with the motion to adopt staff's findings, and then you will go to discussion to ask if there is any amendments or corrections to the findings. That is just to make sure there is a clear record of what has been discussed at the Plan Commission and if what we have presented as staff is okay with the Plan Commission or if there were other things that were brought up in addition and we need to add it for the record. If there are amendments, we need to bring up the topics that were brought up by the Plan Commissioners.

A motion was made to open the public hearing by Commissioner Bradarich seconded by Commissioner Foley all in favor, zero (0) opposed. Motion carried

The public spoke.

Jerry and Karen Lullo did not wish to speak.

Dave Shiney said, I support the open space. I am fine with it and I am fine with the way things have been. I'm fine with the agriculture and I'm fine with the way things have been. I have lived in that area since we built our house 31 (thirty-one) years ago. It is great. I like looking out a couple of houses down from that space and seeing that open space. We voted for it and we pay for it. It needs to stay that way. I'm good with the agriculture. I'm good with the farmer continuing to farm it. I don't know all the squares of everything, but there is farming that goes on for blocks and it is more than just that parcel of land. I'm good with it. I support it.

Bruce Laha said I'm not in favor of it. The only one benefiting from it being agriculture are the farmers who are paying two-hundred (200) dollars a year for the tanker and making all the money on a property that was bought by taxpayers' dollars. Nobody benefits. The whole public doesn't benefit. Just a handful of neighbors. Look at the corn and the farmer. That is not fair.

Patricia Shiney said, I believe that Mr. Laha doesn't want it because he wants to build a property for us to build on that land. I'm for it. I've lived with my husband for 31 (thirty-one) years on that property. We like the way that it looks as open space. I know you're posting animals on a special use basis, but I do like the open space and I have no problem with agriculture that has been there since we moved in. We don't have a problem with that. Mr. Laha is opposed to it because he wants to build on it. Thank you.

Jerry Lullo said, I second that.

Steve Balich said, my name is Steve Balich. I am the Township Supervisor. I understand that everyone always believed that the Walter Farm and all those farms were open space. The reality is that none of them were ever zoned open space. There are no restrictions on anything. There is a lot of other issues, but the majority of the people in this village of Homer Glen believe that all these farms are open space, but the reality is they are not. My township board and I had a discussion one on one and I suggested since everyone believes that it's not worth fighting with the people that are supposed to be a representative democracy. I understand who said who said makes sense too, but in a representative democracy people you elect are supposed to go along and do what the people want. I suggested to my board one at a time that we rezone it from E-1, which is state housing to open space. They all agreed. We voted on it and then I found out from my attorney that open space does not allow for farming. We have a permitted non-conforming right, right now because nobody stopped them for over 20 (twenty) years. That is why we were able to farm. If the village would have said something to the township in 2002, 2003, maybe even 2004, they would have had to stop farming it. They would have had to remove the farming, but nobody said anything so the farm stayed. The whole point of our representative democracy is that we listen to the people that elect this. They all want that to be open space. I think it is the duty of the township to make it open space. That is why we voted on it at a board meeting. It was unanimous vote. Everyone said to make it open space, but then we can't make it open space without a permitted right to do farming. Otherwise, it's going to go to weeds. So, do you want a bunch of weeds in your town? I don't think so. If we can't get a permitted right to do farming then we can't make it open space. Then that will go against the will of the people because it's not just the people from this area. Wherever you go, everybody believes the same thing because everyone was told the same thing over and over and over again. There is no way you can change people's minds or try to explain things because there is no way you can make them believe it. So, instead of doing that the township board said, why don't we just do what people want. That is what we are elected to do, what they want. Everyone wants that farm to be open space. The other ones are not in Homer Glen. They are zoned A-1. They have never been zoned anything else but A-1. They are in Lockport. The county has no records of them being zoned anything but A-1. I'm just asking that you guys go along with the township board. I realize that it is a hard vote. I'm not saying it is an easy vote because there is a lot to think about, but in the essence of representing all the people that really believe that is open space and they want it as open space. Let's just do what they want. You are representing them so why not go along instead of fighting it.

Mr. Laha said, I want to clarify. I am not opposed to the open space. I think it should be zoned open space, but it shouldn't benefit the farmer. It should benefit the entire public. Something should be done with it. Improve it. Put trails in there. Put something in there to benefit the entire public not just the farmer and a handful of neighbors.

Patricia said we already have a Heros Trail right by us and none of the neighbors living around the property are complaining about it. If no one has stopped it in twenty (20) years like Mr. Balich has said than it means no one is opposed to it.

A motion was made to close the public hearing by Commissioner Foley, seconded by Commissioner Bradarich all in favor, zero (0) opposed. Motion carried.

Commissioner Bugos-Komperda said, I have a couple of questions. I just kind of wrote notes on what they said. Benefits of open space for the village was what Bruce was saying. So, if we said

no to this, we are not going to do this, then what happens? Director King said, the village is not going to stop Steve from farming the land. Just to clarify, he has what is called a legal non-conforming use occurring on the property. The way the village code reads, that was happening before incorporation. Is that correct? It was being farmed before incorporation, Steve? Steve said, I'm not sure. The resident Patricia said we lived there and can tell you yes. Director King said that use has been in effect for a very long time, decades longer than the village was incorporated. Those are considered legal non-conforming uses unless the village has proof that somebody didn't pull a permit for a structure or something and there is very little documentation to prove those types of things unless there is a code enforcement history or something. Regardless, it's a legal non-conforming use that's allowed to continue, but it cannot expand. Say he was only farming half of it. The code says you can't then extend it to the other half if he wasn't. Right now, it is being farmed all over. It says you can't expand it. You can't increase that non-conforming use in bulk, right? That's kind of what it says. Then if it gets abandoned you can't then pick it back up. If for some reason the township stopped farming it for like five (5) years and it was just being mowed, they couldn't come back and just pick that up again. They lose that legal non-conforming use. So, while nothing may change right now, I think what Steve is asking is to be able to continue to do that by right. That is the townships request. Commissioner Bugos-Komperda asked, when did they buy it? Steve said, it is kind of confusing. In order to legally, according to the Illinois State Statute you have to have fifty (50) acres to have open space. We have forty (40) acres. Thirty-nine point nine or eight (39.9 or 39.8) or something like that. So, about forty (40) acres. According to the Illinois Statute, it doesn't qualify as open space. From what my attorney said, the village can still call it open space. We had to go through a process. The attorney said the village can do whatever they want. They can make their own and do whatever they want. This stuff is meant to hold us and what we believe in, but none of what we were told was ever true. It was based on; I don't know what because I was one person that believed everything I was told. The whole premise was to make it open space, right? This is different than what everyone thought it was going to be. Let's make it what everyone thought. That is why everyone said it was screwed up. I agree it is screwed up, but let's fix it by doing what the people really want. I don't know if you guys agree with that. I understand it is messy. I'm happy to answer a couple questions, but it is very messy. At the same time the people believe it is open space and they want it open space. Director King said, just to clarify Taylor has the deed up and it was transferred in 2000.

Commissioner Bradarich said, if we have a property like this that is going to be re-zoned to open space, the benefit to having allowed agriculture on it is to save the taxpayers money to maintain the property. Mow it and maintain it so it doesn't grow into a pile of weeds. I do agree that anything else other than just farming should be a special use. Commissioner Stanly said, under the current zoning E-1 farming is considered a legal non-conforming use. Under OS-1 it would still be considered a legal non-conforming use. It could still be farmed. Commissioner Bradarich said, I think Orland Park open land zoning for crop fields, orchards, vineyards, I don't know what grazing and community gardens would be? Director King said, grazing would be, I think very similar to pasturage. That would be like what you see in front of the sheep farm. Where they are open grazing versus horses. That would be it as opposed to like an actual commercial stable situation where there is like for remuneration to reporting in there. Again, this would come back to the keeping of the numbers and we need to regulate that. In our code we call that pasturage. Commissioner Bradarich asked so we would have that as a special use.? Director King said, correct.

Commissioner Stanly asked Mr. Balich, you have a yearly contract on that for farming on that property? Steve said, no, we don't have a contract. We have a lease. The farmer leases the land. Commissioner Stanly asked, yearly lease? Steve said, three (3) year lease. I think Welter Farm has got the last year of a three (3) year lease on it. This will be the last time you have to renew it for the next three (3).

Director King asked, do we want to talk about any of the other zoning considerations? I would like feedback on that. Commissioner Bugos-Komperda asked, are you talking about the special uses? Director King said, on the slide that is up we are having issues that we are running into about fencing. Those pieces haven't been cleaned up. Fencing is something that we do case by case except right now I think this would be handled like agricultural. Fencing is allowed in all districts, right? By right it is a useful permit. In agricultural you can do six (6) foot privacy, is that right? Except in a front yard, which is very similar to all of our other districts. Agricultural does not have like our chain link regulations. Some of that stuff is only in residential and then there is like our corner side regulations and things like that. Those are in the residential. Taylor printed out the copy. Commissioner Bugos-Komperda asked is that 220-812? Taylor replied, yes. So, agriculture districts are silent in our fence code. Only general regulations apply because our fence code reads residential, then commercial and industrial and then general regulations. In those general regulations are just that four (4) foot fifty (50%) percent open fencing in the front yard. Director King said, all these apply, starting on page two (2) to page four (4) are the general regulations and those apply to any fencing in the village unless it superseded by another section. So, like similar material and front yards four (4) foot and fifty (50%) percent open.

Steve said, you are talking about something that the township is not looking for. Director King said, I understand that. When we talk about these, you have to look at them generally. I think what happened is when we adopted this open space district, there may have been a few things that we didn't address. Steve said, according to the state statute, the only thing that is allowed on open space, they can farm it, but you are not putting structures up. We are not asking for farms or nothing. After the passive recreation, it is the only thing left. I'm not looking to put a built-in swimming pool in. A pool would be allowed, a roller-skating rink would be allowed, tennis courts would be allowed because that is after the passive recreation. Educational things like a school could go in there. You could put a school in there because part of the statute says after, or the passive recreation and includes schools, water treatment plants, which isn't going to go there. Schools are not going to go there. We wanted to work with them to put a school there, but they did not want that. Then we have items like a tennis court or pickleball court if somebody wants to do that, but it has to be after or passive recreation. I'm not lawyer but I was told that we have to follow the state statute. Director King said, that might be based on how you purchased the land. Steve said, when we purchased the land, it was never the zoned right. So, what we are trying to do is revert back twenty (20) years and make it open space. Which we should have done following the state statute. Director King said, my question is for the Plan Commission is thinking about this district in general. I think we need to think about what happens if we ever owned this property, split it off and zoned the back OS-1. Let's just pretend, or any of our parks for that matter. If you try to apply equally across the board of fence regulation in all of those scenarios, what would we be comfortable with? Right now, fencing is just a permit, by right use. So, there isn't a lot of regulation in OS-1 or in agricultural for that matter, except for these general regulations. I'm not saying we need to add any. I'm just saying that if we need to think about what that means for any property, not just Steve's property. If the Homer Township is thinking that they are not doing that, that's fine. We may have other properties that want to zone

into OS-1. I think if there is a character we are looking for, like do we want privacy or it doesn't need to be open? Maybe there is some kind of simple ways of height so that it retains more of its rural character. Maybe it's not a certain type of fence, but just so it is not a barricade fence or privacy. Commissioner Bradarich asked, can it be a special use? Director King said, for fencing? Certainly. Commissioner Stanly asked, and limit it to four (4) feet? Commissioner Bradarich said, I think it should be a special use by a case-by-case basis. Commissioner Bugos-Komperda said, depending on what is surrounding it. Director King said, you can certainly add that in. I think any of these changes will need to be called out and read. Commissioner Bugos-Komperda said, if you think about the rule, you think about the split-level fence that we have in front here around the horse farms. So, creating all that, but then what if they are backing up to some residential or you need to do something different there. That would give the opportunity to look at each parcel and say, what makes sense with this parcel that is surrounding it.

Director King said, maybe like the horses and the animals, we can treat the same way that is on a case-by-case basis. We don't just go in to agricultural and say this all applies. I think what we should do is under this text is add that in there. So, growing of farm crops is fine. Animal and poultry husbandry is going to go to special. Commissioner Bradarich asked, how about orchards and vineyards? Commissioner Bugos-Komperda asked, did you give us a paper with the motion? Taylor said, it is in the packet. Director King said, so there is not a motion. I think for the record we will put what we say in here. Let's just make some notes. Apiculture is bees and is special use. Aquaculture? I mean if we don't want to have that in there, we can strike it. Dairying? We can strike. Floriculture? Commissioner Foley asked, what page are we on? Director King said, in the packet it is page three (3). This is the open space text and blue is what is being recommended. So, floriculture is the growing of flowers. Horticulture is the growing of other types of ornamental plants, which is not for consumption. Not food crops, but it is still farming of the land. Nursery? Do you think it should be a special use or a permitted use? Commissioner Stanly said, I would say special use on the nursery. Commissioner Bradarich said, I don't think that those types of uses really solve the maintenance benefit. Commissioner Bugos-Komperda asked, except wouldn't the person running the nursery be maintaining it? Commissioner Bradarich said, but again, it is a special use. They could run it as a nursery and under that special use permit, they would have to maintain it. Director King said, I also think that if we as a village wanted to start growing our own plants for production, I think that could fall under horticulture. Tree Farm? Would you rather this be like what you said orchard or vineyard? Commissioner Bradarich said, not like anyone is going to grow a vineyard. Director King asked, arboretum? Should we have that in here? Sod farm? That comes out altogether. Pasturage? Special use. Viticulture is the growing of grapes. Commissioner Bradarich said, I don't see anybody doing that. Director King said, for example, the park right in my town has a whole row and they also have an orchard. The trees are really old apple trees and sour cherries and you can go and publicly harvest. Then this would be number five (5) under permitted uses and say the growing of farm crops, floriculture, horticulture, orchards, arboretums, and viticulture together with the operation of any machinery or vehicles incidental to the above use. Commissioner Bradarich said, then we can say something about fencing and livestock. Director King said, that will be under the special use.

Then under the special use category number four (4) would be animal and poultry husbandry, apiculture and pasturage with the operation of any machinery or vehicles incidental to the above use. Then number five (5) could be fencing. So, under number four (4) we wanted to put something about the animals. I think it would be after animal and poultry husbandry, apiculture

and pasturage. The total number of mature animals per acre and setbacks shall be regulated under the special use. He is not going to have to read this again. As long as we read it clearly and everybody agrees then the motion will just be to approve this text amendment.

Commissioner Bradarich asked, is this being recorded with the mics off? Director King said, we have another device. Commissioner Bradarich asked, then we are going to make a second motion? Director King said, so that one we will do after the first motion. I think just to go back over and for the public to understand what we are doing. In the permitted use section, there will be the growing of food crops, floriculture, horticulture (which is the growing of other plant material), orchards, arboretums, and viticulture (which is the growing of grapes) together with the operation of any machinery or vehicles incidental to the above use. If a combine were to come on there that is the kind of thing that would be supported for that to be able come onto the property to harvest. They moved anything related to animals out of the permitted uses into the special use category. So, that is animal and poultry husbandry, apiculture (which is bees), and pasturage of animals. That would have to come back through to the Village Plan Commission and the Village Board for approval. They added fencing of any kind and that would also have to also come through for a special use to the Village Plan Commission and Village Board. Does that cover that and the number of animals. We are not going to regulate that number. We are going to look at it on a case-by-case basis.

Steve said, I have one question for you. I am listening to all of the things. We had a problem with people encroaching on our property. The lawyer said that if someone gets hurt on our property, we can get sued. We were told by our lawyer to put up a fence. In the meantime, we went and bought a fence. We sent the lawyer some letters to everybody encroaching and told them they got to clean it up and they cleaned it up. If they didn't clean it up then we would have no choice but to put fence up. So, if you're saying that we can't put up a fence, that could be a problem for the township. Does everybody here listen to the township? We weren't putting in a giant fence, it was going to be one of those plastic fences that is four (4) foot high just so that we could mark our boundaries. So, that we could say in the report if they sued us that they knocked the fence over or went through the fence, but we have something to protect us. When you read the list, the fence would be a problem for us. I have to get my board to approve this thing. Everything else was fine except for the fence. It depends what the lawyer says. If he thinks he can defend it if something happens, but you guys don't want to have the township sued because it will come out of your pocket too. Commissioner Stanly asked, wouldn't a signage be the same thing as a fence? A sign in place that you are entering upon your own risk. Steve said, the lawyer won't let us. We were going to get Joe Baber go there and make everyone move their stuff. Commissioner Stanly asked, that was on this property? Steve said, yes. Township property because it is in the Village. Then the lawyer said to send them a letter. We want to take the easiest way out. The lawyer said if it happens again, it may be something we have to do. I have to go with what they say is best for us, but we have to be sure we protect the people that live here in Homer Glen and Homer Township from getting sued because we didn't put up a fence.

Commissioner Bugos-Komperda asked, you wouldn't be fencing the whole forty (40) acres? You are saying alone where the homeowners are backing up to it where they are encroaching? Steve said we got a fence already we just didn't put it up because everyone moved their stuff, but in two (2) years from now it might happen. If you limit the township to have to go through a bunch of special meetings and pay a bunch of fees, the longer something like that goes on, the worse it is. It is like your neighbor. Your neighbor throws things in your yard and starts having a

barbecue grill in your backyard and he gets burned. He sues you because it is your property. Commissioner Stanly said, you can sue anybody for anything in Illinois. Steve said, somebody cuts three (3) feet of your oak tree down that is one hundred twenty-five (125) years old. It's a lawsuit. Steve said, it is not like what people would think. It is not a big giant ugly looking thing. It is a little thing. Commissioner Stanly asked, how high? Steve said, three (3) foot. Commissioner Stanly asked, open fence? Steve said, it's a plastic one. It is just to separate. Director King said, explain it again. Steve said, we got a three (3) foot plastic fence. Like a silt fence except it is see through. It's made of plastic. It is heavy. We bought the heavy plastic. Director King asked, is the fence material ridged? Commissioner Bradarich said, it is like a temporary fence, right? Steve said, I guess you could call it that. It is thicker than the cheap plastic ones and its little squares. You could see through it and it is green. Commissioner Bradarich asked, what kind of posts? Steve said, the green posts. Commissioner Stanly asked, like the metal posts? Steve said, yeah, but again, we don't want to do that. That is why it is sitting in the garage now, because if people got rid of the encroachments. Commissioner Stanly asked, I know there was somebody who built a garage and extended it out or something like that on the property, right? Steve said, yeah. We got it surveyed and staked and the people pulled the stakes. Commissioner Stanly asked, but everyone did move though? Everybody's got everything gone? Steve said, right now as far as I know. My guys go check every couple of weeks. Everything is okay. Commissioner Bradarich asked, because you threatened to fine them, right? Steve said everything is fine, but if we start having problems, we want to have the ability to put a fence up. We can't control it. Same with Homer Glen, if you have something here you have to control what happens so you don't get yourself in court. What do you do when the judge asks? Well, I put up a no trespassing sign and the sign is gone. Where are the stakes that we had marked?

Commissioner Stanly asked, you don't think anybody's going to take down your fence? Steve said, if they take down the fence, it is not going to be the whole property. It's just going to be like sections where the houses are. Commissioner Stanly asked, how long total? Steve said, I don't know how many feet it is. Since they took the stakes out, we would have to get them to put new stakes in. We don't even know the exact boundary, but the guys that work there can eye it and they are saying nobody is moving their stuff in there. So, if you take the fence then we have to get a survey again so they can put the stakes in. Then we put the fence in. I don't want it to have to get to that, but at the same time, I don't want to be denied the authority to do that. What do we do? We go to Plan Commission for a special use and then it takes about a month. Commissioner Stanly asked, how many houses does it affect? Steve said, I'm guessing probably about sixty (60) total because there are two (2) sections. Commissioner Stanly asked, then how many did you have encroaching on your property? Was it all sixty (60) or was it just a couple of the sixty (60)? Steve said, probably half of them at the time. Commissioner Stanly said, so thirty (30). Steve said, but no one is doing it now. Patricia from the public said, that is exactly right Steve. The letter that you sent out was enough warning and now no one is doing it. Steve asked, you live over there? Patricia said, I live a couple houses away. Steve said, I'm just trying to make it so that if we do have a problem and I don't think we will. Commissioner Stanly said, I think everybody should know, right? I mean, you sent the letters out and everybody knows and everybody moved because they don't want to get sued by the township for not moving their stuff. Steve said, I've been on land use at the county for twelve (12) years so I understand special use permits. We come here for a special use permit because we are in trouble mainly because at this point, we have to put a fence up. It's because we have a problem. Commissioner Stanly said, I don't think you will have problems. Steve asked, you don't think it is

a problem? Commissioner Stanly said, no, I don't think you'll have problems. I think most people know what they did was wrong. You requested that they fix it. They fixed it, I'm assuming they did. I don't think you'll have any problem other than maybe somebody going an inch over on the property line cutting his grass where he shouldn't. Steve said, we had to get the County on a different property because they didn't listen, but these people were kind enough to do the right thing. There are people who don't though. Commissioner Stanly said, well then maybe you should deal with them on a case-by-case basis and don't involve everybody at the same time. Steve said, but our attorney advises us that if we have this again then we have to revisit it and we have to make sure that the township is protected. Commissioner Stanly said, then you come back for a special use permit. Steve said, we come back and then we have to wait a month or two (2) weeks before it goes to the Plan Commission and then it goes to the Village Board for a vote and in the meantime, we are open for a problem for anywhere from two (2) weeks to a month. Commissioner Stanly said, you have had this property in the township since 2000 and you have been in charge how long? Steve said, two (2) years. Commissioner Stanly asked, when was the process to get these people that were encroaching on your township property off of that property? Is this something just recently or has it been two (2) years? Steve asked, do you really want me to say why? Commissioner Stanly said, I'm not asking why I'm just asking how long it has been. Steve said, because the person that was in charge didn't bother to do it. That's the answer. I'm in charge and I'm trying to do everything the right way. I didn't want to say that. That is what happened. They didn't care or they cared, but didn't do anything about it. Maybe they didn't think it was important. I don't know.

Commissioner Bradarich asked, what would you think Steve if we wrote something in here that temporary fences can be erected for special emergencies or something? Steve said, that's perfect. We don't want to leave it up. Once the problem is eradicated there is no reason to have the fence. Commissioner Bradarich said, it would be a temporary basis that you still have to come for a special use permit to replace that temporary fence with a permanent fence. Steve said, that's why I don't want to put a permanent fence up. I don't know what is going to happen in the future so I can't say, but I really don't think it's appropriate to put a big fence there. If we had to, I guess we would and we would come get a special use permit. I don't have a problem with that I'm talking about for the little fence if we have to do it. Again, I don't think we are going to have to do it, but I don't want to be caught in the bad stuff. We really have a serious problem here. I go out on a ledge just doing this open space stuff because the reality is, it is not what most townships would do because it devalues the land. There are a lot of things and so we are just trying to do what everybody wanted a long time ago. I don't know how better to explain it. Commissioner Bradarich asked, can we say something that temporary fences can be rectified by the Village or the Township in an emergency situation or on a temporary basis? Director King asked, just those two (2) entities? Commissioner Bradarich replied, yes. Director King asked, not any public entity? Commissioner Bradarich said and the County. Director King asked, do you want to put a timeframe on it? Commissioner Bradarich said, I think you would have to say ninety (90) days. That is probably how long it would take to get a special use permit. Director King asked, would we put that under C2? Commissioner Stanly said, under temporary fence of a minimum height of five (5) feet shall be erected during excavation and construction of a swimming pool. Director King said, no we are on page three (3). Commissioner Bradarich said, I was saying that we should permit a temporary fence in the event of an emergency not to exceed ninety (90) days. Director King asked, then that will start it out as public entities? Commissioner Bradarich replied, yes. Director King said, I think we need to say for a public or governmental

entities, temporary fencing is allowed in the event of an emergency not to exceed ninety (90) days. Taylor asked, would you say a height or would it be subject to general regulations where the maximum height is four (4) feet? Commissioner Bradarich said, four (4) feet would be a good deterrent. No higher than four (4) feet. They could put a three (3) foot if they want to, but no higher than four (4) feet.

Commissioner Foley asked, if I did this it would be with conditions correct? Director King said, I think what you could say is if you're going to approve it, you could say, is there a motion to recommend approval for the amended text amendments. Commissioner Bugos-Komperda said, to chapter 220 and read all of that? We don't read all the uses though, just that part? Director King said, yes. Commissioner Stanly said, the rest is in the record.

Commissioner Stanly asked for a motion. Commissioner Foley made a motion to recommend approval for text amendments to Chapter 220, Article V, Agricultural Districts and Open Space Districts of the Zoning Code of the Village of Homer Glen [HG-2320-A].

The motion was seconded by Commissioner Bugos-Komperda. A roll call vote was taken with Commissioners Bugos-Komperda, Foley, Bradarich, and Stanly voting in favor four (4) to zero (0). The motion passed unanimously and will go before the Village Board on September 27, 2023.

Commissioner Stanly asked for a motion. Commissioner Foley made a motion to adopt staff's findings as the findings of the Plan Commission. (Are there any amendments/corrections? if so, the Findings need to be amended before adoption) The motion was seconded by Commissioner Bradarich.

I think tonight what would make this easy is if the Plan Commission, since it is just a recommendation and it is not even a normal case with normal findings. I think you can reference discussion tonight and then ask staff to utilize formal minutes to go with the board packet. I think in this case this item will work out, but I think that these minutes will come back to the Plan Commission on September 21st. Then the Village Board meeting this would go to is September 27th. I think that would work out for this one instead of going back through all of this discussion. There are definitely things that the Plan Commission brought up that were not in our presentation or report. I think you can direct staff to the minutes as part of the findings. Commissioner Foley asked, do I have to direct staff to see the attached minutes from tonight's meeting? Director King said, I think what you are going to have to do in this situation is amend it. So, you have a motion on the table on the second and somebody is going to make a motion to amend it.

Commissioner Bradarich made a motion to amend the findings of fact and to be adopted at the next meeting as the minutes. The motion was seconded by Commissioner Bugos-Komperda.

Director King said, then you need to vote on that amendment.

A roll call vote was taken with Commissioners Bradarich, Bugos-Komperda, Foley, and Stanly voting in favor four (4) to zero (0). The motion passed unanimously and will go before the Village Board on September 27, 2023.

Director King said, then we need to vote on the motion. Commissioner Bugos-Komperda asked, there has already been a first and second, right? Director King said, that was the amendment. This will be the actually motion.

A roll call vote was taken with Commissioners Bugos-Komperda, Bradarich, Foley, and Stanly voting in favor four (4) to zero (0). The motion passed unanimously and will go before the Village Board on September 27, 2023.

**b) Case No. HG-2319-A, Welter Farm Map Amendment (Public Hearing):
Consideration of a request for a Map Amendment to rezone the subject
property from the E-1 Single-family Estate Residential District to the OS-1
Open Space District, for certain real property located at PIN 1605114000250000
in Homer Glen, Illinois, (Commonly known as the "Welter Farm").**

Director King presented the facts of this case. The second case which we are all very familiar with already, is the actual rezoning of the Welter Farm. This is to consider a zoning map amendment to rezone the subject property from E-1 Single-family Estate Residential District to OS-1 Open Space District for certain real property located at PIN 1605114000250000 in Homer Glen, Illinois, (commonly known as the "Welter Farm") [HG-2319-A]. The applicant, Township Supervisor Balich on behalf of the Homer Township property is applying to amend the zoning classification on the subject property from E-1 to OS-1 Open Space. No changes to the current agricultural uses are being proposed on the property at this time.

Staff did receive a few public comments on the case. One resident called the village once they saw the public hearing sign posted to the property and asked what it was for. Staff explained it was a map amendment to the open space district for the resident. The resident asked who the applicant was and then told staff they did not trust the intentions of the Township. Staff also fielded a number of questions from residents that just didn't know what was going on. I think there was some confusion that this might be a development application because of what had occurred a few years earlier. So, I think that kind of dovetails in with the first comments as well. I think just because of what had occurred in the past. I think just because of what had occurred in the past. Commissioner Bradarich asked, on this motion sure it reference what we just approved? Director King asked, what do you mean? Commissioner Bradarich said, I mean it says that we are going to rezone it to open space, but the open space that we are rezoning it to hasn't been approved yet. Director King said, this will all go together. They are both recommendations. They are going to go simultaneously. What would happen at the board level is the recommendation for both items will go in front of them in the same order so that the board will then adopt the changes to the OS-1 ahead of this rezoning occurring. If they didn't want to rezone this based on what the text amendment said, if they have issues with that, that is when they would be able to change those first. That is why it's important to have them in this order. I understand what you're saying, but I think the only way to handle this is to do it simultaneously with recommendations. You could condition it. You could certainly condition this motion on approval of the text amendment.

So just from a zoning compliance stand point because we always usually look at this stuff. There is no minimum lot size, lot width or frontage required. It is in the open space district, but this property is forty (40) acres. Which is rather large. The comprehensive plan designates the subject properties as parks and open space with other environmental features to be preserved. The property has been farmed since before Village incorporation. It appears to have a small portion of a tree stand on the southeast corner. The current agricultural use of the property will be considered a legal nonconforming use unless there is a use variance or a text amendment to

the OS-1 district. The transportation plan just conforms that there is access on the property off of Mulranny Drive.

This is another thing that I think staff is going to be doing based on conversation with our attorney on how we are handling findings. We are going to go through the stuff instead of just being in a packet. I think putting it on record so if the public has questions that need to be asked about different zoning approval. So, with rezoning, we ask questions about the uses, the zoning around it, the character of the area, and how long these have been vacant. I'm just going to read through these so we address them. The existing uses in the general area of the subject properties are a mix residential, agriculture, commercial and utility (ComEd Substation). The zoning classification of the majority of the properties within the general area include A-1 Agricultural, R-4 Single Family Residential, E-1 Estate Residential, C-2 Commercial. The property in question is an open space parcel acquired by the Homer Township. The township is currently leasing the land to a farmer and has been so for over twenty (20) years. In E-1 Estate Residential, this use is not permitted and is considered a legal non-conforming use. Much of the land around this property is vacant or currently farmed. The 2005 Comprehensive Plans designates the subject property as Parks and Open Space with Environment Feature to be preserved. The change in zoning request to the open space district is in conformance with the Comprehensive Plan Recommendation. The Village is concurrently considering a text amendment to the open space district that would allow farming as a permitted use. The subject properties are not vacant, but are open space property owned by Homer Township and have been farmed since prior to Village incorporation. It is not expected that property values will be diminished. I think the more you kind of regulate property like this, not to that property itself but to the surrounding properties and you have conservation land those should have the same property values. Is that correct? Commissioner Bugos-Komperda said, yes.

Again, here is the motion. I think on that first motion if you would like to add a condition. Commissioner Bradarich said, the condition would be that the text amendment recommended by the Plan Commission for OS-1 is approved.

A motion was made to open the public hearing by Commissioner Foley seconded by Commissioner Bugos-Komperda all in favor, zero (0) opposed. Motion carried.

The petitioner had nothing more to add.

A motion was made to close the public hearing by Commissioner Bradarich, seconded by Commissioner Foley all in favor, zero (0) opposed. Motion carried.

Commissioner Stanly asked for a motion. Commissioner Bradarich made a motion to recommend approval with conditions for a Zoning Map Amendment to rezone the subject property from the E-1 Single-family Estate Residential District to the OS-1 Open Space District, for certain real property located at PIN 1605114000250000 in Homer Glen, Illinois, (Commonly known as the "Welter Farm") [HG-2319-A]

- 1. The text amendment recommended by the Plan Commission for OS-1 Open Space zoning is approved.*

The motion was seconded by Commissioner Foley.

Commissioner Bugos-Komperda asked, I have a question before we take roll. What if the board wanted to change something? Could it still be approved or would it come back to us again? Commissioner Stanly said, the board could change it because we are just recommending. Director King said, they could actually just write off the entire condition if they wanted to. Commissioner Bradarich said, that is just our recommendation.

A roll call vote was taken with Commissioners Bugos-Komperda, Foley, Bradarich, and Stanly voting in favor four (4) to zero (0). The motion passed unanimously and will go before the Village Board on September 27, 2023.

This one you need to do findings motion. Those findings of the eight (8) or nine (9) questions that I have to answer, those are part of any rezoning that we do. That is part of the findings and if there were no changes, which it sounded like there was no additions then you will just adopt and there won't need to be an amendment.

Commissioner Stanly asked for a motion. Commissioner Bradarich asked for a motion to adopt staff's findings as the findings of the Plan Commission? (are there any amendments/corrections? if so the Findings need to be amended before adoption) The motion was seconded by Commissioner Bugos-Komperda. A roll call vote was taken with Commissioners Foley, Stanly, Bugos-Komperda, and Bradarich voting in favor four (4) to zero (0). The motion passed unanimously and will go before the Village Board on September 27, 2023.

7) Old Business

None.

8). Reports of Plan Commissioners and Staff

Commissioner Bugos-Komperda said the only thing I wanted to ask is a resident asked me and I thought, well that would be great if it was true. She said that she had heard that American Water would allow you to put in a separate meter for watering outside, that you would be charged for the water. Has anyone ever heard that? Commissioner Stanly said, no. Commissioner Bugos-Komperda said, I'm going to call American Water and ask because we certainly would all like that.

9) Adjournment

A motion was made to adjourn by Commissioner Bugos-Komperda, seconded by Commissioner Bradarich. All in favor, zero (0) opposed and the meeting was adjourned at 8:27 PM.

Minutes transcribed and respectfully submitted by Sarah Pesavento.

Sarah Pesavento (Plan Commission Secretary): Sarah Pesavento

Approved Date: 9/21/2023