



**NAPERVILLE PLANNING AND ZONING COMMISSION
DRAFT MINUTES OF NOVEMBER 19, 2014**

**UNOFFICIAL PRIOR TO PZC APPROVAL
APPROVED BY THE PZC ON DECEMBER 3, 2014**

Call to Order

7:00 p.m.

A. Roll Call

Present: Frost, Gustin, Hansen, Hastings, Martinez, Messer, Meyer, Williams
Absent: Coyne
Student Members: None
Staff Present: Planning Team – Tim Felstrup, Allison Laff, Ying Liu, Derek Rockwell
Engineer – Amy Ries

B. Minutes

No minutes to be approved. The minutes of the 10/29 and 11/19 PZC meetings will be presented at the 12/3 meeting.

C. Old Business

**C1.
PZC Case 14-1-113
Greenway Herbal
Care**

The petitioner requests continuance of the public hearing to consider a conditional use for a medical cannabis dispensing facility in B3 (General Commercial District) for Unit 103 of the property located at 424 Fort Hill Drive to January 21, 2015 due to a scheduling conflict.

Planning and Zoning Commission continued the case to January 21, 2015

D. Public Hearings

**D1.
PZC 14-1-128
140 W. 5th Ave.**

The petitioners are requesting a variance to Section 6-6B-7:1 (R1B Medium Density Single-Family Residence District; Yard Requirements) to reduce the required interior side yard setback on the subject property to 3' in order to construct a new single-family home at 140 W. 5th Avenue.

Tim Felstrup, Planning Services Team, gave an overview of the request.

Dan Di Santo, Owner, 6N957 Willowbrook Drive, St. Charles, spoke on behalf of the petitioner:

- Petitioner stated that he was available for questions.

Planning and Zoning Commission inquired about:

- Williams – Do you currently rent this property? Di Santo - Currently yes.
- Williams – Are these changes consistent with the area? Di Santo - Yes, this lot is narrower than a typical lot in the neighborhood, primarily based on the curvature of the street.

Public Testimony: None

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Frost – Staff memo was convincing; will support.
- Gustin – Agree with my fellow commissioners, will be supporting. Looking forward to the property improvements.
- Hansen – Staff and Park District support, I will support.
- Hastings – Will support.
- Martinez – Due to the narrow lot and the support from neighbors, I will support.
- Messer – This is an oddly shaped lot, and will support.
- Meyer – The letters of support and staff recommendation are convincing; will support.
- Williams – Staff and Park District support make sense, I will support.

Planning and Zoning Commission moved to recommend approval of PZC 14-1-128, a variance to Section 6-6B-7:1 (R1B Medium Density Single-Family Residence District; Yard Requirements) to reduce the required interior side yard setback on the subject property to 3' in order to construct a new single-family home at 140 W. 5th Avenue.

Motion by: Meyer
Seconded by: Williams

Approved
(8 to 0)

Ayes: Frost, Gustin, Hansen, Hastings, Martinez, Messer,
Meyer, Williams
Nays: None

**D2.
PZC 14-1-124
Art Van Wall Sign**

The petitioner requests a variance from Section 5-4-5:1 (Commercial Signs, Wall Signs) of the Naperville Municipal Code in order to install a total of 330 square feet of wall signage on the west façade of the building located at 404 S. Route 59.

Tim Felstrup, Planning Services Team, gave an overview of the request.

Planning and Zoning Commission inquired about:

- Frost – Are the same hardship conditions applicable to similar sites along Route 59? Felstrup - Yes, depending on site setbacks. This space is significantly wider than most tenant spaces.

- Hastings – Is the current wall signage within the code requirement? Felstrup - Yes
- Williams – Is the secondary sign proportional to the primary sign in terms of square footage? Felstrup – Yes

Michael Rupert, 6500 E. 14 Mile Road, Warren, MI, Art Van Furniture Director of Store Design, spoke on behalf of the petitioner:

- Gave an overview of the business history. The large setback and difficulty in terms of visibility from Route 59 create a hardship in this case.

Planning and Zoning Commission inquired about:

- Meyer - Will the Art Van sign be located at same position as the current sign? Rupert - No, it will be located at the new entrance being created for the new business that will face the parking lot.
- Hastings – Is Pure Sleep a subsidiary business to Art Van? Rupert - Yes, it is a secondary business in the facility.
- Hansen – How far is the building setback from the ROW line of Route 59 as opposed to the center line? Rupert – At least 400 feet.

Public Testimony: None

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Frost – There are five other buildings in this area set back an equal amount from Route 59. Heard no justification for this particular building to receive the requested variance that wouldn't apply to other buildings along Route 59.
- Gustin – Appreciate the new design work; visibility is important at this site. Safety and visibility come first and will be supporting.
- Hansen – The substantial setback justifies the consideration of this request. Appreciate Commissioner Frost's concerns, however, should other tenant spaces in this area apply for a similar request, would possibly support further requests from similarly situated properties and tenants based on the hardship. The buildings in front of the subject space do present sight obstruction issues.
- Hastings – No problem with the request. This building and others off of Route 59 make sense to have increased signage square footage.
- Martinez – The signage appears appropriate for the building size. Design work at the building is nice.
- Messer – Normally would be concerned with the size of the variance request, however, due to the large building setback I am in support of the request.
- Meyer – Concur with Commissioner Hastings.
- Williams – Support the request. Excellent hardship reasoning. This

signage will help to allow the re-branding of the new business at the location. This is a large building similar to Wal-Mart in terms of wall size and thus understands the request.

Planning and Zoning Commission moved to recommend to recommend approval of PZC 14-1-124, a variance from Section 5-4-5:1 (Commercial Signs, Wall Signs) of the Naperville Municipal Code in order to install a total of 330 square feet of wall signage on the west façade of the building located at 404 S. Route 59.

Motion by: Williams
Seconded by: Meyer

Approved
(7 to 1)

Ayes: Gustin, Hansen, Hastings, Martinez, Messer, Meyer,
Williams
Nays: Frost

D3.
PZC 14-1-133
1208 Horseguards
Ct. Fence Variance

The petitioner requests continuance of the public hearing to consider a variance to Section 6-2-12:1.7 (Fences) to construct a 4.5 foot tall open “wrought iron” style aluminum fence along the rear property line adjacent to Hobson Road at the property located at 1208 Horseguards Court to December 3, 2014.

Planning and Zoning Commission continued the case to December 3, 2014.

D4.
PZC 14-1-125
N. Downtown
Special Planning
Area Overlay Dist.

The City of Naperville is proposing an amendment to Title 6 (Zoning Regulations), Chapter 2 (General Zoning Provisions) in order to establish a zoning overlay district for the North Downtown Special Planning Area.

Allison Laff, Planning Services Team, gave an overview of the request.

Planning and Zoning Commission inquired about:

- Hastings – Is this being done to protect future development or current homeowners in this district? Laff - The purpose is to protect the Downtown Plan. There is a mix of property owners in the district that would like to redevelop in a manner consistent with the Downtown Plan while some property owners would likely prefer to continue to use their property as it exists.
- Hastings – How have current property owners voiced their opinions on this matter? Laff - I received no calls upon noticing for this meeting. At the DAC meeting, of the 10 property owners that voiced opinions, none were in opposition.
- Meyer – Have parking considerations been included in this overlay proposal? Laff - The focus with parking in the overlay district is to ensure parking in this specific area is provided per Code in a self-sustaining manner, rather than within the boundaries of a Special Service Area, as is utilized in the Downtown.

- Meyer – Are we disallowing single-family residential in this area through this proposal? Laff – This would not prohibit duplexes, townhomes or condos. There would be an additional layer of review for single family. Petitioners would be able to seek the ability to construct single family residential through the conditional use process.
- Frost – Sought clarification regarding why single family residential would require a secondary review layer. Laff – If the entire area was driven to steer toward retail uses, that could happen under this proposal. This plan allows the City to review single family residential on a case-by-case basis in order to determine its appropriateness in the context of the North Downtown Plan.

Public Testimony:

Lynn Dowd, 29 N. Benton Avenue:

- Currently own residential property in the district. Will there be any prohibition to my current residential use or the construction of a garage on my property?

Petitioner responded to testimony:

- Laff – The existing residential use can continue so long as that was the homeowner’s desire. Only upon potential redevelopment would the overlay district possibly take effect. A garage could be constructed with no public process.

Planning and Zoning Commission inquired about:

- Messer – Seeking clarification regarding the opinion of the property owners at the DAC meeting regarding this matter. Laff explained that the residents generally were in favor of redevelopment in general as an alternative to keeping the existing single family as such in perpetuity.
- Messer – What was the impetus of this request? Laff - DAC responded to nearby property owner concerns regarding development in this area.
- Hastings – What can be constructed by right as the district currently exists? Laff - Any of the currently permitted uses in the R2, TU, B4 and B5.
- Frost – Why was single family discouraged through the DAC process? Laff - it’s more feasible and less difficult to site new construction around uses other than single family homes, which could potentially present problems with the character of the area and set a residential tone for a block or an area.
- Williams – Aren’t we looking to drive this area into a high density character, where multi-unit structures are more called for than single family homes? Laff - market pressure drove the establishment of the area and this proposal allows for an additional layer of review in order to allow and regulate appropriate development within this area. This is the last area that the downtown could expand to and this plan helps to guide redevelopment appropriately.

- Meyer – How do the potential TU District modifications affect this proposal? Those properties in this area zoned TU would be subject to both layers of regulation.
- Meyer – Could a home to business conversion trigger the large room addition regulations? Laff – No, that would not trigger the conditional use requirement.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Frost – Has concerns regarding the treatment of the single family residential under this plan. Trusts the recommendation of the DAC and will defer to their recommendation. Has caution toward the conditional use process required for single family residential.
- Gustin – This plan could help to spur potential commercial development in this area, which could create synergy help to spur additional development in the north downtown area.
- Hansen – Supports the TOD elements of this plan. This is the last area in which the downtown has the ability to expand. Believes that the overlay district provides a balance between protection of existing uses and control and regulation of potential new uses. Will be supporting.
- Hastings – Believes current zoning is flexible, would prefer to let the market dictate how this area will be used. Commercial redevelopment in a recession would be difficult and restrictions would not make sense. Will not support.
- Martinez – Think a plan is necessary because of the growth of the downtown. Concerned about restricting single family, but it also protects the existing single family and helps to plan for the future of the downtown. Will support.
- Messer – Would like to see more protection for the residential components of the north downtown area. Have difficulties with the conditional use process for single family residential, but overall supports the overlay.
- Meyer – With the exception of the conditional use aspect for residential uses, supports this plan. Concerned about stagnation if a conditional use process is added for residential uses.
- Williams – Attempting to continue the growth of a dense downtown expansion and agree with the modifications. Responsible and intelligent draft modifications.

Planning and Zoning Commission moved to recommend approval of PZC 14-1-125, an amendment to Title 6 (Zoning Regulations), Chapter 2 (General Zoning Provisions) in order to establish a zoning overlay district for the North Downtown Special Planning Area, subject to the deletion of Section 5.1 of the Proposed Language (Attachment 6) regarding requiring a conditional use process for single-family detached residential uses.

Motion by: Hastings
Seconded by: Meyer

Ayes: Hastings, Messer, Meyer
Nays: Frost, Hansen, Martinez, Williams, Gustin
Not Approved
(5 to 3)

Planning and Zoning Commission moved to recommend approval of PZC 14-1-125, an amendment to Title 6 (Zoning Regulations), Chapter 2 (General Zoning Provisions) in order to establish a zoning overlay district for the North Downtown Special Planning Area.

Motion by: Williams
Seconded by: Hansen
Approved
(5 to 3)

Ayes: Frost, Hansen, Martinez, Williams, Gustin
Nays: Hastings, Meyer, Messer

**D5.
PZC 14-1-126
B5 Amendments**

Staff is requesting that Title 6 (Zoning Regulations), Chapter 7 (Business Districts), Article E. (B5, Secondary Downtown District) be amended regarding permitted uses and required conditions.

Allison Laff, Planning Services Team, gave an overview of the request.

Planning and Zoning Commission inquired about:

- Gustin – Is there a restriction on first floor uses? Laff - In the B4 District, general services are not permitted on the first floor.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Frost – Concurr; will support.
- Gustin – Concurr; will support. This is a good cleanup.
- Hansen – Concurr; will support.
- Hastings – No problem with this; will support.
- Martinez – Concurr; will support.
- Messer – Concurr, in favor of these modifications.
- Meyer – Concurr; will support.
- Williams – Concurr; will support.

Planning and Zoning Commission moved to recommend approval of PZC 14-1-126, an amendment to Title 6 (Zoning Regulations), Chapter 7 (Business Districts), Article E. (B5, Secondary Downtown District) regarding permitted uses and required conditions.

Motion by: Meyer
Seconded by: Williams

Approved
(8 to 0)

Ayes: Frost, Gustin, Hansen, Hastings, Martinez, Messer,
Meyer, Williams
Nays: None

**D6.
PZC 14-1-131
TU Text
Amendments**

Staff requests amending Section 5-10-3 (Landscaping and Screening), Section 6-2-14 (Major Arterial Setback Requirements), Section 6-7I (TU Transitional Use District), Section 6-9-2 (Off-Street Parking Facilities), and any other sections of the Naperville Municipal Code as necessary in order to revise the regulations for properties located within the TU (Transitional Use) District.

Ying Liu, Planning Services Team, gave an overview of the request.

Planning and Zoning Commission inquired about:

- Gustin – Can you share some challenging scenarios this amendment would help alleviate? Liu – The original proposal for a mixed use development at the northeast corner of Benton and Webster. The property sat vacant for many years and was eventually purchased and is now being used as a single family home. The original plan for the site was more intensive.
- Meyer – Could you outline arterial roadways and commercial districts within the City that could be rezoned to TU? Liu - Ogden Avenue and Washington Street would be good candidates for these amendments. Also, portions of 75th Street could be applicable. Route 59, while a major arterial, could be too intense for a TU designation. An example of a busy street that is not a major arterial is Chicago Avenue, and properties located on Chicago could potentially be a candidate for TU zoning in the future.
- Meyer – Are we looking at rezoning within our residential neighborhoods? Liu – No, we are not looking at rezoning a single-family lot in the middle of a residential subdivision. This is intended to be a transitional area. If a property that is located on and has access off of Washington Street that backs up to a residential neighborhood were to seek rezoning to TU, then that could be considered.
- Meyer – Could properties bordering a neighborhood shopping business district rezone to TU? Liu – Any rezoning request would be required to come before the PZC and reviewed on its own merits. However, the intent of the amendments is not to create incompatibility between adjacent commercial and residential uses.
- Meyer – Seeking clarification regarding the appropriateness of the legal notice for this case. Laff – Yes, the City provided all proper legal notice for this case as well as pursued additional notice measures in order to be as transparent as possible.

- Gustin – Would single family properties adjacent to commercial uses have the ability to rezone to TU? Laff – The request could be made, but according to the property’s Future Land Use as well as its size being deficient for most commercial uses, that would be a difficult request to receive approvals from the City.
- Messer – A multifamily building in the TU District was proposed several years ago on Van Buren between Webster and Eagle. Have those entitlements expired? Liu – Yes. The future land use under the Downtown 2030 Plan calls for those properties to be zoned B5. As such, if the owner of the property came in for redevelopment, we would encourage rezoning to B5 for consistency with the Downtown 2030 Plan.
- Hastings – As these amendments generally broaden flexibility, could you explain the proposed prohibition on drive-throughs? Liu - The intent of the TU District is to promote compatibility with adjacent residential neighborhoods. The noise, light and traffic issues associated with drive-throughs are not compatible with these uses.
- Williams – Will current property owners be required to rezone as a result of this proposal? Liu - No. The City may approach property owners concerning potential rezoning but the property owners would not be required to take action if they should not desire. If they should desire to move forward with the city-initiated rezoning, there would be no cost to them.
- Hansen – Would those properties become legal non-conforming? Liu - Some would become legal non-conforming, others may seek rezoning in accordance with the Future Land Use Plan.
- Meyer – Would we require a business owner to live on the second floor of the building in which they operate their business? Liu - No, but they would have the ability to reside in this live - work setup if they so choose. This would provide more flexibility for the business owners. The limitation of a single person utilizing both units helps to control the intensity of the building.

Public Testimony:

Rick Hitchcock, 1130 Omaha Court

- Concerned with the live / work unit component of the proposal. If an owner would like to live on either of the floors and rent the other floor out to another tenant, I see no way in which that could adversely impact the neighborhood or that the neighborhood would be aware of the living / working circumstances in the building.
- Concerned with the decreased maximum building heights and how they could play into the existing architecture and character of the buildings. Older structures have first floors that are several feet off the ground and this could impact the height calculations and could end up being restrictive if enacted.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Frost - Supporting with the discussed height and live / work amendments.
- Gustin – Agree that a 35 foot restriction is appropriate. Would be in favor of the deletion of the occupancy requirement for live / work unit. Believes that there are appropriate checks and balances that would allow for the regulation and control of potential sites to be rezoned to TU while also allowing for appropriate growth of the City.
- Hansen – Believes the height and live - work components of the proposal should be amended to be more permissive.
- Hastings – Believes that the live - work component of the proposal should be amended to be more permissive in terms of mixed residential / commercial use and urban character.
- Martinez – Supporting with the discussed height and live / work amendments.
- Messer – Favors the height restriction because we may be looking at lots that are adjacent to residential. Has difficulty with the live - work component of the proposal.
- Meyer – Believes this proposal is too broad and beyond the parameters of the Downtown 2030 Plan. Removal of the lot area requirements is a concern. This requires closer review. Will not be supporting.
- Williams – Does not believe that a requirement that the owner must occupy the building is necessary. Would not be opposed to the proposed height restriction. Will be supporting.

Planning and Zoning Commission moved to recommend approval of PZC 14-1-131, an amendment to Section 5-10-3 (Landscaping and Screening), Section 6-2-14 (Major Arterial Setback Requirements), Section 6-7I (TU Transitional Use District), Section 6-9-2 (Off-Street Parking Facilities), and any other sections of the Naperville Municipal Code as necessary in order to revise the regulations for properties located within the TU (Transitional Use) District, subject to the deletion of that portion of point #5 in the staff memo requiring that live-work units be occupied by the same occupants for the residential and commercial components.

Motion by: Williams
Seconded by: Messer

Approved
(7 to 1)

Ayes: Frost, Gustin, Hansen, Hastings, Martinez, Messer,
Williams
Nays: Meyer

**D7.
PZC 14-1-141**

The City of Naperville is seeking an amendment to Section 6-14-4.1 (Performance Standards: Noise) pertaining to allowable construction hours and

**Amendments to
Title 5 & 6
Regarding
Construction Hours**

administrative approval authority.

Allison Laff, Planning Services Team, gave an overview of the request.

Planning and Zoning Commission inquired about:

- Williams – Clarified that this will delegate the ability to approve these requests to City staff.
- Frost – Believes this should be delegated to City staff.
- Meyer – Does this matter arise often? Laff - It doesn't often make it to Council, but staff receives requests often.
- Gustin – Where did this proposal originate? Laff - The City Manager's Office.
- Gustin – This allows a more convenient process for business to be done in the City.

Planning and Zoning Commission closed the public hearing.

Planning and Zoning Commission Discussion:

- Frost – This seems like a suitable staff administered task and can help alleviate City Council's workload. It will also help with the timeliness of the City's response to these requests.
- Gustin – Feels comfortable with the checks and balances afforded through the City Council – City Manager relationship.
- Hastings - Comfortable with this request and the City Council will be able to provide feedback to the City Manager as these decisions are rendered in the future.
- Messer – Comfortable with this request. If City Council does not want to provide this authority, they will have that chance as this matter moves on for their consideration.
- Williams – Sees concerns with providing a single office with the authority to grant these requests. Could see potential issues arising should neighbors have a concern with the construction hours after the permission has been granted.

Planning and Zoning Commission moved to recommend approval of PZC 14-1-141, an amendment to Section 6-14-4.1 (Performance Standards: Noise) pertaining to allowable construction hours and administrative approval authority.

Motion by: Williams
Seconded by: Messer

Approved
(8 to 0)

Ayes: Frost, Gustin, Hansen, Hastings, Martinez, Messer,
Meyer, Williams

Nays:

E. Reports and Recommendations

F. Correspondence

G. New Business

G1. Medical Cannabis Text Amendment Request

Meyer requested an addition to the text amendment initiation request to Ordinance 13-132 in order to delete “Medical Cannabis Dispensing Facilities” from the list of permitted uses in the I District and instead add it to the list of conditional uses in the I district.

This text amendment request was originally brought forth and approved by the PZC at the October 29th, 2014 meeting and shall be forwarded on to City Council for consideration. Meyer amended the request to include the provision that dispensing facilities in all industrially zoned districts, including the I, ORI, and RD Districts should be reclassified as conditional uses.

Liu – The PZC originally recommended medical cannabis dispensaries as a conditional use in the industrial districts when the initial Medical Cannabis Ordinance was reviewed by the PZC. However, the City Council amended the PZC’s recommendation and made medical cannabis dispensaries a permitted use in the industrial districts. Based on this history, staff would like to take Meyer’s request to the City Council for its direction first. If Council concurs with the PZC, staff will proceed with scheduling a public hearing for the proposed text amendment.

Planning and Zoning Commission moved to submit the request for a text amendment to Ordinance 13-132 to the City Council in order to delete “Medical Cannabis Dispensing Facilities” from the list of permitted uses in industrially zoned districts and instead add it to the list of conditional uses in those districts.

Frost – Would a conditional use across the board be considered an outright prohibition? Laff - No

Hastings – This matter has already been through the public hearing and approvals process with the PZC and the City Council modified a portion of that recommendation. Sees no reason to revisit the issue.

Planning and Zoning Commission moved to submit the request for a text amendment to Ordinance 13-132 to the City Council in order to delete “Medical Cannabis Dispensing Facilities” from the list of permitted uses in the I, RD, and ORI Districts and instead add it to the list of conditional uses in the I district.

Motion: Meyer
Second: Messer

Ayes: Frost, Gustin, Messer, Meyer
Nays: Hastings, Martinez, Williams
Abstain: Hansen

**G2.
Outgoing and
Incoming
Commissioners**

Commissioner Gustin noted that this would be Commissioner Meyer's final Planning and Zoning Commission meeting as her term has come to a close. Commissioner Gustin thanked Commissioner Meyer for her years of service on the Commission. Commissioner Williams echoed these sentiments, noting her attention to detail. The balance of the Commission also thanked Commissioner Meyer.

Commissioners Gustin and Williams welcomed incoming Commissioner Carrie Hansen to the Planning and Zoning Commission.

H. Adjournment

9:55 p.m.