



**NAPERVILLE PLANNING AND ZONING COMMISSION  
APPROVED MINUTES OF OCTOBER 8, 2014**

**UNOFFICIAL PRIOR TO PZC APPROVAL  
APPROVED BY THE PZC ON ON OCTOBER 29, 2014**

**Call to Order**

**7:00 p.m.**

**A. Roll Call**

Present: Coyne, Hastings, Martinez, Messer, Meyer, Williams  
Absent: Dabareiner, Frost, Gustin  
Student Members:  
Staff Present: Planning Team – Ying Liu, Timothy Felstrup  
Engineer – Amy Ries

**B. Minutes**

Approve the minutes of the September 24, 2014 Planning & Zoning Commission meeting.

Motion by: Williams  
Second by: Meyer

Approved  
(6 to 0)

**C. Old Business**

**D. Public Hearings**

**D1.  
PZC 14-1-111  
North Aurora Road  
Speedway Sign**

The petitioner, Speedway LLC, requests approval of a variance from Section 5-4-5:2.6 (Commercial Signs; Monument Signs; Monument Sign Setback (Front Property Line)) of the Naperville Municipal Code to allow construction of a 7.7' tall monument sign at a distance of eight (8) feet from the front property line for the property located at 631 N. Route 59.

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

Planning and Zoning Commission inquired about:

- Williams – How many other properties may come in for the same variance? Felstrup – Staff does not have a count. But this is the third case of this nature that we have processed.

Melonie Fuoss, Construction Specialist for Speedway LLC, spoke on behalf of the petitioner:

- Fuoss was available for questions.

**Public Testimony: None**

Planning and Zoning Commission closed the public hearing.

**Planning and Zoning Commission Discussion:**

- Meyer – This is a technicality issue in order to deal with the hardship resulted from the IDOT taking.
- Williams – The hardship is caused by governmental action. It is not the property owner's fault. Will support it.
- Messer – Agrees with fellow commissioners. The existing sign needs to be removed as a result of the Route 59 work.

Planning and Zoning Commission moved to recommend approval of PZC 14-1-111, a variance from Section 5-4-5:2.6 (Commercial Signs; Monument Signs; Monument Sign Setback (Front Property Line)) of the Naperville Municipal Code to allow construction of a 7.7' tall monument sign at a distance of eight (8) feet from the front property line for the property located at 631 N. Route 59.

Motion by: Williams  
Seconded by: Coyne

Approved  
(6 to 0)

Ayes: Coyne, Hastings, Martinez, Messer, Meyer, Williams  
Nays: None

**D2.  
PZC 14-1-118  
Compass Church  
Cafe**

The petitioner, The Compass Church, requests approval of a conditional use for general retail in OCI (Office, Commercial and Institutional District) for property located at 2244 W 95<sup>th</sup> Street.

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

- Based on new information received from the petitioner prior to the meeting, the proposed café will be 750 square feet in size, instead of the 250 square-footage noted in the staff memo.

Planning and Zoning Commission inquired about:

- Meyer – Would the increase in square footage change the parking requirement? Liu – Since the number is so low, it would not change the parking requirement as compared to the original day care use.
- Hastings – If the church wanted to sell additional items in the future, would they have to come back to the PZC for a review? Liu – No, as long as the use is still within the Café category, they can sell additional items. However, if they intend to change the nature of the business to a fast-food restaurant, it would require additional review from the PZC.

Kathy West, Attorney with Dommermuth, Cobine, West, Gensler, Philipchuck, Corrigan & Bernhard, Ltd. spoke on behalf of the petitioner:

- West gave an overview of the request.

Planning and Zoning Commission inquired about:

- Coyne – Will there be any signage for the café? West – No.
- Hastings – Are you aware of any other tenants having an issue with the proposed use? John Covington, Director of Operations for the Compass Church – No, we have spoken with other tenants in the building and they understand the need for the use.
- Williams – Can all tenants in the building use the café? Covington – Yes, the café will be open to the public.

**Public Testimony: None**

Planning and Zoning Commission closed the public hearing.

**Planning and Zoning Commission Discussion:**

- Coyne – Coyne worked in a similar office building with a café inside that was very convenient. Will support it.
- Meyer – This is more of a technicality. There are other churches in the area that have a similar café inside. Will support it.
- Williams – It is a great idea and wonderful concept. All calculations associated with this petition were done based on the correct 750 square foot number.
- Messer – Agrees with other commissioners. This is a great use. Will support it.

Planning and Zoning Commission moved to recommend approval of PZC 14-1-118, a conditional use for general retail in OCI (Office, Commercial and Institutional District) for property located at 2244 W 95<sup>th</sup> Street.

Motion by: Meyer  
Seconded by: Williams

Approved  
(6 to 0)

Ayes: Coyne, Hastings, Martinez, Messer, Meyer, Williams  
Nays: None

**D3.  
PZC 14-1-113  
Greenway Herbal  
Care**

The petitioner, Greenway Herbal Care, requests approval of 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.

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

Planning and Zoning Commission inquired about:

- Meyer – Has staff been made aware of other issues raised by the condo association regarding this use, especially the insurance issue? Liu – Yes, we understand that the condo association requires that the petitioner find an insurance carrier who is willing to insure the property with the

proposed use being there. However, this is a private issue that should be handled between the petitioner and the condo association.

- Meyer – Has staff considered the negative impacts on the existing businesses when a medical cannabis dispensing facility goes into a multi-tenant building? Liu – We have. In this case, the condo association has control over who goes into the building and will be able to address any negative impact on the insurance issue.
- Meyer – Based on the information provided by the petitioner, it implies that the proposed use would require more than 9 parking spaces. Staff recommended a condition of approval to require a letter from the condo association to allow use of 9 parking spaces by the petitioner on a permanent basis. Has staff received any letter to that effect? Liu – Staff received a letter from the President of the property management company which didn't really indicate whether there would be 9 spaces available for the petitioner's use. Staff has forwarded that letter to the commission via email.
- Meyer – Is this service drive along the east side of the property being considered as a public access? Liu – We anticipate that the majority of the customer traffic would come from Fort Hill Drive. The service drive does provide an additional access point for the property, but is currently used mostly by service vehicles.
- Meyer – Has staff made any requirements for the petitioner to add additional security improvements to the property? Liu – The petitioner has a security plan that is beyond the code requirements and will have to meet the State Act's requirements for security. Staff has not made any additional requests for additional security improvements.
- Hastings – Is on-street parking allowed on Fort Hill Drive? Liu – No.
- Hastings – Are there any other facilities in the area that would allow for public parking for this use? Liu – No. The petitioner could explore shared parking with an adjacent property but they have not done so.
- Coyne – Per code, can signage display marijuana visually or verbally? Liu – Yes. Per code, they will be allowed to advertise the products being sold on site.
- Coyne – Are there any vacancy in the building? Liu – Currently, there are four vacant units in the building.
- If this is approved, will this be the only one in Naperville or could there be others? Liu – The petitioner should be able to answer this question.
- Coyne – If this is the only one in the area, how does staff know there wouldn't be parking or traffic issues for this site given there is no precedent? Liu – We don't know for sure. This was the same struggle that staff and the PZC had when drafting the regulations to allow this types of facilities. However, everyone was in agreement that we need to put in the regulations first before the use comes in so that we can at least regulate it to some extent. If there is a problem, we will do another text amendment to fix it. The parking requirement that ended up in the code was 5 spaces per 1,000 square feet, which is the same requirement for medical offices. Staff is applying this code requirement to this case, but

will certainly monitor any future traffic or parking issues that may be caused by this use.

Mike Ek, Attorney, spoke on behalf of the petitioner:

- Ek gave an overview of the future operations of the proposed business.
- There will be three dispensaries within the DuPage County district.
- The security system that the petitioner would use will far exceed the security system of any jewelry store in the area.
- The business will have an advisory board comprised of various experts and professionals to advise on potential issues that may rise during the operation.

Neil Knot, CEO of Greenway Herbal Care, spoke on behalf of the petitioner:

- Based on the parking study, there are sufficient parking spaces available throughout the day on the property to support the proposed use.
- The petitioner has found three insurance companies who are willing to insure this type of business and provided the information to the property management company. The petitioner does not intend to negatively impact on the existing businesses.
- Knot explained the security measures that will be employed for the proposed facility.
- The proposed signage will only say Greenway Herbal Care. The State Act does not allow us to advertise the product.

Patel, Owner of Unit 103 of Fort Hill Business Center:

- Has owned the unit for 6 years.
- Because of the different operation hours of the businesses, there is no parking issue on the property.

Amlesh Shah, Pharmaceutical Advisor for the petitioner:

- Assures the Commission that the business will be managed professionally.

John Gomoll, Security Advisor for the petitioner:

- The security measures planned for this business will rival that of a casino.
- The petitioner is planning for maximum security.

Jack Caudill, Security Advisor for the petitioner:

- His company designs the camera system for the proposed business.
- Will have two cameras in the front, two in the back and two on the roof.
- These cameras are small and low-profile.

Planning and Zoning Commission inquired about:

- Coyne – How many state permits are available for the Naperville Area?  
Knot – District 24, which encompasses DuPage County, will be allowed

to have three State permits. Only patients within this district can access the facilities within the district.

- Martinez – What are the restrictions for purchasing medical cannabis from the facility? Knot – Patients must have a State issued ID and a prescription from a physician in order to access the facility and purchase the product. They are allowed to purchase a maximum of 2.5 ounces every 14 days.
- Hastings – Will this be an all-cash business? Have you considered the risk of robbery? Knot – Yes, most transactions will be done with cash. But patients will deposit cash into a machine that does not allow the exchange of cash between employees and patients. There will also be armored cars to transport the cash into the bank.
- Messer – Would staff's condition of approval cause a problem for you? Ek – The condo association doesn't actively enforce the 5 spaces per unit restriction. Parking is handled on a first-come first-served basis.
- Coyne – Why only accepting cash? Knot – The transactions can also be done with credit cards, but some credit card companies don't approve transactions associated with cannabis sales.
- Coyne – Can the medical doctors affiliated with the dispensary prescribe cannabis for patients? Knot – No. Based on the State law, they cannot.
- Meyer – Is the State permit site specific? Knot – We can apply to change the location within the district.
- Meyer – Have you talked to the condo association? Knot – Yes, we have talked to the CEO of the condo association.
- Meyer – More details on the alternative programs (kitchen, yoga, counseling, etc.)? Knot - There won't be any cooking, yoga or acupuncture on site. But the counselors will make the patients aware of the different programs available at other locations.
- Hastings – Would a medical cannabis facility on Quincy Avenue be subject to PZC approval? Liu – No, a medical cannabis dispensing facility is a permitted use in the I district, in which most Quincy properties are located. No PZC or CC review would be required.
- Martinez – Would it be possible for two more facilities be approved in Naperville? Knot – The State requirement is that the facilities should be geographically dispersed so that patients have convenient access to the facilities. So more than likely, there won't be more than one facility in Naperville.
- Hastings – What would be the impact if the condo association does not approve installation of the cameras? Levy – There are cameras on the property that have been approved. But the association has not received an application for this use.

### **Public Testimony:**

Mark Levy, President of Sequoia Realty Group and manager for Fort Hill Business Center:

- Levy expressed concerns on behalf of the condo association.

- Each unit is limited to five parking spaces per the association covenants. There is no provision of more than 5 spaces per unit.
- The association covenants and bylaws provide that any use that may cause cancellation of the existing insurance coverage for the Fort Hill Business Center is not permitted. We have received a letter from our existing insurance company, indicating that our insurance will be terminated if this use comes in.
- The petitioner mentioned a guard dog as a security measure. The association does not allow any dogs on the property.
- Security cameras and anything to be installed outside will need to get the condo association's approval.
- Even though the petitioner has been recommended to appear before the association board to address these items, the association board has not received any formal application for this use yet.
- Every members of the board and some condo owners have expressed concerns about this use.
- Williams – By what legal right that this applicant can claim the use of the parking lot exceeding the entitled five spaces? Levy - They don't have any legal right to use more than five spaces.

Rita Sings, a Naperville resident:

- Sings supports the business.
- The proposed business will provide medicine to people who need it.

Joe Harrington, condo owner and member of the association board of the Fort Hill Business Center:

- Owner of the HBS Enterprises.
- There is parking enforcement for the property based on Harrington's personal experience
- Each unit is assigned five parking spots.

Planning and Zoning Commission inquired about:

- Meyer – Meyer has personally heard similar concerns from other owners of the condo association as those voiced by Levy.
- Williams – Recommends that Levy get written comments from the condo owners to the Commission. Recommends continuing the case.
- Messer – Are the components listed in the staff report in addition to the standards for granting a conditional use or in replacement of? Liu – They are in addition to.
- Meyer – Concerned about only requiring 9 parking spaces, especially with the additional condo covenants. Agrees with the continuance.
- Coyne – Agrees with the continuance, but asks the property owners be more forthcoming and provide more concrete comments.
- Hastings – Believes that the issues raised are not land use issues and the PZC’s review should be based on the code.
- Meyer – Installation of parking lot lights should be included as a condition. Knot – The current lighting for the property should suffice. But will be happy to put more lights in if needed.
- Coyne – Impressed with the petitioner’s team. In the next hearing, would like to focus on the impact on the neighboring property owners and confirm that there won’t be any parking issues.
- Williams – Asks that the following information be provided for the next hearing:
  - To what extent would the rules of the condo association prohibit use of the property by this business?
  - Lighting for the property.
  - Parking is a major issue. Would like the estimated number of customers to the facility.
  - To what extent, the proposed business may impact the insurance coverage of the existing businesses.
- Meyer – Asks that the following information be provided for the next hearing:
  - Impacts on the existing tenants including insurance, parking, and whether the bylaws can be complied with.
  - Information on parking demand from other existing facilities in Colorado.
- Martinez – Asks that the following information be provided for the next hearing:
  - Why do they need this high level of security? Would like to see what security measures are required by the State and what are proposed above and beyond the State requirements.
- Messer – Asks that the following information be provided for the next hearing:
  - Potential impacts on the other tenants
  - Parking demand of this business.

Planning and Zoning Commission continued the public hearing to October 29, 2014.

Motion by: Meyer  
Seconded by: Williams

Continued  
(6 to 0)

Ayes: Coyne, Hastings, Martinez, Messer, Meyer, Williams  
Nays: None

### **E. Reports and Recommendations**

**F. Correspondence** Planning and Zoning Commission approved the 2015 Planning and Zoning Commission meeting calendar.

**G. New Business** Coyne asked staff to evaluate whether the Quincy Avenue properties should be rezoned to a commercial district.

Meyer: Was under the impression that the medical cannabis ordinance requires a conditional use approval for a medical cannabis dispensing facility on the Quincy properties. There are a lot of child-oriented uses on Quincy Avenue. Liu – The State Act and Naperville code do not place any distance requirement on a medical cannabis facility from a private commercial establishment that is kid-oriented. Staff will monitor and evaluate the Quincy Avenue properties to see if a rezoning would make sense.

Meyer asked staff to look into the impact of a proposed medical cannabis facility on insurance coverage of the adjacent tenants within a multi-tenant building.

### **H. Adjournment**

10:10 p.m.