

Item #1D:
Report Of PCZBA Meeting - August 5, 2014
Additional Zoning Code Amendments Re:
Permitted Uses & Special Uses In B-1 Historic Business District



MEMORANDUM

TO: Village of Long Grove Planning Commission & Zoning Board of Appeals
FROM: JAMES M. HOGUE, Village Planner
DATE: July 30, 2014
RE: Public Hearing – Downtown Land Uses Revisited

At the regular May meeting the PCZBA considered both permitted and special uses within the downtown (B-1) Historic District and made their recommendations to the Village Board.

The recommendations of the PCZBA were forwarded onto the Village Board which in turn has deferred final action on the matter to allow review and input by the LGBCP.

The detailed recommendations of the LGBCP are attached as well as issues identified by the Village Attorney (See 6.20.14 E-mail from Attorney Filippini to Village Manager Lothspeich) and the response from the LGBCP dated June 23, 2014.

As some of these issues were not discussed by the PCZBA at the original public hearing, and that hearing has been closed, a new public hearing is required to consider these issues.

Staff also requests the PCZBA consider the issue of drive-ups/drive thru's within the B-1 District. Presently the zoning code is unclear on this matter. Staff has interpreted the code to allow such uses only as special uses. More typically such uses have been addresses as part of the PUD process in other developments.

Staff suggests to the PCBZA that drive-ups/drive thru's be codified as special uses within the B-1 district largely due the "pedestrian scale" of the B-1 District and the potential for vehicle and pedestrian conflicts.

By nature Special Uses are uses which may or may not be appropriate at a specific location and require more review (and potentially conditions placed upon the use) than uses allowed as a matter-of-right. Drive-up's/drive thru's seem to fit this general criteria and are best considered on a case by case basis, if they are to be allowed at all.

Should you have questions or concerns feel free to call me at (847) 634-9440.

From: Victor Filippini [mailto:Victor.Filippini@filippinilawfirm.com]

Sent: Friday, June 20, 2014 3:12 PM

To: David Lothspeich

Subject: Revised B-1 District Use Ordinance

Hi Dave,

I am attaching a revised draft of the ordinance amending the B-1 District uses. (Unfortunately, I am not yet able to produce blacklined comparison documents.) The revision reflects the comments from the LGBCP that you sent me yesterday. In general, all of the LBGCP recommendations are included, except as follows (I have noted both the section number referenced in the LGBCP memorandum and in the revised ordinance):

LGBCP #20; Ordinance #18: The LGBCP's comments regarding medical marijuana dispensaries is a matter still under review at the State level and before the PCZBA. Rather than pre-empt those considerations, I have added some flexibility to this use by excepting anything that might be required to obtain a SUP.

LGBCP #53; Ordinance #59: I have included the exception for gun shops, but I have added language similar to the language inserted for medical marijuana dispensaries because there are some court cases suggesting that gun shops may enjoy special zoning protections under the Second Amendment. This area of law is still evolving, but we wanted to make sure that there was some means to accommodate the use.

LGBCP #55; Ordinance #62: In light of the LGBCP comments, we have clarified that these uses are only for off-premises consumption of tobacco products.

LGBCP Special Use #3: The concern seems to be addressed already under the temporary use provisions of the Zoning Code. As a result, no change is proposed.

LGBCP Special Use #5; LGBCP Use Limitations #5: The percentage of off-site sales was not something that was raised before or vetted by the PCZBA. As this is something distinct from the B-1 uses, it is probably best to present this matter to the PCZBA for hearing if the Village Board shares the concerns of the LGBCP.

LGBCP Use Limitations #1: The manner of regulating non-retail uses was not something that was raised before or vetted by the PCZBA. As this is something distinct from the B-1 uses, it is probably best to present this matter to the PCZBA for hearing if the Village Board shares the concerns of the LGBCP. Nevertheless, we have revised the draft ordinance to include a streamlined procedure for the Village Board to respond to this concern.

LGBCP Use Limitations #5: The minimum space for an establishment in the B-1 district was not something that was raised before or vetted by the PCZBA. As this is something distinct from the B-1 uses, it is probably best to present this matter to the PCZBA for hearing if the Village Board shares the concerns of the LGBCP. There may also be Building Code provisions that affect this issue.

I hope that this helps understand the changes in the attached draft ordinance. Please contact me with any questions you may have. Thanks,

Vic

**LGBCP Economic Development Committee response to
June 20, 2014 Village Counsel Filippini email
June 23, 2014**

5-4-2: SPECIAL USES for (A) B1 District:

2. Administrative & Support Services, Mailing Reproduction & Stenographic Services

- NAICS 561730 Landscaping Services was omitted. Please add code however with "excluding the storage of any/all motorized equipment in the downtown district"
- Also, with the inclusion of so many NAICS codes, this section covers a myriad of "support services" – so it might be best to rename to something like "Miscellaneous Support Services."

33. Liquor Stores

- Incorrect NAICS code was listed. Desired code is 445310 (delete reference to 446120)
- Do we want this category to be titled "Beer, Wine, and Liquor Stores" as per NAICS?

42. Offices, Professional

- NAICS 541940, Veterinary Services was omitted. Please add as that code encompasses many desirable services/offices. However, we would like to exclude the following from that code which we think needs to be detailed out so as not to be allowable:

"disease testing services, veterinary," "laboratory testing services, veterinary," "livestock inspecting and testing services, veterinary," testing laboratories, veterinary," "testing services for veterinarians," and "veterinary testing laboratories"

57. Small Animal Grooming

- Please detail out the exclusions as: "excluding shelters, kennels, boarding, dog pounds, and guard dog training services"

62. Tobacco Shop (NAICS 453991), but only for consumption off-premises

- While the "off-premises" notation will discourage "hookah lounges," from the downtown, "head shops" would still be permissible under this code. As well, head shops sometime sell sex toys in addition to drug paraphernalia. And, it should be noted that in the states where medical marijuana is legal, marijuana dispensaries often double as head shops.

5-4-5: SPECIAL USES & 5-4-9: USE LIMITATIONS for B1 District:

Protocol to address concerns/observations regarding:

- "Off site sales in excess of five percent (5%) of annual gross receipts may be permitted only by special use."
- How to manage, at the front-end, the percentage of nonretail to retail use
- "No business shall be operated from a space on a lot in the B1 district open to the public which is less than two hundred fifty (250) square feet."

**LGBCP Economic Development Committee response to May 2014 Village of Long Grove
draft of "AN ORDINANCE AMENDING THE LONG GROVE ZONING CODE REGARDING
ALLOWABLE USES IN THE B-1 HISTORIC BUSINESS DISTRICT"**

June 19, 2014

5-4-2: SPECIAL USES

(A) B1 District:

1. Advertising Services (NAICS 541810) when located above the ground floor

- Recommend change to "when located above or below ground floor"
- Expand #1 to include ONLY the following NAICS: 541810, 541820, 541830, 541840, 541850, 541860, 541870, 541890, 541910
- Rename to "Advertising, Public Relations, Media & Market Research Services" to encompass additional uses

2. Administrative & Support Services (NAICS 561) when located above the ground floor

- Add "when located above or below ground floor"
- Observe that this section is duplicated in #32
- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Exclude NAICS 561210, 561320, 561421, 561422, 561440, 561491, 561611, 561612, 561613
- Limit #2 to ONLY include the following NAICS:
561110, 561311, 561312, 561330, 561410, 561431, 561439, 561450, 561492, 561499, 561510, 561520, 561591, 561599, 561621, 561622, 561710, 561720, 561730*, 561740, 561790, 561910, 561920, 561990
- *Regarding NAICS 561730, Landscaping Services, exclude the storage of any/all motorized equipment in the downtown district

3. Antique shops (See NAICS 453310 "Used Merchandise Stores")

- Exclude "Appliance stores, household-type, used," "Flea markets, used merchandise, permanent," and "Thrift shops, used merchandise"
- Observe that this section is duplicated in #13, #56

4. Clothing, Apparel and Clothing Accessory Stores (NAICS 448)

- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Limit #4 to ONLY the following NAICS along with term "excluding adult novelty":

448110, 448120, 448130, 448140, 448150, 448190, 448210

5. Art Galleries, Studios, Fine Arts Schools & Classes (NAICS 453920, 541430, 611610)

6. Baked Goods Stores (NAICS 445291)

- NAICS 445291 states, "Baked goods stores, retailing only (except immediate consumption)." We recommend that as long as these types of stores have a retail presence to satisfy the visitors to and resident of Long Grove, they can also sell to wholesale customers. We also observe that "immediate consumption", which is desired, is allowable in #33.

7. Bicycle shop. (NAICS 451110)

- Observe that NAICS 451110 is also duplicated in #53
- Recommend "excluding Gun Shops"

8. Barber Shops & Beauty Salons (NAICS 812111 & 812112)

9. Bookstores (NAICS 451211) including retailing of used and rare books; but excluding "adult bookstores"

10. China & Glassware (NAICS 44229)

- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- List NAICS as 6-digit 442299
- Consider a broader heading such as "Home Furnishings and Housewares including China & Glassware"
- Observe that #44 is duplicated in this category

11. Candy and ice cream stores (NAICS 722515)

- Observe that this section is duplicated in #52

12. Closet & Home Organizational Produces Store (NAICS 453998)

- Add "excluding fireworks shops"
- Observe that coin/stamp from #13 is represented in this category
- Consider renaming to "Miscellaneous Retail Stores"

13. Coin, Stamp & Collectors Items Shop

- Observe that this section is duplicated in #3, #56

14. Cookware shop (NAICS 442299) and cooking schools

- Observe that Cookware is duplicated by #10
- Consider deleting "cooking schools" as that is captured in new suggested category named "Non-Academic Schools, Classes & Instruction" which is broader

15. Computer & Data Processing Services (NAICS 518210)

- Recommend change to "when located above or below ground floor"

16. Deli and carryout Foodstores (NAICS 722513)

- Observe that part of #48 is duplicated in this category

17. Depository Institutions without Drive-thru (NAICS 5221)

- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Limit #17 to ONLY include the following NAICS: 522110, 522120, 522130, 522190

- 18. Document Preparation Services (NAICS 561410) when located above the first floor**
- Recommend change to "when located above or below ground floor"
 - Observe that this section is duplicated in #2 and #32
- 19. Drinking Places; Alcoholic Beverages (NAICS 722410)**
- Observe that this section duplicates #57
- 20. Drug Stores & Pharmacies (NAICS 446110)**
- Observe that this NAICS might include establishments such as marijuana dispensaries
- 21. Electronics Stores (NAICS 443142) including Camera and Photography Supply Stores**
- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
 - Expand #21 to ONLY include NAICS 443141 and 443142
 - Rename to Household Appliance & Electronics Stores including Camera and Photography Supplies
- 22. Florists (NAICS 453110)**
- 23. Food & Food Supplement Stores (NAICS 445110, 445120, 445299, 446191)**
- Expand #23 to ONLY include NAICS 445110, 445120, 445220, 445230, 445292, 445299, 446191
 - Consider renaming to include wide range of food included in this category
 - There is reference to Candy and Confectionery Stores being retailing only (in NAICS 445292). We would like to confirm that as long as a strong retail presence is seen, that wholesale sales are also allowed.
 - Observe that #57 (deli cheese shop) is duplicated in this category
- 24. Footwear & Leather Goods Repair (NAICS 811430)**
- 25. Furniture Stores (NAICS 442110)**
- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
 - Expand #25 to ONLY include the following NAICS:
442110, 442210, 442291
 - Rename to "Furniture, Floor Covering & Window Treatment Stores"
- 26. Gift, Novelty & Souvenir Stores (NAICS 453220)**
- Recommend adding "excluding adult novelties/toys" as that might be allowable under "Novelty Shops"
- 27. Hardware Stores (NAICS 444130)**
- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
 - Expand #27 to ONLY include the following NAICS: 444130, 444190
 - Rename to Hardware and Building Material Stores to encompass more businesses
 - Observe that #30 (Lighting Fixture Stores) is duplicated in this category
- 28. Hobby, Toy & Game Shops (NAICS 451120)**

29. Jewelry Stores & Clock Shops (NAICS 448310)

30. Lighting Fixture Stores (Note: NAICS Omitted)

- Observe that this section is duplicated in #10, #14, and #27

31. Luggage & Leather Goods Stores (NAICS 448320)

- Add "excluding adult novelty"

32. Mailing, Reproduction & Stenographic Services (NAICS 561) except call centers

- Add "when located above or below ground floor"
- Observe that this section is duplicated in #2
- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Exclude NAICS 561210, 561320, 561421, 561422, 561440, 561491, 561611, 561612, 561613
- Limit #32 to ONLY include the following NAICS:
561110, 561311, 561312, 561330, 561410, 561431, 561439, 561450, 561492, 561499, 561510, 561520, 561591, 561599, 561621, 561622, 561710, 561720, 561730*, 561740, 561790, 561910, 561920, 561990
- *Regarding NAICS 561730, Landscaping Services, exclude the storage of any/all motorized equipment in the downtown district

33. Manufacture and sale of readily edible foodstuffs as a principal use for on site and off site consumption including candy, bakery goods, taffy apples, ice cream, cheese products, sausage, gourmet foods, and similar food items.

34. Meat Markets (NAICS 445210)

35. Museums (NAICS 712110)

36. Musical Instrument and Supply Stores (NAICS 451140), including music classes and lessons

- Recommend deleting "including music classes and lessons" as that is being capture in new suggested category named "Non-Academic Schools, Classes & Instruction"

37. Nail Salons (NAICS 812113)

38. Offices, Professional

After reviewing "NAICS 54", as per Wendy Parr's suggestion for this section, the LGBCP recommends adding that NAICS, along with others, but with the following:

- Add "when located above or below ground floor" (unless the intent is to occupy an entire building)
- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Exclude "Research and Development" (NAICS 541711, 541712, 541720)
- Limit #38 to ONLY include the following NAICS:
522310, 523110, 523120, 523140, 523920, 523930, 523991, 524113, 524126, 524210, 531312, 541110, 541120, 541191, 541199, 541211, 541213, 541214, 541219, 541310, 541320, 541330, 541340, 541350, 541360, 541370, 541380, 541410, 541420, 541430, 541490, 541511, 541512, 541413, 541519, 541611, 541612, 541613, 541614, 541618, 541620, 541690, 541921, 541922, 541930, 541990
- Include Veterinary Services (NAICS 541940) with the following exclusions: "disease testing services, veterinary," "laboratory testing services, veterinary," "livestock inspecting and testing services, veterinary," testing laboratories, veterinary," "testing services for veterinarians," and "veterinary testing laboratories"

39. Offices of other Health Practitioners (NAICS 621999)

- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Expand #39 to ONLY include the following NAICS:

621111, 621112, 621210, 621310, 621320, 621330, 621340, 621391, 621399, 621999

40. Open Space

41. Optical Goods Stores (NAICS 446130)

42. Paint & Wall Paper Stores (NAICS 44120)

- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Observe that code listed above is not valid. Village likely meant NAICS 444120

43. Photographic Studios (NAICS 541921)

44. Picture Framing Shops

- Observe that this section is duplicated in #10 (NAICS 442299)

45. Personal Household Goods Repair and Maintenance (NAICS 811490)

46. Real Estate Agents & Brokers (NAICS 531210)

47. Residential Uses & Dwelling units, subject to the following limitations:

48. Restaurants; Limited & Full Service (NAICS 722511, 722513) including tearooms

- Observe that #16 is duplicated in this category

49. Retail Nurseries & Garden Stores

- Eliminate all NAICS codes that are 3-, 4-, or 5-digits long due to vagueness
- Add and Limit #49 to ONLY include NAICS 444220
- Exclude "storage of motorized equipment in the downtown district"

50. Sewing, Needlework & Piece Goods (NAICS 451130)

51. Small Animal Grooming

- Recommend "excluding shelters and boarding" be added to heading
- From NAICS 812910, we recommend that the following be allowable:
Animal Grooming Services, Guide Dog Training Services, Obedience Training Services, Pet Grooming Services, Pet Sitting Services, Pet Training Services, Sitting Services, Pet
- All others from NAICS 812910, would not be permissible:
Animal Shelters, Boarding Services, Dog Pounds, Guard Dog Training Services, Kennels, Pet Boarding Services

52. Snack & Nonalcoholic Beverage Bars (NAICS 722515)

- Observe that this section is duplicated in #11

53. Sporting Goods Stores (NAICS 451110)

- Observe that NAICS 451110 is also duplicated in #7
- Recommend "excluding Gun Shops"

54. Stationary Stores (NAICS 453210)

- LGBCP observed typographic error (it should be "Stationery")

55. Tobacco Shop (NAICS 453991)

- Observe that this NAICS allows for "smokers' supply stores" which might include less-desirable establishments such as Hookah Lounges and Head Shops

56. Used Merchandise Stores (NAICS 453310) except shops receiving materials donated for charity, scrap gold stores, and pawnshops

- Exclude "Appliance stores, household-type, used," "Flea markets, used merchandise, permanent," and "Thrift shops, used merchandise"
- Observe that this section duplicates all/part of #3, #13

57. Winetasting and deli cheese shop

- Observe that "winetasting and deli cheese shop" is covered in #57 (NAICS 722410) which reads, "this industry comprises establishments known as bars, taverns, nightclubs, or drinking places primarily engaged in preparing and serving alcoholic beverages for immediate consumption. These establishments may also provide limited food services."

OTHER/ADDITIONAL

LGBCP recommends the following new permitted uses be added in support of Commissioner Parr's suggestions, as well as our own observations:

Beer, Wine, and Liquor Stores (NAICS 445310)

Cosmetics, Beauty Supplies, and Perfume Stores (NAICS 446120)

Health and Personal Care Stores & Home Health Equipment Rental (NAICS 446199, 532291)

Pet and Pet Supplies Stores (NAICS 453910)

Formal Wear and Costume Rental (NAICS 532220)

Exam Preparation and Tutoring (NAICS 611691)

Computer Training (NAICS 611420)

Theater Companies and Dinner Theaters (NAICS 711110) except Burlesque

Add new section to cover cooking classes and other desirable activities. These are to capture areas NOT already captured in NAICS 611610 (#5):

Non-Academic Schools, Classes & Instruction (Note: NAICS Omitted)

Handicrafts, Arts & Crafts; Metalworks/Woodworks/Glassworks; Gymnastics; Karate, Judo, Tae Kwon Do, Martial Arts; Yoga, Pilates, Fitness, Exercise; Cooking, Baking & Culinary Arts; Sewing, Crafting, Needlework, Scrapbooking

From NAICS 812199, we recommend that the following be allowable:

Color Consulting Services, Day Spas, Depilatory, Ear Piercing Services, Electrolysis, Hair Removal, Hair Replacement Services, Make-Up Salons, Tanning Salons (bed and spray). Note, all others from NAICS 812199, we recommend as special uses ONLY (Baths [steam or Turkish], Massage Parlors, Saunas, Scalp Treating Services, and Tattoo Parlors

5-4-5: SPECIAL USES

(A) B1 District:

Regarding #3 "Outdoor dining..." and "(g) Foodstuffs and beverages sold or delivered in the outdoor dining area must be consumed on site", we believe that there may be a circumstance (such as an ice cream parlor that has outside bistro tables where food orders are taken), where customers should be allowed to walk around with their foodstuffs/beverages.

Regarding #5 “Off site sales of manufactured or produced retail goods in excess of five percent (5%) of annual gross receipts, as described in subsection 5-4-9(B)3 of this chapter”, we believe that successful, contemporary merchants will most likely be multi-channel and/or have a diverse customer base. Therefore, we would like to ensure that as long as there is a retail presence that is satisfying to Long Grove visitors and residents, that all businesses (whether merely selling or whether manufacturing and selling) be allowed to obtain sales from other sources (wholesale customers, custom orders, online orders are some examples) without limitation and without being considered special use.

Regarding #7 Massage Therapy & #8 Tattoo Parlors, in reference to NAICS 812199, we recommend the following also be special uses ONLY: Baths (steam or Turkish), Saunas, Scalp Treating Services

5-4-9: USE LIMITATIONS

(B) Special B1 District Use Limitations:

Regarding #1 and the percentage of nonretail to retail use...we recommend that some management and communication mechanism be put in place to ensure that before leases are signed and/or business licenses and permits are issued, there is a review of how a new, nonretail business would affect the current (at that time) percentage of allowable retail to nonretail.

Regarding #3 “Sale of Manufactured Or Produced Goods: All goods or foodstuffs produced or manufactured on any premises situated in the B1 district shall be sold at retail only, not wholesale, and shall be sold only in premises situated within the B1 district; provided, however, that incidental off site sales of such goods or foodstuffs amounting to less than five percent (5%) of the gross annual receipts derived from the total sales of such items shall be permitted. Off site sales in excess of five percent (5%) of annual gross receipts may be permitted only by special use.” As stated earlier (in 5-4-5: SPECIAL USES), we believe that successful, contemporary merchants will most likely be multi-channel and/or have a diverse customer base. So, we would like to ensure that as long as there is a retail presence that is satisfying to Long Grove visitors and residents, that all food and non-food businesses (whether merely selling or whether manufacturing and selling) be permitted to obtain sales from other sources (wholesale, custom, online as some examples) without limitation and without being considered special use.

Regarding #5 “Minimum Space: No business shall be operated from a space on a lot in the B1 district open to the public which is less than two hundred fifty (250) square feet.” We recommend that this be reconsidered. The former Visitors Center (307 Old McHenry Road), a standalone structure, and other designated “areas” (floors and rooms) of many existing buildings would be suitable for a great number of small businesses would can operate in as little as 100 square feet. Perhaps this be considered on a case-by-case basis as new tenants express interest. Of course we recognize that fire codes and overall customer safety would be a determining factor.