

**Long Grove Plan Commission & Zoning Board of Appeals (PCZBA)
Regular Meeting Minutes ---September 2, 2014**

Present: Chairman Fred Phillips, Commissioners Jeff Kazmer, Charles Cohn, Michael Dvorak, Wendy Parr, and William Peltin.

Also Present: James Hogue, Village Planner, Betsy Gates, Village Attorney, Jodi Smith, PCZBA Secretary, and members of the public.

1. Call to Order: Chairman Phillips called the meeting to order at 7:05 p.m.

2. Non-Agenda items: None

3. Visitor's Business: None

4. Old Business:

a) PUBLIC HEARING-CONTINUATION: Consideration of a proposal for amendments to Title 5 of the Village Code for the Village of Long Grove, including definitions, modifications in section 5-11-4 and more specifically Section 5-11-4(F)(2) regarding Architectural Commission jurisdiction within the B-1 Historic District within the Village of Long Grove.

Chairman Phillips read the request into the record.

Planner Hogue summarized the proposal to reconsider a portion of the Village Code with respect to replacement of similar or like-looking materials in the B-1 Historic District. The reasons for this request are primarily to expedite the process for approving minor exterior changes to structures in the downtown area. The request is originally made in response to requests from downtown business owners wanting to replace their existing wood deck and railing with plastic material. The amendment would allow review of certain types of minor (to be defined in the amendment) exterior changes to be subject to administrative review by staff rather than requiring review by the Architectural Commission (hereafter, "AC"). Upon motion by this board, this proposal was forwarded to the AC for review and comments. The request was considered by the AC, which expressed concern over the use of inappropriate materials as replacements. Not all synthetic or plastic substitutes are made of the same materials and all would not be acceptable. A list of acceptable replacement materials would ultimately need to be established. The AC proposed the creation of a subcommittee consisting of two members of the AC, which would review requests and materials proposed, and ultimately creates a list on an "as approved" basis. The requests would be reviewed by the subcommittee, outside of the normal AC review process, but within the normal permit review timelines. Any issues with the proposal would be referred by the subcommittee to the entire AC. Planner Hogue is not yet sure of the language required for a code amendment outlining this process, and would discuss this with the attorneys. The consensus of the zoning board is to go along with the AC's suggestions. Attorney Gates also recommended amending Section 2-3-3 of the Zoning Code to include the

AC's recommendation as part of the duties of the AC; specifically, to provide guidance to, and consult with, staff in developing guidelines for approval of replacement materials.

A discussion ensued regarding the particular wording of a proposed motion. Following the discussion, a motion was made by Commissioner Cohn, seconded by Commissioner Dvorak, to recommend approval of the proposed text amendments, subject to revisions, allowing the Architectural Commission to provide guidance and guidelines to staff regarding administrative review of permits for minor exterior alterations. On a voice vote, all ayes. Motion passes.

b) PUBLIC HEARING-CONTINUATION; Consideration of amendments to the Zoning Code of the Village of Long Grove in light of the adoption of the Illinois Compassionate Use of Medical Cannabis Pilot Program Act, 430 ILCS 130/1 et seq., including specifically whether to include state-authorized medical cannabis dispensing organizations and medical cannabis cultivation centers as special uses in non-residential zoning districts in the Village.

Chairman Phillips read the request into the record. Attorney Gates recommends that regulations be put in place in anticipation of permit requests. The administrative regulations have been finalized at the State level, and the State has made applications available for dispensaries and cultivation centers. The village is not required to take action immediately, but given that there could be applicants at any time it is advisable to set our standards and regulations. Commissioner Kazmer inquired about the strictness of State laws. Attorney Gates responded that the State allocates greenhouses and dispensaries by geographic region. Attorney Gates commented that the State regulations are very strict and that it requires a great deal of capital to open a dispensary. Attorney Gates also believes that 3-4 dispensaries would be allowed in Lake County, but that number needs to be clarified. The restrictions for a cultivation center are more restrictive than dispensaries. Planner Hogue does not believe that there are any vacant properties that would meet State criteria for dispensaries other than the Giemer property. However, the village does have to consider the possibilities of a dispensary. It would have to be a stand-alone business.

Attorney Gates listed several local zoning regulatory issues to be considered by the board. First, the board should consider appropriate zoning districts for the locations of a dispensary or cultivation center. Second, the board should consider whether this would be a permitted or a special use. If it is a special use, what conditions or restrictions should be placed on the use? Finally, the board should consider code additions regarding such issues as parking, lighting, setbacks, landscaping, and the like, for this use. Commissioner Cohn asked whether we could limit the dispensaries to certain business districts. The general consensus is to avoid the B-1 downtown area. Planner Hogue suggested HR, HR 1 and B 2 as possible locations. A discussion ensued, and the board generally agrees, that this should be a special use. It was also agreed that HR, HR 1 and B 2 would be likely

locations. Planner Hogue added that these particular zoning districts are very restrictive and require a PUD and significant review. Commissioners Parr, Kazmer and Chairman Phillips all stated that they have no objection to Sunset Grove as being a possible location for a dispensary, as the building would likely be small. However, Commissioner Kazmer inquired whether the application can be refused in terms of location because of its lighting or a similar nuisance issue. Attorney Gates responded that the State sets the standards for many building requirements such as security or lighting. The village is not likely to be able to deny a request, which complies with the State standards. However, because it is a special use, the village can require mitigating the nuisance issues with landscaping or other ancillary additions. The bottom line is that whatever the State does not regulate, the village can regulate. If it is something the State requires, then the village must allow it.

Chairman Phillips inquired as to sales taxes. Attorney Gates responded that the dispensaries are not subject to local sales tax. All tax revenue goes to the State to run this pilot program. Commissioner Kazmer would like to see additional information regarding the dispensaries and Planner Hogue will try to determine possible sites on the map. Planner Hogue and Attorney Gates will work on draft language for a code amendment. Finally, Commissioner Parr commented on the usefulness of the articles provided by Planner Hogue in his staff report.

A motion was made by Commissioner Cohn, seconded by Commissioner Dvorak, to continue the public hearing regarding amendments to the Zoning Code for the Village of Long Grove in light of the adoption of the Illinois Compassionate Use of Medical Cannabis Pilot Program Act to October 7, 2014.

On a voice vote, all ayes. Motion passes.

c) PUBLIC HEARING – CONTINUATION; Consideration of a proposal for additional amendments to Title 5 of the Village Code for the Village of Long Grove, regarding Permitted and Special Uses within the B-1 Historic District, and more specifically, additional uses as proposed by the Long Grove Business and Community Partners.

Chairman Phillips read the proposal into the record and reminded Nancy Fino, representative for LGBCP and chairman of the economic development committee, that she is still under oath in speaking on this matter. Ms. Fino stated that there were still two issues outstanding with respect to the permitted uses for downtown Long Grove. Specifically, the percentage of off-site sales for businesses in the B-1 District, and also the minimum floor space for an establishment in the B-1 District. As to the off-site sales issue, Ms. Fino looked at the communities of Wauconda, Geneva and Libertyville and found nothing relating to the capping of Internet sales. Ms. Fino reported that the economic development committee has reviewed the issue of online business sales and decided that it would be impossible to enforce limits on online sales or to regulate business hours. The committee recommends eliminating online sales restrictions from the proposed ordinance.

Regarding the 250 square foot requirement, the committee believes that there are businesses that can successfully operate in less than 250 square feet. She found that in downtown Long Grove, there are possibly two sites with such limited square footage including the visitor's center and the gallery next to the tavern. Ms. Fino referred to a previous location above the existing Chatterbox, which used to be stalls of independent merchants called the "stable shops", which was successful. The committee recommends eliminating the square footage restrictions on the locations in the B-1 district. The committee wants to eliminate as many barriers as possible to new businesses coming to Long Grove. Ms. Fino also noted the possibility of dividing some of the existing properties into smaller usable spaces. Planner Hogue noted there may be building code restrictions regarding bathrooms, sprinklers, ventilation, and the like, which might prevent some smaller spaces. Any space would still need to comply with building code regulations. Commissioner Kazmer suggested allowing the businesses to go as small as they would like as long as they comply with building code regulations.

Commissioner Peltin inquired as to revenue from the Internet sales. Attorney Gates stated that the point of sale is in the store, but that the tax is generated where the merchandise is received and not where it is sold. Therefore, the village may lose some revenue to Internet sales. However, Ms. Fino pointed out that more businesses are selling through multiple sources and the village does not want to lose out on these businesses even though they may lose some local sales taxes. Chairman Phillips noted that if the business is in downtown Long Grove it is because they want the foot traffic and he is not concerned with the Internet sales on the side. Commissioner Kazmer stated that we need the businesses in Long Grove and we should see what happens with this. The consensus of the board is that this is what the merchants in downtown Long Grove want and we should try to make it work.

Planner Hogue next raised the issue of drive-ups and drive-thru's. He referred to the memo in his staff report. He inquired whether we should allow these as a special use requiring a public hearing. He noted that there are not many locations for drive -ups and drive -thru's. Chairman Phillips mentioned the Archer Lots as a possibility. Ms. Fino stated that her committee has not discussed or considered this issue. The consensus of the board is to allow drive-ups and drive-thru's as a special use.

Commissioner Kazmer made a motion, seconded by Commissioner Cohn, to recommend approval of text amendments to the Zoning Code to: (i) eliminate the maximum percentage of off-site sales of goods permitted without a special use permit in the B-1 Historic Business District; (ii) eliminate the minimum space requirement for operation of a business within the B-1 District; and (iii) to add drive-ups and drive-thru's as a special use in the B-1 District. On a voice vote, all ayes. Motion passes.

5. New Business:

a) PUBLIC HEARING; Consideration of a request from the Sunset Grove LLC for: (1) amendment to the Zoning Code to increase the maximum percentage of non-retail uses allowed in the HR 1 Highway Retail Zoning District for the Village of Long Grove and (2) amendment to the previously approved Sunset Grove Panned Unit Development (PUD), to increase the maximum square footage of non-retail uses within the development from 16,000 square feet to 18,500 square feet submitted by Mr. Kurt Wandry on behalf of the Sunset Grove LLC.

Chairman Phillips read the request into the record and swore in Mr. Wandry who is to give testimony on this matter. Mr. Wandry stated that they have a potential tenant which would put them over the non-retail limitation for Sunset Grove. The potential loss of sales tax revenue from this lease would be minimal. The potential tenant is Coldwell Banker, which wants to relocate to Sunset Grove. The HR 1 limitation of 16% non-retail space would be exceeded by 6.7%. The space would also exceed the current allowable non-retail space (16,000 square feet) by 2,500 square feet, to 18,500 square feet. Mr. Wandry is asking for relief from the PUD and the zoning limitations to allow this tenant to occupy Sunset Grove. It is noted that if Coldwell Banker occupies the proposed space, all other currently available locations in Sunset Grove would be retail. The board generally has no objections to the proposed changes.

A motion was made by Commissioner Dvorak, seconded by Commissioner Kazmer, to recommend approval of a text amendment to the zoning code to increase the maximum percentage of aggregate gross floor area that may be devoted to non-retail uses in a planned unit development containing a grocery store in the HR-1 Highway Retail District to 18.5%. On a voice vote, the ayes are Commissioners Kazmer, Parr, Peltin, and Dvorak, as well as Chairman Phillips. Commissioner Cohn abstains. Motion passes.

A motion was made by Commissioner Kazmer, seconded by Commissioner Peltin, to recommend approval of an amendment to the previously-approved Sunset Grove Planned Unit Development to increase the maximum leasable floor area that may be devoted to non-retail uses to 18,500 square feet. On a voice vote, the ayes are Commissioners Kazmer, Parr, Peltin and Dvorak, as well as Chairman Phillips. Commissioner Cohn abstains. Motion passes.

6. Approval of Minutes: July 1, 2014 meeting.

In addition to a typographical correction, Commissioner Parr noted that the first sentence on page 7 of the July 1, 2014 minutes should be corrected to read that Commissioner Parr “is” concerned about injury to the value of neighboring property. A motion was made by Commissioner Peltin, seconded by Commissioner Kazmer, to accept the July 1, 2014 minutes as corrected. On a voice vote, all ayes. Motion passes.

7. Approval of Minutes: August 5, 2014 meeting.

A motion was made by Commissioner Cohn, seconded by Commissioner Parr, to continue approval of the August minutes until the October meeting. On a voice vote, the ayes are Commissioners Kazmer, Parr, Cohn, and Dvorak. Commissioner Peltin abstains. Motion passes.

8. Other Business: Commissioner Parr inquired as to the status of the Route 53 nursing home development request. Planner Hogue responded that it is still in discussions and that meetings are scheduled with the staff, petitioner and IDOT next week. Commissioner Parr noted that Sunset Grove and Menards were both approved despite opposition from residents at hearings and both are very successful and profitable for the village. The board's responsibility is to do what is in the best interests of the village as a whole. The board generally agrees with this sentiment and is in agreement that the main concern with this proposal is access.

9. Adjournment

Commissioner Peltin made a motion to adjourn, seconded by Commissioner Parr. On a voice vote, all ayes. Meeting was adjourned at 8:33 p.m.

10. Next Regular Meeting: October 7, 2014

Respectfully Submitted, Jodi Smith, PCZBA Secretary

