

AGENDA
PLANNING COMMISSION
May 10, 2016
7:00 P.M.
City Council Chambers

1. Call to Order and Roll Call
2. Citizens Comments
3. Approval of Minutes of April 12, 2016
4. Chapter 14 Development Code Review
5. New Business
6. Announcements
7. Adjournment

**PLANNING COMMISSION
MINUTES
April 12, 2016**

CALL TO ORDER

The meeting was called to order at approximately 7:00 p.m. by Chairman Jim Bramstedt with (10 members) in attendance: Pat Wesemann, Pat Herrington, Larry Mensing, Nick Correale, Don Barkley, Patrick McCarthy, Linda Hoppe, Amy Funk and Corey Sudja. Also in attendance were Tim Tolliver(Director of Land Use), Jim Gehrs(Attorney), Robin Stranimeier(Keefer Reporting) and Kendra Tucker(Secretary).

CITIZENS COMMENTS

None

APPROVAL OF MINUTES

Commissioner Barkley made a motion to approve the minutes from the March 8, 2016 Planning Commission meeting and Commissioner Hoppe seconded the motion. The minutes were approved with a unanimous vote.

PUBLIC HEARING

PC07-16, Development Plan- E. William Reichert, 5 Ludwig Drive (03-21.0-400-014)

Director Tolliver presented the staff advisory for PC07-16 to the commission.

The applicant was present.

Bill Reichert of 391 Frank Scott Parkway, Fairview Heights, IL was sworn in.

Mr. Reichert explained his application to the commission. The applicant is requesting to add parking spaces to a preexisting lot.

The commission discussed the amount of parking spaces that were required and whether the amount being requested would be enough.

There were 0 proponents present to speak in favor of this application.

There were 0 opponents present to speak against this application.

Commissioner Herrington made a motion to approve this application.

Planning Commissioner Herrington introduced the following resolution and moved for its adoption:

RESOLUTION PC 007 -16

A RESOLUTION ADOPTING FINDINGS OF FACT PC07-16 RELATING TO THE REQUEST FROM E. WILLIAM REICHERT TO MODIFY THE DEVELOPMENT PLAN FOR PARKING AT 5 LUDWIG DRIVE.

WHEREAS, E. William Reichert, hereinafter referred to as the “Applicant,” has properly applied for a Development Plan approval for a Development Plan within the “PB” Planned Business District located at 5 Ludwig Drive., St. Clair County PIN 03-21.0-400-014.

NOW THEREFORE, BE IT RESOLVED BY THIS PLANNING COMMISSION OF THE CITY OF FAIRVIEW HEIGHTS, ST. CLAIR COUNTY, STATE OF ILLINOIS that the findings of fact relating to the request are determined to be as follows:

1. That the Applicant appeared before the Planning Commission for a public hearing pursuant to Section 14-10-8 of the City of Fairview Heights Development Code on April 12, 2016, and that said public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.
2. The subject property is zoned “PB” Planned Business District. The subject property is contains a 5,000 square foot medical building occupied by HSHS Medical Group.
3. That the Subject Property contains approximately 1.25 acres.
4. That this permit will not require any changes to traffic circulation and ingress/egress.
5. That this permit will not require any changes to lighting, landscaping, or the existing site usage.
6. That the proposed use will not be unduly dangerous or otherwise detrimental to persons residing or working in the vicinity of the use or to the public welfare.
7. That the proposed use will not substantially adversely impair the use, enjoyment, or market value of any surrounding property.
8. That the proposed use will not be hazardous or disturbing to existing neighboring uses.
9. That the proposed use will be served adequately by public facilities and services such as highways and streets.

10. That the proposed use will not create excessive additional requirements at public cost for public facilities and services, and it will not be detrimental to the economic welfare of the community.
11. That the proposed use will not involve activities and uses that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors.
12. The proposed use will be consistent with the Comprehensive Plan.
13. That this Development Plan approval will for the applicant's development of a 31 space parking lot at the property as it is proposed per the Development Plan by the Applicant.
14. That the Development Plan approval shall be contingent upon the Department of Public Works approval of the drainage and grading plan, the storm water management plan, the erosion control plan and other relevant planning design documents.
15. That the Permittee shall be responsible for all City costs incurred in administering and enforcing this Permit.
16. That the Director of Land Use, and his/her designee, shall have the right to inspect the premises for compliance and safety purposes annually or at any time, upon reasonable request.
17. That this Development Plan Approval shall automatically expire if the use is not initiated within one year of City Council approval.

The motion for the adoption of the foregoing resolution was duly seconded by; McCarthy upon vote being taken thereon, the following voted in favor thereof: Herrington, Mensing, Wesemann, Sudja, Barkley, Funk, Correale, McCarthy, Hoppe, & Bramstedt

and the following voted against the same: None

and the following abstained: None

and the following were absent: Smith

whereupon said resolution was declared duly passed and adopted by the Fairview Heights Planning Commission this the 12th day of April 2016.

PC08-16, Development Plan-Tsou Chin Wang-Sengsaichunh, 5900 N. Illinois, (03-27.0-300-059)

Director Tolliver presented the staff advisory for PC08-16 to the commission.

The applicant was present.

Wendy Fuchs of 601 Walnut Road, St. Jacob, IL was sworn in.

Applicant explained her request.

Commissioner Barkley asked if the applicant was required to post the certificates for all of her employees and the applicant stated that the certificates would be posted.

The commission discussed its concern with another massage business and whether it needed to have surveillance on the operation.

The applicant stated that they would just provide foot massages that would be done in an open area. The applicant stated there would be surveillance for safety.

There were 0 proponents present to speak in favor of this application.

There were 0 opponents present to speak against this application.

Commissioner Funk makes a motion to approve the application.

Planning Commissioner Funk introduced the following resolution and moved for its adoption:

RESOLUTION PC008-16

A RESOLUTION ADOPTING FINDINGS OF FACT PC08-16 RELATING TO A REQUEST FROM TSOU GHIN WANG-SENGSAIRICHUNH, TO ALLOW A SPECIAL USE PERMIT FOR A MASSAGE ESTABLISHMENT AT 5900 N. ILLINOIS STREET.

WHEREAS, Tsou Chin Wang-Sengsarichunh, hereinafter referred to as the “Applicant,” has properly applied for a Special Use Permit for a Massage Establishment in the “B-3” Community Business District at 5900 N. Illinois St., St. Clair County PIN 03-27.0-300-059.

NOW THEREFORE, BE IT RESOLVED BY THIS PLANNING COMMISSION OF THE CITY OF FAIRVIEW HEIGHTS, ST. CLAIR COUNTY, STATE OF ILLINOIS that the findings of fact relating to the request are determined to be as follows:

1. That the Applicants appeared before the Planning Commission for a public hearing pursuant to Section 14-10-8 of the City of Fairview Heights Development Code on April 12, 2016, and that said public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.

2. The subject property, 5900 N. Illinois, is a commercial center commonly known as Pontiac Center is located on the northeast corner of the intersection of N. Illinois and Ashland Ave. The center contains approximately 25,000 square feet of which the tenant space proposed to be occupied is approximately 2,100 square feet. The subject property is zoned "B-3" Community Business District and surrounding properties are zoned either Planned Business or Community Business District and are developed with commercial uses. The Pontiac Center tenant mix includes restaurants, service uses and fitness center.
3. That the Subject Property is approximately 2,100 Square feet of tenant space.
4. That Section 14-2-11 establishes Massage Establishments as a Special Use in the B-3 Community Business District.
5. That this permit will not require any changes to traffic circulation and ingress/egress.
6. That this permit will not require any changes to lighting, landscaping, or the existing site usage.
7. That the proposed use will not be unduly dangerous or otherwise detrimental to persons residing or working in the vicinity of the use or to the public welfare.
8. That the proposed use will not substantially adversely impair the use, enjoyment, or market value of any surrounding property.
9. That the proposed use will not be hazardous or disturbing to existing neighboring uses.
10. That the proposed use will not be served adequately by public facilities and services such as highways and streets.
11. That the proposed use will not create excessive additional requirements at public cost for public facilities and services, and it will not be detrimental to the economic welfare of the community.
12. That the proposed use will not involve activities and uses that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke fumes, glare or odors.
13. The proposed use will be consistent with the Comprehensive Plan.
14. That this Special Use Permit approval allows for the applicant's use of a massage establishment at the property as it is proposed to be used.
15. That the Permittee shall be responsible for all City costs incurred in administering and enforcing this Permit.

16. That the Director of Land Use, and his/her designee, shall have the right to inspect the premises for compliance and safety purposes annually or at any time, upon reasonable request.

17. That this Special Use Permit Approval shall automatically expire if the use is not initiated within one year of approval by the City Council.

The motion for the adoption of the foregoing resolution was duly seconded by; Commissioner Herrington upon vote being taken thereon, the following voted in favor thereof: Herrington, Mensing, Wesemann, Sudja, Barkley, Funk, Correale, McCarthy, Hoppe, & Bramstedt

and the following voted against the same: None

and the following abstained: None

and the following were absent: Smith

whereupon said resolution was declared duly passed and adopted by the Fairview Heights Planning Commission this the 12th day of April 2016.

PC09-16, Zoning Text Amendment-City of Fairview Heights, City Wide

Director Tolliver presented the staff advisory for PC09-16 to the commission.

Chairman Bramstedt asked Tolliver about a letter received by the commission from the Chief of the FVH Fire Department. The letter stated concerns that the new code would allow for materials that could cause a fast burn.

Commissioner Herrington asked Tolliver if this would effect residents ability to sell their homes. Tolliver stated that this new code would only apply to new construction and would not require people to change what was already in their homes.

Director Tolliver continued to clarify what changes were being proposed by this application.

There were 0 proponents present to speak in favor of this application.

There were 4 opponents present to speak against this application.

Chris Matteo of 116 Hartman Lane, Suite B, Shiloh, IL was sworn in.

Matteo stated that he is the president of Fulford Homes and representing the Home Builders Association of Southwestern Illinois. Matteo stated that the requirement for the sprinkler system in homes would be too expensive for residents and that it would raise their insurance payments. Matteo also stated that he wasn't necessarily speaking against the application but explained his position of why he felt that requiring drywall on the basement ceiling would expensive and problematic for the homeowner. He stated that this would be more expensive for the homeowner in the long run. He then stated that his business uses dimensional lumber that is a slower burn in

the situation of a fire and should not require drywall to be installed. Matteo offered to escort the commission out to a house his company was working on so they could see what the materials looked like and could have a better understanding about what the new code requirements would mean for a new home. The commission discussed the possibility of tabling the application so the commission could have a chance to go out and see what the code will effect in a new home. The commission continued discussion.

Tracy Butler of 211 Crossington Lane, Troy, IL was sworn in.

Butler explained to the commission that the International Code Council is made up of people who are involved in the safety and building trades. Butler then explained how the new codes were voted on and how these updates were created.

The commission discussed the safety issues involved of not installing the drywall to the basement ceiling in new homes.

Bruce Green of 26 Broadstone Drive, Fairview Heights, IL was sworn in.

Green stated that he is the deputy fire chief for Fairview Heights. He stated that the drywall under the flooring would provide more time for the firefighters to be able to respond and residents time to get out. He stated he understood the cost of the sprinkler system and understood not adopting that requirement.

Chester Borkowski of 210 Marla Kay Drive, Swansea, IL was sworn in.

Borkowski stated that he is the fire chief of the northwest fire protection district. Borkowski explained the burn rates for the building materials that are being used. He stated that his opinion is that drywall should be required. He then stated that this would be safer for the firefighters going into the residence.

The commission continued to discuss and decided to take a vote. Commissioner McCarthy made a motion to approve but then withdrew the motion to continue discussion.

Commissioner McCarthy made a new motion to approve the application.

Planning Commissioner McCarthy introduced the following resolution and moved for its adoption:

RESOLUTION PC 009-16

A RESOLUTION ADOPTING FINDINGS OF FACT PC09-16 RELATING TO ADOPTION OF THE 2012 EDITION OF INTERNATIONAL BUILDING CODE, INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL FIRE CODE, INTERNATIONAL MECHANICAL CODE, INTERNATIONAL EXISTING BUILDING CODE AND INTERNATIONAL ENERGY CODE ALL AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL.

WHEREAS, The City of Fairview Heights adopts standards to assure for the safe construction and maintenance of structures within this City.

NOW THEREFORE, BE IT RESOLVED BY THIS PLANNING COMMISSION OF THE CITY OF FAIRVIEW HEIGHTS, ST. CLAIR COUNTY, STATE OF ILLINOIS that the findings of fact relating to the request are determined to be as follows:

1. That the proposed zoning text amendment was brought before the Planning Commission for a public hearing pursuant to Section 14-10-8 of the City of Fairview Heights Development Code on April 12, 2016 and that said public hearing was properly advertised and that the minutes of said public hearing are hereby incorporated by reference.
2. That the request by the Home Builders Association to amend the International Residential Code Section R312.1.1 regarding guard requirements and R324.7.2.2 Hip Roof Layouts be accepted and included as addendums to the legislation.
3. That the proposed amendment will not be unduly dangerous or otherwise detrimental to persons residing or working in the City or to the public welfare.
4. That the proposed amendment will not substantially adversely impair the use, enjoyment, or market value of any property.
5. That the proposed amendment will not create excessive additional requirements at public cost for public facilities and services, and it will not be detrimental to the economic welfare of the community.
6. The proposed amendment will be consistent with the Comprehensive Plan.

The motion for the adoption of the foregoing resolution was duly seconded by; Sudja upon vote being taken thereon, the following voted in favor thereof: Herrington, Bramstedt, Wesemann, Sudja, Funk, Correale, McCarthy, & Hoppe.

and the following voted against the same: Barkley

and the following abstained: Mensing

and the following were absent: Smith

whereupon said resolution was declared duly passed and adopted by the Fairview Heights Planning Commission this the 12th day of April 2016.

NEW BUSINESS

None

ANNOUNCEMENTS

None

ADJOURNMENT – Meeting adjourned at approximately 9:00 p.m. The next regularly scheduled meeting of the Fairview Heights Planning Commission will be May 10, 2016 at 7:00 p.m. in the Council Chambers of the Fairview Heights Municipal Complex, 10025 Bunkum Road, Fairview Heights, Illinois.

Respectfully,

Timothy Tolliver
Director of Land Use and Development
TT/kt

DRAFT

ARTICLE XIV. ADMINISTRATION AND APPROVAL

- 14-14-01. PURPOSE
 - 14-14-02. DECISION-MAKING BODIES
 - 14-14-03. APPLICATION REQUIREMENTS
 - 14-14-04. APPLICATION PROCESSING
 - 14-14-05. NOTICE AND PUBLIC HEARINGS
 - 14-14-06. SITE PLAN REVIEW PROCEDURE
 - 14-14-07. MAP (REZONING) AND TEXT AMENDMENT PROCEDURE
 - 14-14-08. PLANNED DEVELOPMENT REVIEW PROCEDURE
 - 14-14-09. SPECIAL USE PERMIT PROCEDURE
 - 14-14-10. SPECIAL USE PERMIT AMENDMENT PROCEDURE
 - 14-14-11. APPEAL PROCEDURE
 - 14-14-12. VARIANCE PROCEDURE
 - 14-14-13. INTERPRETATION PROCEDURE
 - 14-14-14. OCCUPANCY PERMIT
 - 14-14-15. PERMIT REVOCATION – EXPIRATION
 - 14-14-16. NONCONFORMING USES
 - 14-14-17. APPLICABILITY OF THIS SECTION
 - 14-14-18. SCHEDULE OF FEES
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14-14-01. PURPOSE

The purpose of this Article is to consolidate all application procedures and processing requirements. The intent is to help those involved in application, submittal, processing and review understand the individual and often multiple steps that applications must follow. A better understanding of what is required should result in greater efficiency and fewer problems in the processing of applications. Any applicant making or submitting an application concerning this Code, ~~except the annual renewal of mobile home park license,~~ shall make application to the Administrative Official and shall pay all fees to the City Clerk.

14-14-02. DECISION-MAKING BODIES

The following table summarizes the review procedures and responsibilities of the various decision-making bodies responsible for the administration of this Chapter. In addition to the Corporate Authority, Plan Commission, Board of Zoning Appeals, and Administrator Official, there may be other board, commissions, government and non-government agencies asked by the Administrative Official to contribute input to the development review process.

Figure 14-13(A): Review Procedures & Decision Making Bodies

	Administrative Official	Zoning Board of Appeals	Plan Commission	Corporate Authority
Site Plan Review	R & D	A	D	
Zoning Amendment	R		H & R	M & D
Planned Development	R		H & R	M & D
Special Use Permit	R		H & R	M & D
Variance	R	H & R		M & D
Administrative Appeal		H & R		M & D
Interpretation	R	H & R		M & D
Sign Variance	R	H & R		M & D

R = Review & Recommend; D = Decision; H = Public Hearing; M = Public Meeting; A = Authority for Appeal

A. Plan Commission.

1. **Establishment and Composition.** The plan commission is established and composed as specified in the Code of Ordinances (Chapter 6, Article I).
2. **Meetings and Hearings.** Special or regular meetings shall be determined according to the adopted bylaws of the Plan Commission.
3. **Powers and Duties.**
 - a. General
The Plan Commission shall:
 - (i) Exercise powers and duties as may be described elsewhere in this ordinance, the plan commission's bylaws and as permitted by state law;
 - (ii) Establish or amend bylaws as necessary to facilitate the performance of its duties as outlined in the Illinois Municipal Code (65 ILCS 5/11-12-4 et. seq.); and,

- (iii) Perform related duties as directed by the Corporate Authority.
- b. Recommendations.
The plan commission shall make recommendations regarding the following:
 - (i) Site Plan Review (Section 14-14-06);
 - (ii) Map amendments (rezonings) and text amendments (Section 14-14-07);
 - (iii) Special use permit reviews (Section 14-14-09); and
 - (iv) Planned Development review (Article 15).

B. Zoning Board of Appeals.

1. **Establishment and Composition.** The Zoning Board of Appeals shall consist of seven (7) members appointed by the Mayor with the consent of the City Council. The terms of office shall be five (5) years. The Chairman of the Board shall be appointed by the Mayor with the consent of the City Council and shall hold office for one (1) year.
2. **Meetings and Hearings.** Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman or any two (2) members, or at such times as the Board may determine, except that any application of administrative appeal, variance, or interpretation shall be considered within 30 days of receipt of a complete application and advisory report, if required, by the appropriate official.
3. **Powers and Duties.**
 - a. General
The board of appeals shall:
 - (i) Exercise powers and duties as may be described elsewhere in this ordinance, the Board of Appeal’s bylaws and as permitted by state law; and
 - (ii) Establish or amend bylaws as necessary to facilitate the performance of its duties as outlined in the Illinois Municipal Code (65 ILCS 5/11-12-4 et. seq.).
 - b. Recommendations
The Zoning Board of Appeals shall make recommendations regarding the following:
 - (i) Administrative appeals (Section 14-14-11);
 - (ii) Variances (Section 14-14-12);
 - (iii) Interpretations (Section 14-14-13); and,

- (iv) Sign Variances (Article 11).

C. Administrative Official

1. Designation.

The Administrative Official shall be a person or persons designated by the City to enforce and administer the provisions of this Chapter or their duly appointed representative(s).

2. Powers and Duties.

a. ~~Recommendations~~ Advisory

The Administrative Official shall ~~make recommendations~~ **prepare an advisory** regarding the following **petitions**:

- (i) Site Plan Review (Section 14-14-06);
- (ii) Map amendments (rezonings) and text amendments (Section 14-14-07);
- (iii) Planned Development review (unless otherwise noted in Article 15); and
- (iv) Special use permit reviews (Section 14-14-09);
- (v) Variances (Section 14-14-12); and,
- (vi) Interpretations (Section 14-14-13).

b. Final Decisions

The Administrative Official shall make final decisions regarding the following:

- (i) Site Plan Review/ (Section 14-14-06); and,
- (ii) Sign Permits (Article 11).

D. Corporate Authority

The Corporate Authority is comprised of the Mayor and ten (10) aldermen.

14-14-03. APPLICATION REQUIREMENTS

The applicant shall submit to the Administrative Official ~~four (4) copies~~ **one** copy of zoning application, **provided by the Administrator, for petitions to go before the Zoning Board of Appeals or Planning Commission.** ~~two (2) copies of building applications, and~~ The applications shall contain both a graphic and written description of the proposal. ~~If more than one map is submitted, a map index is required.~~ At the discretion of the Administrative Official, projects of less than two (2) acres in total area; and ~~projects containing less than six (6) dwelling units~~ may not be required to supply the information ~~required in items (2), (3) and (9) of Section 14-13-6(A) and Section 14-13-6(C) below~~ listed in (A) Preliminary Site Plan Specifications but shall provide all information required in (C) Final Site Plan Specifications.

A. Preliminary Site Plan Specifications. The required site plan shall include the following data:

1. Boundary of the entire tract by courses and distances
2. Area of tract.
- 3 Zoning of the tract.
4. Present record owner of the tract.
5. Location of all existing and proposed buildings, structures, utilities, drives, approaches, parking and other prominent physical features on the site.
6. Phasing plan of proposed development.
7. Adjacent streets, alleys, drainage facilities and public utilities.
8. Location and size of existing and proposed storm water facilities including runoff patterns and flows, structures and basins.
9. Location of existing public utility easements and facilities, proposed public utility easements and facilities and their dimensions as may be required.
10. Size in square feet, and use for each building, including the height(s) of each building.
11. Layout and arrangement of off-street parking spaces, aisles and drives, pedestrian walks and walkways, light standards, safety islands, curbs and gutters, fencing and screening and landscaping. Dimensional requirements for stall widths and depths, aisle widths, drive widths, sidewalks and walkways, sight lines, setback, etc. shall conform with requirements of the Development Code.
12. The locations, size, layout and type of entrances and driveways including distances from street intersection(s) and adjoining points of access within 150 feet.

13. Building elevations or perspectives to illustrate compatibility with surrounding area and of sufficient detail to ensure building materials requirements are met (for new construction and significant rehabilitation only).
14. Floor plan drawn to approximate scale and dimensioned.
15. Fencing, screening, and/or walls to be erected; specifications, locations, dimensions, height of sufficient detail to ensure parking lot landscaping and buffer requirements are met.
16. Topography, existing and proposed, indicating area of excavation, backfill, and grading, slopes to be maintained and earth work specifications.
17. Landscape planting, clearly identified, showing locations, type and size.
18. All proposed setbacks requirements and sight lines.
19. Name and seal of architect, engineer or land surveyor preparing site plan.
20. All site plans shall be drawn to an approximate scale on a sheet or sheets whose dimensions do not exceed twenty-four (24) inches by thirty-two (32) inches.
21. Key map showing the location of the property reference to government survey section lines and major streets.
22. Site plans for residential lots can be exempted from the requirement for preparation under a professional seal, but they shall be suitable for the purpose intended and as determined by the Administrative Official.

1. ~~Photographs of the site (aerial photos are acceptable).~~
2. ~~The existing natural topographic features of the project area and its immediate surroundings. USGS 10 foot contour data is acceptable.~~
3. ~~Number of dwelling units by type and gross density per acre.~~
4. ~~The approximate location, size, character and number of all proposed buildings, structures and uses.~~
5. ~~The location and size of proposed off street parking, loading and pedestrian and vehicular traffic circulation; and its relationship to adjacent circulation systems.~~
6. ~~Landscaping, erosion and sedimentation control features.~~
7. ~~Location of public and/or private utilities and facilities proposed to serve the subject area, including water supply, sewage and drainage facilities.~~

8. ~~Proposed finished grade of the site.~~
9. ~~Perspective or such other drawings as are necessary to indicate the relative character and compatibility of the different land uses of the proposed development with the immediate area as well as within the project area.~~

B. Narrative. The narrative statement to accompany the site plan and other graphics material as part of the application shall contain, at a minimum the following information:

1. **Statement describing the proposed development and pertinent details.**
2. ~~A description of the economic viability of the development may be required to include a market analysis, cash flow projections and expected types of funding.~~

Development schedule providing guidelines and sequence for the completion of the proposed development.

3. A statement of the present ownership of all land within the subject area and if a ~~PUD~~ **Planned Development**, an explanation of the method of securing unified development control throughout the ~~PUD~~ **Planned Development** area, both during and after construction. Unified control after construction shall include homeowner associations, trust indentures, deed restrictions and other building agreements assuring operation and maintenance of common lands and improvements.

C. Final Site Plan Specifications. The required site plan shall include the following data:

1. Location of all existing and proposed buildings, structures, utilities, drives, approaches, parking and other prominent physical features on the site.
2. Boundary of the entire tract by courses and distances and adjacent streets, alleys, drainage facilities and public utilities.
3. Area of tract.
4. Zoning of the tract.
5. Present record owner of the tract.
6. Phasing plan of proposed development.
7. Width and layout, including elevations, of all streets, alleys, and public rights-of-way adjoining the tract.
8. Existing and proposed storm water runoff patterns and flows including calculations of flow and adequacy of receiving storm water gathering facilities to accommodate calculated increase of rate of runoff without adverse *effect*.

9. Location of existing public utility easements and facilities, proposed public utility easements and facilities and their dimensions as may be required.
10. Size in square feet, and use for each building, including the height(s) of each building.
11. Layout, arrangement and specifications for paving and base, *off-street* parking spaces, aisles and drives, pedestrian walks and walkways, drainage, lighting, signs and traffic control, safety islands, parking bumpers, curbs and gutters, fencing and screening and landscaping. Dimensional requirements for stall widths and depths, aisle widths, drive widths, radii, sidewalks and walkways, sight lines, setback, etc. shall conform with Regulations of the Zoning Code.
12. Layout, location and dimensional arrangement of poles, fire hydrants, Siamese connections, water valves, catch basins, underground piping and conduits, lighting fixture standards, retaining walls, pump islands, signs, doorways, window wells, waste receptacles or areas, guy wires, storage sheds or areas, fencing and any other structure, facility or feature that might interfere with the safe and orderly movement of motor vehicles and/or pedestrians.
13. The locations, size, layout and type of entrances and driveways.
14. Location and width of all sidewalks, crosswalks and safety islands and conformance with the ANSI Standard A 117.1 for making facilities accessible to, and usable by the physically handicapped (AAA minimum standards).
15. Fencing, screening, and/or walls to be erected; specifications, locations, dimensions, height.
16. Topography, existing and proposed, indicating area of excavation, backfill, and grading, slopes to be maintained and earth work specifications. I-J)(C
17. Disposition of storm water *runoff* from buildings, paved areas, and ground surfaces and indicating surface grades and elevations, catch basins, underground storm drains and their grades and elevations outfalls, headwalls, and specifications and drainage calculations.
18. All public utilities and their easements indicating sizes, lines, grades and types/specifications all conforming to the appropriate City Codes.
19. Landscape planting, clearly identified, showing locations, type and size.
20. All zoning setback requirements and sight lines.
21. Name and seal of architect, engineer or land surveyor preparing site plan.

22. All site plans shall be drawn to an approximate scale on a sheet or sheets whose dimensions do not exceed twenty-four (24) inches by thirty-two (32) inches.

23. Key map showing the location of the property reference to government survey section lines and major streets.

24. Site plans for residential lots in Zoning Classifications can be exempted from the requirement for preparation under a professional seal, but they shall be suitable for the purpose intended and as determined by the Building Official.

~~D. **Impact Requirements.** The applicant, unless exempted, shall project expected impacts of the development to include, but not be limited to projections of:~~

- ~~1. A description of the projected population, in total, and by age group categories, and an explanation of the methods by which such projections were derived.~~
- ~~2. Anticipated kinds of commercial and industrial development and their projected employment.~~
- ~~3. Volume and nature of projected traffic.~~
- ~~4. Water consumption and supply.~~
- ~~5. Sewage generation and treatment.~~
- ~~6. Drainage facility and system requirements.~~

14-14-04. APPLICATION PROCESSING

~~A. **Application Referrals.** The Administrative Official shall forward one (1) copy of a completed application in each instance to the following: ~~within five (5) municipal working days of receiving a complete application.~~~~

FIGURE 14-13(b): APPLICATION REFERRAL

	Administrative Official	Zoning Board of Appeals	Plan Commission	Corporate Authority
Variance		X		
Special Use Permit			X	
Rezoning Amendment			X	
Zoning Appeal of Administrative Decision		X		
Zoning Interpretation Request		X		
Sign Variance		X		
Other Application		X		

X – Body receiving a copy of a completed application.

B. Advisory Reports. The Administrative Official shall submit an advisory report to the Plan Commission and Zoning Board of Appeals concerning each application **three municipal working days prior to consideration at the public meeting.** ~~within (5) municipal working days of receiving a complete application.~~ Such advisory report shall not contain a recommendation of approval or denial.

Comment [BN1]: Requires submittal of staff report along with complete application within 5 days.

C. Concurrent Applications.

1. If approved by the applicable review officials, applications for development approvals may be filed and reviewed concurrently; provided, however,
 - a. Any application that also requires a legislative decision shall not be eligible for final approval until the legislative decision has been approved; and
 - b. No site plan shall be approved before any necessary rezoning is approved.
2. Applications submitted concurrently are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of **all related applications.**

14-14-05. NOTICE AND PUBLIC HEARINGS

After an application has been certified complete as required by Section 14-13-03, the applicable recommending body (Zoning Board of Appeals or Plan Commission) shall first conduct a public hearing of the application or appeal, the date and place of which shall be fixed in advance by the recommending body at any regular meeting. Notice of the time and place of such hearing shall be given in accordance with the laws of the State of Illinois.

A. Hearings and Meetings.

1. Special or regular meetings shall be determined according to the adopted bylaws of the recommending body.
2. The recommending body is not required to act on any application received ~~seven (7)~~ **thirty three (33) days** or less prior to a regularly scheduled meeting, but shall act on every application within ~~thirty forty (3040)~~ **thirty four (34) days** after a hearing.
3. All hearings and deliberations conducted by the Zoning Board of Appeals and Plan Commission shall be open to the public.
4. The Zoning Board of Appeals and Plan Commission shall keep minutes of their proceedings, showing the vote of each member upon each question, or in the absence of or failing to vote, indicating such fact, and shall also keep records of its hearings and other official actions.
5. Findings of fact shall be included in the advisory report of each case and the reason for recommending the denial of such application shall be specified.

6. Every recommendation of the Zoning Board of Appeals and Plan Commission shall be transmitted to the Corporate Authority and shall be a public record.
7. The Zoning Board of Appeals and Plan Commission shall adopt their own rules and procedures, not in conflict with this Code or with Illinois Compiled Statutes.

B. Public Notice. No action of the Zoning Board of Appeals shall be taken on any case until after notice has been given that a public hearing has been held as follows:

1. A notice of the time and date of said hearing and a brief summary of explanation of the subject matter of the hearing shall be published in a newspaper of general circulation within the City at least fifteen (15) days, but not more than thirty (30) days prior to the hearing date. If the name of the occupant is not known, the term “occupant” may be used in making notification under this subsection. The notice shall do all of the following:
 - a. Describe the nature of the request.
 - b. The date and time of the public hearing;
 - c. The location of the public hearing; and
 - d. The general location of the property—and its street address or addresses, the property index number (PIN) or numbers of all parcels of real property contained in the affected area, and if applicable, the legal description of the property if either common address or PIN are not accurate and a short description of the proposed planned development and purpose of the public hearing. State when and where the request will be considered.
 - e. Indicate when and where written comments will be received concerning the request.
2. Said notice in the foregoing paragraph (1) shall be sent by first-class mail to the applicant, owners of property in question at the time the public hearing notice is published, and to all adjacent property owners and/or residents.
3. Notice of the required public hearing shall also be provided by the applicant by posting a sign or signs on the property no less than **seven (7) days** prior to the public hearing. The sign shall be weatherproof and contain such information as is required in Paragraph B1 above. Failure to post such sign(s) and/or the removal or knocking down (by the City or others) of the sign after posting but before the public hearing shall not invalidate, impair, or otherwise affect any planned development permit subsequently granted following such public hearing.
4. Public hearing notices shall also be sent to the presiding officer of the appropriate fire and school district

5. Any party may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

14-14-06. SITE PLAN REVIEW PROCEDURE

- A. **Applicability.** A Site Plan submittal shall be required for all developments except the following:
 1. Detached single-family dwellings; and
 2. Projects where interior construction does not increase Gross Floor Area, increase the intensity of use, or effect parking requirements on a site that meets all development and site design standards of this Chapter.

- B. Initiation.** An owner of land within the city, or such owner’s duly authorized agent or representative, may submit an application to the Administrative Official for site plan review.
- C. Pre-filing Conference.** A prospective applicant, prior to submitting a formal application for site plan review, shall meet for a pre-filing conference(s) with the Administrative Official and any other City official or employee designated by the Administrative Official. The purpose of the conference(s) is to help the applicant understand the City’s Comprehensive Plan, this Chapter, the site development allowances, the standards by which the application will be evaluated, and the application requirements. At the conference, the applicant is expected to outline the project in terms of land uses, anticipated building arrangements and site design, and proposed construction timetable.
- D. Application requirements.** All applications for site plan review shall be submitted in accordance with the minimum submission requirements of Section 14-14-06(A). The site plan shall be drawn a scale of one inch equals one hundred feet (1" = 100') if possible, or a scale necessary for clarity to clearly show the arrangement of the proposed development on the site, and the relationship of the proposed development to surrounding streets, properties and land uses.
- E. Preliminary review.** Two copies of the site plan along with a site plan application and required fee shall be submitted to the Administrative Official for preliminary review to ensure compliance with all City ordinances. In addition, the preliminary review shall ensure that a complete site plan will be submitted to the Plan Commission for its consideration. The Administrative Official shall have a minimum of 15 business days to review the site plan and provide feedback to the applicant.
- F. Final review.** After receiving feedback on the preliminary review, the applicant shall supply the Administrative Official with four (4) copies of the revised site plan, two of which shall be signed and sealed by a registered engineer architect or surveyor.
- G. Action by Administrative Official.** Upon submission of a complete application, the Administrative Official shall review the revised site plan for consistency with the requirements of this Chapter and other applicable City requirements, and make a recommendation. The Administrative Official shall have authority to approve site plans, unless the site plan is part of an application to be reviewed by another decision-making body as specified elsewhere in this Article.
- H. Approval criteria.** In approving a site plan, the Administrative Official shall consider the following:
1. compliance with all applicable requirements of this Chapter;
 2. compliance with the City’s Comprehensive Plan;
 3. contribution to the essential character of the district in which it is located;
 4. effects on schools, traffic, streets, shopping, public utilities and adjacent properties;
 5. benefits to public convenience at the specified location;

- 6. appropriateness of site design and development intensity;
 - 7. compatibility with surroundings and potential injury to the value of other property in the neighborhood in which it is located; and
 - 8. protection of public health, safety, and welfare related to proposed design, location, and operation.
- I. **Dedication and improvement.** The applicant shall bear the costs of the installation of all on-site improvements as required by this ordinance and other applicable City regulations. The City may require appropriate financial guarantees of required improvements.
 - J. **Notice of decision.** Official notice of the Administrative Official's decision shall be transmitted to the applicant and retained on file with Land Use and Development Department.

14-14-07. MAP (REZONING) AND TEXT AMENDMENT PROCEDURE

- A. **Applicability.** The corporate authority may, from time to time on its own motion, or on petition of any person or persons in interest, or on initial recommendation of the Plan Commission, amend, supplement, or repeal the regulations and provisions of this Code.
- B. **Initiation.** Any application to amend this Code shall be made to the Administrative Official.
 - 1. An application shall be signed by either the freeholder, a contract purchaser, an option to purchase holder, or by their authorized agent. Agent authorization shall be in writing and filed with the application.
- C. **Application requirements.** All applications for map (rezoning) or text amendment shall be submitted in accordance with the minimum submission requirements of Section 14-14-03.
- D. **Notice and hearing.** Any such proposed amendment or change, when initiated by the Corporate Authority or by individual petition shall be referred to the Plan Commission for an advisory report thereon. When a proposed amendment or change is initiated by the Plan Commission, said advisory report shall accompany that recommendation of the Plan Commission. The Plan Commission shall hold a public hearing on the tentative report, changes, or amendments. All required hearings and notice shall be in accordance with the requirements of Section 14-14-05.
- E. **Action by Administrative Official.** The Administrative Official shall draft the appropriate amendment and/or prepare a report that reviews the proposed zoning map amendments (rezonings) or text amendments. Such advisory report shall not contain a recommendation of approval or denial.

F. **Action by Plan Commission.** After completion of the hearing before the Plan Commission, the Plan Commission shall prepare its final report and recommendation, addressing at a minimum, the criteria established in Section 14-14-06 (H). The final report and recommendation shall be submitted to the Corporate Authority within ten (10) municipal working days following approval or denial. ~~The receipt of the final report shall be noted in the minutes of the Corporate Authority.~~

G. **Action by Corporate Authority.** After receiving the recommendations and report of the Plan Commission, the Corporate Authority shall consider any proposed amendment, supplement, change, modification or repeal in a public hearing. The Corporate Authority shall approve, conditionally approve, deny, or table the application.

~~**Approval criteria.** No proposed amendment, supplement, change, modification or repeal shall be approved that is inconsistent with the City's Comprehensive Plan.~~

H. **Zoning amendment protest.** In case of a written protest against any proposed amendments of the zoning regulations or districts, signed and acknowledged by the owners of twenty percent (20%) of the frontage proposed to be altered, or by owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, if filed with the City Clerk, the amendment shall not be passed, except by a favorable vote of at least two-thirds (2/3) of the Corporate Authority then holding office.

I. **Time limitation.** Applications for amendment, supplement, or change to the same zoning district classification, or a less restricted zoning district classification, on substantially the same parcel of land may not be submitted more often than once a year. A determination, either approving or rejecting such zoning change, must be made by the Corporate Authority within three (3) months after receiving a recommendation from the Plan Commission.

J. **Notice of decision.** A certified copy of the Corporate Authority's decision shall be transmitted to the applicant and to the Administrative Official.

14-14-08. PLANNED DEVELOPMENT REVIEW PROCEDURE

The procedures for Planned Development review are provided in Article 15 of this Chapter

14-14-09. SPECIAL USE PERMIT PROCEDURE

This Code divides the entire City into zoning districts and in each district there are mutually compatible uses which are permitted. It is recognized, however, that other uses may be necessary or desirable, but their potential influence on permitted uses could be harmful. For this reason, they are classed as "special uses" and may be permitted only under certain conditions. These special uses may be public or private uses.

- A. **Applicability.** Special use permit review shall occur in accordance with the provisions of this section.
1. Special uses within each zoning district are uses that may be appropriate in a particular district, but because of the increased potential for incompatibility with adjacent uses requires individual review by the Corporate Authority.
 2. A special use permit review shall be required for all special uses as set forth in the use tables contained in Article 3 through Article 6 of this Chapter. A development comprising uses regulated by separate rows on the table (often referred to as a mixed use development) shall be reviewed using the most restrictive process from among the proposed uses.
 3. A special use permit review shall be required for any expansion of a special use involving the enlargement of the buildings, structures, or land area devoted to such use.
 4. Where a use requiring an approval or a special use permit lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to special use permit review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.
- B. **Pre-filing Conference.** A prospective applicant, prior to submitting a formal application for a special use permit, shall meet for a pre-filing conference(s) with the Administrative Official and any other City official or employee designated by the Administrative Official. The purpose of the conference(s) is to help the applicant understand the City's Comprehensive Master Plan, this Chapter, the site development allowances, the standards by which the application will be evaluated, and the application requirements. At the conference, the applicant is expected to outline the project in terms of land uses, anticipated building arrangements and site design, and proposed construction timetable.
- C. **Application Requirements.** All applications for special use permit review shall be submitted in accordance with the minimum submission requirements Section 14-14-06. Concurrent with a request for a special use permit review, the applicant shall also submit:
1. A statement indicating compliance of the proposed special use with the Comprehensive Plan.
 2. A scaled site plan in accordance with the requirements of Section 14-14-06(A).

- D. Notice and hearing.** The Plan Commission shall fix a reasonable time for the hearing of the application for a special use permit. All required hearings and notice shall be in accordance with the requirements of Section 14-14-05.
- E. Action by Administrative Official.** Upon submission of a complete application, the Administrative Official shall review the application for compliance with Paragraph G of this section and other applicable requirements, and prepare a written report. Such advisory report shall not contain a recommendation of approval or denial.
- F. Action by Plan Commission.** After completion of the hearing before the Plan Commission, the Plan Commission shall prepare its final report and recommendation, addressing at a minimum, the criteria established in Section 14-14-06 (H). The final report and recommendation shall be submitted to the Corporate Authority within ten (10) municipal working days following approval or denial. The receipt of the final report shall be noticed in the minutes of the Corporate Authority.
- G. Approval criteria.** In addition to specific standards which may be applicable, the criteria established in Section 14-14-06 (I) shall serve as the basis for decisions involving special land uses, planned unit developments, and other discretionary decisions contained in this chapter.
- H. Action by Corporate Authority.** Upon receipt of the Plan Commission's advisory report, the Corporate Authority shall act according to its legislative procedure; however, any decision of the Corporate Authority contrary to a negative recommendation of the Plan Commission shall require a two-thirds (2/3) majority vote of the Corporate Authority for passage. If the Plan Commission recommended an application and the Corporate Authority denies the application, a two-thirds (2/3) majority vote shall be required to deny the application. Every special use permit granted shall be by Resolution and shall be accompanied by a finding of fact specifying the reason for making such special use permit.
- I. Conditions of approval.** In approving a special use, the Corporate Authority may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space, or buffer provision; limitation in scale, intensity, or hours of operation; and other reasonable restrictions. Any conditions approved by the Corporate Authority shall become a part of the permit and be of equal importance in the responsibility of the applicant or subsequent assigns to adhere to its terms.
- J. Effect of decision.**
1. If the Corporate Authority denies an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial.
 2. Special use permits, including any conditions of approval, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs.

- K. **Notice of decision.** A certified copy of the Corporate Authority's decision shall be transmitted to the applicant and to the Administrative Official.

14-14-10. **SPECIAL USE PERMIT AMENDMENT PROCEDURE**

A. ~~**Special use permit amendment committee.** Amendments to a special use permit may be approved by a Committee consisting of the Director of Land Use and Development, the Chairman of the Council Committee charged with planning review, and the Chairman of the Plan Committee.~~

B. ~~**Application requirements.** Approval of a special use permit amendment shall require:~~

1. ~~The written request from the applicant for the proposed change, including such graphic description and/or other materials as the Committee may require in order to determine the full nature and impact of the request; and~~
2. ~~A written determination by the Committee, signed by all members, that the requested change is minor and remains within the intent of the original permit and is therefore approved. Such approval shall be specific and reasons for the approval clearly stated, with findings of fact to support the reasoning.~~

C. ~~**Action by Committee.** The Committee shall act upon all such special use permit amendment requests within fifteen (15) working days of the original amendment request. Approval of amendment by this Committee shall require a unanimous vote and such vote shall be recorded in the approved amended plans specifying the action taken and reason(s) for the action.~~

D. ~~**Notice of decision.** The Plan Commission and Corporate Authority shall be notified in writing, three (3) days prior to the next regular meeting of the Corporate Authority, of any action taken by this Committee with record of the action entered in their respective minutes.~~

E. ~~**Effect of decision.** Committee decision is final and the requested amendment shall be deemed approved if there is no objection raised by the Corporate Authority by the conclusion of its next regularly scheduled meeting. An objection by the Corporate Authority to the amendment shall require a majority vote.~~

14-14-11. **APPEAL PROCEDURE**

- A. **Applicability.** Any appeal may be taken to the Zoning Board of Appeals by any person, firm or corporation, or by any officer, department, board or bureau affected by a decision of the Administrative Official concerning the zoning provisions of this Code.
- B. **Initiation.** An owner of land within the city, or such owner's duly authorized agent or representative, may submit an administrative appeal to the Administrative Official and Zoning Board of Appeals.

- C. **Application requirements.** An administrative appeal shall be made by filing a written notice of appeal specifying the grounds for the appeal. Every appeal or application shall refer to the specific provision of the Code involved, and shall exactly set forth the interpretation that is claimed, as the case may be. Such appeal shall be taken within 45 days after the decision by filing.
- D. **Notice and hearing.** All required hearings and notice shall be in accordance with the requirements of Section 14-14-05.
- E. **Action by Administrative Official.** Upon receipt of an administrative appeal, the Administrative Official shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from is taken. The Administrative Official shall also investigate the appeal and submit a report to the Zoning Board of Appeals.
- F. **Action by Board of Appeals.** The Board of Appeals shall have the power to hear and provide recommendations to the Corporate Authority on appeals filed as provided in this article, where it is alleged by the appellant that there is error in any order, requirements, decision, determination, grant or refusal made by the Zoning Administrator or other administrative official in the enforcement and interpretation of the provisions of this chapter. A simple majority vote of members in attendance shall be sufficient to authorize any action of the Board except that an affirmative vote of at least four (4) members shall be necessary to pass motions to recommend appeals from decisions by any Administrative Official.
- G. **Findings of fact.** The Zoning Board of Appeals shall recommend to the Corporate Authority, reversal or affirmation, wholly or partly, or may recommend a modification to the order, requirement, decision or determination applied from to the extent and in the manner that the Zoning Board of Appeals may decide to be fitting and proper to the premises. The Zoning Board of Appeals shall issue an advisory report within ten (10) municipal working days to the Corporate Authority concerning each application it has reviewed.
- H. **Action by Corporate Authority.** Upon receipt of the Zoning Board of Appeals' advisory report, the Corporate Authority shall act according to its legislative procedure; however, any decision of the Corporate Authority contrary to a negative recommendation of the Zoning Board of Appeals shall require a two-thirds (2/3) majority vote of the Corporate Authority for passage. If the Zoning Board of Appeals recommended an application and the Corporate Authority denies the application, a two-thirds (2/3) majority vote shall be required to deny the application. Every appeal granted shall be accompanied by a finding of fact specifying the reason for granting the appeal.
- I. **Stay of Proceedings.** Any appeal shall stay all proceedings in furtherance of action appealed from, unless the Administrative Official certifies to the Zoning Board of Appeals after the notice of appeal has been filed with him that, by reason of facts stated in the certificate, the stay would, in his opinion, cause imminent peril to life or property, in which case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a Circuit Court on application, or notice to the Administrative Official and on due cause shown.

- J. **Notice of decision.** A certified copy of the Corporate Authority’s decision shall be transmitted to the applicant and to the Administrative Official.

14-14-12. VARIANCE PROCEDURE

- A. **Applicability.** The Zoning Board of Appeals shall have the power to recommend that the Corporate Authority vary or adapt the strict application of the requirements of the zoning provisions of this Code in the case of irregular, narrow, shallow, or steep lots, or other physical conditions, whereby such strict application would result in such practical difficulty and/or unnecessary hardship as would deprive the owner of the reasonable use of the land or building involved, but in no other case. In recommending a variance, the Board shall prescribe conditions that it deems to be necessary or desirable for the public interest, convenience or welfare (65 ILCS 5/11-13-5).
- B. **Initiation.** An owner of land within the city, or such owner’s duly authorized agent or representative, may submit a variance application to the Administrative Official and Zoning Board of Appeals.
- C. **Application requirements.** All applications for variation shall be submitted in writing and in accordance with the minimum submission requirements of Section 14-14-03. At a minimum, every appeal or application shall refer to the specific provision of the Code involved, and shall exactly set forth the interpretation that is claimed, the matter for which the area-bulk variance is sought, and the grounds on which it is claimed that the variance should be granted, as the case may be.
- D. **Notice and hearing.** All required hearings and notice shall be in accordance with the requirements of Section 14-14-05.
- E. **Action by Administrative Official.** Upon receipt of a variance application, the Administrative Official shall submit an advisory report to the Zoning Board of Appeals within five (5) municipal working days of receiving a complete application. Such advisory report shall not contain a recommendation of approval or denial.
- F. **Action by Board of Appeals.** The Zoning Board of Appeals shall have the power to hear and provide recommendations to the Corporate Authority on variance applications filed as provided in this article. A simple majority vote of members in attendance shall be sufficient to authorize any action of the Board except that an affirmative vote of at least four (4) members shall be necessary to pass motions to recommend variances.

- G. Findings of fact.** The Zoning Board of Appeals shall issue an advisory report within ten (10) municipal working days to the Corporate Authority concerning each application it has reviewed. No variance shall be recommended by the Board of Zoning Appeals unless the board finds that all of the following facts and conditions exist:
1. That special circumstances or conditions fully described in findings of fact apply to the land or buildings for which the area-bulk variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this Code would deprive the applicant of a reasonable use of such land or building;
 2. That, for reasons fully set forth in the findings, the recommending of the area-bulk variance is necessary for the reasonable use of land or buildings, and that the variance as recommended by the Board is the minimum variance that will accomplish this purpose;
 3. That the recommending of this variance will be in harmony with the general purpose and intent of this Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the Board, in making its recommendations shall take into account whether the conditions of the subject premises are peculiar to the lot or tract described in the petition. Should it be determined that the conditions are part of the general condition of the neighborhood, then it shall be so noted and the Board may recommend appropriate corrections to Code.
- H. Action by Corporate Authority.** Upon receipt of the Zoning Board of Appeals' advisory report, the Corporate Authority shall act according to its legislative procedure; however, any decision of the Corporate Authority contrary to a negative recommendation of the Zoning Board of Appeals shall require a two-thirds (2/3) majority vote of the Corporate Authority for passage. If the Zoning Board of Appeals recommended an application and the Corporate Authority denies the application, a two-thirds (2/3) majority vote shall be required to deny the application. Every variance shall be by Ordinance and shall be accompanied by a finding of fact specifying the reason for making such variance.
- I. Notice of decision.** A certified copy of the Corporate Authority's decision shall be transmitted to the applicant and to the Administrative Official.
- J. Sign Variance.** Applicants seeking variance to regulations set forth in Article 11 (Sign Regulations) shall adhere to the procedure defined in this section.

14-14-13. INTERPRETATION PROCEDURE

- A. **Applicability.** The Zoning Board of Appeals shall, upon an appeal from a decision by any Administrative Official, have the power to recommend to the Corporate Authority any question involving the interpretation of any provision or term of the zoning provisions of this Code, including:
1. The determination of the exact location of any district boundary if there is uncertainty with respect thereto; and
 2. Uses not specifically listed as permitted uses or accessory uses that may be similar to or compatible with the listed permitted uses or accessory uses, as the case may be, in the applicable zoning district.
- B. **Initiation.** An owner of land within the city, or such owner's duly authorized agent or representative, may submit an application for an interpretation to the Administrative Official and Zoning Board of Appeals.
- C. **Application requirements.** All applications for interpretations shall be submitted in writing and in accordance with the minimum submission requirements of Section 14-14-03. At a minimum, every appeal or application shall refer to the specific provision of the Code involved, and shall exactly set forth the interpretation that is claimed, the matter for which the area-bulk variance is sought, and the grounds on which it is claimed that the variance should be granted, as the case may be.
- D. **Notice and hearing.** All required hearings and notice shall be in accordance with the requirements of Section 14-14-05.
- E. **Action by Administrative Official.** Upon receipt of an application for an interpretation, the Administrative Official shall submit an advisory report to the Zoning Board of Appeals within (5) municipal working days of receiving a complete application. Such advisory report shall not contain a recommendation of approval or denial.
- F. **Action by Board of Appeals.** The Zoning Board of Appeals shall have the power to hear and provide recommendations to the Corporate Authority on interpretations of any provision or term of the zoning provisions of this Code. A simple majority vote of members in attendance shall be sufficient to authorize any action of the Board except that an affirmative vote of at least four (4) members shall be necessary to pass motions to recommend interpretations of the Provisions of Chapter 14.

Comment [BN2]: This section (taken from 14-3-22.1 RECOMMENDATION BY ZONING BOARD OF APPEALS) appears to conflict with 14-3-22.2 DETERMINATION BY ADMINISTRATIVE OFFICIAL.

- G. **Findings of fact.** The Zoning Board of Appeals shall issue an advisory report within ten (10) municipal working days to the Corporate Authority concerning each application it has reviewed.
 - 1. The Zoning Board of Appeals shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change in the district map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare.
- H. **Action by Corporate Authority.** Upon receipt of the Zoning Board of Appeals' advisory report, the Corporate Authority shall act according to its legislative procedure; however, any decision of the Corporate Authority contrary to a negative recommendation of the Zoning Board of Appeals shall require a two-thirds (2/3) majority vote of the Corporate Authority for passage. If the Zoning Board of Appeals recommended an application and the Corporate Authority denies the application, a two-thirds (2/3) majority vote shall be required to deny the application. Every approved interpretation shall be accompanied by a finding of fact specifying the reason for making such interpretation.
- I. **Notice of decision.** A certified copy of the Corporate Authority's decision shall be transmitted to the applicant and to the Administrative Official.

14-14-14. OCCUPANCY PERMIT

Hereinafter, no land shall be occupied or used, and no building erected, altered, or extended shall be used or changed in use until an occupancy permit shall have been issued by the Administrative Official stating that the building zoning classification, building location, and proposed use thereof complies with the provisions of this Code. Emergency and temporary occupancy permits shall meet the requirements of Articles 3 through 6 and Article 15. An occupancy permit for a new building or the reconstruction or alteration of an existing building shall be applied for coincident with the application for a building permit and said certificate shall be issued within five (5) municipal working days following an approved final inspection of the premises involved.

14-14-15. PERMIT REVOCATION - EXPIRATION

The Corporate Authority may revoke a permit issued under this Article if:

- A. The proposal for which a permit has been issued is not carried out pursuant to the approved final site plan; or
- B. If any condition or requirement included in the permit is not complied with; or
- C. A permit issued under this Article shall expire if the proposal authorized by the permit is not completed within two (2) years of the date of permit issuance.

14-14-16. NONCONFORMING USES

No nonconforming use shall be reinstated, changed or expanded without an occupancy permit having first been issued by the Administrative Official.

14-14-17. APPLICABILITY OF THIS SECTION

Permits shall not be issued until the determination by Administrative Official has been transmitted to the City Council at least **three (3) days** prior to their next regularly scheduled meeting and no objection raised by City Council by the conclusion of its next regularly scheduled meeting. An objection by City Council to the determination shall require a majority vote.

14-14-18. SCHEDULE OF FEES, PENALTIES, AND LIENS

The Corporate Authority shall establish a schedule of fees, penalties, and liens for all matters pertaining to this Chapter. The schedule of fees, penalties, and liens shall be established in Chapter 16 of the City of Fairview Heights Code of Ordinances. The schedule of fees, penalties, and liens shall be filed with the City Clerk and posted in the office of the Department of Land Use and Development. The schedule of fees shall only be amended by the Corporate Authority and shall not require a recommendation from the Plan Commission.

***ITEMS TO REVISIT** *NEW TEXT * ~~DELETED TEXT~~ *NOTES

ARTICLE XV. PLANNED DEVELOPMENT

14-15-01.	PURPOSE STATEMENT
14-15-02.	GENERAL PROVISIONS
14-15-03.	STANDARDS FOR REVIEW
14-15-04.	SITE DEVELOPMENT STANDARDS
14-15-05.	PROCEDURES
14-15-06.	APPLICATION REQUIREMENTS
14-15-07.	EFFECT OF APPROVAL OR DENIAL
14-15-08.	AMENDMENTS AND ALTERATIONS TO APPROVED PLANNED DEVELOPMENT PERMITS

14-15-01. PURPOSE STATEMENT

- A. The purpose of the regulations, standards, and criteria contained in this chapter is to provide an alternate zoning procedure under which land can be developed or redeveloped with innovation, imagination, and creative architectural design when sufficiently justified under the provisions of this chapter. The objective of the Planned Development process is to encourage a higher level of design and amenity than is possible to achieve under otherwise applicable zoning regulations. The end result can be a product which fulfills the objectives of the Fairview Heights Comprehensive Plan and planning policies of the City while departing from the strict application of the use and bulk regulations of the zoning title. The Planned Development is intended to permit and encourage such flexibility and to accomplish the following purposes:
1. To stimulate creative approaches to the commercial, residential and commercial/mixed-use development of land.
 2. To provide more efficient use of land.
 3. To preserve natural features and provide open space areas and recreation areas in excess of that required under existing zoning regulations.
 4. To develop new approaches to the living environment through variety in type, design and layout of buildings, transportation systems, and public facilities.
 5. To unify building and structures through design.
 6. Promotion of long term planning pursuant to the Comprehensive Plan, which will allow harmonious and compatible land uses or combination of uses with

surrounding areas.

- B. ~~The development of City owned buildings and property shall be exempt from the requirements of this Article.~~

14-15-02. GENERAL PROVISIONS

- A. To fulfill the intended purpose of this district all developments greater than **three (3) acres** and any development within the MXD district shall be developed as a Planned Development in accordance with this Article, **unless exempt by the Zoning Administrator.**
- B. Each Planned Development should be presented and judged on its own merits. It shall not be sufficient to base justification for approval of a Planned Development upon an already existing Planned Development except to the extent such Planned Development has been approved as part of a development master plan.
- C. The burden of providing evidence and persuasion that any Planned Development is necessary and desirable shall in every case rest with the applicant.
- D. Buildings and uses or combinations of uses within a Planned Development shall be limited solely to those approved as part of a Planned Development permit; provided, however, that any buildings and uses or combinations of uses in compliance with a development master plan approved as part of a Planned Development permit may be approved by the City Council.

14-15-03. STANDARDS FOR REVIEW

- A. Modifications in conventional zoning and subdivision regulations are privileges and will be considered by the City only in direct response to the accrual of tangible benefits from the Planned Development to the City or the neighborhood/area in which it would be located. These benefits shall be in the form of exceptional amenities, landscape, architectural or site design, or the conservation of special man-made or natural features of the site. In reviewing an application for a Planned Development, the Planning Commission and/or the City Council, as the case may be, shall be required to make certain findings based on the following standards.
1. **Required Findings.** No application for a Planned Development shall be approved unless all of the following findings are made about the development:
 - a. **Comprehensive Plan.** The Planned Development shall conform to the general planning policies of the City as set forth in the Comprehensive Plan.

Public Welfare. The Planned Development shall be so designed, located and proposed to be operated and maintained that it will not impair an adequate supply of light and air to adjacent property and will not substantially increase the danger of fire or otherwise endanger the public health, safety and welfare.

- b. **Impact on Other Property.** The Planned Development shall not be injurious to the use or enjoyment of other property in the neighborhood for the purposes permitted in the district, shall not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district, shall not be inconsistent with the community character of the neighborhood, shall not alter the essential character of the neighborhood and shall be consistent with the goals, objectives, and policies set forth in the Comprehensive Plan, and shall not substantially diminish or impair property values within the neighborhood, or be incompatible with other property in the immediate vicinity.
- c. **Impact on Public Facilities and Resources.** The Planned Development shall be so designed that adequate utilities, road access, drainage, and other necessary facilities will be provided to serve it at the cost of the developer in accordance with Article 14-13: Subdivision Development Standards.
- d. **Archaeological, Historical or Cultural Impact.** The Planned Development shall not substantially adversely affect a known archaeological, historical, or cultural resource located on or off of the parcel proposed for development.
- e. **Parking and Traffic.** The Planned Development shall have or make adequate provision to provide ingress and egress to the proposed use in a manner that minimizes traffic congestion in the public streets, provides appropriate cross access to adjacent properties and parking areas, and provide adequate access for emergency vehicles.
- f. **Adequate Buffering.** The Planned Development shall have adequate landscaping, public open space, and other buffering features to protect uses within the development and surrounding properties.
- g. **Signage.** Any signage on the site of the Planned Development shall be in conformity with Article 14-11: Sign Regulations.

2. **Modification Standards.** In addition to the findings required above, the following standards shall be utilized in considering applications for modifications of the conventional zoning and subdivision regulations for a Planned Development. These standards shall not be regarded as inflexible, but shall be used as a framework by the City to test the quality of the amenities, benefits to the community, and design and desirability of the proposal.
- a. **Integrated Design.** A Planned Development shall be laid out and developed as a unit in accordance with an integrated overall design. This design shall provide for safe, efficient, convenient and harmonious grouping of structures, uses and facilities, and for appropriate relation of space inside and outside buildings to intended uses and structural features.
 - b. **Beneficial Common Open Space.** Any common open space in the Planned Development shall be integrated into the overall design. Such spaces shall have a direct functional or visual relationship to the main building(s) and not be of isolated or leftover character. The following would not be considered usable common open space:
 - (i) Areas reserved for the exclusive use or benefit of an individual tenant or owner.
 - (ii) Dedicated streets, alleys and other public rights-of-way.
 - (iii) Vehicular drives, parking, loading and storage area.
 - (iv) Irregular or unusable narrow strips of land less than fifteen feet (15') wide.
 - c. **Functional and Mechanical Features.** Exposed storage areas, trash and garbage retainers, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be accounted for in the design of the Planned Development and made as unobtrusive as possible. They shall be subject to such setbacks, special planting or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
 - d. **Visual and Acoustical Privacy.** The Planned Development shall provide reasonable visual and acoustical privacy for each dwelling unit. Fences, insulations, walks, barriers and landscaping shall be used as appropriate for the protection and aesthetic enhancement of property and the privacy of its occupants, screening of objectionable view or uses, and reduction of noises.

- e. **Energy Efficient Design.** A Planned Development shall be designed with consideration given to various methods of site design and building location, architectural design of individual structures, and landscaping design capable of reducing energy consumption within the Planned Development.
- f. **Drives, Parking and Circulation.** Principal vehicular access shall be from dedicated public streets, and access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, adequate provision for service by emergency vehicles, and arrangement of parking areas that are safe and convenient, and insofar as feasible, do not detract from the design of proposed buildings and structures and the neighboring properties.
- g. **Surface Water Drainage.** Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Surface water in all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic.

14-15-04. SITE DEVELOPMENT STANDARDS

Notwithstanding any limitations on variations which can be approved as contained elsewhere in this Code, site development allowances, i.e., deviations or variations from the underlying zoning provisions set forth outside this chapter may be approved provided the applicant specifically identifies each such site development allowance and demonstrates how each such site development allowance would be compatible with surrounding development, is in furtherance of the stated objectives of this Article, and is necessary for proper development of the site.

14-15-05. PROCEDURES

The following steps are provided to assure the orderly review of every planned development application in a timely and equitable manner.

A. Pre-filing Review and Transmittal of Application.

1. Conference.

- a. Pre-filing Conference. A prospective applicant, prior to submitting a formal application for a planned commercial development, shall meet for a pre-filing conference(s) with the City Administrator, the Zoning Administrator and any other City official or employee designated by the City Administrator. The purpose of the conference(s) is to help the applicant understand the Comprehensive Plan, the Development Code, the site development allowances, the standards by which the application will be evaluated, and the application requirements.
- b. Request for Waiver. After reviewing the planned development process, the applicant may request a waiver of any application requirement which in the applicant's judgment should not apply to the proposed Planned Development. Such request shall be made in writing prior to the submission of the formal application documents.
- c. Granting of Waiver. All requests for waiver shall be reviewed within fifteen (15) working days by the City Council. A final determination regarding the waiver shall be given to the prospective applicant following the decision.
- d. Meeting to Review Residential Impacts. If deemed appropriate by the Zoning Administrator, the applicant, prior to submitting a formal application for a planned development, will be required to schedule a meeting to discuss the proposed planned development and its impact on area residents. If such a meeting is required, the applicant shall send a written notice of the meeting via certified mail to all taxpayers of record and residents for all property within five hundred (500) feet of the proposed planned development. Such notice shall be mailed not less than fifteen (15) days prior to the date of the meeting. A copy of the notice and mailing list shall be provided to the Zoning Administrator. A written summary of comments made at the meeting shall be maintained and submitted by the applicant with the application.

2. **Filing of Application.** Following the completion of the pre-filing conference(s), the applicant shall file an application for a planned development in accordance with this Article. The Zoning Administrator shall deliver copies of the application to other appropriate City departments for review and comment.
3. **Deficiencies.** The Zoning Administrator shall determine whether the application is complete. If the Zoning Administrator determines that the application is not complete, he/she shall notify the applicant in writing of any deficiencies and shall take no further steps to process the application until the deficiencies are remedied.
4. **Report on Compliance.** A copy of the complete application and a written report incorporating the comments of City staff and other agencies regarding the compliance of the proposed planned development with the requirements and standards of this Article shall be delivered to the Planning Commission prior to the public hearing.
5. **Determination Not Binding.** Neither the Zoning Administrator’s determination that an application is complete nor any comment made by the Zoning Administrator or City staff at a pre-filing conference or as part of the review process shall be intended or construed as a formal or informal recommendation for the approval of a planned development permit for the proposed planned development, or component part thereof, nor shall be intended or construed as a binding decision of the City, the Planning Commission or any staff member.

B. Review and Action by the Planning Commission.

1. Upon receiving the report from the Zoning Administrator, the Planning Commission shall hold at least **one (1)** public hearing on the proposed planned development.
2. Notice of the required public hearing shall be published by the City not more than **twenty (20) thirty (30)**, nor less than **seven (7) fifteen (15) days** before the scheduled hearing in a newspaper published at least once weekly and having general circulation in the City and shall contain the following information:
 - a. The identification number designation of the application;
 - b. The date and time of the public hearing;
 - c. The location of the public hearing; and
 - d. The general location of the property, **the legal description of the property** and its street address, **or addresses, the property index number (PIN) or numbers of all parcels of real property contained in the affected**

area, if applicable, **the legal description of the property if either common address or PIN are not accurate** and a short description of the proposed planned development and purpose of the public hearing.

3. Notice of the required public hearing shall also be provided by the applicant by posting a sign or signs on the property no less than ~~fifteen (15)~~ **seven (7) days** prior to the public hearing. The sign shall be weatherproof and contain such information as is required in Paragraph B2 above. Failure to post such sign(s) and/or the removal or knocking down (by the City or others) of the sign after posting but before the public hearing shall not invalidate, impair, or otherwise affect any planned development permit subsequently granted following such public hearing.
4. Notice of the required public hearing shall **also** be provided **by the Applicant** by First-Class U.S. Mail to the taxpayers of record and owners of record of the property which is the subject of the application (if different than the applicant), and the taxpayers of record and residents of all property within **two-hundred (250) feet** of the subject property. Such notice shall contain the information as is required in Paragraph B2 above and shall be mailed not more than ~~twenty (20)~~ **thirty (30)**, nor less than ~~seven (7)~~ **fifteen (15) days** prior to the date of the public hearing. The notice shall also include the name and address of the applicant for the commercial planned development. Staff reserves the right to extend the mailing notice requirement to properties beyond those properties within 250 feet if the proposed action has the potential to impact property owners beyond the minimum required 250 feet.
5. The Planning Commission shall review the application, the standards and requirements established by this Article, the report of the City Administrator, and any oral and written comments received by the Planning Commission before or at the public hearing. Within **forty-five (45) days** following the close of the public hearing and at a regular meeting, the Planning Commission shall make specific written findings addressing each of the standards set forth in this Article and transmit such findings, together with a recommendation of approval, approval with conditions, or disapproval to the City Council.

C. Review and Action by the City Council.

1. Within **sixty (60) days** of receipt of the report and recommendation of the Planning Commission, and without further public hearing, the City Council shall either (a) deny the application; (b) refer the application back to the Planning Commission for further review; (c) postpone further consideration pending the submittal of additional information, including any application requirement previously waived; or (d) adopt an ordinance approving the planned development permit.

2. Any action taken by the City Council pursuant to Paragraph C1 above shall require the concurrence of a majority of all the City Council then holding office.

In approving a planned development permit, the City Council may attach such conditions to the approval as it deems necessary to have the proposed use or combination of uses meet the standards set forth in this Article and to prevent or minimize adverse effects on other property in the immediate vicinity. Such conditions may include, but are not limited to: limitations on size, bulk and location; requirements for landscaping, signage, outdoor lighting, provisions for adequate ingress and egress; hours of operation; and such other conditions as the City Council may deem to be in furtherance of the objectives of this Article.

14-15-06. APPLICATION REQUIREMENTS

- A. An application for a Planned Development may only be filed by one who has an ownership interest, or the agents thereof; or any contract purchaser or anyone holding an option to purchase the parcel of land on which the use or combination of uses is to be located.
- B. Applications for a Planned Development shall be filed with the Zoning Administrator in such form and accompanied by such information, with sufficient copies, as shall be established from time to time by the City. Every application shall contain, at a minimum, the following information and related data:
 1. The names and addresses of the owner, or owners if more than one, of the subject property.
 2. A statement from the owner of the subject property, if not the applicant, approving of the filing of the application by the particular applicant.
 3. A survey of, and legal description and street address for the subject property.
 4. A statement indicating compliance of the proposed Planned Development with the Comprehensive Plan; and evidence of the proposed project's compliance in specific detail with each of the “Standards for Review” in Section 14-16-03 for Planned Developments.
 5. A scaled site plan showing the existing contiguous land uses, natural topographic features, zoning districts, public thoroughfares, transportation and utilities.
 6. A scaled site plan of the proposed Planned Development showing lot area, the required yards and setbacks, contour lines, common space, and the location, floor area ratio, lot area coverage and heights of buildings and structures, number of parking spaces and loading areas.

7. Schematic drawings illustrating the design and character of the building, elevations and types of construction of all proposed buildings and structures. The drawings shall also include a schedule showing the number, type, and building area of all uses or combinations of uses, and the building area of the entire development.
8. A landscaping plan showing the location, size, character and composition of vegetation and other material.
9. The substance of easements, and other restrictions existing and any to be imposed on the use of land, including common open space, and buildings or structures.
10. A schedule of development showing the approximate date for beginning and completion of each stage of construction of the Planned Development.
11. A professional traffic study acceptable to the City, may be required, showing the proposed traffic circulation pattern within and in the vicinity of the area of the Planned Development, including the location and description of public improvements to be installed, and any streets and access easements.
12. A professional economic analysis and/or other supporting materials acceptable to the City, as deemed appropriate or necessary by the Zoning Administrator, possibly including the following:
 - a. The financial capability of the applicant to complete the proposed Planned Development;
 - b. Evidence of the project's economic viability; and
 - c. An analysis summarizing the economic impact the proposed Planned Development will have upon the City.
13. Copies of all environmental impact studies as required by law.
14. An analysis setting forth the anticipated demand on all City services.
15. A plan showing off-site utility improvements required to service the proposed Planned Development, and a report showing the cost allocations and funding sources for those improvements.
16. A site drainage plan for the proposed Planned Development.
17. A photometric/lighting plan for the proposed Planned Development.

- C. Every application must be accompanied by the fee as identified in the fee schedule established from time to time by the City Council to defray the costs of providing notice. Additional materials may be required during the review of a proposed Planned Development if determined necessary by the Planning Commission or the City Council.

14-15-07. EFFECT OF APPROVAL OR DENIAL

- A. Approval of the Planned Development permit by the City Council authorizes the applicant to proceed with any necessary applications for building permits, certificates of occupancy, and other permits which the City may require for the proposed Planned Development. The Zoning Administrator shall review applications for these permits for compliance with the terms of the Planned Development permit granted by the City Council. No building permit shall be issued for development which does not comply with the terms of the Planned Development permit.
- B. The City Council shall direct the Zoning Administrator to revise the Official Zoning Map to reflect the existence and boundaries of each Planned Development.
- C. Subject to Paragraph G below, an approval of a Planned Development permit by the City Council shall be null and void if the recipient does not file an application for a building permit relative to the proposed Planned Development within twelve (12) months after the date of adoption of the ordinance approving the Planned Development permit.
- D. Subject to Paragraph G below, an approval of a Planned Development permit by the City Council shall be null and void if construction has not commenced within twelve (12) months, and is not completed within thirty (30) months after the date of adoption of the ordinance approving the Planned Development permit.
- E. Subject to Paragraph G below, an approval of a Planned Development permit with a phasing plan shall be null and void if construction has not commenced or is not completed in accordance with the terms of that phasing plan.
- F. An approval of a Planned Development permit with a master development plan shall be null and void if construction has not commenced or is not completed in accordance with the terms and conditions contained in the development master plan.
- G. An extension of the time requirements stated in Paragraphs C, D, and E of this Section may be granted by the City Council for good cause shown by the applicant, provided a written request is filed with the City Clerk at least four (4) weeks prior to the respective deadline.

H. A Planned Development permit shall be null and void if the use or combination of uses for which the approval was granted ceases for a consecutive period of one year, and said uses are uses that are not identified as “Permitted Use” or “Special Use” in the underlying zoning district. No application for a Planned Development which was previously denied by the City Council shall be considered by the Planning Commission or the City Council if it is resubmitted in substantially the same form and/or content within six (6) months of the date of such prior denial. In this regard:

1. The Zoning Administrator shall review the application for a Planned Development and determine if the application is or is not substantially the same. An applicant has the right to request a hearing before the City Council to appeal the determination of the Zoning Administrator that the application is substantially the same, provided a petition for appeal is filed in writing with the City Clerk within ten (10) days of the Zoning Administrator’s determination. *Ask attorney- Should it go to ZBA
2. The City Council shall affirm or reverse the determination of the Zoning Administrator, regarding whether the new application is in substantially the same form, within thirty (30) days of receipt of a petition for appeal.
3. If it is determined that the new application is not substantially in the same form, then the applicant shall be entitled to continue with the application process and have it reviewed in accordance with the provisions of the this Code.

14-15-08. AMENDMENTS AND ALTERATIONS TO APPROVED PLANNED DEVELOPMENT PERMITS

- A. Except as provided in Paragraph B below, relating to minor changes to the Planned Development permit, any modifications to an approved Planned Development permit or any addition to or expansion of an existing Planned Development permit shall require separate review and approval under the provisions of the this Code.
- B. A minor change is any change in the site plan or design details of an approved Planned Development permit which is consistent with the standards and conditions applying to the Planned Development permit and which does not alter the concept or intent of the Planned Development. A minor change shall not increase the Planned Development's density, increase the height of buildings, reduce open space, modify the proportion of housing types, change or add new parking areas, alter alignment of roads, utilities or drainage, amend final development agreements, provisions or covenants, or provide any other change inconsistent with any standard or condition imposed by the City Council in approving the Planned Development permit. Said minor change may be approved by the Zoning Administrator without obtaining separate approval by the City Council. In addition, the City Council may, after reviewing the request for a minor change made by the applicant, direct the Zoning Administrator to process the request other than as a minor change.

14-15-09. GUARANTEE OF IMPROVEMENTS

- A. **Off-site Improvements.** Unless otherwise provided for in the conditions of the ordinance governing a particular Planned Development no building permits, or permits authorizing the occupancy or use of a building, facility, Planned Development establishment, or service concern may be issued until required related off-site improvements are constructed or a performance bond, escrow, or other acceptable instrument is posted covering their estimated cost as determined by the Department of Public Works.
 - 1. This requirement shall not apply to foundation permits or permits necessary for the installation of required related off-site improvements.
 - 2. Required related off-site improvements shall include, but not be limited to streets, sidewalks, sanitary and storm sewers, streetlights, and street trees.
- B. **Incremental Development.** If a Planned Development is developed in sections, the requirement shall also apply to all major improvements necessary to the proper operation and function of the section in question, even though such improvements may be located outside of the section in question.

ARTICLE XVI. NONCONFORMING USES

14-16-01.	PURPOSE
14-16-02.	GENERAL STANDARDS
14-16-03.	CONTINUATION OF A NONCONFORMING USE
14-16-04.	NONCONFORMING STRUCTURES
14-16-05.	NONCONFORMING LOTS OF RECORD
14-16-06.	ABANDONMENT OR DISCONTINUANCE
14-16-07.	DAMAGE OR DESTRUCTION
14-16-08.	NONCONFORMING SIGNS

14-16-01. PURPOSE

This Article establishes regulations governing lawfully nonconforming uses. A nonconforming use is a use of land or buildings within the City that does not conform (does not meet the regulations of this Code in some way). A nonconforming use may often have a detrimental effect on the land use around it, such as increased traffic on residential streets, not enough parking space, the emission of noxious fumes, the creation of loud noises or a depressing effect on property values. These regulations are intended to minimize the existing and/or potential problems created by nonconforming uses.

14-16-02. GENERAL STANDARDS

- A. **Authority to Continue.** Any structure, lot or use that existed as a lawful nonconformity at the time of the adoption of this Code, and any building, structure, lot or use that has been made nonconforming because of the terms of this Code or its subsequent amendments, may continue subject to the provisions of this Chapter so long as it remains otherwise lawful. A structure or use that is illegal at the time of the adoption of this Chapter remains illegal if it does not conform with each and every requirement of this Chapter.
- B. **Unsafe Conditions.** Nothing in this Section shall be construed to either permit the continued use of a structure that is in violation of housing, building, health and other applicable life safety codes or prevent structures from being restored to a safe condition, in accordance with an order of the Building Official.
- C. **Determination of Conforming Status.** Whether a nonconformity exists shall be determined by the Administrative Official, subject to appeal to the Board of Zoning Appeals. The burden of establishing that nonconformity existed lawfully shall be on the owner or the proprietor.

14-16-03. CONTINUATION OF A NONCONFORMING USE

- A. **Definition of a Nonconforming.** Use A nonconforming use is the use of land, structures and lots that do not conform to one or more current requirements of this Zoning Ordinance.
- B. **Repair and Maintenance.** Ordinary repairs and maintenance of a nonconforming building shall not be deemed an extension of such nonconforming building and shall be permitted, subject to the limitations of this section.
- C. **Structural Alterations.** No structural alteration shall be made in a building or other structure containing a nonconforming use except in the following situations:
1. When the alteration is required by law or is necessary to restore the structure to a safe condition upon the order of any official charged with protecting the public safety.
 2. When the alteration is for the purpose of bringing about a conforming use.
 3. When the alteration will not create any new nonconformity, increase the degree of any existing nonconformity or increase the bulk of the structure in any manner.
 4. When a building in a residence district containing residential nonconforming uses may be altered in a way to improve livability, provided no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.
- D. **Expansion or Relocation of Use.** A legal nonconforming use of land or a structure may not be expanded, extended, enlarged or increased in intensity Such prohibited activity shall include, without limitation:
1. Expansion of any structure devoted entirely to a nonconforming use.
 2. Expansion, extension or relocation of the use or its accessory uses outside the structure or land area to any land area or structure not currently occupied by such nonconforming use.
 3. Expansion of a use beyond any portion of the structure appropriate by its design and construction for such use.
- E. **Change of Use.** A legal nonconforming use may be replaced by another nonconforming use of the same or lesser intensity, except that residential uses shall not be allowed in a commercial, office, or industrial district. Uses allowed in any specific zoning district shall be interpreted as the same intensity as other uses similarly allowed. The relative intensity of uses allowed in the various zoning districts shall be interpreted as increasing in the order of the establishment of the zoning districts in Articles 3-6.

14-16-04. NONCONFORMING STRUCTURES

- A. **Definition of a Nonconforming Structure.** A nonconforming structure is a structure which at one time conformed to applicable zoning regulations, but because of subsequent amendments to the Ordinance, no longer conforms to applicable dimensional or bulk provisions or other on-site development standards of this Chapter.
- B. **Additions or Enlargements to Structure.** No repair, alteration or enlargement of a legal nonconforming structure shall be allowed that would:
1. Increase either the depth of an encroachment into a required setback or the area of an encroachment by more than 50 percent.
 2. Add to or enlarge a nonconforming structure's bulk.
- C. **Relocation.** A nonconforming structure shall not be relocated, in whole or in part, to any other location on the same zoning lot or parcel. A nonconforming structure may be relocated to another zoning lot or parcel if the structure conforms to all regulations of the zoning district in which it is relocated.

14-16-05. NONCONFORMING LOTS OF RECORD

- A. **Definition of a Nonconforming Lot of Record.** A nonconforming lot of record is a lot of record, existing on the effective date of this Ordinance, which does not conform to the lot area or lot width requirements of the district in which it is located. No nonconforming lot of record may be improved except in compliance with this section.
- B. **Allowed Use.** A legal nonconforming lot of record may not be used for any allowed use except as provided in Article 3-6.
- C. **Common Ownership.** If two or more contiguous nonconforming lots are in common ownership and are of such size as to constitute at least one conforming "zoning lot" if combined, such lots or portions of such lots shall be joined, developed, and used for the purpose of forming an effective and conforming zoning lot or lots.

14-16-06. ABANDONMENT OR DISCONTINUANCE

- A. If a nonconforming use, structure or lot becomes conforming either because of a change in the use, structure or lot or because of a change in requirements, the use, structure or lot shall not be allowed to return to a legal nonconforming status based on the same nonconformity.

- B. When any nonconforming use has been discontinued for a period of twelve (12) consecutive months, such use shall not thereafter be resumed and any future use of the premises shall be in conformity with the provisions of this Code, provided that such nonconforming use may be resumed when the owner, during the period of discontinuance, has been actively attempting to continue such nonconforming use.
1. Proof of fact in writing must be furnished to the Administrative Official by the applicant to establish intent not to abandon.

14-16-07. DAMAGE OR DESTRUCTION

If a legal nonconforming structure has been deteriorated or damaged by any means to the extent that the restoration, repair or replacement costs would be more than 50 percent (50%) of the fair market value as determined by an appraisal of the value of the structure prior to the damage by a qualified appraiser, the structure shall not be restored or repaired unless it is brought into conformance with the standards of this Chapter. The cost of the appraisal shall be borne by the property owner.

- A. **Exceptions.** The terms of this Section shall not apply to the following specific and limited properties:

1. **Parcel 1:** Part of Lot No. 7 being part of the West ½ of the Southeast ¼ of Section 28 in Township 2 North Range 8 West of the 3rd P.M., St. Clair County, Illinois, reference being had to the plat thereof recorded in the Recorder's Office of St. Clair County, Illinois, in Book of Lands N2 on Page 43, and being more particularly described as follows, to-wit:

Commencing at a stone that marks the Northwest corner of "Hollandia 2nd Annex", reference being had to the plat thereof recorded in the Recorder's Office of St. Clair County, Illinois, in Book of Plats "55" on Page 32; thence North 1 degree 03 minutes 39 seconds West a distance of 55.05 feet to the point of intersection of the East line of Lot 6B of the Northwest ½ of the Southeast ¼ of Section 28 as shown in said Book of Lands N2 on Page 43, with the North line of Longacre Drive; thence West along the North line of Longacre Drive being a line lying 30 feet North of and parallel to the South line of said Section 28 a distance of 424.32 feet to the point of beginning of that part of Lot 7 as herein described; thence continuing West along the North line of Longacre Drive a distance 812.54 feet to a point; thence North 55 degrees 37 minutes 12 seconds West along said right of way line a distance of 62.7 feet to a point on the East line of South Ruby Lane; thence North 2 degrees 31 minutes 53 seconds West along the East line of South Ruby Lane a distance of 375.38 feet to a point; thence East a distance of 297.72 feet to a point; thence South a distance of 40 feet to a point; thence East a distance of 200 feet to a point; thence South a distance of 35 feet to a point; thence East a distance of 376.34 feet to a point; thence South 1 degrees 03 minutes 36 seconds East a distance of 335.06 feet to the point of beginning, and any appurtenant rights and easements thereto.

Permanent Index No. 03-28-0-403-017

Property Address: #1 Park Terrace Lane, Fairview Heights, Illinois 62208.

2. **Parcel 2:** Part of the Southwest Quarter of the Southeast Quarter of Section 28, Township 2 North, Range 8 West of the Third Principal Meridian, City of Fairview Heights, St. Clair County, Illinois, being more particularly described as follows:

Beginning at the Northwest corner of Lot 29 of the 1st Addition to the Village of St. Ann; thence South 89 degrees 59 minutes 10 seconds West a distance of 75.00 feet to a point, thence South 01 degrees 03 minutes 19 seconds East a distance of 135.00 feet to a point, thence, South 89 degrees 59 minutes 10 seconds West a distance of 418.64 feet to a point, thence South 00 degrees 57 minutes 50 seconds East a distance of 822.56 feet to a point on the North right of way of Long Acre Drive, 55 feet wide, thence along said North right of way, North 89 degrees 55 minutes 14 seconds West a distance of 424.32 feet to a point, thence leaving said right of way, North 00 degrees 57 minutes 44 seconds West a distance of 823.06 feet to a point, thence North 89 degrees 57 minutes 33 seconds West a distance of 40.59 feet to a point, thence North 01 degrees 10 minutes 39 seconds West a distance of 433.00 feet to a point, thence North 88 degrees 59 minutes 35 seconds East a distance of 958.91 feet to a point, then South 01 degrees 06 minutes 10 seconds East a distance of 315.16 feet to the point of beginning.

Except coal, gas and other mineral rights excepted or reserved in prior conveyances.

Situated in St. Clair County, Illinois.

- B. **Appeal of appraisal.** In the event that the appraisal of the fair market value of the structure prior to the damage is not acceptable to the applicant for the building permit to repair or reconstruct such building or structure, the applicant may appeal to the Board of Appeals.
- C. **Timing.** In any event, restoration or repair of the building or other structure must be started within a period of six (6) months from the date of damage or destruction and diligently pursued to completion.
- D. **Conditions.** The Administrative Official may issue, or cause to be issued, a building permit if the subject matter thereof is otherwise permitted by the provisions of this Article, provided that the Administrative Official may impose such conditions and requirements to the issuance of the permit as are reasonably necessary to promote compatibility of the nonconforming use or building with its immediate neighborhood and to protect adjacent property from any adverse effects of the nonconforming use.

14-16-08. NONCONFORMING SIGNS

Signs existing at the time of the enactment of this Code or any amendment hereto and not conforming to its previous regulations or variances granted by the City of Fairview Heights shall be regarded as nonconforming signs. Signs for which a permit is required may be inspected periodically by the Administrative Official for compliance with this and other Codes of the Municipality.

- A. **Maintenance.** Nonconforming signs may be maintained subject to the following regulations:
1. No nonconforming sign shall be expanded or altered to prolong the life of the sign.
 2. No nonconforming sign structure shall be changed to another nonconforming sign structure except that the copy, message or graphic of a nonconforming sign may be changed.
 3. The nonstructural component of a multi-tenant sign on which the copy, message or graphic is displayed, such as a plastic or metal panel or insert, may be replaced to accommodate a change in tenant.
 4. If the copy, message or graphic of a nonconforming sign cannot be changed without altering a structural component, then such change is not permitted. Structural components include any part of a sign attached directly to the ground or to a building or structure, any part of the supporting structure of a sign without which the sign fails to maintain its structural integrity, and any part of a sign's electrical or lighting equipment.
 5. No nonconforming sign shall be relocated in whole or in part unless, when relocated, it conforms to all of the provisions of this ordinance.
 6. If a nonconforming sign is damaged or destroyed to the extent of fifty percent (50%) of its replacement value, the sign shall not be restored or repaired unless it is brought into conformance with the standards of this Chapter.
- B. **Abatement, Abandonment and Discontinuance.** If a legal nonconforming sign is discontinued or abandoned for a period of ninety (90) days, the rights to legal nonconforming status shall have expired and any subsequent use of such a sign shall comply with all regulations of the zoning district in which such a sign is located. The period of such discontinuance caused by government action, acts of god, or other acts without any contributing fault by the user, shall not be included in calculating the length of discontinuance for this section.
- C. **Appeals.** An owner or lessee of a sign in violation of this Code may appeal the violation notice issued by the Administrative Official by filing a written appeal form in the office of the Administrative Official within fifteen (15) calendar days of the violation notice. The Zoning Board of Appeals shall hear the appeal in accordance with their usual procedure.

- D. **Removal of abandoned signs.** All sign faces on non-residential zoning lots shall be removed within sixty (60) days of the cessation of the use of a property, building, or tenant space authorizing such signage. If removal of the sign face reveals bare lighting, electrical, or structural components, a blank face of a white or gray color made of durable, weatherproof material shall be applied to cover such components. No open sign cabinets or boxes are allowed.
- E. **Removal of Sign.** The Administrative Official may order the immediate removal of any sign at cost to the owner erected, expanded, or altered to prolong the life of the sign, in violation of this Code, or, if in the opinion of the Administrative Official, the condition of the sign is such as to present an immediate threat to the safety of the public.
- F. **Amortization of Nonconforming Signs.**
1. All nonconforming signs shall be removed, changed or altered to conform to the standards of this Code within five (5) years from the adoption of this Code upon meeting the requirements of Article 11 of this Chapter.
 2. The owner, agent or person having beneficial use of the sign shall furnish acceptable proof of the original cost of the sign in the form of:
 - a. An original bill of sale;
 - b. Depreciation schedules from federal or state tax returns; or
 - c. A written appraisal by a recognized appraiser.
 3. The amortization period described above shall begin to run on the date on which the sign becomes nonconforming.