

**MINUTES OF THE PLAN COMMISSION**  
**March 28, 2016**

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 8:30 p.m. at the Village Hall.

Members present: Chairman Mark Moore, William Cotey, Amy Flores, Matthew Krummick, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: None.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner, and Fred Chung, Senior Project Engineer.

Commissioner Cotey moved, seconded by Commissioner Schultz, to approve the February 22, 2016, Plan Commission meeting minutes, amended as follows:

Page 5, on the motion to adjourn, change “seconded by Commissioner Schultz” to “seconded by Commissioner Semmelman”.

Motion carried 7 - 0.

**OLD BUSINESS:**

**PC 15-27      Village of Libertyville, Applicant**

**Request is for a Text Amendment to the Libertyville Zoning Code in order to further regulate lot coverage in residential zoning districts.**

Mr. John Spoden, Director of Community Development, stated that this item was continued to tonight’s meeting agenda, in part, because it was considered important to have both the Chairman and Vice Chairman present at the meeting to discuss the proposed text amendment. Mr. Spoden stated that this lot coverage issue has much to do with the front yard, design, run-off, among other issues. He stated that several challenges on this issue came down to Staff from the Village Board, in particular it is regarding the designs of front yards. He stated that a traditional front yard would be comprised of a driveway and a sidewalk and not much of anything else. He stated that more recently as the Village’s 50 foot wide lots have been re-developed with two curb cuts, larger turn-around areas and areas to park cars in front of homes. He stated that Staff is seeing this trend happening on the deeper lots such as the ones along Apply Avenue.

Mr. Spoden stated that Staff researched this by looking at other communities, but this effort did not produce any usable information. He stated that Staff examined both a percentage already applied to the whole lot to be applied to the front yard area and reviewed several single family lots, and determined that driveway coverages in the front yard are typically under 1/3 the whole front yard area.

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Commissioner Semmelman asked for clarification of the definition of front yard line. Mr. David Smith, Senior Planner, stated that the front yard by Zoning Code definition is a yard extending between the side lot lines of a lot or between the side lot line and the corner side lot line of a lot, and between the front lot line and the front yard line and that the yard line is a line drawn parallel to a lot line at a distance therefrom equal to the minimum depth or width of the yard required along such lot line by this Code.

Mr. Spoden stated that the house could be setback further.

Commissioner Krummick asked if the proposed lot area regulation applies to the front yard area or between the front property line and the building line regardless of where the house is set back. Mr. Smith stated that the proposed text amendment contemplates a manageable and measurable regulation as it covers only the front yard area, not the area between the front property line and the front building line.

Chairman Moore asked which districts and housing type does the proposed text amendment cover. Mr. Smith stated that it is intended for all single family detached, single family attached, and two-family dwelling units. He stated that it would not apply to apartment buildings.

Chairman Moore stated that he is concerned about an increase in variation requests as a result of adding another layer of regulating lot coverage.

Mr. Smith stated that he is not as concerned about the additional variations due to how the text amendment is structured. He stated that 1/3 of the front yard is fairly liberal. He stated that he has reviewed several single family properties and most of them can easily accommodate 10 foot wide driveways and be well below the 1/3 limit.

Commissioner Schultz stated that the 1/3 restriction may not permit a double lane driveway width.

Commissioner Flores stated that she understands why this text amendment is proposed and that she is familiar with the property located at 234 Apply Avenue and stated that its front yard coverage may be as high as 80%. She stated that the intent should be to avoid the extremes and would be supportive of the maximum coverage in the front yard could be higher than the proposed 1/3, maybe as high as 50%. She stated that enough space should be available for the double wide driveway and sidewalk, but not too much that would allow the extreme cases such as the example at 234 Apply Avenue.

Commissioner Krummick stated that consideration could be given to incorporating certain exceptions in conjunction with the 1/3 rule.

Mr. Spoden stated that to incorporate any exceptions would make it extremely difficult to regulate.

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Commissioner Flores stated that most residents do have a driveway in the front and that it is common for many families to have three (3) cars and it would not be desirable to have them in the street.

Commissioner Schultz stated that if the 1/3 area was increased to 1/2 area then it would allow for a double wide driveway and sidewalk in the front yard.

Commissioner Oakley asked if there are cases where the circular driveways create a problem. Mr. Smith stated that in most cases the circular drive or horse shoe shaped drive with two curb cuts did not typically cause a front or corner side yard lot coverage problem.

Mr. Spoden stated that a large allowance of lot coverage such as 50% could provide the area needed for most front yard driveways while providing the appropriate limits on the extreme cases.

Commissioner Krummick stated that this proposal seems to be intended to address the extreme cases of homeowners covering too much area in their front yards.

Commissioner Schultz stated that 50% may seem too aggressive and suggested a middle ground such as 40% maximum allowed lot coverage in the front yard.

Commissioner Flores stated that perhaps the 40% limit, not including the sidewalk, is appropriate.

Commissioner Schultz stated that consideration should be given to counting all hard surfaces as lot coverage in the front yard as it seems difficult to exclude the sidewalks.

Mr. Spoden stated that one of the initial ideas that Staff examined was applying the lot coverage percentage required for the whole lot to the front yard area. He stated that, for example, if the maximum lot coverage for the whole lot is 45%, then that percentage of 45% could be applied to the front yard area. He stated that this might resolve the issue of 1/3 not being enough and 50% being too much.

Commissioner Oakley asked how handicap accessibility would be addressed with the change in lot coverage regulation. Mr. Spoden stated that for a commercial parking lot a handicap parking space is 16 feet wide and wouldn't necessarily be considered for a single family residential lot.

Commissioner Schultz asked how shared drives would be impacted by this issue. Mr. Smith stated that regardless of whether or not a driveway straddles a shared property line, the lot coverage would only be calculated for the front yard of a lot.

Chairman Moore stated that he is concerned about additional variations in the future if this regulation gets approved. He stated that applicants for such variations would have to demonstrate that there is a hardship in meeting the regulation.

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Mr. David Pardys, Village Attorney, stated that every time an amendment is passed, it is done with an expectation that the Plan Commission has anticipated all the needs that have come from prior requests for variations. He stated that the forethought implies that it is intended to reduce the number of future variations.

Chairman Moore stated that this is a new element to the Code and that makes it more important to accommodate the homeowner's scope of work in their front yard as much as possible while minimizing the future number of variation requests, all the while addressing those circumstances whereby too much coverage in the front yard is proposed.

Chairman Moore stated that this proposed amendment is adding another layer to an already existing lot coverage regulation for the whole lot.

Mr. Spoden stated that the intent is to stop the extreme cases.

Commissioner Flores stated that she would like to know how many lots have front yard coverage that is greater than 1/3 of their front yard.

Commissioner Schultz stated that the proposal as currently presented is limited to driveways. He stated that consideration should be given to include all impervious surfaces in the front yard include sidewalks, patios, etc. He stated that he supports matching the maximum allowed percentage of front yard coverage with the same percentage allowed for the whole lot.

Chairman Moore stated that for most single family properties, the driveway width is usually no wider than the garage. He stated that consideration should be given to regulating the front yard for those properties in which the paving exceeds the width of the garage.

Commissioner Flores stated that Chairman Moore's proposal does not address the additional turn-a-round or back up areas that stem off the straight driveway.

Commissioner Schultz stated that there may be many cases where vehicular movement on the property may need to make three point turns in order to execute ingress/egress to and from the street.

Commissioner Krummick stated the typical driveway improvement usually includes a two car garage, sometimes side-loaded, and sometimes with a pad for basketball court. He said that it seems like many homeowners are loading up the front yard with these improvements. He stated that even though the intent of the Village should not be to infringe upon homeowners to acquire these improvements, he stated that with the tear downs, these improvements become a problem.

Mr. Smith stated that the property at 234 Apply Avenue ended up with front yard lot coverage for just the driveway at approximately 55%.

Mr. Chung stated that the property at 234 Apply included the u-shaped double curb-cut driveway.

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Chairman Moore stated that the Plan Commission has discussed 50% being the cut-off, but that was discarded at this point. He stated that a lower number may make sense. He stated that 33% as previously discussed may be too small of a number.

Mr. Smith stated that whatever the percentage is that is proposed it should include all impervious coverage, not just the driveways. He stated that by doing so helps to alleviate potential for confusion or misinterpretation of what should be considered a driveway versus what is a sidewalk, etc.

Commissioner Schultz stated that he would be supportive of a text amendment that is in line with the existing lot coverage percentages already established in the Zoning Code for the whole lot to be applied to the front yard.

Chairman Moore stated that this may be a simplified approach to regulating the lot coverage in the front yard.

Mr. Spoden stated that it might be more appropriate if Staff went back to do the analysis and come back to the Plan Commission with a solid recommendation.

*In the matter of PC 15-27, Commissioner Oakley moved, seconded by Commissioner Flores, to continue this item to the April 25, 2016, Plan Commission meeting.*

*Motion carried 7 - 0.*

*Ayes: Moore, Cotey, Flores, Krummick, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: None*

**PC 16-01 Village of Libertyville, Applicant**

**Request is for a Text Amendment to Section 13-9.2.c of the Libertyville Zoning Code regarding fences in commercial zoning districts.**

Mr. John Spoden, Director of Community Development, stated that the successful development of the Downtown C-1 Zoning District has increased pedestrian and vehicular traffic along with parking needs in this area. He stated that the installation of fences in the C-1 Zoning District can impede both pedestrian and traffic flow, and further burden the availability of convenient parking to the area. He stated that Staff believes that careful consideration should be given to the installation of fences in the C-1 Zoning District and recommends that this subject be referred to the Plan Commission for development of an ordinance amending the Zoning Code and addressing this issue.

He stated that Village Staff is proposing a Text Amendment to the following Section 13-9.2(c) in the Zoning Code, as follows:

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Except as provided herein, fences may be installed and maintained in the Commercial, Industrial, O-2, Office, Manufacturing and Distribution Park, and IB, Institutional Buildings District, except that no fence shall extend beyond the front building line of the principle structure located on the lot. Within the C-1 District, no fence may be installed upon or maintained within any portion of any lot which is intended for use by pedestrians or vehicles if such fence will impede or otherwise restrict pedestrian or vehicular access from such lot to abutting lots.

*In the matter of PC 16-01, Commissioner Schultz moved, seconded by Commissioner Semmelman, to recommend the Village Board of Trustees approve a Text Amendment to Section 13-9.2.c, as follows:*

*Except as provided herein, fences may be installed and maintain in the Commercial, Industrial, O-2, Office, Manufacturing and Distribution Park, and IB, Institutional Buildings District, except that no fence shall extend beyond the front building line of the principle structure located on the lot. Within the C-1 District, no fence may be installed upon or maintained within any portion of any lot which is intended for use by pedestrians or vehicles if such fence will impede or otherwise restrict pedestrian or vehicular access from such lot to abutting lots.*

*Motion carried 6 - 0.*

*Ayes: Moore, Flores, Krummick, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: Cotey*

**NEW BUSINESS:**

**PC 15-25 Village of Libertyville, Applicant**

**Request is for a Text Amendment to the Libertyville Zoning Code in order to regulate tobacco stores, vape stores, and e-cigarette stores in the Village of Libertyville.**

*In the matter of PC 15-25, Commissioner Schultz moved, seconded by Commissioner Oakley, to continue this item to the April 25, 2016, Plan Commission meeting.*

*Motion carried 7 - 0.*

*Ayes: Moore, Cotey, Flores, Krummick, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: None*

**PC 16-04 Ice Mobility, Applicant**  
**851-937 E. Park Avenue**

**Request is for an Amendment to the Special Use Permit for a Planned Development in order to permit truck deliveries between the hours of 9:00 p.m. and 7:00 a.m. in**

**connection with the operations of Ice Services LLC d/b/a Ice Mobility, but only within the premises located at the building with the address range of 901 and 925-937 E. Park Avenue in an I-3, General Industrial District.**

**PC 16-05      Ice Mobility, Applicant**  
**851-937 E. Park Avenue**

**Request is for an Amendment to the Special Use Permit for Warehousing and Storage in order to permit truck deliveries between the hours of 9:00 p.m. and 7:00 a.m. in connection with the operations of Ice Services LLC d/b/a Ice Mobility, but only within the premises located at the building with the address range of 901 and 925-937 E. Park Avenue in an I-3, General Industrial District.**

Mr. David Smith, Senior Planner, introduced the petitioner's request. Mr. Smith stated that the petitioner, Ice Mobility, was before the Plan Commission at their February 22, 2016 meeting seeking approval for amendments to the Special Use Permit for a Planned Development and the Special Use Permit for Warehousing and Storage in order to permit truck deliveries between the hours of 9:00 p.m. and 7:00 a.m. in connection with the operations of Ice Mobility, but only within the premises for this particular tenant located at the building with the address range of 901 and 925-937 E. Park Avenue. He stated that during the course of the public hearing, it came into question as to whether or not the applicant was able to demonstrate that they had a contractual interest in the subject property. He stated that the Plan Commission continued this item to the March 28, 2016 meeting agenda in order to provide the petitioner an opportunity to rectify this discrepancy.

Mr. David Pardys, Village Attorney, stated that during the course of the public hearing, it came into question as to whether or not the applicant was able to demonstrate that they had a contractual interest in the subject property. The Village is in receipt of documentation from Ice Mobility that confirms that they have a contract to lease tenant space at the subject site.

Mr. Mark Houser, Bridge Development, stated that Ice Mobility is seeking occupancy in the east building of the Bridge Development property. He stated that Ice Mobility has not had more than five (5) deliveries after 9:00 p.m. at their Vernon Hills location for all of 2015.

Ms. Denise Gibson, resident at 140 School Street, Libertyville; co-founder and chairperson for Ice Mobility, stated that Ice Mobility provides logistical services for wireless and other electronic devices manufacturers. She stated that their services include a variety of unique packaging and shipping services for these manufacturers.

Ms. Gibson stated that her prior experience was with Bright Star, a company which has done exceptionally well and has since expanded from its initial start-up. She stated that with Ice Mobility, the late night truck deliveries are very minimal. She stated that all of the activities will take place indoors in a clean, light-industrial environment. She stated that she recognizes the sensitivity of the residential neighbors.

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Mr. Dale Sherman, 766 Meadow Lane, stated that his objection on standing is a continued objection, but recognizes that the public hearing will proceed. He stated that he is not anti-business and that he appreciates that the subject site has been updated with the Bridge Development. He stated that the condition for no overnight deliveries for the approval for the ordinance should remain unchanged. He stated that he and his neighbors do not want to hear the truck back-up noise late at night. He stated that many children live in the area. He stated that this issue was a foreseeable circumstance and that Bridge Development should have known that that this restriction was put into place. He stated that although Ice Mobility is a good company, the neighbors should not have to be burdened.

Mr. Mark Christensen, Bridge Development, stated that Bridge Development has worked long and hard with the Village to get their approvals and it was a positive process. He stated that the ordinance approving their Planned Development came with 19 conditions. He stated that the truck delivery restriction was added on at the last minute and that it was a mistake. He stated that this restriction compromises the facility. He stated that the community wants these buildings occupied. He stated that this circumstance doesn't just affect Ice Mobility. He stated that they are not expecting heavy truck traffic with Ice Mobility. He stated that they couldn't hear the truck horn on the west side of the building. He stated that this request only applies to Ice Mobility, not to the site generally. He stated that this restriction is a problem and is hurting Bridge Development and the community.

Ms. Janice Pearson, 742 Meadow Lane, stated that Bridge Development has 16 sites. She stated that the Libertyville location is the only one surrounded by residential areas. She stated that the Village Board of Trustees stated during the Board's meeting for the Planned Development request by Bridge Development that a balance must be struck. She stated that the Village Board approved the Planned Development with a list of conditions including the restriction of truck deliveries after 9:00 p.m. She stated that Bridge is now looking for a loophole in order to circumvent the delivery restriction. She stated that the only reason that Bridge Development has never had any issues with residents in the past is because they have never built near a residential area before.

Mr. Chuck Pearson, 742 Meadow Lane, stated that a noise nuisance is a loud and discordant noise per the Zoning Code. He stated that there isn't a practical way to monitor the number of truck deliveries after 9:00 p.m.

Ms. Jeannine Phillips, 304 Camelot, stated that the surrounding residential neighborhoods will be affected. She stated that she loves this community and would not want the children's sleep to be disrupted by the noise. She stated that the property owner already agreed to the condition to restrict the truck deliveries after 9:00 p.m. She stated that she is pro-business and pro-Libertyville, but that includes the children, schools, and the housing market.

Mr. Frank Weitekamper, 103 Camelot, stated that he is perturbed that he has to be back again for this application. He stated that the initial approval included the condition to limit truck deliveries after 9:00 p.m. and that this should be abided by. He stated that Route 176 is busy enough anyway.

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Ms. Bridget Dalton, 331 Camelot, stated that her property backs up to St. Mary's Road. She stated that the neighborhood has up to 70 children in the neighborhood just west of the Bridge Development site. She stated that the Village of Libertyville has a small town feel and that this should be protected.

Mr. Steve Groetsema, Bridge Development Chicago Market Officer, stated that it is not the intention to keep coming back to the Village to amend the after 9:00 p.m. delivery restriction. He stated that the tenants for his location are not heavy industrial. He stated that the prior attempt for Frito Lay to get occupancy was a mistake. He stated that they turned away Amazon because of the anticipated heavy truck traffic. He stated that they believe that Ice Mobility is a much better fit for this facility and that night deliveries would be a non-issue.

Ms. Janice Pearson stated that there are other on-going issues of concern for the Bridge site. She stated that the berm looks trashy and that the grass needs cutting.

Commissioner Oakley stated that the property has been zoned industrial long before the residential neighborhood was developed.

Commissioner Cotey asked for clarification regarding the anticipated truck deliveries. Ms. Gibson stated that when a new product is launched there is a short window of time between the launch and the customer demand. She stated that their insurance policy requires an extensive amount of security prohibiting trucks in route from stopping during a transit. She stated that this may cause on occasion a late delivery, but it would be very seldom.

Commissioner Cotey asked if there are any other transportation logistical alternatives that may include talking to the shipping companies. Ms. Gibson stated that they have not identified any other alternatives that wouldn't create a business risk.

Commissioner Cotey asked how long is the lease agreement for. Ms. Gibson stated that it is a five (5) year lease with an option to extend and expand.

Commissioner Cotey asked how much of an expansion do they anticipate over a five year period. Ms. Gibson stated that it could be as much as an additional 200,000 square feet of floor area.

Commissioner Krummick stated that he understands the neighboring residents' grievance and that this restriction is causing a hardship for Bridge Development.

Mr. Groetsema, Bridge Development, stated that they have passed on Handy Foil and Amazon because of the truck delivery and idling concerns. He stated that Ice Mobility will have far fewer trucks.

Commissioner Krummick asked what the average size requirement for tenants are for these types of facilities. Mr. Groetsema stated that most of these tenant space sizes are in the 60,000 square foot range in Lake County. He stated that they are currently negotiating with two other potential tenants who agree with the truck delivery restriction for the Bridge Development site.

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Commissioner Krummick asked if the applicant would be willing to do a sound study. Mr. Mark Houser, Bridge Development, stated that that last time that the sound was reviewed they found that the on-site activity was below ambient noise. He stated that there would not be any noise detected west of the site.

Commissioner Schultz asked how a limited number of trucks after 9:00 p.m. could be regulated. Mr. John Spoden, Director of Community Development, stated that it would be difficult to enforce, but the proposed tenant, Ice Mobility, would be a tenant that would be in line with the Economic Development Strategy for the Village.

Commissioner Schultz asked if there are any safe harbors or warehouse facilities that trucks could stop overnight while in transit to the Bridge site if they would otherwise arrive after 9:00 p.m. Ms. Gibson stated due to the issue of time cycles of new product announcements, manufacturing, distribution, and the customer demand, it is impossible to commit to no after 9:00 p.m. deliveries. She stated that they can offer a monthly report to demonstrate just how far and few the after 9:00 p.m. deliveries would be, but this would be after the fact record keeping.

Chairman Moore stated that the standing objection regarding the validity of the application is on the record. He asked how the petitioner would like to proceed. The applicant requested that the Plan Commission make their recommendation to the Village Board of Trustees.

*In the matter of PC 16-04, Commissioner Oakley moved, seconded by Commissioner Cotey, to recommend the Village Board of Trustees approve an Amendment to the Special Use Permit for a Planned Development in order to permit truck deliveries between the hours of 9:00 p.m. and 7:00 a.m. in connection with the operations of Ice Services LLC d/b/a Ice Mobility, but only within the premises located at the building with the address range of 901 and 925-937 E. Park Avenue in an I-3, General Industrial District, in accordance with the plans submitted.*

*Motion failed 1 - 6.*

*Ayes: Oakley*  
*Nays: Moore, Cotey, Flores, Krummick, Schultz, Semmelman*  
*Absent: None*

*In the matter of PC 16-05, Commissioner Cotey moved, seconded by Commissioner Flores, to recommend the Village Board of Trustees approve an Amendment to the Special Use Permit for Warehousing and Storage in order to permit truck deliveries between the hours of 9:00 p.m. and 7:00 a.m. in connection with the operations of Ice Services LLC d/b/a Ice Mobility, but only within the premises located at the building with the address range of 901 and 925-937 E. Park Avenue in an I-3, General Industrial District, in accordance with the plans submitted.*

*Motion failed 1 - 6.*

*Ayes: Oakley*  
*Nays: Moore, Cotey, Flores, Krummick, Schultz, Semmelman*  
*Absent: None*

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**COMMUNICATIONS AND DISCUSSION:**

Mr. John Spoden, Director of Community Development, stated that the Roanoke Group submitted their application for a Planned Development in order to construct a single family subdivision. He stated that it is a large proposal and may require multiple Plan Commission meetings. He stated that he anticipates that most of the public hearing meetings will take place at the Civic Center.

Commissioner Schultz moved, seconded by Commissioner Semmelman, to adjourn the Plan Commission meeting.

Motion carried 6 - 0.

Meeting adjourned at 9:25 p.m.