

MINUTES  
PLAN COMMISSION MEETING  
March 25, 2021

Call to Order and Roll Call

The meeting was called to order at 7:00 p.m. by Acting Chairperson Tracy Heming-Littwin, who outlined the Plan Commission's charge and operation, and described protocols for the evening's meeting, which, due to Covid-19 restrictions related to a disaster declaration and public health concerns, is being conducted remotely via teleconference. Chairperson Heming-Littwin outlined public participation procedures, and introduced meeting participants Village Trustee Liaison Bill Enright, Community Development Director Staci Springer, Planning Manager Kelly Purvis, Planner Katie Ashbaugh and Recording Secretary Barbara Dutton.

Roll was taken. Present: Acting Chairperson Heming-Littwin and Plan Commissioners Laura Brown, Angela Fanella, John Mulherin, David Rodemann, Mohammed Saeed and Jamie Vondruska. Absent: Chairperson Mary Loch and Plan Commissioner Lloyd Berry.

Adoption of Emergency Allowance of Remote Participation by the Plan Commission

A motion to allow remote participation in the meeting was made by Commissioner Mulherin, and seconded by Commissioner Fanella. The motion passed with seven (7) yes votes and zero (0) no votes as follows: Commissioners Mulherin, Fanella, Brown, Rodemann, Saeed and Vondruska and Chairperson Heming-Littwin voted "yes."

Public Comment Non-Agenda Items

There was no public comment relative to non-agenda items.

Approval of March 11, 2021 Plan Commission Meeting Minutes

Commissioner Mulherin moved to approve the draft minutes of the March 11, 2021 Plan Commission meeting; seconded by Commissioner Saeed. The motion passed with seven (7) yes votes and (0) no votes as follows: Commissioners Mulherin, Saeed, Brown, Fanella, Rodemann and Vondruska and Chairperson Heming-Littwin voted "yes."

**A Public Hearing to Consider Zoning Text Amendments to Section 10-4-17 (C5 Central Business Subdistricts) of the Zoning Code for Setback Requirements from Residential Uses and the Removal of Single-Family Dwellings as a Special Use**

A motion to open the Public Hearing to Consider Zoning Text Amendments to Section 10-4-17 (C5 Central Business Subdistricts) of the Zoning Code for Setback Requirements from Residential Uses and the Removal of Single-Family Dwellings as a Special Use was made and seconded by Commissioners Fanella and Vondruska, respectively. The motion passed with seven (7) yes votes and zero (0) no votes as follows: Commissioners Fanella, Vondruska, Brown, Rodemann and Saeed, and Chairperson Heming-Littwin voted "yes."

### Staff Presentation – Part 1

Explaining that the Commission is to consider text amendments to Section 10-4-17 of the Zoning Code related to Setback Requirements and Single-Family homes as a Special Use, Planner Ashbaugh, stated that notice of the public hearing was published in the March 8, 2021 edition of the Daily Herald as required and that additional notice was mailed to 14 properties used as single-family homes in the C5B district. She began by showing a map showing the subject area – the entire C5 district, or “downtown”, consisting of the C5A and C5B sub-districts. She said that generally two amendments were proposed: one to the setback requirements in the two districts for properties abutting residential uses and the other to remove single-family detached dwelling units as a Special Use in the C5B Central Service Sub-district.

She continued to show the map of both districts to show which districts to which the amendments to the setback language would apply. She said that currently in both sub-districts, there is a 20-foot setback requirement from interior side and rear lot lines that abut properties “zoned for residential use”. She said that the staff had previously interpreted this to mean abutting single-family or other residential uses in residential districts, but in response to threatened litigation during the Civic Center Parking Garage project, Village counsel advised staff to apply this to properties with residential uses on them even if the property was in a commercial district. She said that this interpretation was then applied to the planned unit development application for 414 Pennsylvania, and that the Plan Commission then requested that staff clarify this language. She said the language as proposed explicitly states that a C5A or C5B property, when abutting a property in a residential district that is used for residential purposes, the 20-foot setback is required from interior side and rear lot lines. She then paused her presentation and requested any questions from the Plan Commission pertaining to these amendments specifically.

### Commissioner Questions

Commissioner Rodemann asked if a lot is used for another use other than residential, if the development then on the central business district-zoned property would go down to zero. Recognizing exceptions (e.g., schools), he said part of him would rather see that extension of what that residential district requirement might be for a side yard imposed on that adjacent property to retain character, adding that he thought the 20 feet for the potentially affected lots is excessive. Planner Ashbaugh responded affirmatively.

Commissioner Fanella wondered if staff had thought about possibly writing the language so that it strictly applies to a commercial lot, on which one can build to the lot line, and there is no required setback even if it is adjacent to residential property. Planner Ashbaugh replied that she had not; the intent was to keep as much of the existing language intact, and not reduce or eliminate the 20-foot setback requirement. However, she continued, if the Commission would like to consider this – and if it’s in a C5B or C5A District and against an R district, and not having a setback requirement or reducing the 20 feet – that the Commission can do so. She said that Staff was trying to tailor the amendment to get rid of the ambiguous “zoned for residential use” language that has created this issue. Commissioner Fanella advocated for simplicity for a commercial developer. Planner Ashbaugh said (periphery) residential properties sharing a lot line with property in the C5B District would have a 20-foot setback.

She said as an example that the Glenwood Station project (460 Crescent) had no rear yard or interior side yard setback as it was adjacent to commercial properties and is right in the middle of the district. The C5B District, she indicated, is primarily affected, as properties in C5A are surrounded by mostly C5B properties. Development Director Springer stated that the Commission could change the setback for the commercial uses to either eliminate or reduce it and/or change the language allowing single-family uses as a Special Use or eliminate them from the District, as a separate consideration.

Commissioner Fanella asked, hypothetically, if she bought a C5B lot, which carries a parking requirement, is that parking part of the setback? Planner Ashbaugh explained that because of an impervious surface setback requirement (that is dependent on lot width), relief might be requested due to site planning challenges arising from a considerable amount of hardscape vs. narrow landscape beds at a zero lot line.

Commissioner Saeed asked for clarification on the 20-foot setback requirement. Planner Ashbaugh replied that if a project is being proposed on a C5B property adjacent to an R-zoned one that is used for residential, the setback would apply to the commercial property. To a request from Chairperson Heming-Littwin for clarification as to properties affected, Planner Ashbaugh pointed to the C5B properties shown touching highlighted residential properties on the map, saying the C5B properties are affected, and confirming that most of the residential properties depicted are already developed. Redevelopment of any of these properties not compliant with a previously approved PUD, she added, would necessitate the PUD process.

#### Staff Presentation – Part 2

Planner Ashbaugh resumed her presentation to explain the proposed amendment to remove single-family detached dwelling units from the C5B district list of Special Uses. She said that single-family homes are already not permitted in C5A by right or as a Special Use, but that they currently are allowed as Special Use Permit in C5B. The proposed amendment, she said, would remove single-family homes as a Special Use in C5B, thereby eliminating them entirely from the “downtown” or C5 districts. Citing Chapter 8, Title 10 of the Zoning Code, she said that if a property being used for a use no longer permitted or which has not been granted a Special Use ceases its current use for 180 days it can then no longer continue in that use. She added, in confirming the Chairperson’s understanding of this reference to non-compliance, that after six months of being unoccupied a house in C5B could only be used for a Special Use permitted in this district.

Director Springer asked what would happen if an owner of a property with a legal non-conforming use wished to make structural alterations to it or build, say, a shed. Planner Ashbaugh replied that she interprets Code as saying that an owner would be able to get an accessory structure but can’t expand the structure itself – as an owner can’t expand the non-conforming condition – without a variation. Planning Manager Purvis elaborated that such alteration would convert the property use into one that is no longer permitted in the District, and, that since a goal of the Zoning Code is to eventually eliminate non-conforming conditions, an owner isn’t permitted to make structural alterations to “extend the life” of that specific use, and to do so would need to be granted a variation. Director Springer displayed Code

section text (10-8-8) on “Special uses not non-conforming” and, acknowledging that a legal interpretation might be needed, said it appears that property owners might need a Special Use Permit for an enlargement or extension.

Commissioner Mulherin wondered if, currently, the owner of an existing single-family home in C5B who wanted to add a second floor and extend the building footprint (but not seeking a variation) could do so without administrative approval. Planner Ashbaugh said today owners of existing homes used as such and which have existed before the adoption of the list of Special Uses could request a Special Use (which governs bulk and use). Planning Manager Purvis said that if they had a Special Use that makes the house legal in the District, the answer is “Yes.”

Commissioner Mulherin surmised that the text amendment would require a homeowner in C5B would have to file a petition and come before the Zoning Board for any change. Planning Manager Purvis said her understanding is that any action to extend the life of that use would need additional relief or Commission/Board approval.

Commissioner Mulherin concluded that, in reality, the market has a greater impact than regulations on the use. Expressing concern about amending text, he asked if the proposed change pertaining to use is an integral part of the change pertaining to the setback rule. Planning Manager Purvis answered that the Commission could take one amendment without the other.

Chairperson Heming-Littwin asked if the Commission could maintain the Special Use, to which Planning Manager Purvis, replied, “Absolutely.” Director Springer reminded the Commission that these issues came up recently, and could be handled a number of ways.

Planner Katie Ashbaugh, Planning Manager Kelly Purvis, and Community Development Director Staci Springer, 535 Duane Street, Glen Ellyn, were sworn in, affirming the statements they made previously were true.

#### Public Comment

Sworn in, Pete Ladesic, 615 Scott Ave., Glen Ellyn, wondered if he misheard testimony, asked for clarification as to the length of time a non-conforming home remains vacant; he heard six months but read “90 days.” Planning Manager Purvis stated that the limitation is 180 days. (Director Springer subsequently reiterated that she’d begun her explanation displaying the wrong section.) Mr. Ladesic said that even six months isn’t an adequate length of time in a bad real estate market, and wondered if a caveat allowing for a six-month extension could be put into the adopted Code text. Mr. Ladesic asked if in the above scenario a property owner could get an extension. Director Springer said she would like to seek legal counsel on the point, but noted that Special Uses in Glen Ellyn expire.

Sworn in, Tom Martin, 450 Duane Street, Glen Ellyn, asked whether, if his neighbor, Tom Rose, was to get a buyer for “the adjacent property located at 454 Duane Street who wants to move into the single-family residence and purchase Mr. Martin’s property to expand said buyer’s residence, would be

allowed to expand. Planner Ashbaugh replied that since expanding the property would be expanding the use, doesn't think it would be possible. Mr. Martin asked if it would be possible before the proposed text change, to which Planner Ashbaugh replied, "Yes." Mr. Martin asserted the change would preclude him from selling his property so that a single-family residence could expand. Director Springer said this is correct. Mr. Martin concluded that the Village is taking away his right as a property owner in Glen Ellyn. Planner Ashbaugh said he could still request it, but would have to request the text amendment to add it back to the list of Special Uses in the C5B district and also the Special Use Permit. Planning Manager Purvis interjected that the issue came up partly from the granting of the Special Use to 454 Duane, which creates new setback requirements – a potential hardship – upon Mr. Martin's lot. She stated that, while a single-family dwelling unit would no longer be a Special Use in that District and thereby changes the ability for Mr. Martin to have that use on his lot it also opens up his property to be developed in other ways that would not be allowed if a single-family lots were still permitted next to his. Mr. Martin said this makes sense, but that a lot of businesses just like his around C5B that were not invited to this meeting. Director Springer responded that notice for Zoning Text Amendments is provided via newspaper, and in this case, Staff went above and beyond what is required by trying to identify single-family homes within the downtown zoning districts and notify them. Granted 20 seconds more to speak, Mr. Martin asked how many businesses like his were not invited. Director Springer stated that Staff followed State statute for notice. Planning Manager Purvis invited interested property owners to sit down to review how the proposed amendments could potentially impact their lots.

Steven Ruffalo, 358 Oak Street, Glen Ellyn was sworn in. He stated that he represents Patti Murray, 495 Western Avenue, who, he said, didn't get notice of tonight's Hearing. He noted that minutes of the Plan Commission's January 14 hearing indicate Ms. Murray provided testimony and reflects that her address is 620 Midway Park. Citing a 10-day notice requirement under Sec. 10-10-11 of the Zoning Code and, without waiving the notice defects, he said, based on his review of the Code, jurisdictionally, a text amendment requires an application be lodged with the Director of Department of Community Development under 10-10-13(C); only then can a decision can be made upon written findings of fact, which he said wasn't in the materials. He said there also must be statement of how the proposed amendment relates to the Comprehensive Plan or promotes the public health, safety and general welfare under Sec. 10-10-13(C)1. He maintained that these are important but weren't presented in the materials provided, and that if the zoning relative to the home in question, which exists as a C5B Special Use, is changed the property will become legal nonconforming, and no alterations or additions can be made without a variation, and if it's not occupied for 180 days or more would lose its non-conforming status and be rendered commercial only. Other restrictions exist, he stated, which affect the ability to restore non-conforming structures under 10-8-6(D) in the event of a fire or other casualty. He said the cottage is too small to be used as a business and the property lacks parking. He said approval of the proposed text amendment would be tantamount to a constructive condemnation of his client's property, causing her to go from having a well-defined basket of rights as a Special Use to being on the "hit list" as a legal non-conforming use, which, he said, translates into a meaningful diminution in value. He said that when Ms. Murray moved here, historic preservation and charming older homes were what Glen Ellyn stood for, and that she implores that the zoning stay as it is, and that the property text amendment be rejected.

Responding to the notice issue, Director Springer said the section Mr. Ruffalo cited pertains to single or multiple parcels, rather than a zoning change applicable to a much larger area. She said the Village could go back and notify everyone, but doesn't believe doing so was required. As the proposed amendment was initiated by the Village, she added, no application to the Director of Community Development is required.

A motion to close the Public Hearing made by Commissioner Mulherin, and seconded by Commissioner Saeed, passed with seven (7) yes votes and zero (0) no votes as follows: Commissioners Mulherin, Saeed, Brown, Fanella, Rodemann and Vondruska and Chairperson Heming-Littwin voted "yes."

#### Commissioner Discussion

Commissioner Fanella said she understands and has reservations about eliminating the Special Use and negatively affecting those property owners already in the Central Business District, however, wants to eliminate the issue that emerged with the Dr. Saylor property, so that the Village can commercially develop its Central Business District, so is not sure how to approach this. She said she'd be okay with keeping single-family homes as a Special Use, but is not comfortable with how the Code has been rewritten concerning the setback for the Central Business District, so would vote no on the entire proposal as it's written today. Planner Purvis stated that the Commission can tweak it.

Commissioner Fanella said she didn't think it should matter what a property touches, but rather how it's zoned, and that commercial lots should be allowed to build to the lot line. Director Springer stated that the Commission could change the language of the Code to say, a setback only applies if you are adjacent to an "R" district, and can lower it from 20 feet. She explained that zoning is set up to ensure protections for certain properties (e.g., residential that is next to a "more intensive" use), so setbacks are commons in such scenario. The wording of Glen Ellyn's Code, she said, emphasizes properties' zoning classification over use, which raises questions among Staff.

Commissioner Fanella stated she could be comfortable with a setback, but that a 20-foot one is too large. Commissioner Heming-Littwin asked for suggestions for suitable setbacks. Planner Purvis opined that it would be appropriate to keep some setback in the C5B District for properties next to residential property. Director Springer suggested 6.6 feet – consistent with residential – as a target.

Commissioner Vondruska, noting the house next to Dr. Saylor's property is in C5B, said so he was perplexed as to why it was even applied as residential. Regarding residential buffering, he said 20 feet offers homes a buffer, and asked if the buffer can be divided into rear yard vs. front yard or side yard. The cottage already has nonconforming use, he said, which is a little different than the existing residential properties all around the C5B District that could with a reduced setback be impacted by a large building built, or a garbage pick-up or service drive. Planning Manager Purvis said the proposed amendment clarifies that language, so those setbacks would no longer apply to a single-family lot in the C5 Districts, and that only lots in a residential district surrounding downtown would be affected if the Commission changes the degree of the setback requirement. For any single-family lot in C5B district, there would no longer be a requirement to provide that buffer, she continued, adding that commercial

development on a commercial lot adjacent to other commercial lots (whether a house or commercial building is on it) would not be required to provide setbacks.

Commissioner Rodemann said he thinks the Village needs to retain the 20-ft. setback or slightly reduced for commercial properties adjacent to residential districts, citing concerns about big parking enclosures or large walls. Buffer zones, he said, should have screening requirements: a big flat wall, landscaping; a parking lot, impervious surface; a strip adequate to support low shrubs. As far as non-conforming – or it's no more Special Use [for] single-family home properties – he said he doesn't think that the text as written will impact property owners that are commercial uses in residential homes currently as much as maybe thought, and that development opportunities are probably expanded because the Village is giving less restriction based on what is next to them. He added that he's concerned about getting rid of the setback entirely when it's up against a residential district that doesn't have a single-family home on it (e.g., church or school); he would kind of like to see that reduced but not to zero.

Chairperson Heming-Littwin asked for opinions regarding keeping single-family as a Special Use in C5B or removing it as a permitted use.

Commissioner Rodemann replied that he is okay with removing it, and supports the idea of creating a central business district that is unified, consistent and homogenous.

Commissioner Vondruska admitted that he probably feels "a little muddy for some reason in this" (not knowing if this is due to different directions the evening's conversations have gone and the volume of information in the packet). He said he agrees with a lot of what Commissioner Rodemann said in that he (Vondruska) is comfortable with it. Commissioner Vondruska guessed that existing businesses where somebody could be living on the second floor and have a business beneath aren't affected, and this is really only single-family residences, of which he said there aren't many, and that some of these would require aggregation for development. He said he can support it, adding that he is okay with the 20-foot if the C5B is going to be up against a residential district, and that variance requests can be examined on a case-by-case basis.

Commissioner Mulherin said he's uncomfortable with no setback against a residence, and suggested a 10-foot, he said, only to create a discussion. He said that maybe in some instances there will be no setback whatsoever, and recognized the issue arose from the Saylor case where Staff was conservative in approach, and on which the Board moved ahead. Referencing properties on Anthony between Main and Western, Commissioner Mulherin asked if the condominiums were built on the lot line.

Director Springer recalled that the underground parking garage is built up to the lot line but the buildings above are set back about 20 feet. Commissioner Mulherin said he would support a 10-foot setback. He said he's troubled by the Special Use change, which, he said, adds a burden to homeowners. He said he doesn't know if it's necessary now, would reject it, and wants a separate vote on the proposed amendments.

Commissioner Saeed said he wants to keep the 20-ft. setback as it's a good buffer between commercial and residential, and to retain the Special Use in the C5B District.

Commissioner Brown said that she felt she doesn't have enough experience to weigh in and wants to abstain from voting. She said she is comfortable with the 20-foot setback. Chairperson Heming-Littwin asked if she would be comfortable with a 10-ft. setback. Commissioner Brown asked if someone who wanted to build and modify the setback would need to have a Special Use. Chairperson Heming-Littwin replied that the party would need to request a variance. Commissioner Brown said she'd like to stick with 20, but she isn't comfortable weighing in on the amendment concerning Special Use. Chairperson Heming-Littwin said she'd be okay with a 10- or 20-ft. setback for the residential districts, and that she would be in favor of removing Special Use long term, expressing confidence that the specified time allowance and the petition process afford owners opportunity to maintain the Special Use, and recognized the goal of developing a consistent service district.

Director Springer asked for opinions on the setback to single-family homes currently within the C5 District, specifically whether to eliminate it to zero as proposed. Commissioner Vondruska asked whether, if the existing is in a C5B or A district, there's any setback requirement, regardless. Planning Manager Purvis responded that, traditionally, Staff never applied the setback requirements for C5 Districts, as Staff didn't interpret that as zoned for residential use. But, she proceeded, staff was advised to be more conservative during construction of the Civic Center Parking Garage project, so moving forward thought it would be appropriate to continue that interpretation of our Code. She explained, whether a single-family home is on the lot or not, in a commercial district there would be no setback requirements for adjacent commercial properties in the same district.

Director Springer added that the Adam Saylor project was the first and only, other than the Civic Center, where the Village ever applied a setback in that instance. She stated that if it had happened before the Civic Center Parking Garage, the interpretation of Staff was, it's not a residentially-zoned property, and therefore no setback would have been required for Adam Saylor's property.

Chairperson Heming-Littwin asked if the Commissioners have a problem with keeping language saying that if somebody wants to develop in the C5B District next to a single-family home that's currently Special Used in the District, that they would not be required setbacks. Commissioners Mulherin, Fanella, Vondruska and Rodemann all said they are fine with it. Commissioner Saeed said he was in favor. Planning Manager Purvis interjected that an addition or new construction in C5B has to be developed as a PUD, the regulations of which limit development to 65 percent of the lot, which is a way to control bulk. Plus, she said, parking is required, which also provides a buffer between buildings. Commissioner Brown said she is comfortable with the way it reads.

#### Motion 1 – Setback Language

Commissioner Mulherin, seconded by Commissioner Rodemann, moved that the Commission adopt the proposed modification to the Zoning Code, as reflected in item numbers 1 and 2, and 5 through 8 in the Proposed Text Amendments attachment. The motion passed with six (6) yes votes and one (1) no vote

as follows: Commissioners Mulherin, Rodemann, Brown, Saeed and Vondruska and Chairperson Heming-Littwin voted “yes,” and Commissioner Fanella voted, “no.”

#### Motion 2 – Removal of Single-Family Homes from C5B Special Uses

Commissioner Mulherin, seconded by Commissioner Saeed, moved that the proposed modifications in the zoning text amendments 3, 4 and 9 not be recommended for adoption by the Village Board. The motion passed with four (4) yes votes and two (2) no votes as follows: Commissioners Mulherin, Saeed, Fanella and Vondruska and voted “yes,” and Commissioner Rodemann and Chairperson Heming-Littwin voted, “no.” Commissioner Brown abstained.

Chairman Heming-Littwin declared that the Plan Commission is recommending to the Village Board keeping single-family homes as a Special Use in the C5B District.

#### Trustee’s Report

Trustee Enright said the Board approved an extensive streetscape plan for downtown Glen Ellyn. He reported that it’s going to start in 2022, since the Frieda Kahlo art exhibit is still anticipated to be coming to town this summer. Calling it “sort of a big-ticket item,” he said the Village will need to take out additional bond funds to help pay for it.

#### Chairman’s Report

Acting Chairperson Heming-Littwin said that Chairperson Loch should be back for the next meeting.

#### Staff Report

Planner Ashbaugh said the hiring process for a new Planning Intern is underway.

Planning Manager Purvis reported that the candidate search for a new Associate Planner had narrowed. She said the first meeting of April is cancelled, unless a pre-app sneaks in. The Draft Comprehensive Plan will be reviewed at the Board workshop in April, she said, with a May workshop scheduled to discuss recommendations, such as perhaps parking regulations, height in the downtown, and possible increased residential density. It is hoped, she stated, that the Plan will be approved in June with any Board amendments.

Director Springer suggested showing at the next Plan Commission meeting a presentation on the streetscape, implementation of which, she said, is not starting until 2022: she said that now that Covid restrictions seem to be lifting the Village wanted to give businesses opportunity to reestablish themselves before it “ripped up the streets.” The Civic Center Parking Garage approaches completion, she said, and the Pedway should be completed by May 1, and listed expected outdoor seating options for dining.

#### Adjournment

Following a motion by Commissioner Fanella, seconded by Commissioner Mulherin, and passed by voice vote, Chairperson Heming-Littwin adjourned the meeting at 9:00 p.m.

Respectfully submitted,

Barbara Dutton-Thomas  
Recording Secretary

Reviewed by,

Katie Ashbaugh, AICP  
Planner