Agenda
Village of Glen Ellyn
Plan Commission Special Meeting
Thursday, April 11, 2024
7:00 PM
Glen Ellyn Civic Center, Galligan Board Room

Visitors are most welcome to attend all public meetings and can find copies of the Agenda online at www.glenellyn.org prior to the meeting. Any individual with a disability requiring reasonable accommodation in order to participate in a meeting should contact the Village of Glen Ellyn ADA Coordinator, 630-469-5000, at least five (5) business days in advance of the next scheduled meeting.

A. Call to Order

B. Public Comment

C. Approval of Minutes

1) Approval of February 22, 2024, Plan Commission Minutes

D. New Business

1) Proposed text amendments pertaining to regulations for outdoor dining, dining platforms and outdoor live entertainment.

E. Trustee Liaison's Report

F. Chairman's Report

G. Staff Report

H. Other Business

I. Adjourn

DRAFT MINUTES
Glen Ellyn Plan Commission
Thursday, February 22, 2024 at 7:00 p.m.
Glen Ellyn Civic Center
Galligan Board Room
535 Duane Street

A. Call to Order and Roll Call

Chairperson Loftus called the meeting to order at 7:02 PM. Chairperson Loftus explained the Plan Commission's function and operating procedure as an advisory body. He described the public hearing protocol, including public comment, and announced that the meeting would be recorded.

Roll was called.

PRESENT: Chairperson Tim Loftus; Commissioners Laura Brown, Ian Dawson, Adam Kreuzer, and Parag Thakkar; Student Commissioner Emma Smith.

ABSENT: Commissioners Connie Arango, Peter Cooper, Sumita Mukherjee, and Robert Wyant.

Also in attendance: Daniel Harper, Planning Manager; Audrey Savikas, Recording Secretary; Steve Thompson, Village Trustee; and Scott Viger, Planning Consultant.

B. Public Comment (non-agenda items)

Heidi Anderson, of 501 Turner Avenue, spoke on behalf of Hen Ellyn, a community group gathering support for backyard chickens in Glen Ellyn. Ms. Anderson noted that the group looks forward to appearing on an upcoming Plan Commission agenda.

Emily Henkels, of 779 Harding Avenue, also spoke on behalf of Hen Ellyn, noting that she looks forward to working with the new Community Development staff and furthering discussion about allowing hen-keeping in Glen Ellyn in 2024.

Grace Chan, of 188 N. Lambert, also spoke on behalf of Hen Ellyn, noting that it was her second time attending a Plan Commission meeting. She shared that it is spring, surrounding towns are buying chicks, and she looks forward to an opportunity for Glen Ellyn residents to do so next year.

C. Approval of Minutes

Commissioner Dawson made a motion to approve the November 9, 2023 minutes. Commissioner Thakkar seconded the motion. The motion passed by voice vote.

D. New Business

1.) Public Hearing: 473 N. Main Street - Special Use Permit for a tutoring center to be located on the subject property in the C5A Zoning District

Commissioner Thakkar moved to open the Public Hearing. Commissioner Kreuzer seconded the motion, and the motion passed by voice vote.

Staff Introduction

Sworn in, Daniel Harper, Planning Manager for the Village of Glen Ellyn, introduced the request: The petitioner is requesting approval of a Special Use Permit in accordance with Sections 10-4-17-1(B) of the Glen Ellyn Zoning Code to allow a tutoring center to be located on the property known as 473 N. Main Street in the C5A Zoning District.

Mr. Harper presented information as detailed in the Staff Report dated February 16, 2024, included in the agenda packet. He provided a project summary and reviewed the location and surrounding zoning (C5A Central Retail Core Subdistrict), noting that the proposal was interpreted as an office use that required a Special Use Permit. Mr. Harper's presentation also included: relevant excerpts from the Glen Ellyn 2023 Comprehensive Plan and the Downtown Strategic Plan; description of the current building site and the proposed floor plan; and the specific request before the Plan Commission.

Mr. Harper responded to Commissioner questions, including a question related to a nearby business, School of Rock. Mr. Harper agreed to gather information about the status of that business, including whether it provides retail and whether a Special Use Permit was granted.

Petitioner Testimony:

Sworn in, the Petitioner Katherine McDevitt, of 235 Forest Avenue, Glen Ellyn, presented. Ms. McDevitt described her history as a resident of Glen Ellyn, and of managing and owning a local tutoring business. She discussed the community need for educational resources for children. Ms. McDevitt described the proposed business model for The Learning Studio's proposed location, which would include retail at the front of the site, and tutoring services at the back of the site. She described her intent to drive additional business to surrounding retail stores and restaurants, noting that her customers include parents who will be inclined to shop, eat, and drink in the area while they wait for their children to complete tutoring sessions.

Ms. McDevitt responded to Commissioner questions. She confirmed that the property site was suitable for her business model and would not require construction. She discussed the floor plan,

with regard to the retail component of the business; and she commented on projections for retail versus service components of the business. Ms. McDevitt confirmed the hours planned for retail (9:00-12:00) and tutoring services (3:00-9:00). She answered questions about the history of the tutoring business, including its prior location; her reasoning for pursuing the proposed location; and the range of towns her customers reside in. Ms. McDevitt responded to additional questions about customer demographics, customer counts, and tutoring service delivery. She provided anecdotal evidence of parents frequenting Glen Ellyn retail establishments while their children attended tutoring sessions.

Sworn in, Megan DeRoo, of 511 E. Liberty Drive, Wheaton, presented. She distributed samples of the retail product, Brainy Day Boxes, which she described as sensory boxes with STEM and educational components. Ms. DeRoo described her history as an educator and creator of the Brainy Day Box. She discussed her partnership with Ms. McDevitt and her plans to oversee the retail component at The Learning Studio's proposed location.

Ms. DeRoo responded to Commissioner questions. She discussed the proposed retail hours (9:00-12:00). Ms. McDevitt added a willingness to increase retail hours and hire additional staff as needed. Ms. McDevitt and Ms. DeRoo responded to questions about marketing, emphasizing word of mouth and parent networks.

Sworn in Patty Cavanagh, of 745 Crescent Blvd, presented. She discussed marketing and social media opportunities for the proposed location. Ms. DeRoo added to the discussion, sharing potential event opportunities and window display options.

Petitioners responded to additional questions from Commissioners, including: opportunities for retail items in addition to Brainy Day products; differentiation from other local retail and tutoring businesses; signage; after-hours special events; and the scope of tutoring services. Ms. McDevitt and Ms. DeRoo emphasized the community's interest in supporting local women entrepreneurs and custom products and services.

Mr. Harper informed Commissioners that he confirmed that the neighboring business School of Rock had been approved for Special Use.

Public Comment:

Chairperson Loftus invited public participation.

The following individuals, sworn in, made respective comments:

- Julie Spiller, of 925 Newton Avenue, expressed support for the proposal. Ms. Spiller shared that she is a Glen Ellyn resident and business owner, and that her business has benefited from sales to the Petitioner's tutoring clients, several of whom became repeat customers. She noted

that Glen Ellyn's retail businesses are the recipients of customers from its service-oriented businesses.

- Sara Huels, of 576 Turner Avenue, expressed support for the proposal. She discussed her history searching for resources for her own children, including traveling to other communities for educational products and services. She described parents' willingness to travel for educational resources, as well as their interest in supporting local business.

- Renee DiSanto, of 353 Oak Street, expressed support for the proposal. She shared her history as a Glen Ellyn resident and business owner, as well as her experience with the Petitioner's tutoring business. She noted that the Petitioner has a solid customer following.

Chairperson Loftus invited written public comments to be read into the record.

Mr. Harper read a letter from Barb Lemme, President of the Alliance of Downtown Glen Ellyn, included in the agenda packet, which expressed opposition to the granting of Special Use Permits in the C5A Zoning District.

Chairperson Loftus invited a motion to close the public hearing.

A motion was made by Commissioner Kreuzer to close the Public Hearing; Commissioner Brown seconded the motion, which passed by voice vote.

Commissioner Deliberation & Recommendation

Commissioners deliberated. They expressed mixed support for the proposal.

Areas of support included: unique, niche business concept combining retail and services; compelling opportunity to meet a community need and reduce stigma by locating tutoring in a prominent location; success of nearby service-oriented business that received a Special Use Permit; existing clientele; ability to make use of property with significant space limitations; support from local business owners; local business making use of unique specialty space.

Areas of concern included: need for accountability and measures to ensure that retail sales continue; limited retail proposed in a prime retail location; conflicts with Comprehensive Plan; concern about setting precedent.

Commissioner Kreuzer made the motion:

After conducting a public hearing and deliberating on the request of the petitioner, Katherine McDevitt, for approval of a Special Use to allow a tutoring center to locate and operate at 473 N. Main Street in the C5A Central Retail Core Subdistrict, the Plan Commission hereby recommends approval based on the findings of fact, as

discussed or amended at the Plan Commission public hearing on February 22, 2024, which are hereby incorporated into the Motion by reference as though fully set forth herein, and a copy of which will be attached to the minutes of this meeting and kept on file as part of the permanent records of the Village. The Plan Commission makes this recommendation of approval with the following conditions:

1. **That the business be operated in substantial conformance with the plans and testimony presented at the Plan Commission public hearing and before the Village Board of Trustees.**
2. **That the petitioner moves forward with the facts submitted with respect to retail from the Brainy Day Box, and additional retail that is an appropriate fit for the business.**

Commissioner Thakkar seconded the motion. Chairperson Loftus asked for a roll call vote. The motion passed on a roll call vote. Four Commissioners present voted "Yes": Chairperson Loftus and Commissioners Brown, Kreuzer, and Thakkar. One Commissioner present voted "No": Commissioner Dawson.

E. <u>Trustee Liaison's Report</u>

Trustee Thompson provided an update on the Roosevelt & Taft Hotel Properties, including the Village Board's consideration of a Purchase and Sale Agreement at its upcoming meeting. The Plan Commission should anticipate future hearings on the projects.

Trustee Thompson responded to Commissioner questions, including providing information about: offers, negotiations, purchase price and carrying costs, and the community input process for the Roosevelt & Taft Hotel Properties; the status of vacant retail space at the Apex building, as well as garage safety reports; the issue of Construction Necessitated Variations presented to the Zoning Board of Appeals; Community Development projects, including securing new Planning software and conducting a Zoning Code review; and the status of projects previously heard by the Plan Commission.

F. <u>Chair Report</u>

Chairperson Loftus welcomed Mr. Harper as the new Village Planning Manager and invited his Staff Report.

G. <u>Staff Report</u>

Mr. Harper shared some information about his background and welcomed feedback from Commissioners about the information that is most useful to them for their proceedings. Mr. Harper also discussed potential agenda items for upcoming meetings, including a special meeting scheduled for April 11.

H. <u>Other Business</u>

No additional items were discussed.

I. <u>Adjournment</u>

Chairperson Loftus requested a motion to adjourn the meeting.

> **Commissioner Kreuzer made a motion to adjourn the meeting; Commissioner Brown seconded the motion, and the motion passed by voice vote at 9:06 PM.**

Respectfully submitted,

Audrey Savikas
Recording Secretary

Glen Ellyn Plan Commission
535 Duane Street
Glen Ellyn, IL 60137

Meeting 4/11/2024 7:00 PM
Department: Community Development
Department Head: Emily Rodman
Category: Public Hearing
Prepared By: Daniel Harper

AGENDA ITEM (ID # 2024-222)

DOC ID: 2024-222

Proposed text amendments pertaining to regulations for outdoor dining, dining platforms and outdoor live entertainment.

Statement of the Issue:
Village staff is requesting review of a suite of text amendments to the Village Code at a public hearing and provide subsequent recommendations to the Village Board.

Analysis:
As a component of the Village's efforts to respond to evolving market conditions and demands, the following text amendments are being brought forward to the Plan Commission for consideration and recommendation to the Village Board. When reviewing the proposed amendments, the language that is underlined is new proposed language to be added and language that is struck through is language that is proposed to be removed. Language that is not underlined or struck through is existing language proposed to remain unchanged.

Outdoor Seating for Restaurants Regulations:
Building on the success of the pilot program implemented in 2022 and suggestions developed with the input of the Plan Commission and Village Board, Village staff has drafted a comprehensive outdoor seating for restaurants text amendment. The proposed changes are designed to standardize the requirements and regulations of the pilot program into permanent standards. At present, the Village's outdoor dining code consists of a single section, parts A through H. The current code controls the minimum clearance for pedestrian access, establishes license agreements for outdoor dining on public property, controls safety measures like surface material and proximity to drive lanes and addresses both trash and noise nuisances – and aside from updating verbiage, the existing text remains in the text amendment in full. This text amendment expands and reformats the existing code into five sections. Notably, the amendment identifies general outdoor dining requirements, private property requirements, and public property requirements while also distinguishing sidewalk cafés and dining platforms in the public right-of-way.

One major impetus for the update to the Village's outdoor dining code is the continued demand for use of the public ROW from both restaurant owners and diners. Although al fresco dining is by no means a new amenity, the coronavirus pandemic reemphasized the importance of utilizing these shared spaces safely, fairly and effectively. The downtown streetscape enhancement and pedway projects have spurred additional interest in restaurants offering outdoor dining as an amenity. A major highlight of the text amendment is the codification of a permitting and licensing process for a dining platform. Dining platforms allow for an increased outdoor dining space for qualifying

restaurants by permitting the construction of an at-grade platform on the street surface over public parking spaces.

Section A details general requirements for outdoor dining and maintains or adds clarity to provisions for ROW clearance, surface materials, landscape areas, and noise. The text amendment adds language pertaining to food safety; capacity limits; federal and state law compliance; nuisances, health, and safety; liquor license regulation; smoking prohibition; sound amplification; light intensity; permit review, issuance, and revocation; and maintenance and upkeep.

Section B addresses outdoor seating on private property. This section maintains language on shopping center requirements and regulates drive aisles and parking lots where private property outdoor dining is allowed. Section B includes additional text that specifies distinctions for private property and details when permit approval is required (special event, outdoor entertainment, etc.).

Section C codifies the outdoor dining program for public property. Section C establishes the permitted zoning districts for sidewalk cafés and dining platforms and updates the previous code's text on license agreements. Section C details insurance requirements, Village Board approval, allowable items, dates of operation, and license renewal. The Village also reserves the right to impose additional regulations when deemed appropriate in license agreements.

Section D expounds upon the dining platform design requirements. These requirements address not only the physical construction and safety features of the design platforms, like fencing height, barrier strength, and drainage; but also establish where and how a dining platform can be located in relation to the street grid, other dining platforms and ADA parking spaces.

Section E outlines all building permit and license agreement submittal requirements for both sidewalk cafés and dining platforms. Other areas of the Village Code that will see minor updates include the Definitions section where a definition for outdoor dining areas and outdoor dining platforms will be added. Revisions to sections that regulate and maintain the public right of way and off-street parking will be amended to make considerations for outdoor dining areas and outdoor dining platforms.

The draft language would build on the current outdoor seating for restaurants regulations located in Section 10-5-15 (Outdoor Seating for Restaurants) of the Zoning Code.

A proposed revision to section 8-1-13(A) of the Public Ways and Property title of the Code of Ordinances is also included in order to avoid conflicts with the proposed text amendments. This proposed language is not subject to Plan Commission review and is provided as information only.

Live Entertainment Regulations:

In an effort to respond to evolving market conditions and trends, as well as to standardize and modernize relevant code requirements throughout the Village, staff has drafted the attached text amendment for live entertainment within the Village. The Live Entertainment regulations have been drafted with consideration to the current Indoor Live Entertainment regulations with additional language for Outdoor Live Entertainment on approved outdoor dining areas, as created by the Outdoor Live Entertainment Pilot Program (2022-2023). The proposed amendment will combine the two types of live entertainment to become Section 10-5-14 – Live Entertainment. Permits for outdoor live entertainments will be valid between March 31st and November 1st of each year and

must be applied for on a yearly basis. Live entertainment will be restricted during the early morning and night hours. Any application for the hosting of Live Entertainment will be subject to a plan review and will be required to pay the relevant permit fee. The performance will also be required to abide by health, safety, and nuisance standards as outlined in the Code. Establishments hosting outdoor live entertainment must have an approved outdoor dining area or will otherwise need to apply for a Special Events Permit. The establishment must also ensure the safety of performers and customers, including barricading performances and providing proper signage.

Budget Impact:
N/A

Contribution to Strategic Plan

Action Requested:
The Plan Commission should review and discuss the attached proposed Village Code text amendments. The Commission may recommend approval, approval with revisions, or denial of the proposed amendments. The Commission may also recommend approval of some of the regulations and not others. Below are two draft motions for the Plan Commission to consider:

1. Motion to Recommend Approval to the Village Board of Various Text Amendments to the Municipal Code, Including Title 10 "Zoning Code", Section 10-5-15, Regarding Outdoor Seating for Restaurants, Section 10-2-2, Regarding Definitions for Outdoor Dining Area and Outdoor Dining Platform, and Section 10-5-8-(C) Regarding Use of Off-Street Spaces, as outlined in the April 11, 2024, Staff Report.
2. Motion to Recommend Approval to the Village Board of Text Amendments to the Municipal Code, Including Title 10 "Zoning Code", Section 10-5-14, Regarding Live Entertainment, as outlined in the April 11, 2024, Staff Report.

Attachments:
1. 10-5-15_Outdoor_Seating_For_Restaurants_Text_Amendments_PC_4-11-2024
2. 10-5-14_Live_Entertainment_Text_Amendments_PC_4-11-2024

10-5-15. Outdoor seating for restaurants

(A) General outdoor dining requirements

1. If outdoor seating is located on or adjacent to a sidewalk, a five-foot wide ~~clear~~ area clear of obstructions, hazards or other objects must be maintained for pedestrian use and ~~handicapped access~~ accessibility.
2. All outdoor seating must be located on an asphalt, concrete, brick, wood, or other similar surface as approved by the zoning officer.
3. Outdoor seating must not be located in a required landscape area such as a parking lot landscape island.
4. No food may be stored, cooked, or otherwise prepared in the outdoor dining area.
5. All outdoor dining site plans must comply with total restaurant capacity limits, as outlined in the adopted Village Building and Fire codes.
6. The operation of an outdoor dining area shall comply with all applicable provisions of federal, state or county law in addition to the Village Code. These regulations include but are not limited to those of the DuPage County Health Department, the Illinois Accessibility Code, and the Americans with Disabilities Act (ADA).
7. The operation of outdoor dining shall not create a nuisance and shall not be detrimental to the health, safety, or general welfare of persons residing or working nearby. If deemed necessary, outdoor dining areas must be visually screened by fencing, landscaping, or other appropriate structures, that can serve as a buffer to minimize the trespass of noise and light onto the street and/or adjacent properties.
8. The service or consumption of alcoholic beverages within an outdoor dining area is prohibited unless the operator of holds and maintains a valid liquor license per Section 3-19 (Village Liquor Control Code) associated with the outdoor dining restaurant.
9. Smoking within the outdoor dining area is prohibited.
10. The amplification of sound is permitted at a level which does not cause disturbance or nuisance to adjacent properties or the public.
11. The maximum intensity of light (at lot line as measured at ground level) shall be no greater than 3-foot-candles if adjacent to a nonresidential use, and 0.5-foot-candles if adjacent to a residential use per Section 10-5-13 (M) of the Village Code.
12. All building permits and license agreements that pertain to outdoor dining shall be subject to review and approval by the Village and such permits and agreements may be revoked by action of the Village Board at any time with thirty (30) days' notice or immediately by the Village Manager, Community Development Director, Public

Works Director, or Chief of Police in the event of a public health or safety issue as determined by the Village.

13. Maintenance and Upkeep

    a. Maintenance of the public right-of-way and any private property associated with the operation of the outdoor dining area shall be the sole responsibility of the owner/operator of the associated restaurant. Maintenance includes cleanup of tables, chairs, trash, litter, and washing of sidewalks and the repair or replacement of damaged public or private property.

    b. The owner/operator shall provide and maintain in a clean and neat manner at least one covered trash receptacle within the outdoor dining area. The covered trash receptacle(s) must be emptied once full, and also each day upon closing of the outdoor dining area.

    c. Materials and finishes for all furniture, fencing, planters, and other appurtenances shall be selected for their durability and wear as well as for their appearance. Proper measures shall be taken to correct damage or decline due to the elements, neglect, or abuse.

14. All outdoor seating must comply with provisions in section 3-1-11 of this code.

(B) Outdoor seating on private property

Restaurants shall be permitted to have outdoor seating on private property provided that such seating complies with the following provisions:

(1.) Outdoor dining areas on private property shall only require permit approval if the underlying zoning district requires a Special Use Permit for an outdoor dining area, or the outdoor dining area is subject to other permit regulations such as outdoor live entertainment or special event permitting.

(2.) If the restaurant is located in a shopping center, such seating shall only be permitted in front or on the side of the subject establishment unless otherwise approved as part of a special use permit, planned unit development or variation.

(3.) Outdoor seating shall not be located in such close proximity to parking or drive aisles as to create a safety hazard.

(C) Outdoor seating on public property

Restaurants shall be permitted to have outdoor seating on public right-of-way provided that the operator of the associated restaurant has entered into a license agreement with the Village Board to allow outdoor seating on public property, and that such seating complies with the following provisions:

1. Outdoor dining areas such as sidewalk cafes are allowed as a temporary use on public property in the C2, C3, C5A, C5B and C6 zoning districts. Outdoor dining areas on the road surface such as dining platforms are allowed as a temporary use on public property in the C5A and C5B zoning districts.

    a. To operate outdoor seating as a sidewalk café on public right-of-way, a restaurant owner shall enter into a license agreement with the Village and provide a site plan proposal for review.

    b. To operate outdoor seating as a dining platform on public right-of-way, a restaurant owner shall enter into a license agreement with the Village and provide a site plan proposal for review, in addition to any required building permits. Sealed architectural plans may also be requested, as determined by the Village Building Official. In all cases, such platforms shall be designed and constructed in a safe and workman like manner. Proof of authorization from the private property owner, if different from the restaurant owner, shall be provided to the Community Development Director as a component of a permit application.

2. The applicant shall enter into a license agreement with the Village. This agreement shall include:

    a. Indemnification and hold-harmless provisions.

    b. A Certificate of Liability insurance that names the Village and its appointed and elected officials, employees, agents, attorneys, engineers, and volunteers (Village affiliates) as its named additional insureds.

    c. Minimum coverage at a rate of two million dollars ($2,000,000.00) per occurrence for general liability insurance.

3. Initial applications for outdoor dining on Village property shall be approved by the Village Board. Following approval of the initial application, subsequent annual applications by the same proprietor may be approved administratively by the Community Development Director or designee.

4. All items placed in the public right-of-way for the operation of an outdoor dining area shall comply with the follow conditions:

    a. A clear path of at least five (5) contiguous feet is provided and maintained for pedestrian use and accessible access.

    b. Any items placed in the public right-of-way for the operation of the outdoor dining area cannot be located in pedestrian crosswalk access aisles.

    c. Portable outdoor gas-fired heating appliances are permitted, subject to compliance with all applicable Village building and life safety regulations.

    d. Umbrellas may be permitted per review.

e. Awnings, wind guards, and other fabric ornamentation, embellishments or trimmings will require further review and are to be considered during application approval. Awnings, wind guards, and other fabric ornamentation, embellishment or trimmings are not permitted on dining platforms.

f. Tables, chairs, umbrellas, and barriers are permitted to remain on the public right-of-way overnight during the active license agreement year, April 1 through October 31, unless otherwise extended by the Village. Umbrellas must be closed during non-operating hours. No items shall be secured to public property overnight unless permitted as part of the license agreement.

g. Any outdoor dining site may not expand beyond the building frontage of the associated restaurant unless express permission is received from the adjacent property owner.

5. All tables, chairs and other appurtenances shall be removed during the period between November 1st and March 31st each year, or if required by the Village at any other time. This period may be extended on a case-by-case basis by the Village Manager or Community Development Director, who shall consider extenuating factors such as unseasonable weather. It is the permit and/or license holder's responsibility to be aware of severe weather, to provide evacuation directions if necessary, and to secure all items in the outdoor dining area.

6. Building permits and license agreements for outdoor dining on public property, unless otherwise noted in an existing license agreement, will expire at the conclusion of the calendar year. License holders will have right-of-first refusal for permit and license renewal. Renewal must be confirmed by March 1st of the subsequent year.

7. Renewal applications for building permits and/or license agreements (provided no or minimal changes are requested) shall be approved by the Community Development Director, unless the previous operation of the outdoor dining area constituted a nuisance, or the operator otherwise refused to comply with the applicable Village Code provisions. In the event the Community Development Director decides that the previously approved operating rules, location, or layout requires changes or alterations to meet the health, safety or general welfare criteria set forth in this Code, the application for building permit or license agreement renewal is subject to approval by the Village Board.

8. The Village reserves the right to impose, as part of approval of the license agreement, such other regulations on the operation of an outdoor dining area as are deemed necessary and appropriate under the circumstances.

(D) Dining Platform Design Requirements

1. Dining platforms will be no larger than four hundred (400) square feet and will not remove more than two (2) parallel or three (3) diagonal parking spaces from use.

2. Dining platforms shall be separated from any intersection by at least one (1) parking space, or at least twenty (20) feet from the intersection road if no lined parking spot is adjacent to the proposed dining platform location.
3. Dining platforms may not be 200 linear feet or closer from another dining platform.
4. A dining platform may not expand beyond the building frontage of the associated restaurant unless express permission is received from the adjacent property owner.
5. One dining platform shall be permitted per blockface.
6. Platform shall have ground cover – decking either in a finished wood or metal – with an elevation flush with the adjacent sidewalk.
7. Street drainage shall be maintained.
8. Barriers and fencing shall be at least 36 inches in height but shall not exceed 48 inches in height. Vegetation in planters cannot exceed a maximum 60 inches in height. Barriers shall be continuous except for at a curbside access point.
9. The following materials are prohibited from use as fencing or barriers for dining platforms:
    a. Fabric inserts.
    b. Chain link, cyclone, chicken wire, or similar materials.
    c. Rope and chain barriers.
    d. Any other materials that are not specifically designed as fencing including buckets, flag poles, newspaper stands and waste receptacles.
10. Awnings, wind guards, and other fabric ornamentation, embellishment or trimmings are not permitted on dining platforms.
11. Corners of fencing and barriers shall be fitted with reflecting materials.
12. An extra protective barrier shall be placed four (4) feet or less along all sides of the dining platform facing the direction of traffic on both one-way and two-way streets. These additional barriers shall be approved by the Village and capable of withstanding impacts of horizontal force akin to a Jersey Barrier, Jersey Wall, K-Rail etc.
13. No signs, banners or similar means of messaging are allowed on any fencing, planters, barriers, or other structural components of the dining platform.
14. The restaurant owner is solely responsible for the deconstruction and storage of all structural components of dining platform, safety barriers, furniture, and other appurtenances prior to November 1 of the applicable License Agreement year.
15. A dining platform shall not negatively impact accessible-parking spots.

(E) Submittal requirements

1. Completed application for Outdoor Dining Form shall be filed by the applicant with the Community Development Department.
2. All applications for outdoor seating for restaurants must be submitted for review with a review fee. If the application includes a dining platform, an additional fee per parking space removed from parking usage will be added.
3. A narrative statement describing the layout and operation of outdoor seating area. If applying for a dining platform, a need for encroachment into the public right-of-way on the road surface shall be demonstrated.
4. Proof of insurance listing the Village and its affiliates as additional insureds. Minimum coverage shall be two million dollars ($2,000,000) per occurrence for general liability insurance.
5. A signed license agreement for outdoor dining areas on the public property, prepared by the Village Attorney.
6. If applying for a dining platform, a restaurant owner shall be approved for a building permit in addition to a license agreement.
7. A site plan drawn to scale, including:
    a. Location of the outdoor dining area in relation to the building.
    b. Distances to the property lines.
    c. Dimensions and square footage of the outdoor dining area.
    d. Number and locations of tables and chairs.
    e. A lighting plan, if applicable. All light fixtures within the outdoor dining area shall be depicted on the plans.
    f. If the outdoor dining area is proposed to be located on the public right-of-way, the drawings shall also include the location of existing public improvements, including fire hydrants, freestanding signs, streetlights, traffic signals, mailboxes, trash cans, benches, trees and shrubs, planters, or any other street furniture.
    g. Site plans for dining platforms must include elevations of decking, barriers, fencing, wheel stops and the distances of these structures from the associated restaurant and where the platform is positioned relative to parking spaces on the road surface and other relevant street furniture.
8. Cut sheets of any lighting fixtures, planters, fencing, borders, awnings, and furniture and other appurtenances to be located within the outdoor dining area.

Proposed definitions to add to section 10-2-2:

OUTDOOR DINING AREA: An area set up outside the confines of a commercial structure which may include, but not be limited to, tables, chairs, and other furnishings for the purpose of selling, offering for sale, and serving food and beverages by an adjoining business. An outdoor dining area may include an Outdoor Dining Platform.

OUTDOOR DINING PLATFORM: A raised level surface on which persons or items can be placed and that allows an outdoor dining area to serve as an extension of an adjacent sidewalk. Typical elements of an outdoor dining platform may include a base, railings, and other durable materials that shall withstand wear and tear of weather elements, and surface materials textured or treated to ensure a safe walking surface. Such platforms shall be designed and constructed in a safe and workmanlike manner and shall conform to all applicable Village building and life safety regulations.

Proposed revision to section 10-5-8(C):

Use of off-street spaces: Except as may otherwise be provided for the parking of trucks, or for special uses, or the provisions of Section 10-5-15 (Outdoor Dining) of the Village Code, required off street parking facilities required as accessory to uses listed herein, shall be solely for the parking of passenger automobiles of patrons, occupants, or employees.

Proposed revision to section 8-1-13(A):

Notwithstanding the provisions of Section 10-5-15 (Outdoor Dining) of the Village Code, no person shall erect, maintain or continue any private building or private structure which encroaches on or into any public street, way or grounds, except an awning securely affixed to a building abutting a public street and constructed in full compliance with all Village codes and ordinances, unless a license agreement for a business to place tables and chairs, vestibules, vendor carts, or other similar structures on the public sidewalk in the downtown has been approved by the Village Manager or Village Board.

The proposed revision to section 8-1-13(A) of the Public Ways and Property title of the Code of Ordinances is included in order to avoid conflicts with the proposed text amendments. This proposed language is not subject to Plan Commission review and is provided as information only.

10-5-14. – ~~Indoor~~ Live entertainment

~~Indoor~~ Live entertainment may be permitted in businesses and restaurants in the C2, C3, C4, C5A, C5B and C6 zoning districts, provided that a permit is obtained from the Village. No live entertainment shall operate prior to the approval of a permit by the Village. The fee for the permit shall be set forth in this Code and the permit shall be posted in a conspicuous location on the property hosting the live entertainment. ~~inside the~~ ~~building~~.

Application for the permit shall be made by the property owner or the property owner shall give written permission for application to be made by another party on their behalf. ~~All permits for~~ The permit fees shall be set forth in Section 4-1-4 of the Village Code. Permits for indoor live entertainment shall be valid for a period of three years unless the permit is revoked in accordance with subsection (D) of this section. Permits for outdoor live entertainment shall be valid between March 31st and November 1st of each year and are to be reapplied for on a yearly basis**.** A live entertainment permit will not be considered valid if revoked at any time in accordance with subsection (D) of this section.

(A) All live entertainment must comply with the following provisions:

1. The live entertainment activity shall be clearly incidental and accessory to either a permitted or approved special use that is commercial in nature.

~~2. All live entertainment shall be located indoors and no outside audience for live entertainment shall be allowed or encouraged and no means of amplification outside of the building shall be permitted.~~

~~3. The floor area designated for live entertainment shall not exceed 25 percent of the gross floor area of the primary use.~~

~~4. Live entertainment shall not be provided after the following hours:~~

~~Sunday through Thursday~~	~~11:00 p.m.~~
~~Friday, Saturday and New Year's Eve~~	~~1:00 a.m.~~

2. No toxic, explosive, flammable or other hazardous materials as defined in the most recent version of the Building Code as adopted by the Village of Glen Ellyn shall be used for any live entertainment purposes.

3. The premises to be used for live entertainment must be in compliance with all applicable health, fire and Building Codes.

4. The form of live entertainment provided shall not be obscene nor appeal to prurient interests.

5. All live entertainment activities shall fully comply with all other provisions of this Code, including all regulations related to noise and vibration set forth in subsections 10-5-13(A) and (B) of this chapter.

6. All live entertainment activities shall fully comply with the Village Sign Code.

(B) INDOOR LIVE ENTERTAINMENT - All indoor live entertainment must comply with the following provisions:

1. All applications for indoor live entertainment must be submitted to staff for review and pay the required permit fee.
2. All indoor live entertainment shall be located indoors and no outside audience for indoor live entertainment shall be allowed or encouraged and no means of amplification outside of the building shall be permitted.
3. Live entertainment shall only be provided between the following hours:

Sunday through Thursday	11:00 a.m. to 11:00 p.m.
Friday, Saturday, and New Year's Eve	11:00 a.m. to 1:00 a.m.

(C) OUTDOOR LIVE ENTERTAINMENT - All outdoor live entertainment must comply with the following provisions:

1. All applications for outdoor live entertainment must be submitted to staff for review and pay the required permit fee.
2. The outdoor live entertainment may not be plainly audible 200 feet away from the property line of the property hosting the outdoor live entertainment.
3. Outdoor live entertainment performances shall only take place within an approved outdoor dining area. Any dining establishment that does not have an outdoor dining area allowed by right or approved by permit and seeks to host outdoor live entertainment shall apply for a Special Events Permit.
4. All establishments hosting outdoor live entertainment must take proper and reasonable steps to ensure the safety of performers, customers, and surrounding traffic. This may include the use of barricades, appropriate signage, and notice to surrounding businesses of the live entertainment dates. Village Staff will review site plans for safety measures including but not limited to:
    (a) Any outdoor entertainment activity and all related fixtures, equipment, and other appurtenances shall be located within the approved outdoor dining area.
    (b) All items used for the operation of the outdoor entertainment activity shall not present an obstruction of the way of customers, pedestrians, or vehicles and must account for health and safety access.

(c) Any fixtures, equipment, furniture, or other appurtenances for the purpose of outdoor entertainment shall be removed or secured outside of times of performance.

(d) Occupancy shall be reasonably limited to ensure health and safety of customers, performers, and staff.

5. Live outdoor entertainment shall only be provided between the following hours:

Sunday through Thursday	11:00 a.m. to 10:00 p.m.
Friday and Saturday	11:00 a.m. to 11:00 p.m.

6. As required by Section 10-5-13 (M) of the Village Code, any additional lighting for the purpose of the outdoor entertainment activity must have a maximum intensity of light (at lot line as measured at ground level) no greater than 3-foot-candles if adjacent to a nonresidential use, and 0.5 foot-candles if adjacent to a residential use.

(D) A previously issued permit for live entertainment may be revoked by the action of the Village President, which shall be delivered to the permit holder. In the case of a public safety concern, a stay of any live entertainment may be issued by the Police Chief until the matter can be considered by the Village President. The Village President shall have the right to revoke a previously issued permit for live entertainment if:

1. The applicant or any person making a representation on behalf of the applicant makes a misrepresentation of any fact in the application or in any testimony before the Village Board.
2. Any criteria on which the permit is approved is not complied with.
3. After the criteria is initially complied with, compliance with such criteria is not maintained at any time.
4. Prior to the issuance of the permit, the applicant transfers interest in the property or business to another party or if the property owner makes an attempt to transfer the nontransferable permit.
5. One or more reasonable complaints about the live entertainment are received regarding the permitted property.
6. Revocation is recommended by the Police Chief for reasons related to public safety.
7. Exterior areas of the business providing live entertainment have not been maintained in a clean and orderly manner.
8. The property is not maintained in conformance with all applicable health, fire and Building Codes.

A written order of the Village President to revoke a permit shall take effect five days after its service. If, within those five days, the permit holder files an appeal to the Village Board, the

permit shall continue in effect until the Village Board shall have met and had an opportunity to review the President's decision. The Village Board shall hear from the applicant, and it shall review the reasons why the permit was revoked, including the reasons stated by the Village President. The Village Board shall issue a written opinion to either affirm or overrule the decision of the Village President. The Village President may also, stating the reasons for doing so, suspend a permit for a period of up to ten days. A permit may not be suspended for more than two ten-day periods during the term of the permit.

(Ord. 5886, 9-13-2010)