

APPROVED

PLAN

REPORT OF THE PROCEEDINGS OF A PUBLIC HEARING
BEFORE THE VILLAGE OF ARLINGTON HEIGHTS
PLAN COMMISSION

COMMISSION

RE: CHAPTER 28 TEXT AMENDMENTS - PHASE 2 - PC#17-005

REPORT OF PROCEEDINGS had before the Village of
Arlington Heights Plan Commission Meeting taken at the Arlington Heights Village
Hall, 33 South Arlington Heights Road, 3rd Floor Board Room, Arlington Heights,
Illinois on the 10th day of January, 2018 at the hour of 7:30 p.m.

MEMBERS PRESENT:

TERRY ENNES, Chairman
MARY JO WARSKOW
JOE LORENZINI
BRUCE GREEN
GEORGE DROST
JOHN SIGALOS

ALSO PRESENT:

BILL ENRIGHT, Planning Deputy Director

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CHAIRMAN ENNES: I'd like to call this meeting of the Plan Commission to order. Would you please all rise and join us in the pledge of allegiance?

(Pledge of allegiance recited.)

CHAIRMAN ENNES: I think the first item is approval of the St. James meeting minutes from our last meeting.

COMMISSIONER DROST: I'll make that motion.

CHAIRMAN ENNES: All in favor?

COMMISSIONER GREEN: I'll second it first.

CHAIRMAN ENNES: All in favor?

(Chorus of ayes.)

CHAIRMAN ENNES: Any opposed?

(No response.)

CHAIRMAN ENNES: Okay. We will move on to our first item of business and ask Bill to present the changes.

MR. ENRIGHT: Well, first, do the roll call. Commissioner Dawson.

(No response.)

MR. ENRIGHT: Commissioner Drost.

COMMISSIONER DROST: Here.

MR. ENRIGHT: Commissioner Green.

COMMISSIONER GREEN: Here.

MR. ENRIGHT: Commissioner Lorenzini.

COMMISSIONER LORENZINI: Here.

MR. ENRIGHT: Commissioner Sigalos.

COMMISSIONER SIGALOS: Here.

MR. ENRIGHT: Commissioner Warskow.

COMMISSIONER WARSKOW: Here.

MR. ENRIGHT: Chairman Ennes.

CHAIRMAN ENNES: Here.

MR. ENRIGHT: Public notice was provided in the Daily Herald.

Well, as you are well aware, the Ordinance Review Committee reviewed this project on October 25th. Phase one of the text amendments were recommended for approval by the Village Board, adopted by the Plan Commission and approved by the Village Board earlier this year, or rather 2017.

Phase two now gets into various other sections of the code, some of which is just, you know, shortening the code on its length, redundant sections that aren't necessary to show up in multiple locations. Many of the zoning districts have the Christmas tree regulations which we're just going to have once in the code, it's still there but only once, as well as the community residence standards. Rather than having it show up multiple times in the code, it will just be at the end of the use district section and appear just once. So, that will be good to just shorten the code because any user of the code flipping through its numerous pages, shortening it is certainly beneficial to the users.

Regarding some of the actual textual changes that have a little more impact, one definition that we wanted to update for sometime and kind of overlooked as part of phase one was our definition of amusement facilities. It's a very archaic definition that refers to

computer internet places where, remember back in the day when you'd have storefronts opening up with 20 or 30 computer monitors when the internet first came out and that's where people would go to get hooked up to the internet. Well, you know, that's kind of gone to the side now with the advent of the smart phones and laptops and so forth. So, and it didn't really reflect some of the things that we are seeing with respect to amusement facilities.

So, we have a new definition that caters to real uses that we're seeing in today's world and the business world, a facility that provides indoor activities for kids or adults including video arcades, games, or other recreational type of amusement such as play equipment, trampolines, laser tag, et cetera. We're recommending that larger facilities of 5,000 square feet or greater are special uses, and smaller facilities less than 5,000 would be permitted as of right. So, that was something that we wanted to add in to the recommended changes.

Chairman, would you like me to pause for any questions as we go along? Or do you want me to just move through all of these?

CHAIRMAN ENNES: I would just as soon that you went through since we've reviewed them. But if anybody has questions, do you want to --

COMMISSIONER GREEN: I just have one quick question. How many lots do we have that are actually 49 feet?

MR. ENRIGHT: Well, when we get, do you want me to, I'll address that --

COMMISSIONER GREEN: No, I'm just reading it here.

MR. ENRIGHT: Yes, I'll address that when we get to it. That's coming up shortly.

COMMISSIONER GREEN: Okay, okay.

MR. ENRIGHT: So, regarding amusement facilities, I'll take it that nobody has any concerns about that additional definition or revision.

Regarding the next section in the code, the use district sections, we're looking at the 50 to 49 feet minimum lot width. Right now, the code permits you to build on a 50-foot lot, and that's width, if a majority of the houses on your street between two intersection streets on either side of the block are less than the standard 70 feet. There are quite a few that are 50 in the center of town, the older part of town. Obviously, as you get north and south, the standard 70 with all the subdivisions in the 60's and 70's and 80's were built to the current standards.

49 footers though, we do have a couple of locations. There is one neighborhood that's south of Central and east of Arlington Heights Road where there's quite a few 49 footers. I don't quite understand it looking at the plat maps, but that's how they were platted for some reason, and these go way back, you know, 100 years. We have found in some instances where people want to either do an addition or build a new house or a tear-down, or again just an addition to an existing house because they don't meet that minimum of 50 feet, they have to go to the Zoning Board. So, we have a few of these go through the Zoning Board, you know, maybe a couple, two to three a year. So, we're recommending just altering that section just slightly to incorporate those odd locations, there's a few other small neighborhoods where this occurs kind of happenstance. So, that would be, you know, we think that's a pro-citizen or pro-resident change because it will, you know, allow people to not have to go to the Zoning Board.

In addition, as part of that, right now if you have a 50-foot lot but the majority of the houses on your block are not less than 70 feet, it's not a buildable lot. You have

to go to the ZBA to get a variation to build on it. That also includes, if there is an existing house there, so if someone wants to build an addition which is largely a nonconforming use or do a tear-down, they would have to go to the Zoning Board. We think it's illogical that someone can't build on a lot where there already is a house established there, and onerous on the citizens who own lots like this to have to go to the Zoning Board. So, we've added language or recommending language to basically in effect exempt those types of properties that already have a house on them, even if it's a tear-down. If there's a house established, then it's buildable. So, we're recommending that change because there are a handful, you know, two or three a year that go to the ZBA, they get the approved variation because it's illogical to not allow someone to build an addition where you have a house there already, as long as they meet, they still have to meet all the setback, FAR standards and impervious coverage.

So, I don't know if that, Commissioner Green, if that --

COMMISSIONER GREEN: I just was curious how many there were. But that kind of answers it.

MR. ENRIGHT: Well, I don't have a count but there's, I would say there's probably a couple of hundred.

COMMISSIONER GREEN: Okay, that's a lot.

MR. ENRIGHT: Yes.

CHAIRMAN ENNES: Are there any that might be 48 feet?

MR. ENRIGHT: No, we don't see 48 feet. We see like 48.9 but we --

CHAIRMAN ENNES: So, 49 is the exception.

COMMISSIONER DROST: So, you round them up?

MR. ENRIGHT: We round them up, yes, if it's close like that.

Moving forward with the R-4, R-5, R-6, R-7 and B-5 development standards, some of the things that we're looking at include, well, I'll just go to the next slide. Also, M-1, M-2 and P-L industrial performance standards, those are the existing Chapter 23. That's another thing we wanted to do is if there are things in other chapters, like with the Plan Commission and the Zoning Board of Appeals, the enabling language that creates those commissions is already in Chapter 6, that's where it should be. It is also in Chapter 28 where it shouldn't be, so we've eliminated that. Same thing with these industrial performance standards, they're in Chapter 23 of the building code, we don't need them to show up in the zoning code as well. Then Hickory-Kensington Overlay, we're recommending a modification of the density standards for just a small area which I'll get to.

Regarding the development standards, in R-4, we don't have much R-4 zoning in town, so this isn't a big change. But right now we're requiring 15 percent of the lot width for a side yard. We're recommending 10 percent which is the standard. The reason for that is most R-4 developments are actually single family homes, which is fine. You could do duplexes, but we just don't see people doing duplexes anymore, building duplexes. But the 10 percent is more consistent because we do see single family homes in R-4, and then they have to comply with 15 percent whereas most single family homes are just 10 percent. So, we think that's just a positive change although it's very minimal in terms of its overall impact considering there aren't many lots zoned R-4.

With respect to R-5, we're recommending the increase to the height. R-5's typically, you know, are either row homes or townhouses. 25 feet is a very old standard. Keep in mind that a lot of these standards were established in 1959, and there's been

amendments to the code up until '85, I know we've had smaller amendments. But a lot of these are pretty archaic in terms of contemporary development standards. So, the Ordinance Review Committee agreed to bump it up 10 feet.

We also have these very archaic spacing standards and this affects both the R-5 and R-6 and R-7 zoning districts where if you have a complex of multifamily townhouses like the Old Arlington Heights Road development by Lexington, the spacing of those buildings varies drastically from several feet to 50 feet, depending upon the windows type, what room is there. Well, we think that just doesn't make a whole lot of sense. If it's a bedroom facing a bedroom, it's a greater distance or less, different if it's a kitchen facing the bedroom. So, we think we should, you know, and we're finding that most of these types of developments, a 25-foot space in between the buildings is adequate. A lot of these are, well, they are PUDs anyway because they're multiple buildings, so you can always, you know, require greater setback. But we think 25 is more than adequate especially given the heights of these districts.

The height in the R-6 we're recommending going from 40 to 50 feet. Some of our R-6 developments that are less than 10-12 years have needed variations just to 40 feet. You know, the floor plates as you all know are just a little greater now. People want nine-foot ceilings instead of 7.5 like 50 years ago or 40 years ago. So, the 50 feet will accommodate four to five stories in the R-6 district, probably closer to four but you could probably get five in. Then again, the setbacks, we're looking at just 25 feet in the front, side 10 percent of lot width, rear 30 feet. Right now in R-6, for every foot of building height above 25 feet, you have to add an extra foot of setback, and we're seeing developers having to seek variations, not just about a recent development that we'll get to in a second, but these types of R-6 developments. We think that the standards put forth here are more than adequate to address, you know, required setbacks.

The R-7, we're not recommending that change in height, we think 60 is fine. Again, there's a 25-foot space in between buildings although very rarely do you see multiple buildings in R-7. I don't know if we have, we might have one older development northwest of the Jewel. But again, it's away from this, you know, what type of windows are facing, it just comes up with a standard 25 feet. Again with setbacks, you know, again R-7 requires when you're above 40 feet you have to add a foot of setback to the front and side. We're saying standard 25 feet, 10 percent of lot width for the sides, also a slight increase to the building lot coverage, 45 to 55 percent because it's more downtown urban. However, we are not recommending any action on this at this time.

The reason for that is of course we have the CA Ventures development that was recently denied by the Village Board. They have resubmitted with a modified plan and we did not want to put this forward at this point in time and have different standards set up which would, you know, change the variations, lessen them quite significantly. So, we just didn't feel at the administration level that it was appropriate, and we talked a little bit about this at the Ordinance Review, to move forward with those changes at this time because we have an active project that's controversial in the neighborhood and we didn't want to recommend these changes right now, although we would want to revisit those down the road.

Then B-5, we're looking at more rational setbacks in the B-5 Downtown District. Right now, you know, one size doesn't fit all. In the B-5 district, we basically want zero lot line in the front, and if it's an infill development on the sides, too. Right now we are different requirements for that depending upon the situation of the property. So, what we're

recommending in the B-5 is that we have public street frontages as one standard, and then interior lot lines as the other standard.

So, public street frontages, so let's take for instance the development that's going up right now, the Park View Apartments, that is completely surrounded by commercial property on all sides, and it has public street frontages on two streets, on Dunton and on Eastman. So, you know, that would be zero lot line, that's all that would be required which makes sense. The only time we'd require a setback is if that public street frontage is actually across the street from residential property. So, for instance, the block where, well, the CA development but that's R-7, north of that is --

COMMISSIONER DROST: The old Paddock property.

MR. ENRIGHT: Yes, the old Paddock property owned by Mr. Adriani. If you look at this downtown zoning map on my cursor here, this is the B-5 part. Part of it's across from R-6, but part of it's across from R-3. So, even though it's a public street frontage, because it's across from residential R-3, we would recommend a 25-foot setback. But up here, up north along Campbell Street or along Highland, since it's across from B-5, it would be zero lot line in terms of code. Then to the south, you know, you have interior lot lines, you have to have 25 feet abutting residential. So, at the south of this property, since it would be abutting R-3, at the south end of the block you would have to have a 25-foot setback.

So, we think this is just more reasonable and fits to the downtown. We think that some of the restrictions previously just didn't make sense in a lot of cases. One good example is 13 East Miner, Mr. Panzarino got the preliminary PUD up on Miner. It's basically zero lot line up front and on the side. He's going to put some windows in on one side, so that has to be five feet back pursuant to building code, but you need a big variation for that. So, you know, those types of infill developments are going to be built building to building more or less and up to the sidewalk. That's kind of the form that we want downtown.

So, we think that these new setbacks are a lot more applicable to the reality of downtown and what we want to see without having to grant all these variations. Then going back to the Hickory-Kensington Overlay, we're recommending an increase to the density. The overlay zone for Hickory kind of involves not this whole blue area but that's the Hickory redevelopment area, we're really just talking about two block faces. As you know, Campbell Street we want to come through, so it's, you know, two lots on either side of the spur line, one lot is that development that's proposed for 74 units. Because of the streets coming through, it's chopped that property by about a third. So, the building they're proposing is five stories, it's meeting all the setbacks and the height for the overlay zone. But because of losing that property to the north for the street and the excess land, they would have to seek variations.

The same would be the case if the Ladoff property where the Mariano's employee parking is, same thing there, with the street coming through, the density doesn't quite fit for what's left over. So, we're just trying to match it with our other development standards for the Hickory overlay zone. It does not affect, you know, the Heller site because that's R-7, or anything north of what will be Campbell Street because that remains R-7. Then the only other portion of the B-2 site, this is where the new daycare is going, so that's going to be there we're presuming for quite some time, is this other block where you have the little strip center here, Kensington and Hickory, and there's, you know, a couple of abandoned buildings. You have the bowling alley here and a couple of service type businesses.

So, it's just the smaller area in red that would be affected by this

overlay, but it does allow for increased density, but the form still looks the same. It's the same height, it's the same building without the penalty of losing that extra land. If this one developer didn't lose all that extra land, they would have been close because I think they were like two or three over. But given that this overlay zone was intended to be form based, what I mean by form based is this is what we want to see, the shape and the setbacks. We don't want 30-foot setbacks, we want it kind of zero lot line to five feet, on Kensington, 10 to 15 feet. So, it meets all those standards. So, that's kind of the gist behind amending that overlay zone just for these two block faces.

General provisions. Height of fences. We used to allow six-foot fences in town and we changed it about 25 years ago maybe, something like that. We're finding a lot of people, we haven't done surveys, but we're finding a lot of people over the years, you know, complaining about not being able to do a six-foot fence. They don't think five is private enough. We do allow six feet when you're adjacent to commercial property. We do allow it if you're adjacent to a major road, as well as solid fences in those cases. But it's five feet otherwise. We're recommending increasing it to six feet. We're also recommending allowing solid fences.

In addition, because we're getting a lot of these prefab fences now with the hard core plastic, they look nice but most of them are solid. Some of them have tiny little gaps in it, but most of them are solid. We think they look fine. People can still choose to do a semi-open fence if they want. Certainly this just affects the sides and the rear, not the front yard. They're still limited to three feet and open in the front.

Then the corner setbacks, corner lot setback, if you have a corner lot and your backyard fronts on a street, you have to set back your fence half the distance between your house and the property line or a minimum of five feet. You know, let's say a house is set back 30 feet, then they'd have to set back their fence 15 feet. That carves out a big chunk of their backyard. We're saying just set it back five feet no matter what the circumstances. On the outside of that, you still have to landscape it like you do now. But we think it's a little onerous to have people having to set back the fence quite a bit, and we get a lot of complaints on that. That's probably one of our biggest fence complaints, because people are basically losing a portion of their backyard if they fence it in because a big portion is on the outside of the fence which no longer really becomes usable.

So, that's a change that, you know, doesn't come up a lot but there's quite a few corner lots. Most houses aren't set back 30 feet. They're, you know, more like, you know, 20 or 15, so most setbacks would be 7.5 to 10 feet. We're saying five for these corner lots.

In addition, our table of permitted obstructions, we want to update it and add things that are more common now. I mean, I don't know why generators -- done before but we'd like to add that. Fire pits are becoming more common although it's not in the permitted obstructions table which is, these are things that are allowed in backyards. Outdoor living kitchen areas, we're getting a lot of those. The sport courts as well, although all of these still have to meet the impervious surface coverage in the rear yard which cannot exceed 40 percent.

Then also in the front, the entryways, we don't allow porches unfortunately unless you meet the setback. So, they can't be a permitted obstruction. We do allow little entryways to be a permitted obstruction into your setback, but it can only be four feet deep and then eight feet wide, which is kind of small. We see a lot of people would want to do a

nice little entryway that's a little more proportional, five feet extended out from the front door, and then 10 feet wide. That allows a little more architecture and, you know, a little more work done with any columns or posts, but nothing huge. We think we're just adopting to, you know, current development standards, things people want to see with their homes and proportion the front entryway to the rest of the house.

We're also recommending eliminating the detached garage 10-foot setback from the house. It's already in our building codes. You can get an exemption from that by building a fire-proof garage, which means the building code does allow less than 10, but our zoning code doesn't. So, people would have to come to the Zoning Board to get a variance. It's strictly a building code issue and that's where we want to leave it, so we're recommending getting rid of that out of the zoning.

Are there any questions on anything --

CHAIRMAN ENNES: With these permitted obstructions, these have to be set back, generators, fire pits, outdoor living kitchen?

MR. ENRIGHT: Yes.

CHAIRMAN ENNES: They have to be set back from the lot line?

MR. ENRIGHT: Yes, they do.

CHAIRMAN ENNES: Are there also restrictions?

MR. ENRIGHT: Yes. Most permitted obstructions in the rear yards have to be set back three feet from the side and five feet from the rear. That's consistent, for instance, a detached garage which could be 720 square feet in size, 15 feet height to the peak, those are required to be three feet and five off the rear. So, that would be the minimum. Pools have to be a little more.

CHAIRMAN ENNES: Do they also have to be separated from the house?

MR. ENRIGHT: Generally not. There may be some code requirements for fire pits, but generally no. I mean, you know, a generator, they're often right up against the house or a couple of feet away for circulation.

COMMISSIONER DROST: Yes, have we, you're aware of what Des Plaines is doing right now? They're creating a little bit more massing, more density in their community.

MR. ENRIGHT: Right.

COMMISSIONER DROST: Reading between the lines, it appears that they're trying to become more developer-friendly and they're trying to reinvent or to make some, well, let's say improvements from what, you know, originally evolved in the downtown area. Are some of these little pieces, you know, kind of going in that direction, too, helping developers out, you know, making our standards more contemporary with the marketplace and some of the competing areas in the northwest suburbs or west suburbs?

MR. ENRIGHT: I think yes. What I like about this phase two is that it's not just, you know, developers building, you know, midsize to large projects depending upon the location, but it's also making I think positive changes for single family homeowners in town. You know, these issues come up a lot. Homeowners are always asking about fences and setbacks for fences and putting fire pits or outdoor living kitchens, things of that nature. So, I think a lot of these changes are positive for homeowners in town, and often we kind of overlook them, we focus on the big stuff. So, I think it's a combination of both.

I do think that the development standards purely with these, a little

bit with the changes in the height, I think, you know, certainly make some more contemporary developments that have been approved. So, these height changes aren't things that are out of whack with the intent. It just eliminates the need for a few variations. Most of those variations get granted anyway. So, I think the Plan Commission and the Village Board recognize that our code is a little out of whack on some of these things.

I think the setback changes, or I think the setbacks now in some of these districts are a little punitive. The higher you go, the bigger the setback. But then, you know, then it becomes harder and harder to even build on the property. So, I think those are definitely positive changes.

COMMISSIONER DROST: Yes, and there's just one horrible example here of the setbacks, you know, on the south end, or just south of us on Arlington Heights Road, that building that always gets, you know, it's almost in the street. So, there is a balance here on we're not going to be afraid of any of those monstrosities coming out of the woodwork.

The second piece, too, is when we're thinking about these changes, do we think about them in a holistic sense from the standpoint of, okay, here are some of the trends? But the trends also bring a certain type of resident and we're looking at sort of the economics, the demographics, the sustainability. How does this add to the, let's say the entertainment piece of the Village? How does it, that's the restaurants and some of the services, particularly in the more vertical downtown area.

MR. ENRIGHT: Well, I think regarding, you know, how is this pro-business, I think really phase one when the Plan Commission recommended and the Board adopted the change to the special use waiver for restaurants, increasing it from 1,500 square feet to 4,000, I think that was a real positive step for those types of businesses. We want to see that all throughout town, not just downtown.

COMMISSIONER DROST: Right.

MR. ENRIGHT: So, that's been beneficial I think in terms of being pro-business and then stimulating the market at least for that category of use. I think that some of these changes, I mean we're doing pretty well, I mean you know.

COMMISSIONER DROST: Yes, and that's sort of the dialogue, I mean not that we're going to change it here, but you know, to put it in to sort of the perspective of again a macro look, you know, what we're doing to make our, and again, the downtown area might be the canary in the coalmine, but you know, 20 years ago we didn't allow for outdoor dining, al fresco dining.

MR. ENRIGHT: Right.

COMMISSIONER DROST: Now, you know, with windows and with rollups and, you know, sort of what the expectation level is now from the marketplace to respond to that.

MR. ENRIGHT: Our Village Board is going to be looking at evaluating some of the liquor code changes which may or may not happen. But if they do, you know, it could open up some new types of businesses in town, and we're looking at where those would be appropriate from the zoning standpoint.

COMMISSIONER DROST: Good, just for the record.

MR. ENRIGHT: Okay. Moving on to parking, one of the big issues that the Plan Commission has rightfully had as well as the Village Board is, you know, the parking requirements for elementary schools being kind of out of touch, and we think they are. We're recommending that with the new code, that elementary schools are parked at one space per

employee plus one space for every five classrooms. We did a survey of a bunch of communities around us, and we found out that a lot of them do kind of this hybrid, it's a mix of employee and number of classrooms, you know. An elementary school is adding, you know, five or six classrooms and they're expecting enrollment to go up, then, you know, we've seen that recently with several elementary schools where they may need 90 to 100 spaces but our code requires 320.

So, we're recognizing that our code, and I think every, you know, I don't want to speak for the Plan Commission but that's the feedback that we've gotten from the Plan Commission and Village Board is some of these things seem a little out of whack given the magnitude of variations, and also given the data that the schools have provided to us with actual counts. So, we've tested this new standard and it fits in. It doesn't mean that every elementary school would not have sought a variation. Olive had very little parking space, they would have needed a variation. Some of the other schools that have come through recently would not have needed a variation, or at least wouldn't have been nearly the extent. So, we feel that it's a good standard to make it more fair for the schools.

We haven't found a problem with the high schools in terms of the standards working. You know, the only issue we've had historically is really St. Viater with spillover into streets, but when they built their additional parking lot in the front, that helped a lot.

One other thing we're looking at is the collector provision requirement. We talked about this at the Ordinance Review Committee. The collector provision requirement can sometimes be a bit onerous for community centers or places of worship where we're, or even like Ivy Hotel, where we're looking at the different components within that use and applying the different standards rather than just, okay, this is a place of worship, you need one space for every five seats in the sanctuary. It's kind of grown into more of a map where, you know, you've got the sanctuary and then you've got a meeting space over here and another space over here, and you look at all of them and add it up and you need 600 spaces. Well, the reality is you don't necessarily use all those spaces at the same time, very rarely. So, we want to look at that a little closer.

Certainly, the collector provision works for shopping centers. I mean a shopping center is going to have different types of uses that each have different parking requirements. So, we adopt to that and use the collector provision portion of the code where a restaurant is at one to 45, retail is at one to 300, furniture store is one to 600. So, that's the collector provision. But we also apply it to these bigger uses and we're seeing these huge variations being requested because of the collector provision. So, we want to do a lot more research on that and then report back to the Plan Commission, first to the Ordinance Review Committee probably in, you know, in the next couple of months once we get more data on that. So, we didn't want to push that through at this point.

Accessible spaces, we have the number of accessible spaces in our zoning code; however, it's regulated in the state code which we follow as required. Sometimes the state code can be modified a little bit, and then we don't modify it in our code. So, our attorney is recommending just deleting it from our zoning code, since it's in the state code and we still have to follow it. We as planners all have the chart that says what you need in terms of parking, and when developers ask we can hand that out to them or put it on our website, but it's not something that would be in our code because it's again getting back to being somewhat repetitive.

Then the other thing we're looking at that I think is a real positive for small businesses and smaller uses is the substantial compliance section. We're recommending that Staff can approve a variance, or not even approve a variance, I should rephrase that, it's determining that parking is in substantial compliance with the code if their deficit is less than 10 spaces or it's less than a five percent deficit. So, if you have 100 spaces required and you have 96, that would be a less than a five percent deficit. Or if you're required to have, you know, 100 and you have 91, then that's less than 10 spaces. So, what would have to happen there is a developer or landowner, and usually this comes into play with small, older developments in town, if this is a brand new development, you can't invoke this clause, you have to meet code or get a variation. But if it's an existing building, an older building in town that don't quite have enough parking but they want to bring it in use, if they can demonstrate to us that they have adequate parking through parking counts and data, then Staff can make a determination, as we do everyday with our zoning code, that there is enough parking there so they don't have to go to the Zoning Board of Appeals.

We probably have, you know, five or six of these types of variations that go to the Zoning Board every year. By and large, I think most of them have all been approved, which is fine because they've demonstrated that they have enough parking. So, we think with the smaller type, and they're typically smaller, although it could affect a large location as well, but if it was a big shopping center, you've got 700 parking spaces, you know, if they could demonstrate that, you know, if they're less than five percent short, they've got plenty of parking, why make them go through either Plan Commission or the ZBA. So, we think this is again, you know, small business friendly and avoiding having to go through a somewhat arduous process and leaving it up to Staff to make some of these determinations.

Hardship criteria. We've of course talked about that on many occasions. The Zoning Board, or I'm sorry, this affects the Zoning Board as well, and we did provide this to the Zoning Board on Monday for their information. But we have several, and I included them in the packet, several different types of requirements that different communities have as well as the LaSalle factors which was a 1950's court case in Illinois that kind of established some standards for evaluating variations. What we've come up with, one thing we heard at Ordinance Review is, you know, liking the idea of simplification. We've heard that from the Plan Commission and the Village Board for years now that, you know, some of these things are hard to understand, or not necessarily hard to understand but hard to really evaluate, and hard for developers to really address.

So, we've kind of morphed our existing standards and incorporated a couple of new ones. But we think these four standards really address the issues that come up on variations. The way they're written, they can really be for, you know, a variation for density or height, or it can be a variation for a business that wants to go in that's not allowed in the M-2 District, if it's only 2,000 square feet in size, you know, something of that nature. So, they're really, we wrote them carefully so they can really be applied to either of those types of situations because they're different.

But basically, the proposed use will not alter the essential character of the locality and be compatible with existing uses and zoning of nearby property. That's a pretty fundamental thing that the Plan Commission looks at and rightfully so.

The plight of the owner is due to unique circumstances, may include the length of time the property has been vacant for instance. That's something we look at, too.

So, developers are still going to have to, big and small, are going to have to demonstrate that they meet these criteria. But we think these are a little more crisp and a little easier to understand. We still need to coach them sometimes at the Staff level but that's fine.

The proposed variation is in harmony with the spirit and intent of this chapter. I think what that means is, you know, let's take, you know, a parking garage in a building where they, you know, because of the columns, they can only do 22-foot drive aisles instead of the required 24. Well, that variation, it's meeting the intent of the code. They have a demonstrated reason for that, a unique circumstance, you know, because it is unique, Bruce Green understands that as an architect. So, those types of things where it's still meeting the intent of the code in its totality.

Then, the variance requested is the minimum variance necessary to allow reasonable use of the property. That's kind of reined people in so they just don't come in and say we want 5,000 units when we allow 50, you know, things like that. So, it has to be reasonable.

They have to meet, you know, they have to provide the findings for that and what the justification is. When they're granted, too, it's important for the Plan Commission and the Zoning Board to, you know, state why they think it's okay. You do that kind of during comments. I don't think it necessarily has to become more formalized. The Zoning Board actually issues findings of fact where they'll go one, two, three four. But usually they're looking at like one variation or maybe two for a single family house, a little more straightforward, yours can get a little more complex depending on the scope of the project.

So, you know, we think these are more clear. We used to have that, you know, the economic part of it which was tough to understand, just the basic hardship of our code. You know, in particular, that the property cannot yield a reasonable return. Well, that's always been a tough one for anybody to try and justify, you know, what a reasonable return is. I know Commissioner Jensen brings this up a lot about, you know, how do you do that like for not-for-profit schools? I mean they're not in the business of reasonable return unless it's, you know, good grades.

So, we think these are better and more clear. I think, Commissioner Warskow, this addresses, well, you weren't at the ZBA, I'm sorry, that was, Commission Dawson was there and Commissioner Jensen were the only two there that night. But these are the types of things that they brought up and hopefully that was reflected in the minutes of the Ordinance Review Committee.

So, at this point, you know, there is a nonconforming use section, a Design Commission section. That's just kind of clarifying things, getting rid of duplication with the Design Commission stuff that exists in the enabling ordinance in Section 6 of the code. Nonconforming use, I don't think anything is changing the gist of that, we're just making it a little more clear in the way it's written hopefully.

So, with that, we're recommending approval of the amendments to the various sections listed except for the R-7 standards which we'd like to visit at a later date. Are there any questions?

COMMISSIONER DROST: Good job.

MR. ENRIGHT: Thank you.

CHAIRMAN ENNES: Do those proposed changes for the R-7, would they impact the proposed development that's out there for Campbell?

APPROVED

MR. ENRIGHT: They would.

CHAIRMAN ENNES: They would.

MR. ENRIGHT: They would greatly lessen the setback variations. I still think they would need some setback variations, but it wouldn't be nearly as large. We don't want to, you know, although Staff supported that development and supported the setback variations because in our opinion, as I'm stating today, the R-7 standards and the R-6 and the R-5 with those graduated increases based on height, we think, you know, are a bit antiquated. So, but we're not recommending those changes because we just feel that it's inappropriate, bad form to be putting forth these changes while development is going through the process which would potentially benefit them.

CHAIRMAN ENNES: Is that primarily because of the neighbor complaints?

MR. ENRIGHT: Pardon me?

CHAIRMAN ENNES: Because of the issues the neighbors are having with it?

MR. ENRIGHT: Yes, it's certainly part of that. But I think it's just, even if we didn't have concerns from the residents, I still think that when you have a project that's active going through the process, you don't want to change the code that's going to directly impact that for better or for worse.

COMMISSIONER DROST: Yes, it's the appearance of --

CHAIRMAN ENNES: But is it fair to the developer? I mean if we're talking about doing this anyway --

COMMISSIONER DROST: That's going to be up to the Village Board of Trustees to decide. I mean I think that's, they can, they've got that power to do it.

MR. ENRIGHT: Irrespective of the CA Ventures, I think it's the right thing to do just looking at the zoning ordinance. But again, as Commissioner Drost just briefly stated, you know, there is the appearance, too. We don't want it to look like we're doing this for a developer.

CHAIRMAN ENNES: All right, yes. I understand.

COMMISSIONER DROST: Right. We want to help positive development. There was good article, too, on apartments and the development of apartments in the area. We were not, we're sort of deficient with other communities. We're also talking about the crescendo, you know --

MR. ENRIGHT: Yes, we haven't seen as many. Yes.

COMMISSIONER DROST: Sort of the, again, the economic issue. If you don't mind, I'll make the motion to approve. Is that okay?

COMMISSIONER SIGALOS: I just have one question. You touched on it, when I was reviewing this here tonight. I started, we're eliminating all the different fees. Is that elsewhere in the code or are you eliminating the fees?

MR. ENRIGHT: That's, no, we're not eliminating the fees. Those fees are in other sections of the municipal code, so they don't need to be in the zoning code because they're not zoning issues.

COMMISSIONER SIGALOS: That's what I assumed. Okay, thank you.

COMMISSIONER DROST: If it's okay, I'd like to propose a motion.

CHAIRMAN ENNES: Please do.

A motion to recommend to the Village Board of Trustees approval of PC#17-005, Amendments to Chapter 28, Sections 3, 5, 6, 7, 10, 11, 12, 13, and 14 as outlined in the Staff memo dated January 3, 2018.

COMMISSIONER SIGALOS: I'll second that.

CHAIRMAN ENNES: All in favor?

MR. ENRIGHT: No. Typically, we'll do roll call.

CHAIRMAN ENNES: I don't think we need one though.

MR. ENRIGHT: Well, we might as well.

CHAIRMAN ENNES: But we can, yes. Okay.

MR. ENRIGHT: Let's see. Commissioner Drost.

COMMISSIONER DROST: Aye.

MR. ENRIGHT: Commissioner Green.

COMMISSIONER GREEN: Yes.

MR. ENRIGHT: Commissioner Lorenzini.

COMMISSIONER LORENZINI: Yes.

MR. ENRIGHT: Commissioner Sigalos.

COMMISSIONER SIGALOS: Yes.

MR. ENRIGHT: Commissioner Warskow.

COMMISSIONER WARSKOW: Yes.

MR. ENRIGHT: Chairman Ennes.

CHAIRMAN ENNES: Yes. So, you've got a unanimous approval.

COMMISSIONER DROST: Yes, but there's no guarantee. We're just here

to advise.

(Whereupon, the above-petition was concluded
at 8:20 p.m.)