

Planning and Zoning Commission – Meeting Minutes
April 12, 2023 - 7:30 p.m.

I. Call to Order and Roll Call

Director Jennings called the meeting to order at 7:35PM.

Attendance: Commissioners Cotton, Heidner, Lis, Mulcrone, Nabat, and Smith were present. Chairman Morris was absent.

Also attending: Andrew Jennings, Director of Community Development.

Director Jennings requested a motion to nominate a Chair Pro-Tem for the meeting. Commissioner Cotton made a motion to nominate Commissioner Heidner, seconded by Commissioner Mulcrone. The motion was approved by a roll call vote (6-0, 1 absent).

II. General Public Comment

No one from the public came forward to speak.

III. Items for Review

Chairman Pro-Tem Heidner called for the opening of the following public hearing:

1. **Case 2023-01** is a petition filed by petition filed by HPIV Chicago LLC (dba Hammes Partners), property owner, 830 West End Court, requesting approval of a variance from Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Section 19.7, Parking Requirements for Permitted and Special Uses.

Subject Property: 830 West End Court, zoned OR&D, Office, Research, and Development District.

ALL PERSONS PROVIDING TESTIMONY WERE SWORN IN

Tim Beckes, HPIV Chicago LLC, 1400 N. Water Street, Suite 5000, Chicago, IL
Bernard Citron, Thompson Coburn LLP, 55 E. Monroe Street, 37th Floor, Chicago, IL

Mr. Citron introduced Mr. Beckes, and stated that Mr. Beckes has been responsible for the building since Hammes Partners purchased it on February 15th. Mr. Citron stated that the building was originally built as a general office building. The parking requirements for general office, such as accounting or insurance, are less than what is required for medical offices. He stated that the building was conforming in terms of parking when it was first built but through time it has become medical office. He explained that the building was converted to medical offices long before Hammes purchased it, and that it is important to note that it is 100% occupied.

Mr. Citron noted that the site plan and application included an incorrect total quantity of parking stalls. They have recounted the parking at Staff's request and can confirm there are 106 stalls

rather than 108. That figure includes eight (8) accessible stalls, which exceeds the Illinois Accessibility Code (IAC) requirement of five (5). The owner would prefer to leave 8 ADA stalls due to the use of the property.

Chair Pro-Tem Heidner requested confirmation of the total count. Mr. Citron confirmed that the total of 106 includes the 8 accessible stalls. He explained that the IAC requires five accessible stalls based on the total requirement [of 136] as opposed to the number on the site [106].

Mr. Citron referred to property maintenance work that needs to be done. He stated that he sent an email to Staff committing to resurfacing the parking lot, power washing the building, and fixing up the landscaping. Hammes has owned the building for eight (8) weeks and intends to do take care of the property.

Mr. Citron requested permission to ask questions of his client to get testimony into the record, and began his questions [answers marked A below are Mr. Beckes' response]:

1. Please state your name. A: Tom Beckes
2. What position do you have with the applicant? A: I'm the property manager for Hammes at the property.
3. And you've indicated that this was purchased roughly February 15th? A: February 15th or 16th is when we officially took over.
4. When you took it over, the building was 100% occupied with no vacancies? A: Correct. 100%
5. When you first purchased this property you looked at the rent roll and leases. Was this basically the tenancy in the building as far as you could go back, with medical offices? A: These leases have been in place for years. Some I'd say are at the beginning, some are at the middle, and some are near the end of their lease, but they've been 5, 10, and 15 year leases.
6. You've been to the property a number of times? A: 10-20 times in the last eight weeks.
7. This is a self-serving question, but in your observation, has there ever been a situation where you've driven by where the parking lot was even close to being full? A: No, there's always space available the way it's situated. As a matter of fact we do tenant surveys before we buy properties and ask if there are problems or things we should look at, and parking is one of them, and nobody indicated there was any kind of a problem.

Mr. Citron stated that when he did the Committee of the Whole presentation some of the trustees said they'd never seen the parking lot full. He concluded his questions of Mr. Beckes. He stated that he felt the petition met the standards for a variation. The property has existed in this manner prior to their purchase and the conditions occurred over a period of time. Permits were issued to allow the current conditions. The hardship is not physically based other than that there is no room to add more parking. It would be a hardship to remove tenants. The market for this type of building is not strong. There are dentists, orthodontists, and medical-type uses. Even in retail centers there are "medical retail" uses, like Athletico Physical Therapy. The goal is to make the property better, and we need to keep it leased to do that.

Mr. Citron indicated that they had concluded their testimony, but wanted to reiterate that the parking demand decrease was not due to the Covid pandemic. The same tenants have been here a long time and parking has never been a problem.

Commissioner Nabat states that she passes by the property often because she lives nearby and never sees it full. She asked whether there were orthodontists. Mr. Beckes confirmed there is an orthodontist and two dentists. Commissioner Nabat noted that orthodontists have peak times that don't conflict with other offices because they work around school schedules. Mr. Beckes confirmed that there is no main peak time; the appointments are spread out.

Commissioner Nabat asked about the length of leases and Mr. Beckes states they vary but are generally 10 or 15 years with options to renew.

Commissioner Cotton asked whether employees would be required to park further away or perhaps off site if a more parking intensive tenant moved in. Mr. Citron replied that they would be directed to park farther away on the site. He added that there is a mechanism in the code to put parking off site that requires review by the Planning and Zoning Commission. They could do it if needed. If they had, for example, a physical therapist dealing with mobility issues they would have the employees park away from the entrance.

Director Jennings stated that he spoke with Mr. Citron before the hearing regarding the condition relating to a shared parking agreement in the draft motion. He noted that he would typically advise against conditions attached to variations, and since there is a procedure for shared parking in the code he would suggest striking the condition should the Commission consider a recommendation this evening.

Chair Pro-Tem Heidner noted that there is a parcel north of the building that may have parking to share. Director Jennings agreed that would be the easiest but other properties may be a possibility.

Commissioner Mulcrone asked whether there was an event that caused the petitioner to request a variation. Mr. Citron stated that they discovered the issue prior to the purchase. If the building is damaged more than 50% they would be required to rebuild it in conformance by adding parking or building a smaller building. That causes problems with insurance or if they attempt to refinance. While the current Village Staff has been accommodating in the interpretation to allow a new medical tenant, that may not be the case in the future. Commissioner Mulcrone agreed that the configuration of the site would make it difficult to rebuild with the required parking.

Mr. Citron reiterated that Hammes specializes in medical office buildings. Mr. Beckes confirmed that they just purchased three buildings in Arlington Heights, two in Lake Cook, and the subject property in Vernon Hills.

Commissioner Lis asked whether the parking stall dimensions were compliant. Mr. Citron was not sure. Commissioner Lis was concerned that they would lose more stalls if the stalls had to be larger. Mr. Citron stated that they would not be required to change them. Commissioner Lis

questioned whether a restriping would require compliance. Director Jennings stated restriping wouldn't require a permit but a full reconstruction would. He offered to determine the dimensions from the site plan to see if it would be an issue.

Chair Pro Tem Heidner requested confirmation of the scope of the parking lot improvements. Mr. Citron confirmed it was not a full reconstruction. Mr. Beckes explained that the plan was a two inch mill and overlay. Director Jennings confirmed that a permit would be required and he was working to scale the dimensions of the stalls.

Chair Pro Tem Heidner noted that there is a single ADA stall on the south aisle by Route 60. He asked if it could be moved when the work is done. Mr. Citron noted that it could move and share an access aisle with another ADA stall. He agreed that the change would be a proper condition of approval for a variation. Chair Pro Tem Heidner said that moving the ADA stalls could also help some tenants who don't have easy access to any.

Commissioner Lis noted that they could increase the number of stalls if more ADA stalls shared an access aisle. Mr. Citron agreed that they could look at reconfiguring the ADA stalls to try to increase the total quantity.

Commissioner Mulcrone reminded the petitioner that the stalls need to be adjacent to curb cuts.

Chair Pro Tem Heidner requested additional questions. There being none, he stated that the hearing would be opened for public comment.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

No one from the public spoke. Public comment was closed by Chair Pro Tem Heidner.

Chair Pro Tem Heidner requested comments from Staff. Director Jennings noted that Staff had contacted the owner regarding several property maintenance items, and the owner had responded with plans for maintenance work.

PUBLIC NOTICE

Director Jennings stated that public notices were sent out to property owners within the required notice radius, a public hearing sign was posted, and a legal notice was published in the Daily Herald. All notice was completed more than 15 days prior to the hearing. No responses were received.

Director Jennings referred to the Staff Recommendation and Draft Motion. He stated that the Commission had discussed striking the suggested condition of approval. He asked whether there were any conditions to be considered. The consensus of the Commission was that there were no conditions of approval to discuss.

Chair Pro Tem Heidner referred to the petitioner's responses to the Standards for a Variation. He read each Standard and asked the Commissioners if they were satisfied that the responses

addressed the Standards. The Commissioners had no objection and he concluded that all standards had been met.

Chair Pro Tem stated before the Commission that there is a standing motion to recommend approval, and read the draft motion from the staff report. Commissioner Cotton seconded the motion to:

Make Findings of Fact and Recommend Approval of the following variation from Appendix C, Zoning, for the property located at 830 West End Court, Vernon Hills, Illinois, as required by Section 21.5 (Variations), as described in the application by HPIV Chicago LLC GBC Design received February 21, 2023, as illustrated on the Site Plan / Survey, by American Surveying & Mapping Inc., dated December 27, 2022:

1. Section 19.7, Parking Requirements for Permitted and Special Uses, to reduce the required parking from 136 stalls to 106 stalls.

AYES: Cotton, Lis, Mulcrone, Nabat, Smith, Heidner

NAYS: none

ABSENT: Morris

Motion approved.

THE PUBLIC HEARING WAS CLOSED BY A VOICE VOTE AT 8:01 PM.

Chair Pro Tem Heidner called for the opening of the following second public hearing:

1. **Case 2023-03** is a petition filed by the Village of Vernon Hills requesting approval of an amendment to Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Chapter 20A, Regional Planned Unit Developments, Section 20A.3, Procedures.

ALL PERSONS PROVIDING TESTIMONY WERE SWORN IN

Andrew C. Jennings, Community Development Director, Village of Vernon Hills

Director Jennings provided the background of the requested amendment. In late 2022, the Village Board considered a request by residents of the Royal Birkdale pod within Gregg's Landing to amend the development permit originally approved in 2003. Residents wished to install solar roof tiles with a slate appearance. The development permit restricted roof materials to cedar shakes, slate, and tile. Staff was unable to issue the permit but began working with the residents to forward a request to the Board.

The Board did not object to the request, but was concerned that there was no procedure in the zoning code to handle similar requests in the future. Staff was directed to work with Royal

Birkdale but also work on a general amendment to the code to establish a framework for the review and approval of development permit modifications.

Director Jennings summarized the proposed amendment:

- Amendments would not require a public hearing if there is a formal vote by the HOA for specific area controlled by the development permit;
- If there is no active HOA, a petition of support signed by at least two-thirds of the owners of occupied homes would be required;
- If there is no active HOA and there is no petition of support as described above, a public hearing would be required.

He noted that the amendment was illustrated in its full context in the excerpt attached to the Staff report. He added that the Standards for an Amendment mostly apply to property-specific map amendments. The most relevant standard is included in the Staff report: That the amendment is in the public interest and not solely in the interest of the applicant.

PUBLIC NOTICE

Public notice was published in the paper and no responses were received.

Commissioner Smith asked whether the threshold for the percentage of homes applied to the PUD or adjacent areas. Director Jennings confirmed that it was the homes subject to the particular development permit. If 25 of the 30 home sites in a pod are built, it would be two-thirds of the built homes.

Chair Pro Tem Heidner asked whether it would apply only to RPUDs. Director Jennings confirmed that the proposed amendment was within the chapter with RPUD regulations. Chair Pro Tem Heider referred to Hawthorne Club, noting that there were many different types of homes there. Director Jennings was not sure if the area had a development permit.

Chair Pro Tem Heidner referred to the voting thresholds for an HOA. Director Jennings noted that a change to a declaration would have a higher threshold of 75%. Chair Pro Tem asked why a petition would need two-thirds while an HOA vote would only need 50%. Director Jennings said that the idea was to provide demonstration of support. A formal approval by an HOA board is a demonstration of support for the amendment.

Chair Pro Tem Heidner asked if the Commission was looking at the rest of the Section. There are phrases in the section that refer to “his plans” that are outdated. He states that there is likely a Construction statement that guides interpretation of verbiage for the whole code.

In the following section, Chair Pro Tem Heidner referred to a requirement for a “public meeting” as opposed to a “public hearing.” Director Jennings stated that an RPUD would go through a public hearing process. Director Jennings stated that Staff did not include an open ended reference in the legal notice, so he would advise that other amendments be completed separately with the next comprehensive update.

Commissioner Nabat requested clarification of the types of development permit regulations that could be changed. Director Jennings explained that many are architectural, but there were also landscaping regulations. As things change over time, this would give the owners a mechanism to update the regulations.

Commissioner Nabat asked whether owners in Gregg's Landing would normally need to pull a permit for solar panels. Director Jennings stated that the pods with roof material standards don't allow them at all; the Royal Birkdale update only allows a specific type of solar installation.

Chair Pro Tem Heidner asked who would determine if an amendment would conflict with the RPUD. Director Jennings stated that he would, as the Director of Community Development. A development permit change couldn't be used to undo a regulation from the higher level of the RPUD. He did not believe it was necessary to specify that the Director of Community Development had the responsibility of making the interpretation.

Chair Pro Tem Heidner requested additional questions. There being none, he stated that the hearing would be opened for public comment.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

No one from the public spoke. Public comment was closed by Chair Pro Tem Heidner.

Chair Pro Tem Heidner referred to the Standards. He asked the Commission to consider the Standard from the Staff report: is the amendment in the public interest and not solely in the interest of the applicant? The Commissioners agreed that the response provided was satisfactory. Chair Pro Tem Heidner concluded that the petition met the requirements.

Chair Pro Tem Heidner stated before the Commission that there is a standing motion to recommend approval, and read the draft motion from the staff report. Commissioner Mulcrone seconded the motion to:

Make Findings of Fact and Recommend Approval of the following Amendment to Appendix C, Zoning, Article 20A, Regional Planned Unit Developments, Section 20A.3, Procedure, as required by Section 21.7 (Amendments), as described in the application by the Village of Vernon Hills and illustrated in the Zoning Code excerpt "Draft for Public Hearing – April 12, 2023":

Insert a new subsection (h) to read as follows:

- (h) Modifications to development permits issued within an approved RPUD
 - (1) Modifications to approved development permits within an RPUD shall require a public hearing to amend the RPUD if the requested modification would conflict with a specific provision of the Final RPUD. The public hearing shall follow the procedures described in Section 21.6 of the Zoning Code.
 - (2) Modifications to development permits that do not conflict with any provisions of the RPUD may be granted by the Village Board on receipt of an official record of the

proceedings of the Home Owner's Association (HOA) Board documenting a vote in support of the modification.

- (3) If there is no active HOA for the area subject to the development permit, the Village Board may grant approval of the requested modification on receipt of a petition indicating support by owners of at least two-thirds (67%) of the existing homes in said area.
- (4) In the event that the support described in #2 and #3 is not provided, a public hearing as described in Section 21.6 of the Zoning Code shall be required.

AYES: Cotton, Lis, Mulcrone, Nabat, Smith, Heidner

NAYS: none

ABSENT: Morris

Motion approved.

THE PUBLIC HEARING WAS CLOSED BY A VOICE VOTE AT 8:17 PM.

IV. Approval of the December 14, 2022 Planning & Zoning Commission minutes

Director Jennings recommended that the minutes be placed on the April 26th agenda. Only three of the four commissioners present for the December 14th meeting were present.

V. Development Review

DCD Jennings updated the Commissioners on the following items:

- Belle Tire, 1810 N. Milwaukee, broke ground this week
- Perry's Steakhouse, 1050 N. Milwaukee, has begun site work
- Domaine, Hawthorn Row, is not yet open for tours but has leased several units
- 440 N. Fairway: recent COW discussion of a speculative 2-unit industrial building
- 600 Hickory Hill: recent COW discussion of new office/light industrial building (relocation of Anton Paar from a rental unit)
- 899 N. Milwaukee (Melody Farm): new business, Crisp & Green, will have outdoor dining area reviewed on April 18th
- Everleigh: update regarding grading plan modification (landscape wall to resolve grade difference along Lakeview Parkway)
- Next meeting: April 26th. Two public hearing items, both at the 1000 Butterfield complex.

VI. Adjournment

With no further items on the agenda, Chair Pro Tem Heidner stated that he would entertain a motion to adjourn.

Commissioner Mulcrone announced that this would be his last meeting with the Commission. He thanked Commissioners Cotton and Heidner for the last ten years, and Director Jennings and former staff. He wished that Chairman Morris had been present to thank him for his leadership, and thanked President Byrne for appointing him. He wished the new Commissioners great success on the board. Director Jennings thanked Commissioner Mulcrone on behalf the Village Staff, and acknowledged how much time Commissioner Mulcrone had dedicated to service on the Commission.

Commission Cotton motioned, second by Commissioner Mulcrone, to adjourn the meeting.

All were in favor on a voice vote.
Motion was unanimously approved.

The meeting adjourned at 8:28.

Respectfully submitted,

Andrew Jennings
Director of Community Development

Distribution:
President and Board of Trustees
Village Manager/Village Clerk
Commission Members

4.26.23

Approval Date



Chair Pro Tem Heidner



Secretary Cotton