



City Council

City Council Chambers ♦ 524 West Stephenson Street ♦ Freeport, IL 61032

MINUTES SPECIAL MEETING Monday, September 14, 2015

CALL TO ORDER

The special meeting of the Freeport, Illinois, City Council was called to order in council chambers by Mayor James L. Gitz with a quorum being present at 5:30 p.m. on September 14, 2015.

ROLL CALL

Present on roll call: Mayor Gitz and council members Peter McClanathan, Art Ross, Jodi Miller, Patrick Busker, Sally Brashaw, Michael Koester and Andrew Chesney (7). Alderperson Klemm was absent. Corporation Counsel Sarah Griffin was also present. Mayor Gitz asked the record show that Alderperson Klemm had let us know he would be absent from this meeting.

Mayor Gitz advised council he was asked by a member of the council to defer action on the appointment and would ask to have it removed from the agenda prior to its approval.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Alderperson Ross.

APPROVAL OF AGENDA

Mayor Gitz stated the item (#3) an appointment will be removed from the agenda. Alderperson Koester moved for approval of the agenda as presented, seconded by Alderperson Ross. Motion prevailed by voice vote without dissent.

PUBLIC COMMENTS – AGENDA ITEMS

There were no public comments at this time.

1ST READING OF ORDINANCE 2015-49:

ORDINANCE FOR VARIATION PERMIT OR AMENDMENT OF CODIFIED ORDINANCES OF FREEPORT, ILLINOIS

Petition filed by Citizens State Bank, 102 West Main Street, Lena, Illinois, and Freeport Assisted Living, LLC, as contract vendee for Citizens Plaza Subdivision located at 1525, 1545, and 1565 South Forest Road, Freeport, IL 61032 (PIN #18-18-02-151-001, 18-18-02-151-002, 18-18-02-151-003 and 18-18-02-151-004). The relief sought is a Zoning variance to sub-Section (a) (Front Yards) of Section 1256.05 (Yard Areas) of Chapter 1256 (P-1 Professional Use District) of the City of Freeport Codified Ordinances to allow a front yard of fifteen feet (15') to accommodate a fixed canopy. The Board of Zoning Appeals unanimously recommended the petition to council and no written objections were filed to the petition, therefore it may be passed on first reading.

The findings of fact included with the ordinance are as follows:

CITY COUNCIL FINDING OF FACT SHEET

1. **The variance is in harmony with the general purpose and intent of this Zoning Code.**
 - a. The variance is an integral part of the use of the property as an assisted living center, which is a permitted use in the P-1 (Professional) zoning classification.
 - b. The variance accommodates a fixed canopy, which enables the facility to have an entrance protected from the elements during inclement weather.
 - c. The planned development is well under the lot coverage and floor area ratio maximums for the zoning classification.
2. **Strict enforcement of this Zoning Code would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district.**
 - a. Topography and stormwater management needs require the building to be placed on the property such that a smaller front yard area is needed for a fixed canopy.
 - b. Because of the nature of the use as an assisted living facility, having a fixed canopy that provides an entrance with protection from the elements during inclement weather is important.
3. **The property cannot yield a reasonable return if permitted to be used only under the conditions allowed by this Zoning Code**
 - a. Because of the topography and need for stormwater management, the building must be placed in a way that necessitates a slight variance in front yard requirements.
 - b. The planned development makes good and proper use of the property for a needed facility and service in the community while overcoming the challenges of the size and topography of the parcel of land.
4. **The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.**
 - a. The variance and use are in keeping with the general intent and purpose of the zoning code and are in compliance with the use provisions of the P1 Professional zoning classification.
 - b. The use as an assisted living facility is in harmony with other professional uses in the immediate vicinity.
 - c. An assisted living center has minimal traffic or other impact on adjacent property.

Mayor Gitz stated in absence of Shelly Griswold, he will ask Corporation Counsel Griffin to present. Corporation Counsel Griffin noted there were two sets of minutes because on August 27, 2015 the Board of Zoning Appeals had a public findings of fact and approved but due to a technical glitch in their posting they reaffirmed that decision on September 2, 2015. Alderperson Brashaw asked if there was a public hearing held on this and were there any public there. Corporation Counsel Griffin stated yes and the only person present was a gentleman from the assisted living facility across the street and he asked some questions about the placement of the driveway and was satisfied with it then. Alderperson Brashaw asked

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if there was anything in there about the size of the canopy. Corporation Counsel Griffin stated there was no actual description of the size of the canopy except that it would need to be set in the front and that was the reason for the need for the set back and it was for the reason because they do have elderly and disabled coming into it so it was so they could be dropped off at the facility. Alderperson Koester asked as to whether they want it to be set back so they can be allowed or shorten the distance of the front yard to fifteen feet so the canopy can be on there. Corporation Counsel Griffin stated to allow a front yard of fifteen feet (15') to accommodate a fixed canopy.

Alderperson Chesney asked City Engineer Gallagher if the parameter sidewalks had been addressed. City Engineer Gallagher stated he did not think that was addressed as far as the ordinance that he is referring to. Alderperson Chesney asked once we make a motion to adopt is there any reason that we would make the approval of this particular ordinance subject to a commitment letter from the developer that if asked he would do a parameter sidewalk. His understanding is that the developer would be in agreement if we request so. City Engineer Gallagher stated he has spoken with the engineers on the project and we had discussions with Citizens Bank when we built the roundabout as far as our expectations for sidewalks at that time and that expectation would still stand because now we have continuous sidewalk to the property where before the roundabout there were not. They indicated they would provide a future letter or to add this to the site plans and he has not received the final site plans as of today.

Corporation Counsel Griffin stated as a legal technicality when there is a public hearing on a plat it was not discussed during the public hearing itself and it can't be discussed here it would need to be referred back for further public hearing and it would not be an appropriate motion for this particular ordinance. If it is separately a condition of the plan approval then that is a different issue. Alderperson Chesney asked at what point in time Corporation Counsel recommends that this amendment gets put in as a commitment letter from the developer so we have the appropriate sidewalk on our request. She stated she would not make it a motion in relation to the plat or the zoning variance. He asked if that was because we would have to send it back to the Planning Commission and it would be another two weeks. She stated that was the reason why and if you want to do that it would be part of the plat and not the variance, it is just the next item on the agenda. Mayor Gitz stated when this parcel was originally platted there was a variance granted from the sidewalks so the same variance waiver was carried over to these three lots. He spoke about the timing and the ground breaking this fall and by sending back to the Planning Commission that is a very real risk. There are other ways to address that but it is not germane to this motion. Alderperson Chesney explained that with a project the size of this we want to make sure to do it correctly and it is in best interest to make this project complete as well as the improvements made because of the roundabout and the sidewalk option should be in the ordinance. He stated that sidewalks were not part of the overall plan and should be. Moving forward with discussion on the sidewalks is prudent if we are offering abatements and taxing through the enterprise zone and various different breaks by the municipality when we should have the project done correctly and he is told the sidewalks is part of it coming in line with that correctness. Mayor Gitz stated sidewalks by ordinance are required in other projects unless they are waived so there is something more than simply a motion by the council on this. Corporation Counsel Griffin stated this is a discussion for the next council agenda item for the plat, not the variance itself.

Alderperson Koester made a motion to move forward the variance for approval. This motion was seconded by Alderperson Brashaw. Mayor Gitz stated because this was a unanimous decision by the

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Board of Zoning Appeals this ordinance is on the floor for approval on the first reading. The motion prevailed by a roll call vote of;

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Koester, and Chesney (7)

Nays: none

Ordinance #2015-49 was passed.

Mayor Gitz asked City Engineer Gallagher if he has a commitment letter in the works for them that there are going to be sidewalks. City Engineer Gallagher stated his understanding was that the last time he spoke with them that that was in the works that was put on the site plan, my review of the site plan for sidewalks to be put directly along Forest Road section with the commitment letter for Pearl City Road, he had requested at that time that they submit that particular section to the County because currently the jurisdictional transfer gone through and both Pearl City and Forest Road are county right of way so sidewalks in the right of way need to be approved by the County as part of the site review process. Alderperson Chesney asked if the City will receive a commitment letter from the developer. City Engineer Gallagher stated that is his understanding. Alderperson Chesney asked if we pass this then somehow do not receive that letter do we have any recourse. City Engineer Gallagher stated other than he would not approve the site plan as he sees it.

RESOLUTION R-2015-55: [view Plat PDF](#)

RESOLUTION TO APPROVE AN AMENDMENT TO THE FINAL PLAT FOR CITIZENS PLAZA SUBDIVISION

The Planning Commission unanimously recommended the Plat Amendment for Citizens Plaza Subdivision for the property located at 1525, 1545, and 1565 South Forest Road, Freeport, IL 61032 (PIN #18-18-02-151-001, 18-18-02-151-002, 18-18-02-151-003 and 18-18-02-151-004) to allow lots 1 through 4 to be resubdivided, creating lots 5 and 6.

Corporation Counsel Griffin stated this was presented at the Planning Commission on August 27, 2015 and due to a technical error in the posting, there was ratification of this on September 9, 2015. This is an amendment to the final plat and all that it is doing is changing it from four lots to two. The resolution as presented included that the Amended Final Plat for Citizens Plaza as set forth in Exhibit A, is hereby amended to resubdivide lots 1 through 4, creating lots 5 and 6. Alderperson Brashaw asked for the reasoning for this. Corporation Counsel Griffin stated technically you cannot build over lot lines so depending on what you are going to put at any given location you would re-subdivide.

Alderperson Koester made a motion to move forward the resolution for approval. This motion was seconded by Alderperson Busker. The motion prevailed by a roll call vote of;

Yeas: McClanathan, Ross, Miller, Busker, Brashaw, Koester, and Chesney (7)

Nays: none

Resolution R-2015-55 was adopted..

1ST READING OF ORDINANCE 2015-50:

AN ORDINANCE AMENDING CHAPTER 608 – ALCOHOLIC LIQUOR, SECTION 608.06 “PERMITTED HOURS OF SALES” OF THE CODIFIED ORDINANCES OF THE CITY OF FREEPORT, ILLINOIS

The Liquor Commission unanimously recommended this ordinance to council at their meeting held on September 10, 2015. The ordinance as presented included the following wording:

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Section 1. Chapter 608 entitled "Alcoholic Liquors", Subsection 608.06 "PERMITTED HOURS OF SALES", shall be amended as follows:

~~"608.06 PERMITTED HOURS OF SALES.~~

~~(a) For holders of Class B-1 and B-2 liquor licenses, liquor sales are permitted during the hours of 7:00 a.m. to 1:00 a.m. of the following days, Monday through Saturday, inclusive; and between 9:00 a.m. and 9:30 p.m. on Sunday, unless excepted under subsection (b) below.~~

~~For holders of Class A liquor licenses, liquor sales are permitted during the hours of 7:00 a.m. to 1:00 a.m. of the following days, Monday through Saturday, inclusive; packaged goods sales only are permitted during the hours of 9:00 a.m. and 12:00 noon on Sunday, with no consumption allowed on the premises during those hours; and all liquor sales are permitted during the hours of 12:00 noon and 9:30 p.m. on Sunday, unless excepted under subsection (b) below.~~

~~For holders of Class A-R and P liquor licenses, liquor sales are permitted during the hours of 7:00 a.m. to 1:00 a.m. of the following days, Monday through Saturday, inclusive; and between 11:00 a.m. and 11:00 p.m. on Sunday, unless excepted under subsection (b) below.~~

~~For holders of all other liquor licenses, liquor sales are permitted during the following hours: 7:00 a.m. to 1:00 a.m. of the following day, Monday through Saturday, inclusive; and between 12:00 noon and 9:30 p.m. on Sunday, unless excepted under subsection (b) below.~~

For holders of all other classes of liquor licenses, liquor sales are permitted during the hours of 7:00 a.m. to 1:00 a.m. on Sunday through Thursday, inclusive; and between 7:00 a.m. and 2:00 a.m. on Fridays and Saturdays, inclusive, unless excepted under subsection (b) below.

~~(b) Notwithstanding any of the provisions of this section,~~

~~(1) All license holders may be open for the retail sale of alcoholic liquors until 2:00 a.m., when falling on a Sunday through Thursday in any given year: January 1_{st} of each calendar year and 11:30 p.m. on Superbowl Sunday_{st} of each year and 11:30 p.m. on the following days when falling on a Sunday in any given year: Memorial Day, July 4th, Labor Day, Thanksgiving Eve, Christmas Eve or Christmas Day.~~

~~(2) Any license holder can apply for a special hours permit to be issued by the Liquor Commission for special events on Sundays which promote tourism or stimulate the local or regional economy.~~

~~(c) All times specified herein shall be determined in accordance with the prevailing time under laws of the State.~~

~~(d) Except as provided in paragraphs (d)(1) and (2) hereof, no licensee shall permit or allow any person, except those authorized, to be on or within the licensed premises at any time during the prohibited hours. As used in this section, "authorized persons" means the licensee, his or her spouse, his or her employees or any independent contractors summoned to the premises by any of the above for purposes of rendering construction or repair services to the licensed premises or to any equipment utilized for the operation of such licensed premises.~~

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(1) The provisions of this subsection shall not apply to holders of Class B- 1 and B-2 Licenses.

(2) Holders of Class A, A-R, P, C, R, and W Licenses shall not permit any person, except authorized persons, to remain on or within the licensed premises before one-half hour prior to permitted hours of sales or after one-half hour after permitted hours of sales.”

Section 3. All other provisions of Section 608.06 shall remain as currently set forth.

Mayor Gitz presented the ordinance by stating the Liquor Commission enforces and hears matters relating to liquor violations and, historically, it makes recommendations to this body on changes it thinks are appropriate under the code. Coming out of the discussion, in which there was notice given to all the licensees, was a unanimous recommendation of the liquor hours as you see before you. There is an adjustment to the Sunday hours from what they are presently which is 9:00 am to 9:30 pm for package liquor and 11:00 for licensees that are serving alcohol. It also makes an adjustment of the hours in the morning 7:00 am to 1:00 am during the week and 7:00 am to 2:00 on Friday and Saturday. He stated per a request from the council this is brought to you this evening in order to expedite its final approval.

Aldersperson Koester moved for approval of the ordinance as presented, seconded by Aldersperson Miller. This ordinance as automatically laid over to the next meeting.

PUBLIC COMMENTS – AGENDA OR NON-AGENDA ITEMS

There were no public comments at this time.

Upon motion duly made and seconded, the meeting was adjourned at 5:50 p.m. Mayor Gitz stated the Committee of the Whole will commence at 6:00 p.m.

s/ Meg Zuravel

Meg Zuravel
City Clerk