

CITY OF NORTHVILLE
Planning Commission
December 20, 2016
Northville City Hall – Council Chambers

1. CALL TO ORDER:

Chair Wendt called the meeting to order at 7:30 p.m.

2. ROLL CALL:

Present: Steve Kirk
Carol Maise
Dave Mielock
Christopher Miller
Matthew Mowers (left 9:14 pm)
Mark Russell
Anne Smith
Jeff Snyder
Jay Wendt

Absent: None

Also present: James Allen, Mayor Pro Tem
Patrick Sullivan, City Manager (8:32 p.m.)
Sally Elmiger, Planning Consultant
Brent Strong, Building Inspector

3. APPROVAL OF AGENDA:

**Motion by Mowers, support Russell, to approve the agenda as published.
Motion carried unanimously.**

4. MINUTES OF PREVIOUS MEETING: December 6, 2016

Commissioner Kirk said he appreciated the discussion at the December 6 meeting regarding the steep terrain on the Lot Split on Randolph Street.

**Motion by Kirk, support Mielock, to approve the December 6, 2016 minutes as published.
Motion carried unanimously.**

5. AUDIENCE COMMENTS: None.

6. REPORTS:

- A. CITY ADMINISTRATION:**
- B. CITY COUNCIL:** None.
- C. PLANNING COMMISSION:**

Commissioner Russell asked that the City take a look at the signage at Begonia Brothers on Novi Road, which seemed over-the-top. Building Inspector Strong said that he had met with the Begonia Brothers owners regarding their signage, and they were willing to bring their site into compliance.

In response to a question from Commissioner Russell, Chair Wendt said there hadn't been any action taken regarding first floor residential.

D. OTHER COMMUNITY/GOVERNMENTAL LIAISONS:

Commissioner Maise said the Downtown Strategic Plan was moving along, and was discussed at today's DDA meeting. This would impact the Planning Commission at some point – more sooner than later, as there could be some zoning ordinance amendments, particularly having to do with the PUD process, which was a bit cumbersome and was inconsistent with what the State of Michigan was doing now in terms of cities being redevelopment-ready. The DDA would meet again at the beginning of January.

7. DISCUSSION:

Northville Senior Living (Assisted Living in CBD)

Referring to her memo of December 14, 2016, Planning Consultant Elmiger gave the background for this discussion item, which was to discuss a senior assisted living use at Senior Living of Northville – 311 E. Main Street. This use was currently in business, although at this time assisted living uses were not allowed within the Central Business District (CBD) as either a permitted or special land use.

The Commission had looked at assisted living as a use a few months ago when assisted living was proposed for the Foundry Flask site, also a CBD area. At that time Carlise/Wortman determined that assisted living was not a permitted use in the CBD.

Regarding the Senior Living of Northville, the applicant's 2009 site plan review reflected that the use on the 2nd floor was congregant senior independent living. Over time and based on the needs of people that had come to the facility, this had morphed into more of an assisted living facility for elderly people. Residents were dependent on daily care and services provided not by Mr. Dennis Engerer, but by a separate entity.

In terms of multi-family uses, the CBD allowed rooming houses as a special land use. It did not allow assisted living facilities. The rooms at the Senior Living of Northville could not be considered dwelling units because dwelling units had to have a kitchen or cooking facilities and the rooms at the facility did not have this.

As far as other senior facilities allowed throughout the City, R-3 and R-4 Districts did allow nursing and family foster care homes, which were more similar to multi-family uses, but again, these were not permitted in the CBD.

Planning Consultant Elmiger said she had met with Mr. Engerer and his associates. Senior Living of Northville would like to continue as a conforming use. Possible remedies were discussed. The first step was to come to the Planning Commission and see if the Commission thought it appropriate to consider assisted living as a use in the CBD, either as a permitted or a special land use. Senior Living of Northville could also apply for a Planned Unit Development (PUD) for this use, with the assisted living

being a deviation from the ordinance. With a PUD some type of public benefit would have to be provided. Last, Senior Living of Northville could apply for a use variance from the Board of Zoning Appeals.

Planning Consultant Elmiger concluded that since the Planning Commission was the body directing land use within the City, it was most appropriate to start with the Commission and see what their thoughts were regarding an assisted living use in the CBD.

Chair Wendt invited representatives of Senior Living of Northville to make a presentation.

Dennis Engerer, Senior Living of Northville, LLC, 311 E. Main Street, Northville MI was present on behalf of this application. Joe Engerer, Town & Country Senior Care, LLC, 315 South Center, Howell MI was also present.

Mr. Joe Engerer referred to the Engerers' letter of November 28, 2016, which summarized the points they wanted to make. They understood that nursing homes and adult foster cares were specifically allowed in other zoning districts. Although assisted living was not defined anywhere, it was safe to say that Senior Living of Northville was currently an assisted living facility, as their residents needed daily assistance for every day activities.

When most people thought of nursing homes they thought of large facilities like Independence Village or American House. Facilities that size would not work in the CBD. Senior Living of Northville was very small – less than 20 units on a second floor. None of the residents drove. This was therefore a lower impact use than any other permitted use in the District. Currently they had 2-3 staff members working at the facility at any given time, including some who did not drive. There was a cook that worked during the day. Impact on traffic was minimal.

The location was above Dennis Engerer's physical therapy facility, and was convenient for the residents who could use the gym downstairs for free if they wanted.

The minutes from the November 3, 2009 site plan review for this facility reflected that the use was originally proposed as independent living. Originally Mr. Dennis Engerer envisioned that people who could take care of themselves would live downtown. As the Engerers had gotten a feel for the demand for the size of rooms they could provide, it became apparent that people who needed assistance formed the greater need for the space. This was at least contemplated at the 2009 meeting because hospice was mentioned in the minutes.

It was always anticipated that as people came in who were independent, eventually they would need more assistance. As it turned out all of the residents they attracted were people who needed help.

It was the position of Senior Living of Northville that their facility was a desirable thing for the community. The City wanted people to be able to live downtown. The Strategic Planning Committee made a recommendation that Northville needed to do those things that encouraged people to live downtown. In terms of their residents, family members who came to visit would also visit downtown restaurants, etc.

Mr. Joe Engerer continued that the room configuration was discussed at the 2009 meeting – 17 units with one kitchen. The original use had been unanimously approved.

Mr. Joe Engerer said they were willing to do whatever it took to be compliant as an assisted living facility. Mr. Dennis Engerer had spent over \$30,000 in various capacities to try to make this as compliant as possible with whatever the City wanted, including \$25,000 - \$26,000 on a rear egress. They were prepared to spend another \$25,000 to update the kitchen, including the installation of a new hood. They were willing to do whatever it took; they just asked the Commission be willing to work with them so that they be permitted to continue.

Chair Wendt asked about licensing from the State of Michigan.

Mr. Joe Engerer explained that assisted living in Michigan was very difficult to understand, but basically there were no licensing requirements. There were licensing requirements for adult foster care, which was what many nursing homes were classified. If the facility offered room and board, supervision and protection, it had to be licensed as an adult foster care facility. However, if multiple businesses were offering those services, even if it took place under one roof, the licensing requirement went away. This was the case with many facilities throughout Michigan, including, for instance, American House, and other larger operations.

Mr. Joe Engerer said it was their desire to comply with all the licensing requirements whether they were required to or not. Their operation now was that the residents contracted with Senior Living of Northville for their room and board, and with Town & Country Senior Care for other services. He believed that someone from the State had originally suggested this arrangement.

In response to a question from Chair Wendt regarding process, Planning Consultant Elmiger said that tonight's discussion could be considered a continuation of the Foundry Flask discussion regarding assisted living as a use in the Central Business District. This particular facility was very small – 17 residents. Should Senior Living of Northville come in with a PUD application, as this would allow a diversion from the uses currently allowed in the District? Changing the ordinance to allow assisted living in the CBD could have significant ramifications.

Chair Wendt said he had visited the facility and found it really neat, with plenty of light, and he personally had no problem with it continuing. The only way he could see to make this use legal was a PUD and that took time, but the process should not impact the ongoing operation.

Commissioner Miller asked why assisted living *was* not a desirable use in the CBD. Chair Wendt said this use never came up during the last Master Plan review.

Planning Consultant Elmiger said the Master Plan did not address various unique formats of senior living facilities. The Master Plan did say that units appropriate for seniors should be accommodated but it did not address the different permutations of senior living that were now available.

Commissioner Miller asked if they were talking about a technicality, or were they talking about something significant that would allow others to then come in and install the same use.

Commissioner Maise said this would not be a technicality. She asked if the ordinance allowed *similar use* determinations. Planning Consultant Elmiger said there was no specific language regarding *similar use*.

Commissioner Maise said that *housing for the elderly* was an outdated term, and had morphed into other more specific terms. Her understanding was that there was an effort to put residential dwellings in the CBD, but housing for the elderly was not encouraged. If the ordinance had intended for that type of

population, it would have so stated. In the CBD the emphasis was on people who would live and walk downtown, use the stores and restaurants, etc.

Planning Consultant Elmiger agreed, saying that housing for the elderly was specifically listed in other districts, but was not in the CBD.

Commissioner Maise asked if there had been any studies of the tax implications for various types of apartment/communal living. Planning Consultant Elmiger said this had not been studied.

Commissioner Maise expressed reservations about changing the CBD to make assisted living be an allowed use, as this could encourage a larger use to come in.

Chair Wendt said that a PUD would limit the use to the particular site. Commissioner Maise said a PUD was a good option, but would need to be applied with care. Was this a direction City Administration sought? Did Chair Wendt think the Commission needed to find a way to make this work?

Planning Consultant Elmiger said that if a PUD application were pursued, perhaps that could be mirrored with some additional ordinance language that would define what was meant by assisted living. If a PUD permitted assisted living, what did that mean? There might be similar congregant care facilities that were not appropriate in the District. If a PUD route were followed, there still needed to be work done to support that decision with either some parameters or specific definitions so that it was very clear what the PUD was permitting in the CBD.

Planning Consultant Elmiger continued that group foster care homes were defined by their size. The State required that 1-6 people living in a single family home be a permitted use in residential districts. But there were also group foster care homes of 20 or more people; these did not have to be allowed in single-family districts. If the Senior Living of Northville, as a small facility, were a permitted use in the CBD through a PUD, it was possible someone else might come to the City with a request for a similar use, perhaps on a vacant parcel. Some additional work would need to be done to define what was meant, should the PUD process be initiated.

Commissioner Maise said they would be talking not just about assisted living, but also about different kinds of congregant living. She wanted to make sure there was a basis for this type of application and that it could be defended in the Master Plan, and that the zoning ordinance would reflect this outcome. Even with a PUD proposal, the Master Plan should have some basis for backing up the application.

Commissioner Kirk asked when people came to this facility, did they indicate they would need total care, or could anyone come at any age? Mr. Joe Engerer said that the residents had to be 55 or older. Commissioner Kirk said it appeared that the residents needed 24 hour care. Mr. Joe Engerer explained that when the residents moved in, they were contracting with the care side of the business, but there were varying levels of care. Some people wanted only meals, for instance.

Commissioner Kirk asked if residents had the option of not having meals, and eating at downtown restaurants. Dennis Engerer said that for some this could be the case. He gave an example of a patient who came in for physical therapy for his shoulder. He stayed at Senior Living of Northville for 30 days; he just wanted someone to prepare his meals before therapy ended and he went home. That was the original intent for the facility generally; they had thought a lot of people might want this kind of convenience. As it turned out, that demand was not high. There were more people who wanted more significant care. Some people eventually needed hospice care.

Mr. Dennis Engerer said that originally when the zoning ordinance was written, not much thought had been given to assisted living facilities. Now the need was more recognized, not only in Northville but also throughout the country. He pointed out that the Strategic Planning Committee recognized that Northville needed more housing downtown, but unfortunately downtown housing was unaffordable to young people and to seniors. Their facility met the need for seniors who needed some care, and could be part of a solution that would allow families to stay in the area. The use might be limited to a certain size or certain location. They were looking to the Planning Commission to help them find a way forward.

Mr. Joe Engerer said one option was to create a zoning text amendment that was very narrowly tailored as to allow a facility such as theirs, with less than 20 residents. Such a narrow amendment would alleviate concerns about a big box facility attempting to locate within the CBD

Commissioner Maise said the use needed to match the intent of the CBD as outlined in the ordinance, and the intent of the Master Plan.

Commissioner Russell said that the Strategic Planning process might give some opportunities to look at the Master Plan. Planning Consultant Elmiger said the previous version of the Strategic Plan was specifically discussed and included in the Master Plan.

Commissioner Russell said that if this use was added as a special use, limitations could be placed on it. However, first they needed to look at the structure of senior care, understand the definitions involved and perhaps add those definitions to the ordinance, so that there would be some specific language as to what that meant. A special use opened the use to everyone, but a PUD was a lengthy process.

Commissioner Maise noted that adding this use as a special land use would require changing the Ordinance and holding a public hearing.

Planning Consultant Elmiger read from the Zoning Ordinance:

The purpose of the Central Business District is to create an area of high intensity urban conditions providing convenient and accessible goods and services within an aesthetically pleasing environment. A diversity of intensively developed land, satisfying a wide range of goods and services including institutional and cultural services is essential to the enhancement of the City of Northville as an urban central place. Land in the City of Northville is a scarce resource and use activities which tend to require large amounts of open space are inconsistent with the use of land for a CBD purpose. On the other hand, multi-purpose buildings which include retail, service, office, residential uses and shared parking are seen as consistent with the role of the CBD area.

Commissioner Maise thought the intent of the CBD was broad enough to support this requested use.

Chair Wendt suggested that the Commission also look at the Cady Street Overlay District again, and see if changes should be made to the ordinance there.

Commissioner Mielock summarized the discussion so far. When the ordinance regarding the Central Business District was developed, assisted living had not been considered as a category. It appeared from tonight's discussion that there was some support for having some sort of assisted living in the CBD. Based on earlier discussions and having gone through the Foundry Flask exercise, there was no appetite for having large scale assisted living in the CBD. Was there any consensus in having a smaller facility in

the downtown area? He was not speaking specifically of tonight's project because it could be sold tomorrow to an out-of-town entity, even an out-of-state purchaser. If the use were allowed via ordinance change or special use, then the Commission had to be willing to accept someone else coming in and proposing another similar facility. What limitations should be considered?

Commissioner Smith said that she agreed with Commissioner's Mielock's comments. As far as limitations went, this was an unknown. Dennis Engerer's project had evolved for a particular reason, but she had questions. Was the Senior Living of Northville working at capacity? Who came to the facility? Did the residents have family here? The applicants should state all the reasons for the facility to stay at its present location; this could help the Planning Commission decide what limitations to impose.

Mr. Dennis Engerer said they had found that every family wanted to place their family member somewhere safe and convenient. Their residents liked the smaller facility, which offered more personal care. They liked staying in the Northville area and liked the services and quality that were available here. He thought there was a need not only for young people downtown, but also as the population aged, those people also belonged downtown. They didn't need to be sent off to a big box place. As communities changed, demographics changed, and there would be a need for facilities like Senior Living of Northville.

Commissioner Smith said that Mr. Engerer provided high quality. How did the Commission make sure this happened in the future?

Mr. Joe Engerer said the most important way to ensure quality was to restrict by size. One thing to note was that while there was a big market for senior care right now because of baby boomers, once that generation ended the next generation would not provide the type of demand being felt today. Assisted living was going to move to smaller facilities. There would be a greater demand for facilities like theirs in the future.

Commissioner Smith asked how much assistance was offered the residents. Mr. Joe Engerer said there was a range of assistance. He invited the facility manager to speak about this.

Susan Mulka, 63 Kensington Boulevard, Pleasant Ridge, and manager for Town & Country Senior Care, LLC, said the facility could be limited by medical needs. When people needed extensive care and monitoring, the resident would need to be moved to another facility with a higher level of care.

Mr. Joe Engerer added that their contract said that if the residents' needs exceeded what could be provided at their facility, they had 30 days to find another place to live. CNA's – not nurses – worked as staff. Against, when a resident became a medical patient they needed to find another place to live.

Mr. Dennis Engerer said they wanted to remain as residential as possible. Ms. Mulka was a gerontologist and had been helpful in screening prospective residents. Their ideal resident was someone who had a temporary need for a place to stay, stayed for a while, and then returned home. Their permanent residents could not drive and some enjoyed being downtown, watching the parades, visiting the park, etc., and their presence added some color and vitality of a different dimension to the downtown area.

Commissioner Maise asked how level of care was defined. Was there a way to distinguish between rehab and other care? Both rehab and hospice had been discussed – these were vastly different levels. Could levels of care be defined in the zoning ordinance? Certain levels of care raised public services, including police and fire that had to come frequently.

Mr. Joe Engerer said levels of care were sometimes a gray line. More independent residents might need parking and might actually increase the impact on the downtown. The ideal resident received meals, physical therapy, and so on, and eventually went home. Someone who needed more care could require an ambulance and eventually discharge into a skilled nursing home.

Mr. Dennis Engerer said that some residents might have to travel back and forth to a hospital with some regularity. Everyone reached that point eventually.

Commissioner Russell asked how this project was originally approved. Planning Consultant Elmiger said it was originally defined as *senior independent living*, but there was no specific definition of this term. However, the original use was specifically for seniors, and not a rehab facility for someone younger.

Commissioner Russell said that it appeared the facility had morphed into an assisted living facility and a rehabilitation facility. He felt the Planning Commission needed to understand what the terms meant before they moved forward. They could only put limitations on what they knew. Senior Living of Northville began as independent living and then became rehab/assisted living, and now involved partially skilled nursing and partially assisted living, and there were different state regulations about different levels of care. Did this care involve dementia patients? There was too much the Commission did not know. They needed to understand what was being requested and there had to be some level of enforcement.

Planning Consultant Elmiger said that she had researched what the State regulated, and as Mr. Joe Engerer had described, assisted living was not regulated in Michigan. The State always had the ability to go in and evaluate a facility if a complaint were received. At the time of complaint-driven inspection, the State would determine whether not having a license was appropriate, and if a facility did need a license, what other things they would need to do in order to get a that, so there was that kind of a safety net, but it was wholly dependent upon someone calling and saying there was a problem.

Planning Consultant Elmiger continued that the use needed to be specifically defined in the ordinance, as well as other senior care uses that might or might not be appropriate for the CBD.

Commissioner Mielock noted the term *independent living* was used in the 2009 minutes. If assisted living and independent living were not defined, why were the applicants here?

Commissioner Maise said there was a clear difference between independent and assisted living, even though they were not terms defined in the ordinance. Commissioner Russell added that these uses and differences were regulated by the State.

Commissioner Maise said the City in 2009 had called this use *independent living* but there was a common kitchen. Planning Consultant Elmiger said the use was more similar to a boarding house.

Commissioner Maise asked if originally staff had cooked the meals. Mr. Dennis Engerer said there had always been staff to cook the meals. Commissioner Maise said if there was staff there to cook the meals from the beginning, it had never been independent living.

Commissioner Russell said this was a learning exercise for the Commission. While the Commission probably didn't want to forbid the current Senior Living of Northville use, they did need to understand going forward what was happening and what limitations needed to be applied.

Commissioner Maise said if the limitation was 20 residents and under, what kind of square footage would be needed? Did the State require a certain area? Another condition that could be placed was that the use in this District had to be upper story; it could not be first floor. Once the Commission knew the conditions that the State required perhaps other limitations could be applied.

Commissioner Russell said this was an exciting time, and this might add some energy and pulse to the city and retain some residents that might otherwise need to live elsewhere. Planning Consultant Elmiger added this use would incorporate seniors into the fabric of the community.

Mr. Joe Engerer said that adult foster care was defined by the State, even though assisted living was not. It seemed like there was a reasonableness standard that could be applied if *and other similar uses* language could be used. A text amendment to allow adult foster care *or similar use* would utilize work that had already been done at the State level.

Commissioner Russell noted that what was decided in this case could also impact the Northville Downs area.

Planning Consultant Elmiger summarized that it appeared that the direction being given was to make a modification to the zoning ordinance, rather than to ask the applicants to apply for a PUD. She would research the different levels of senior care that were defined by the State and see how those uses were already allowed within the zoning ordinance, and see how they were consistent or inconsistent with the CBD and the Strategic plan. She would also propose some draft language that could be incorporated into the zoning ordinance that would be based on the state definitions.

Chair Wendt suggested that a meeting with Planning Consultant Elmiger, the Engerers, and himself might be helpful.

Seeing that there were no further comments, Chair Wendt closed the discussion on this item.

Pavement in Front Yards

Referring to her December 14, 2016 memorandum regarding *Pavement in the Front Yard of Residential Lots*, and to the draft ordinance language also dated December 14, 2016, Planning Consultant Elmiger said the Commission had talked about the fact that the City already had a 35% landscape requirement for each single family residential lot. To expand on that they also talked about other communities that didn't limit pavement, but rather required a certain amount of open space in residential front yards. To do that in the Northville zoning ordinance, she proposed adding definitions of "Landscape Area," "Open Space, Front," and "Pavement." A note was also added to the schedule of regulations that limited the amount of pavement in the front yard to 65%.

Planning Consultant Elmiger explained that this was a broader stroke than what had been previously discussed and gave the property owner more flexibility in how they organized their space.

Section 17.01 was changed to limit parking in the front yard. Section 19.05 was changed to clarify that the minimum driveway width of 20 feet in the Zoning Ordinance did not apply to single- and two-family residential lots. The City's design standards called for narrower driveways on residential lots.

Chair Wendt was concerned that these ordinance changes would result in an increase of applications before the Board of Zoning Appeals, as people for one reason or another might need less open space in their front yards than required.

Commissioner Kirk asked what would happen in nonconforming situations if a dwelling were destroyed. Could the parking and pavement be constructed as it was before the dwelling was destroyed?

Planning Consultant Elmiger said the ordinance stated that:

In the event that a structure is destroyed, a destroyed non-conforming structure or the non-conforming portion of a destroyed structure may be re-constructed upon the original footprint or foundations without a variance from the Board of Zoning Appeals. The nonconforming structure which has been destroyed or damaged by fire, explosion or act of God, shall not be reconstructed in a manner which increases the nonconformity. (Article 22.5.d)

Commissioner Kirk said that his question was specific to the driveway. In a nonconforming situation, could a driveway be replaced as it was? Planning Consultant Elmiger said that when a home was destroyed often the paving was not destroyed. The paving could not be expanded, but she did not think the City would make the property owner remove the existing pavement either. Commissioner Kirk said this should be specifically addressed in the ordinance.

Building Inspector Strong said it would be very difficult to enforce replacing a driveway based on when the driveway was actually constructed.

City Manager Sullivan asked if driveways required a permit, or if only structures required permits. Building Inspector Strong said that permits for a new home also covered the driveway.

Commissioner Snyder said then that under the ordinance a driveway could be replaced with the exact same footprint. Planning Consultant Elmiger said that was the previous suggested language but was not in the proposed language, which was not so proscriptive.

Chair Wendt commented that builders were removing homes and building larger ones, reconfiguring driveways to accommodate placement and sizes of garages, etc. Some of the larger homes had to take up more than half of the front yard with pavement in order to get cars in and out of the garage. That would keep occurring.

Planning Consultant Elmiger acknowledged that Chair Wendt represented one vote that was not in favor of any of this language. She was getting a sense that the Planning Commission was not in agreement on this issue. Should they continue to try and find a solution to pavement in front yards?

Commissioner Snyder said that it seemed to him that every time this was discussed the viewpoint swung back and forth, one way or the other.

Commissioner Kirk said that he was not saying this wasn't a good ordinance. His question was how would it be enforced? What would trigger enforcement, especially regarding nonconforming issues?

Planning Consultant Elmiger said the ordinance would create a number of nonconforming lots in the City.

Commissioner Snyder said he didn't understand how the City could force someone to change their

driveway if their house burned down, for instance.

City Manager Sullivan said the question needed to be decided: in nonconforming situations, if a dwelling was destroyed, did the Commission want to allow the pavement to stay as was allowed under the existing ordinance, or did the Commission want the pavement to be brought into conformance? The answer to this question must be put within the ordinance.

Commissioner Snyder reiterated that he still didn't understand how the City could force someone to change the footprint of the pavement or change the driveway if the house was destroyed.

Commissioner Russell said he liked the ordinance because of the 65/35% ratio.

Commissioner Miller said he thought several months ago that the Commission was close to adopting language that everyone could agree with regarding the 65/35% ratio. Commissioner Snyder agreed.

Chair Wendt asked for a straw poll regarding moving forward. The consensus of the Commission was that the proposed ordinance language should move forward.

Planning Consultant Elmiger read the language from a previous iteration:

Driveways existing upon the effective date of this ordinance may remain, may be repaved resurfaced and reconstructed as is as long as any nonconformities with the driveway placement, size, configuration or other features that do not comply with this section are not expanded.

The consensus was to add this language back into tonight's draft.

Building Inspector Strong initiated a discussion as to what kind of driveway would be allowed on 50 and 60-foot wide lots, if the 65/35% ratio were enforced.

Planning Consultant Elmiger explained that the 35% landscaping requirement applied to the whole lot, not just the front yard. However, the 65% paved surface limit only applied to the front yard. She felt most lots in the City could meet the standard. For instance, not including the walkway, the 35% open space requirement on a 50-foot wide lot would allow a driveway 17.5 feet wide. She suggested that the 3-foot wide front sidewalk could be excluded from the calculation.

Commissioner Miller said he felt they were in danger of making the ordinance too complicated. He wanted to leave the formula at 65/35%. Someone with a narrow lot would simply have less pavement.

Planning Consultant Elmiger said that she would leave the draft language as presented, except to add the additional language about allowing nonconformities to remain.

Commissioner Mielock indicated he was ready to make a motion.

MOTION by Mielock, support Russell, to set for public hearing at the next available meeting review of Pavement in the Front Yard of Residential Lots amendments.

Chair Wendt asked for a roll call vote:

Mowers yes

Maise	yes
Kirk	yes
Russell	yes
Wendt	yes
Smith	yes
Mielock	yes
Snyder	yes
Miller	yes

Therefore the **motion carried unanimously**.

Lot Coverage/Covered Porches

Referring to the document *Lot Coverage/Covered Porches* dated September 13, 2016 and revised December 13, 2016, Planning Consultant Elmiger gave the background to this discussion item. At the September meeting the Commission agreed that covered porches or anything with a roof should be included in lot coverage calculations. The definition for lot coverage had been modified to read:

The part or percent of the lot occupied by the buildings, accessory buildings, and any other building components that have a roof or fixed canopy, such as a covered porch, breezeway, etc. The area of cantilevered projections of any floor, excluding roof overhangs, shall be included in the calculation of lot coverage.

In response to a question from City Manager Sullivan, Planning Consultant Elmiger said that decks were considered part of lot coverage, as was noted in the ordinance section regarding decks.

Commissioner Maise said that decks would be considered an accessory structure.

Building Inspector Strong said that decks were specifically spelled out as being included in lot coverage calculations. Commissioner Mowers said this was referenced in Section 18.11.10.d: *A deck shall be subject to lot coverage limitations.*

It came out in discussion that above ground swim pools were also counted toward lot coverage.

Commissioner Maise felt that this might be confusing and should be clarified in Section 26.02 Definitions. Planning Consultant Elmiger suggested modifying the definition of lot coverage to read:

The part or percent of the lot occupied by the buildings, accessory buildings, and structures . . .

In response to a question from Chair Wendt, Building Inspector Strong said that he considered in-ground pools as at-grade structures, like a driveway or patio, though this was actually not defined in the ordinance.

Commissioner Russell asked if a paved terrace in a front yard was part of the permitted paved surface. Planning Consultant Elmiger said it would be included in that calculation.

Discussion was held as to how such a paved terrace in the front yard should be referenced. Section 18.11.8 Porches, which described uncovered porches or paved terraces in the front yard, should be cross-referenced to the front yard paving language just discussed.

Building Inspector Strong said it was not generally desirable to have an open unenclosed porch in the front yard. One issue he had with porches was determining when a porch was at-grade or not. If there was a step down from the porch, it could not be considered at-grade.

Building Inspector Strong continued that currently he would count an open unenclosed porch toward lot coverage, but he would not count it as part of the 65/35 % calculation.

In response to further questions from Commissioner Maise, Planning Consultant Elmiger read from the ordinance that:

Accessory Building is a subordinate building or structure on the same lot, or part of the main building, occupied or devoted exclusively to an accessory use.

Additionally, the definition of structure was:

Is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Building Inspector Strong said a patio was not a structure. However, an entire lot could not be covered with brick because there was still a 35% landscape area requirement.

MOTION by Russell, support Miller, to set for public hearing at the next available meeting review of Lot Coverage and Covered Porches amendments.

Chair Wendt asked for a roll call vote:

Mowers	yes
Maise	yes
Kirk	yes
Russell	yes
Wendt	yes
Smith	yes
Mielock	yes
Snyder	yes
Miller	yes

Therefore the **motion carried unanimously.**

Take-out restaurants in the Central Business District

Referring to the document *Take-Out Restaurants in CBD*, dated September 13, 2016 and revised December 13, 2016, Planning Consultant Elmiger gave the background to this discussion item. The issue was that take-out restaurants were listed as both permitted and special land use in the CBD. Based on the discussion at the September meeting, take-out restaurants were removed from the list of special land uses in the CBD. The ripple effect was there were no other districts that had take-out restaurants as special land uses. Therefore the specific conditions that were listed under Section 16.07 on page 4 of the handout were no longer necessary and take-out restaurants were also removed from that section. The table in Section 2.06 had also been modified to reflect this change.

Commissioner Russell asked about the Thai restaurant on North Center. Planning Consultant Elmiger said the drive through use there associated with the original bank had been discontinued for over 6 months,

and therefore would not be grandfathered.

It was noted that the drive through at CVS had been granted via a PUD.

City Manager Sullivan noted that the effect of this change would be to allow a Subway or Quiznos type restaurant, as long as it was not a drive-through.

MOTION by Russell, support Smith, to set for public hearing at the next available meeting review of Take-Out Restaurants in CBD amendments.

Chair Wendt asked for a roll call vote:

Mowers	yes
Maise	yes
Kirk	yes
Russell	yes
Wendt	yes
Smith	yes
Mielock	yes
Snyder	yes
Miller	yes

Therefore the **motion carried unanimously.**

Commissioner Mowers left the meeting at 9:14 p.m.

Wall signs in the Central Business District

Referring to the document *Wall Signs in CBD*, dated September 13, 2016 and revised December 13, 2016, Planning Consultant Elmiger gave the background to this discussion item. At the September Planning Commission meeting the Planning Commission decided to allow an additional 12 square feet of signage at a secondary entrance or a secondary building façade in addition to the square footage that was allowed on the front façade. The language had been modified to eliminate the subtraction of the 12 square feet from the front sign. Language had also been added to allow an additional 12 square feet to a second means of access directly onto a public alley or parking lot.

Commissioner Kirk asked if a building had 3 facades, could there be signs on all 3 facades? Planning Consultant Elmiger said this would be permitted. The front sign would be whatever was allowed for that site, and the other signs would be 12 square feet.

MOTION by Maise, support Russell, to set for public hearing at the next available meeting review of Wall Signs in the Central Business District amendments.

Chair Wendt asked for a roll call vote:

Maise	yes
Kirk	yes
Russell	yes
Wendt	yes

Smith	yes
Mielock	yes
Snyder	yes
Miller	yes

Therefore the **motion carried unanimously**.

PUD process flow chart

Referring to two charts – Existing Flowchart and Revised Flowchart – dated December 13, 2016, Planning Consultant Elmiger said that it was requested at the last meeting that she provide the existing chart and the new chart for the PUD process so the two could be compared. The new chart was more descriptive about the PUD process. There had been a step added since the September meeting, which clarified that the final PUD plan review by City Council would involve a public hearing set by administration.

Commissioner Maise referred to a discussion regarding the Downtown Strategic Plan at this morning’s Strategic Planning meeting, mentioned earlier tonight. At that meeting, there was a discussion about making the PUD process shorter.

City Manager Sullivan said that scheduling a public second public hearing before City Council added 45 days to the PUD approval process, and perhaps was not necessary.

Chair Wendt suggested having a joint review of the PUD process with both City Council and Planning Commission together.

City Manager Sullivan said that perhaps the public hearing on this discussion item should be postponed until that further discussion took place.

Planning Consultant Elmiger said she would talk with Downtown Development Director Ward about the discussions being held.

It was the consensus of the Commission not to take action on this item this evening.

Schedule of Regulations footnote 11.

Referring to the document *Section 15.02 Footnotes to the Schedule of Regulations*, dated September 13, 2016 and revised December 13, 2016 Planning Consultant Elmiger gave the background to this discussion item. Confusing language regarding interior lot lines and exterior side yards had been cleaned up. Also, Section 15.01 Schedule of Regulations had been modified to ensure the use of “N/A” was correct and consistent across the entire table.

MOTION by Mielock, support Smith, to set for public hearing at the next available meeting discussion of amendments regarding Schedule of Regulations footnote 11, and changes as presented this evening to the Schedule of Regulations.

Chair Wendt asked for a roll call vote:

Maise	yes
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Kirk	yes
Russell	yes
Wendt	yes
Smith	yes
Mielock	yes
Snyder	yes
Miller	yes

Therefore the **motion carried unanimously**.

Definition of basement

Referring to the document entitled *Basement Definition* dated September 13, 2016, Planning Consultant Elmiger noted that the modifications shown had not changed from the September meeting. The definition of Basement was being corrected to match the wording of the illustrations provided.

Commissioner Kirk noted that the City’s determination of square footage would be different than that normally used by real estate assessors, especially regarding basements.

MOTION by Kirk, support Maise, to set for public hearing at the next available meeting review of Definition of Basement amendment.

Chair Wendt asked for a roll call vote:

Maise	yes
Kirk	yes
Russell	yes
Wendt	yes
Smith	yes
Mielock	yes
Snyder	yes
Miller	yes

Therefore the **motion carried unanimously**.

Other discussion

Planning Consultant Elmiger provided a memo regarding the new Medical Marijuana Licensing Act. This would be discussed at a future meeting.

8. ADJOURN

As there was no further discussion, Chair Wendt asked for a motion to adjourn.

MOTION by Kirk, support Maise, to adjourn the Planning Commission meeting at 9:31 p.m. Motion carried unanimously.

Respectfully submitted,
Cheryl McGuire

Recording Secretary

Approved as amended 01/17/2017