

CITY OF NORTHVILLE
Planning Commission
February 21, 2017
Northville City Hall – Lower Level, Training Room

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
Matthew Mowers
Jay Wendt

Absent: Christopher Miller (excused)
Mark Russell (excused)
Anne Smith (excused)
Jeff Snyder (excused)

Also present: James Allen, Mayor Pro Tem
Ken Roth, Mayor
Patrick Sullivan, City Manager
Sally Elmiger, Planning Consultant
Lori Ward, Downtown Development Authority Director
2 residents

3. APPROVAL OF AGENDA:

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

4. MINUTES OF PREVIOUS MEETING: January 17, 2017

Motion by Kirk, support Mowers, to approve the January 17, 2017 with the following amendment:

p. 3, 3rd line in the 3rd paragraph from the bottom: . . . *they would be working with ~~the trees~~ throughout that process the City regarding the number of trees to be removed throughout that process.*

Motion carried unanimously.

5. AUDIENCE COMMENTS: None.

6. REPORTS:

- A. **CITY ADMINISTRATION:** None.
- B. **CITY COUNCIL:** None.
- C. **PLANNING COMMISSION:** None.
- D. **OTHER COMMUNITY/GOVERNMENTAL LIAISONS:** None.

7. PUBLIC HEARING – MISCELLANEOUS ORDINANCE CLARIFICATIONS

Planning Consultant Elmiger explained that the Planning Commission had been working on ordinance clarifications, and these were being presented tonight for public input and a recommendation to City Council.

Lot Coverage Section 26.02

The ordinance was being modified to include anything with a roof, including porches, in the lot coverage calculation.

Take-out restaurants in the Central Business District Sections 2.06, 10.03, 16.07

Take-out restaurants had been listed as both a special land use and a permitted use in the ordinance. They were being removed from the special land use category and kept as a permitted use in the CBD District.

Wall signs in the Central Business District Section 21.01

The ordinance was being modified to clarify that a second wall sign up to twelve square feet was allowed at a second means of access directly onto a public alley or parking lot, or any other exposed building surface or wall other than the street frontage.

Schedule of Regulations footnote 11 (Side yards in business districts) Section 15.02

This was a clarification in footnote 11 along with other minor clarifying corrections. The change clarified that no side yard was required in the district if the property abutted another property in the same district, unless there was a window or door in the side façade. If this were the case a 10-foot side yard setback would be required. If the lot had a side yard abutting a residential district, a ten-foot setback was required from the residential property line.

Definition of basement Section 26.02

The ordinance was being corrected so that the definition of basement corresponded to the wording of the accompanying illustration: both would now use the phrase: *finished floor elevation* instead of “ceiling” as was previously used in the definition.

Front Open Space Section 26.02, 15.02, 17.01, 17.01.10, 19.05

New ordinance language was added to limit the amount of pavement in the front open space so that at least 65% of the front open space would remain free of pavement. Also, parking on the lawn or unpaved area in the front yard was not permitted, and parked vehicles could not block a public sidewalk.

Planning Consultant Elmiger said she had completed an analysis of very narrow lots under this ordinance change. She recommended that the Planning Commission consider reducing the amount of required pavement-free area to 55% for these narrow lots, which were located primarily in the R-1B Zoning District.

Planning Consultant Elmiger concluded her review.

Commissioner Maise asked why the definition of lot coverage only included structures and buildings, but did not include impervious surfaces such as driveways.

Planning Consultant Elmiger said the ordinance had never included impervious surfaces as part of lot coverage.

Commissioner Kirk thought that Section 16.07.a., which limited delivery vehicles for take-out restaurants to one at a time, would be difficult to enforce. Planning Consultant Elmiger said tonight's action was strictly on the change proposed to remove take-out restaurants from the special land use category and kept as a permitted use in the CBD District. The one-vehicle limitation was not a change in the existing ordinance.

Commissioner Maise asked if there was a definition of "home delivery restaurants." Planning Consultant Elmiger said a definition was included in the ordinance.

Commissioner Maise asked whether people could easily understand the sign ordinance, especially as changed this evening. Planning Consultant Elmiger said that the Building Inspector explained the ordinance to business owners. The changes proposed this evening actually made the ordinance easier to understand.

Discussion followed regarding the maximum size of wall signs. Planning Consultant Elmiger explained the difference between determining size by square footage and by lineal feet, depending upon whether there was more than one type of sign, and the different types of signs – projecting, wall, sidewalk and freestanding – were reviewed. The sign ordinance would be revisited as the City brought the ordinance into conformance with a recent Supreme Court decision regarding signs.

Referring to Section 21.01.2)(d), Commissioner Maise asked if the language *at a second means of access directly onto a public alley or parking lot* covered all possibilities. Planning Consultant Elmiger said that the new language just quoted along with the existing language *or on any other exposed building surface or wall other than the street frontage* did seem to cover almost all possibilities.

From the audience, Dennis Engerer, 999 Cold Spring, Northville MI, asked if murals were considered signs. Planning Consultant Elmiger said that was determined based upon whether the mural was considered to be an advertisement, or art.

Commissioner Maise pointed out that Section 15.2.11 should read, at the end, *in width from the residential property line*.

Commissioner Kirk noted that the definition of basement would probably cause confusion among appraisers, in terms of how total square feet was calculated residents who received appraisals that calculated square feet differently.

Chair Wendt opened the public hearing at 7:51 p.m.

Dave McCrumb, 358 First Street, Northville, MI, said that his question, specifically regarding parking on front gravel driveways, had been answered by the literature provided this evening.

Chair Wendt closed the public hearing at 7:52 p.m.

Regarding front open space, Planning Consultant Elmiger asked if the Commission was interested in discussing reducing the required open space to 55% for very narrow lots.

Commissioner Mielock indicated he was ready to offer a motion.

MOTION by Mielock, support Mowers, that the Planning Commission recommend adoption of the proposed amendments as presented this evening to Section 26.02 regarding lot coverage to City Council.

Maise	yes
Kirk	yes
Wendt	yes
Mielock	yes
Mowers	yes

Therefore the motion carried unanimously.

MOTION by Mowers, support Maise, that the Planning Commission recommend adoption of the proposed amendments as presented this evening in Sections 2.06, 10.3 and 16.07 regarding take-out restaurants in the Central Business District to City Council.

Maise	yes
Kirk	yes
Wendt	yes
Mielock	yes
Mowers	yes

Therefore the motion carried unanimously.

MOTION by Mielock, support Maise, that the Planning Commission recommend adoption of the proposed amendments as presented this evening to Section 21.01 regarding wall signs to City Council.

Maise	yes
Kirk	yes
Wendt	yes
Mielock	yes
Mowers	yes

Therefore the motion carried unanimously.

MOTION by Mower, support Mielock, that the Planning Commission recommend adoption of the proposed amendments as presented this evening to Section 15.02, Footnotes 10 and 11 regarding side yard setbacks in business districts to City Council.

Maise	yes
Kirk	yes
Wendt	yes
Mielock	yes

Mowers **yes**

Therefore the motion carried unanimously.

MOTION by Mielock, support Maise, that the Planning Commission recommend adoption of the proposed amendments as presented this evening to Section 26.02 regarding the definition of basement to City Council.

Maise **yes**

Kirk **yes**

Wendt **yes**

Mielock **yes**

Mowers **yes**

Therefore the motion carried unanimously.

Commissioner Mowers said that he would like to discuss the idea of reducing the front open space requirement for very narrow lots, as presented by Planning Consultant Elmiger earlier, before taking action on the Front Open Space amendments.

MOTION by Mowers, support Mielock, to place the proposed amendments as discussed this evening regarding Front Open Space on the next Planning Commission meeting agenda.

Motion carried unanimously.

8. DISCUSSION

Northville Senior Living (Assisted Living in CBD)

Referring to her memo of February 16, 2017, Planning Consultant Elmiger explained that she had been asked to research:

1. The state-defined senior living types of uses in Michigan.
2. How the City of Northville could define assisted living.
3. The types of senior housing/living currently addressed in the Zoning Ordinance.

State-defined senior living facilities:

There were essentially four types of state-defined senior living facilities: 1) nursing homes and nursing care facilities; 2) homes for the aged; 3) various types of adult foster care homes; 4) hospitals and hospice services.

Outpatient and rehabilitative services were not licensed although the professionals that worked in those types of facilities were licensed.

State licenses also listed the types of services provided. These were listed on page 2 of the memo, and included room and board, protection, supervision, personal care, and supervised personal care.

“Assisted living” was not defined by the State of Michigan.

Planning Consultant Elmiger further explained that if care were provided by outside staff and professional resources, the facility itself did not have to be licensed. The State could investigate complaints and could then determine whether or not a facility needed to be licensed.

Northville did have some definitions for *nursing care* and *family foster care home*. Foster care homes cared for people with disabilities as well as the aged population. The State organized foster care homes by size: a) family size of 6 people or less, b) small group-care home, between 7-12 people, c) large group care home, between 13-20 people. The Zoning Enabling Act required that family group care homes be allowed in all residential districts, and this was reflected in the Northville Zoning Ordinance.

Group foster care homes were listed in the zoning ordinance table in Section 3.0, but were not defined in the ordinance, and were not listed in any of the residential districts.

Housing for the elderly was also listed in the table in Section 3.0, but was not defined in the ordinance, and the State didn't use this term in any of its statutes.

Convalescent and/or nursing home was defined by the ordinance in a general manner and didn't specifically mention "nursing" as a service provided. "Nursing homes" were defined by the State.

Planning Consultant Elmiger addressed senior housing types in various zoning districts. In the Central Business District no senior housing types were listed. However, in the Central Business Overlay District assisted living was permitted, even though assisted living was not defined in the ordinance. Other senior living housing types were listed in the multi-family residential districts.

Planning Consultant Elmiger pointed out that she had provided draft language in the February 16, 2017 document entitled *Senior Living – Draft Ordinance Amendments*. Draft definitions were provided for Assisted Senior Living, including definitions for Small and Large Assisted Senior Living, Continuing Care Retirement Community, Convalescent or Nursing Homes, and Independent Senior Living. A definition for Foster Care for Adults was also added. Finally, additional definition language was added for Child Care/Residential Care Facilities.

Planning Consultant Elmiger concluded her presentation by reminding the Commission that tonight's analysis, including discussion of the draft language for definitions, was to assist the Commission in determining whether the requested use was appropriate in the Central Business District.

Dennis Engerer, 999 Cold Spring, Northville MI, and Joe Engerer, 315 South Center Street, Howell, MI, were present on behalf of Senior Living of Northville.

Referring to their February 6, 2017 letter to the Commission, Joe Engerer said there were districts in the downtown area that seemed to allow for certain types of assisted living, including one that explicitly permitted assisted living, even though that term was not defined. In the letter they had addressed the Commission's concerns as called out at the December 20, 2016 Planning Commission meeting. The Engerers were proposing crafting a very narrow amendment to the ordinance that would only apply to their facility by allowing only specific types of assisted living. It was their position that this could be done in a relatively uncomplicated, low-impact way that would not encourage other assisted living facilities to come into the District. The amendment could limit size, amount of care that was provided, etc., specifically tailored to their use.

Joe Engerer felt there were compelling reasons to consider their use and recommend approval to City Council.

Chair Wendt disclosed that he and Commissioner Mielock had participated in conversations with the Engerers regarding this proposal. These conversations had been general in nature and did not involve personal gain in any way.

Commissioner Mielock clarified that he had visited the facility to better understand the application and the resulting discussion at the Planning Commission only.

It was the consensus of the Commission that Commissioner Mielock and Chair Wendt could remain for discussion of this item.

Commissioner Maise asked for a description of the facility. Commissioner Mielock said the first floor had workout equipment. The second floor was senior living area, which had a number of bedrooms and bathrooms, along with an open area and a common kitchen.

Joe Engerer explained that they had a manager on duty 8 hours a day, though she was on call 24 hours a day. Additionally they had 2-3 caregivers at any one time on the three scheduled shifts. A cook was also employed.

In response to a question from Commissioner Maise, Joe Engerer explained that people who lived at Senior Living of Northville signed one contract with Senior Living for rent, and a second contract for another entity for use of staff and other services. All the residents contracted with both entities.

Chair Wendt mentioned someone who had shoulder surgery and who had stayed temporarily at the facility. Joe Engerer said they did have this type of resident from time to time. Dennis Engerer said that originally they had hoped for more short-term clients, but the greater need was for long-term care.

Joe Engerer continued that services were provided just like services would be provided to someone living in their own home or in a family member's home, including hospice. All these services were contracted separately from the rent contract.

Dennis Engerer spoke to the desire of families and residents to live close to downtown services and close to families. Perhaps 50% of the current residents could actually go out of the facility to enjoy the downtown area, with the help of family members.

Commissioner Maise asked how many emergency runs were required of City emergency personnel. Dennis Engerer said there were more emergency runs early on, but this had stabilized. Hiring a professional gerontologist as the manager had been helpful.

Commissioner Mowers said he thought it was worth talking about this issue beyond talking about the Engerers' desire to continue their existing business. How did this fit in with what the Planning Commission was trying to do in the CBD District? It appeared they had missed the opportunity in the Master Plan to define this type of care and how this would be accommodated. He made the following points:

- When a previous larger group had come in and discussed putting senior housing in the Foundry Flask property, there was an immediate split as to whether that was an appropriate use of the space, and the request had generated some controversy.

- Regarding crafting a very limited text amendment in order to allow this facility, as long as the Engerers were running the facility the Commission could have some confidence that things would be run well, but should the facility be sold, who was to say that the facility wouldn't swing back to a situation where significantly more ambulance runs would be required? Also, the Master Plan reflected that the City was trying to find locations for multi-family and senior living centers away from Main Street.
- What was the CBD Overlay trying to accomplish? Were senior care facilities a desirable use in the main stretch of town or should senior care facilities be more on the outskirts where more parking was available?

Commissioner Mowers said that the discussion needed to involve more than the Engerers' requested use. The Commission needed to consider whether this use was appropriate in the CBD, or was the Overlay District created for purposes like this one? The R-3 and R-4 areas were called out as better for this type of use.

Commissioner Mowers said he did not support crafting something for an existing business without thinking about what the City was trying to do going forward in terms of the CBD and CBD Overlay Districts. He pointed out that businesses in the District were trying to make changes that would draw more business and activity into the District.

Chair Wendt suggested that this discussion item be placed on the next agenda, when more of the Commissioners would likely be present.

Planning Consultant Elmiger said prior to the next meeting she would be able to make some recommendations and also check with other communities to see where they permitted senior living facilities. Some communities seemed to have assisted living in many districts, including single family residential. Defining senior living in terms of size did not always occur in other communities, who seemed to depend upon district zoning requirements to limit inappropriate developments.

Chair Wendt suggested capping the number of residents permitted in the facility.

~~Discussion was had~~ *Brief discussion followed* regarding what the Engerers would do if their application were denied.

Commissioner Maise was also concerned with looking at the issue too specifically, without concern for how the entire District would be affected.

Planning Consultant Elmiger said options for Northville Senior Living included:

- Applying for a modification of the ordinance in order to permit a small assisted living facility in the CBD District. Ultimately, the City Council would be the final arbiter of this request.
- Applying for a Planned Unit Development plan.
- Applying to the BZA for a use variance.
- Applying to the BZA for an interpretation of the ordinance that would permit this use in the CBD District.

Planning Consultant Elmiger agreed with previous discussion that addressing the bigger picture regarding the CBD District was important.

Commissioner Kirk questioned why visitor parking would be an issue for this facility; it seemed to him that other multi-family developments were not always required to have visitor parking.

In response to a question from Chair Wendt, Dennis Engerer said the property had 7-8 parking spaces under the building, and he recalled that in order to get parking credits some spaces were swapped behind Starbucks to make that area into a city lot.

Commissioner Mielock noted that the original office use would have more stringent parking requirements than the current use.

Chair Wendt did not think parking would be an issue, as the residents of the facility did not drive. Dennis Engerer said they had never had parking problems.

From the audience, Downtown Development Director Ward asked what the parking requirement was for assisted living facilities. Planning Consultant Elmiger said there were no parking requirements for this use. Nursing homes had a parking requirement, but not this type of use. There was a parking requirement for the physical rehabilitation use.

Commissioner Mowers asked if there were any other groups operating any other assisted living type uses in Northville. Planning Consultant Elmiger said there was only the Star Manor, a nursing home.

Commissioner Mowers said it was important to think about how the proposed definitions would work in real world situations.

Planning Consultant Elmiger said there were 3 general categories of senior housing: 1) Nursing care. 2) Assisted living, which was everything that was not nursing care. 3) Independent living.

Commissioner Maise asked if there were legal issues with defining these types of facilities and limiting their locations.

Planning Consultant Elmiger explained that the Zoning Enabling Act specifically said Adult Family Foster Care – 6 or fewer adults in a residential setting – must be permitted in any residential district. Other categories were not addressed. However, the Fair Housing Act would not permit housing that was completely exclusionary of people less than 55 years old. The average age in a senior facility could be 55 or greater, thus allowing some younger residents.

Planning Consultant Elmiger continued that one question was whether to allow this residential use in districts where no other residential uses were permitted. If this type of use were permitted in districts with other residential use types, it would probably not be considered discriminatory, as other people in other life stages would have options within the district.

Commissioner Mielock asked that if the Commission did think some type of senior living was permitted in the CBD, could limitations be required in the founding documents for the facility as part of site plan approval?

Planning Consultant Elmiger said this would ultimately be a question for the Attorney, but her experience was that this could be done.

Chair Wendt closed the discussion.

Proposed change to move meeting time to 7 p.m.

Chair Wendt suggested moving this discussion item to the next meeting, when more Commissioners would be present.

9. ADJOURN

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

MOTION by Maise, support Mowers, to adjourn the Planning Commission meeting at 8:48 p.m. Motion carried unanimously.

Respectfully submitted,
Cheryl McGuire
Recording Secretary

Approved as amended 3/21/2017