

**City of Prospect Heights
Plan/Zoning Board of Appeals
April 27, 2023**

I. MEETING COMMENCEMENT:

The regular meeting of the Plan/Zoning Board of Appeals was called to order at 7:00 pm by Chairman Kempa, at City Hall, 8 N. Elmhurst Road, in Prospect Heights, Illinois.

II. ROLL CALL:

Present: Chairman Kempa, Commissioners Patel, Saewert, Rygiel, Simmons and Mishevski

Absent: Commissioner DeGraf absent by prior notice

Quorum is present.

Present at the meeting: Director of Building & Development Daniel A. Peterson, Legal Counsel for the City of Prospect Heights Caitlin Frenzer and Recording Secretary: Jenn Myzia

III. APPROVAL OF March 16, 2023 MINUTES

Motion made by Commissioner Saewert, seconded by Commissioner Patel to approve the meeting minutes as is.

ROLL CALL VOTE:

AYES: Commissioners Patel, Saewert, Rygiel, Simmons, Mishevski and Chairman Kempa

NAYS:

ABSENT: Commissioner DeGraf

ABSTAIN:

Motion carried 6:0:1:0

IV. OLD BUSINESS:

Chairman Kempa requests a motion to re-open both the public hearing for 23-04 MA and 23-05 TA at 7:01 pm

Motion by Commissioner Patel

Second by Commissioner Saewert

VOICE VOTE:

AYES: Commissioners Patel, Saewert, Rydiel, Simmons, Mishevski and Chairman Kempa

NAYS:

ABSENT: Commissioner DeGraf

ABSTAIN:

Approved 6:0:1:0

Both cases are discussed in conjunction.

1. PZBA – Zoning : Case 23-04 MA – Public Hearing

Applicant: City of Prospect Heights – Director Peterson

Address: 8 N. Elmhurst Rd., Prospect Heights, IL 60070

Description of Request:

- A. Public hearing to consider a map amendment and rezoning of certain property from B-3 Commercial, Wholesale and General Services District to B-5 Commercial Industrial District.

2. PZBA – Zoning : Case 23-05 TA

Applicant: City of Prospect Heights – Director Peterson

Address: 8 N. Elmhurst Rd., Prospect Heights, IL 60070

Description of Request:

- A. Consideration of Text Amendments to Title 5 Chapter 7 deleting Section 5-7-1 O-1 Office Research Park in entirety and adding Section 5-7-7 B-5 Commercial Industrial District.

Director Peterson recaps the case presented at the last meeting. Director Peterson explains the reasoning for the creation of a new B5 Business District versus adding adult sexually oriented businesses into the existing B3 commercial District. The following actions are the topic of the cases presented.

1. Delete in entirety the O-1 Office Research Park District
2. Rezoning of 79 & 81 E. Palatine Rd. from B-3 Commercial, Wholesale and General Service District to B-5 Commercial Industrial District
3. Delete entirety Title 5 Chapter 7 Section 1 Office Research Park District text
4. Add new Title 5 Chapter 7 Section 7 creating the text for the new B-5 Commercial Industrial District.

Director Peterson presents research on the zoning of sexually oriented businesses in municipalities of close proximity to Prospect Heights. He also states the initiation of both the map and text amendment are by the City to address the zoning in which adult sexually oriented businesses can be located and to protect the City from being vulnerable to a lawsuit in regard to a first amendment free speech challenge.

Chairman Kempa asks for any questions from the commissioners.

The commissioners ask questions of both Director Peterson and Attorney Franzen.

Attorney Franzen states that per the way the City Code is written any use that is not mentioned is prohibited and because we cannot discern between the different types of adult uses because that gets into the content of someone's first amendment free speech.

Commissioner Saewert questions why The Village of Mount Prospect has the option of any use that is not listed as a unique use verses a prohibited use.

Commissioner Saewert discusses her concerns of the location chosen for the proposed zoning for the adult sexually oriented business.

Director Peterson reviews the zoning map of the City of Prospect Heights in regard to what is close to other B Districts, the uses of those districts and the proximities to church and residential locations. He states issues he had to take into consideration are the distance requirements from residential, the challenge of being a land-locked community and that this

is a constitutionally protected first amendment right of free speech the creation of the B5 District and the location being proposed is to create the least amount of impact to the residents.

Discussion continues about the location, potential signage if an adult oriented business came town, the legal first amendment right and protecting the community from a potential lawsuit.

Chairman Kempa requests a motion to close the public hearing for 23-04 MA and 23-05 TA at 7:50 pm

Motion by Commissioner Simmons

Second by Commissioner Saewert

ROLL CALL VOTE:

AYES: Commissioners Rygiel, Simmons, Saewert, Mishevski, Patel and Chairman Kempa

NAYS:

ABSENT: Commissioner DeGraf

ABSTAIN:

Approved 6:0:1

Chairman Kempa requests any discussion from the commissioners regarding either case.

Chairman Kempa requests a motion to receive into the public record the evidence and exhibits presented for the application 23-04 MA and 23-05 TA

Motion by Commissioner Saewert

Second by Commissioner Patel

VOICE VOTE:

AYES: Commissioners Mishevski, Saewert, Simmons, Patel, Rygiel & Chairman Kempa

NAYS:

ABSENT: Commissioner DeGraf

ABSTAIN:

Approved 6:0:1:0

Chairman Kempa requests a motion to recommend that City Council approve the application 23-04 MA to consider a map amendment and rezoning of certain property from B-3

Commercial, Wholesale and General Services District to B-5 Commercial Industrial District.

Motion by Commissioner Simmons

Second by Commissioner Patel

ROLL CALL:

AYES: Commissioners Rygiel, Mishevski, Simmons, Patel & Chairman Kempa

NAYS: Commissioner Saewert

ABSENT: Commissioner DeGarf

ABSTAIN:

Approved 5:1:1:0

Chairman Kempa requests a motion to recommend that City Council approve the application 23-05 TA to consider text amendments to Title 5 Chapter 7 deleting Section 5-7-1 O-1 Office Research Park in entirety and adding Section 5-7-7 B-5 Commercial Industrial District.

Motion by Commissioner Simmons

Second by Commissioner Patel

ROLL CALL:

AYES: Commissioners Mishevski, Simmons, Patel, Saewert, Rygiel & Chairman Kempa
NAYS:
ABSENT: Commissioner DeGraf
ABSTAIN:
Approved 6:0:1:0

V. NEW BUSINESS

VI. Public Comment

VII. Previous Application Updates

- A. ZBA 22-03 SU – Bar Salotto 1241 N. Rand Rd. is moving forward.
- B. **ZBA 22-0 SU V** – 6 N Elmhurst Pizza Pavia – has been open for about one month
- C. **ZBA 20-02 SU** – 1312 Rand Wing Stop is in the process of scheduling final inspections
- D. Finish the economic interest form.

VIII. Communications

- A. There will be a ZBA meeting on May 25 2023
- B. There will be a special meeting the week of May 15, date TBD.

IX. Adjournment 7:58 pm

Motion to Adjourn: Commissioner Patel
Second: Commissioner Saewert

ROLL CALL:

AYES: Commissioners Patel, Saewert, DeGraf and Chairman Kempa

NAYS:

ABSENT: Commissioners DeGraf

ABSTAIN:

Approved 6:0:1:0

VOICE VOTE:

AYES: Commissioners Patel, Saewert, Simmons, Mishevski, Rygiel and Chairman Kempa

NAYS:

ABSENT: Commissioner DeGraf

ABSTAIN:

Approved 6:0:1:0