

**CITY OF BELVIDERE
PLANNING AND ZONING COMMISSION**

Minutes

Tuesday February 9, 2021

City Council Chambers

401 Whitney Boulevard

6:00 pm

ROLL CALL

Members Present:

Carl Gnewuch, Chair
Natalie Mulhall, VCHM
Paul Engelman
Andrew Racz
Art Hyland
Robert Cantrell
Alissa Maher

Staff Present:

Gina DelRose, Community Development Planner
Cathy Crawford, Administrative Assistant
Mike Drella, City Attorney

The meeting was called to order at 6:00 p.m.

MINUTES: It was moved and seconded (Mulhall/Maher) to approve the minutes of the January 12, 2021 meeting. The motion carried with a 7-0 roll call vote.

PUBLIC COMMENT: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

2021-02: HRB Group Inc., 2001 North State Street: Application of Birju Trivedi, 4849 N. Milwaukee Avenue, Ste 408, Chicago, IL 60630 on behalf of the property owner, GPM Midwest LLC, 8565 Magellan Parkway, Ste 400, Richmond, VA 23227 for a special use to permit indoor commercial entertainment. Specifically, video gaming at 2001 North State Street, Belvidere, IL 61008 (Belvidere Zoning Ordinance Sections 150.105 (C)(5)(B)(2) Indoor Commercial Entertainment and 150.904 Special Use Review and Approval Procedures) in the GB, General Business District on 1.44 acres.

The public hearing was opened at 6:02 p.m.

Gina DelRose was sworn in. Ms. DelRose stated the case was published in the Boone County Journal on January 22, 2021 and certified mailings were sent to neighboring property owners on January 19, 2021. Ms. DelRose summarized the staff report dated February 1, 2021.

Gina DelRose provided a recent history of the subject property. Ms. DelRose indicated there is adequate parking for both the FasFuel gas station as well as the proposed gaming area use. The video gaming machines will be placed to the right

of the entrance doors in a direct line-of-sight to the cashier's counter and will be delineated by a partial wall-like structure. Although the gas station is open twenty-four hours a day, 7 days a week, by State law, the gaming machines will only be operational between 6am and 2am, when liquor is allowed to be sold.

Gina DelRose stated there are two other gas stations that have video gaming and permit the consumption of alcohol onsite. Staff is not aware of any problems video gaming or alcohol has created at either site.

Gina DelRose stated the Zoning Ordinance was updated in 2006 requiring a special use for indoor commercial entertainment. Bars and taverns in existence at the time were considered legal non-conforming for the bar use. In 2013 Illinois State law allowed for video gaming for municipalities that permitted it; State law permits a limit of six machines per establishment but requires a liquor license for the pouring of alcohol (except for establishments determined to be truck stops). Belvidere allowed video gaming in 2013 and in 2020 the City Council raised the number of video gaming establishments from 30 to 40. The applicant is aware that granting the special use does not guarantee a video gaming license.

Gina DelRose stated the planning staff recommends approval of case 2021-02 subject to the following conditions:

1. Open alcohol is prohibited outside the premises unless otherwise permitted.
2. Alcohol consumption is only permitted within the video gaming area.
3. The video gaming area must be enclosed and only accessible through a designated entrance.

The Chair asked if there were any questions for staff.

Paul Engelman asked which other gas stations allow the pouring of alcohol onsite.

Gina DelRose stated the Shell gas station on North State Street and the Kelly-Williams Mobil station on Logan Avenue and Bypass 20 allow for the pouring of alcohol.

The Chair invited the applicant to question staff. There were no questions from the applicant.

The applicant indicated he had no testimony to provide.

The public hearing closed at 6:09 p.m.

It was moved and seconded (Racz/Cantrell) to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Maher/Cantrell) to approve case 2021-02 subject to the three conditions as presented. The motion carried with a 7-0 roll call vote.

City Attorney Mike Drella stated the case would go before the City Council on February 15, 2021 and March 1, 2021 for a second reading and final vote.

2021-03: HRB Group Inc., 1052 Belvidere Road: Application of Birju Trivedi, 4849 N. Milwaukee Ave., Ste 408, Chicago, IL 60630 on behalf of the property owner, GPM Midwest LLC, 8565 Magellan Parkway, Ste 400, Richmond, VA 23227 for a special use to permit indoor commercial entertainment. Specifically, video gaming at 1052 Belvidere Road, Belvidere, IL 61008 (Belvidere Zoning Ordinance Sections 150.105(C)(4)(B)(2) Indoor Commercial Entertainment and 150.904 Special Use Review and Approval Procedures) in the PB, Planned Business District on 1.33 acres.

The public hearing opened at 6:10 p.m.

Gina DelRose was sworn in. Ms. DelRose stated the case was published in the Boone County Journal on January 22, 2021 and certified mailings were sent out on January 20, 2021. Ms. DelRose summarized the staff report dated February 2, 2021.

Gina DelRose provided a history of the subject property, which was formerly a Road Ranger gas station and is now named FasFuel. Ms. DelRose stated there is adequate parking for both the gas station and the proposed video gaming uses.

Ms. DelRose stated that the existing video gaming machines in Belvidere have not been shown to be unreasonably detrimental. Although the consumption of alcohol at a gas station is currently only permitted at two gas stations, patrons drive to and from bars just as they drive to and from gas stations. Unlike older gas stations in Belvidere, the subject property has adequate parking to serve both uses. The planning staff recommends approval of case 2021-03 subject to the following conditions:

1. Open alcohol is prohibited outside the premises unless otherwise permitted.
2. Alcohol consumption is only permitted within the video gaming area.
3. The video gaming area must be enclosed and only accessible through a designated entrance.

The Chair asked Ms. DelRose for a listing of the number of video gaming licenses currently issued.

Gina DelRose stated there are 30 licenses now issued, five special uses for indoor commercial entertainment approved, and six special use requests before the Commission tonight. Ms. DelRose clarified that, while there are an unlimited number of special uses allowed for indoor commercial entertainment because it encompasses other land uses in addition to video gaming, video gaming is subject to additional review by the State of Illinois. There is no guarantee that those receiving a special use permit will be granted a video gaming license.

Carl Gnewuch asked if there is any order to the applications when they are granted..

Gina DelRose stated that the requests are placed on the agenda in order of the date the applications are received.

The applicant was invited to provide testimony.

The applicant stated he had no testimony to provide.

The public hearing was closed at 6:18 p.m.

It was moved and seconded to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Mulhall/Engelman) to recommend approval of case 2021-03 subject to the conditions presented. The motion carried with a 7-0 roll call vote.

The City Attorney stated the case would go before the City Council for a first reading on February 15, 2021 and a second reading and final vote on March 1, 2021.

2021-04: Belvidere Tobacco and Liquor, 2038 North State Street: Application of property owner, Vasant Patel, 7197 Golden Eagle Drive, Loves Park, IL 61111 for a special use to permit indoor commercial entertainment. Specifically, video gaming at 2038 North State Street, Belvidere, IL 61008 (Belvidere Zoning Ordinance Sections 150.105(C)(5)(B)(2) Indoor Commercial Entertainment and 150.904 Special Use Review and Approval Procedures) in the GB, General Business District on 0.78 acres.

The public hearing opened at 6:21 p.m.

Gina DelRose was sworn in. Ms. DelRose stated the case was published in the Boone County Journal on January 22, 2021 and certified mailings were sent on

January 19, 2021. Ms. DelRose summarized the staff report dated February 1, 2021.

Gina DelRose stated the subject tenant space is part of an approximately 14,000 square-foot multi-tenant building. The remaining tenant spaces are occupied by a mix of commercial and professional services. There is limited parking in front of the building and additional parking in the rear. All but four tenant spaces (including the subject property) are accessible by doors opening onto the rear parking lot. The six video gaming machines are proposed to be along the north wall next to the cigar room and in direct line of sight of the cashier. Due to the nature of the business and the unlikely scenario of minors interacting with those using the gaming machines, structures delineating the machines from the rest of the business will not be required.

Gina DelRose stated that emphasis will need to be placed on the use of the rear parking lot for employees and those patronizing interior tenant spaces. There do not appear to be any public benefits or adverse impacts related to the special use request. The planning staff recommends approval of case 2021-04 subject to the following conditions:

1. Open alcohol is prohibited outside the premises unless otherwise permitted.
2. The video gaming shall be in substantial compliance with the site plan submitted.
3. The special use is only for the tenant space commonly known as 2038 North State Street.

The Chair invited questions to the staff.

Paul Engelman asked if the decision to allow video gaming machines without the delineating wall-like structure is a locally-driven decision.

Gina DelRose stated that it is. Ms. DelRose stated the local requirements for such delineation are stricter than those imposed by State law, but stated she is comfortable with the lack of formal delineation due to the nature of the business establishment and the unlikelihood of the presence of minors.

Paul Engelman asked if the special use “dies” if the business changes hands.

Gina DelRose stated the special use would remain in place unless it ceases to operate for a year.

Robert Cantrell asked if there were any current video gaming establishments with half-wall structures.

Gina DelRose stated the Speedway truck stop has such a half-wall.

The applicant was invited forward. The applicant had no questions for staff and did not have testimony to offer.

The public hearing was closed at 6:30 p.m.

It was moved and seconded (Mulhall/Racz) to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Maher/Mulhall) to approve case 2021-04 subject to the conditions presented. The motion carried with a 7-0 roll call vote.

2021-05: JUM Group, LLC, 171 South Appleton Road: Application of JUM Group, LLC, 171 South Appleton Road, Belvidere, IL 61008 on behalf of the owner, JI Corporation, 171 S. Appleton Road, Belvidere, IL 61008 for a special use to permit indoor commercial entertainment. Specifically, video gaming at 171 South Appleton Road, Belvidere, IL 61008 (Belvidere Zoning Ordinance Sections 150.105(C)(5)(B)(2) Indoor Commercial Entertainment and 150.904 Special Use Review and Approval Procedures) in the GB, General Business District on 0.34 acres.

The public hearing opened at 6:40 p.m.

Gina DelRose was sworn in. Ms. DelRose stated the case was published in the Boone County Journal on January 22, 2021 and certified mailings were sent out on January 19, 2021. Ms. DelRose summarized the staff report dated February 2, 2021. Ms. DelRose presented the existing land uses and current zoning of the surrounding properties. The Comprehensive Plan shows the subject property as Institutional and surrounding properties to the north, south and west as Institutional as well, with Passive Recreation to the east; Ms. DelRose said this was a good example of the Comprehensive Plan not matching the existing land uses.

Gina DelRose stated the subject property was developed prior to the current zoning ordinance and exceeds the required 85% lot coverage in addition to not meeting pavement setbacks. The building requires a minimum of eight parking spaces for both gas station and indoor commercial entertainment uses. According to an old site plan, five previously striped parking spaces are located onsite. If additional land uses such as video gaming are to be permitted, then the zoning ordinance's parking requirements shall be met. This will require land from the adjacent property which is under common ownership to be developed with a parking lot and shared access easement. Ms. DelRose gave the definition of a shared access easement.

Gina DelRose stated the property to the north previously held a special use for indoor commercial entertainment and operated as a bar with a large outdoor area for decades. Land uses within the indoor commercial entertainment category are not out of character for the area, however, adequate parking currently does not exist. Expansion of the parking area and a recorded cross access easement will allow for proper ingress and egress. Future development of the surrounding property will be impacted more by the floodplain to the north as well as the railroad tracks to the south. There is a large amount of publicly owned land in the vicinity of the subject property. The planning staff recommends approval of case 2021-05 subject to the following conditions:

1. Open alcohol is prohibited outside the premises unless otherwise permitted.
2. Alcohol consumption is only permitted within the video gaming area.
3. The video gaming area must be enclosed and only accessible through a designated entrance.
4. The adjacent property to the north shall be utilized in order to meet the minimum parking requirements of the Belvidere Zoning Ordinance. A perpetual cross access easement, for such parking, shall be recorded prior to approval of an ordinance authorizing a special use for indoor commercial entertainment.

Gina DelRose explained to the applicant that this means that gaming operations cannot begin until the required parking area is paved and striped; however, the cross-access easement must be recorded prior to the March 1, 2021 City Council meeting.

The Chair asked Ms. DelRose where the proposed additional parking will be located.

Gina DelRose indicated the location is to be on the property adjacent, the former Waterfall tavern. Ms. DelRose stated that, due to the large amount of snow present, she had to utilize an old site plan to indicate what parking was already provided to determine how many additional spaces were needed.

The applicant, Jamal Chaudhary, had no questions for the staff.

The applicant stated he did not wish to give any testimony.

The public hearing closed at 6:40 p.m.

It was moved and seconded (Cantrell/Hyland) to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Racz/Cantrell) to recommend approval of case 2021-05 subject to the four conditions presented. The motion carried with a 7-0 roll call vote.

2021-06: JUM Group, LLC, 600 Logan Avenue: Application of JUM Group, LLC, 171 S. Appleton Road, Belvidere, IL 61008 on behalf of the owner, JI Corporation, 171 S. Appleton Road, Belvidere, IL 61008 for a special use to permit indoor commercial entertainment. Specifically, video gaming at 600 Logan Avenue, Belvidere, IL 61008 (Belvidere Zoning Ordinance Sections 150.105(C)(3)(B)(2) Indoor Commercial Entertainment and 150.904 Special Use Review and Approval procedures) in the NB, Neighborhood Business District on 0.31 acres.

The public hearing opened at 6:43 p.m.

Gina DelRose stated that the case was published in the Boone County Journal on January 22, 2021 and certified mailings were sent on January 19, 2021. Ms. DelRose summarized the staff report dated February 3, 2021.

The gas station is located at the northeast corner of Logan and Warren Avenues and has been in existence since 1967 according to county records. In 2015, per Ordinance 273H a special use for a planned development was approved. A total of 10 deviations were granted in order to bring the site into compliance as well as allow for the expansion of the building, the hours of operation and to reduce the required number of parking spaces. Older gas stations are not likely to be redeveloped due to environmental concerns from aging underground storage tanks. Assisting these properties so they may continue to operate as gas stations is oftentimes the better option versus letting them become vacant and blighted.

The 2,140 square-foot building requires a minimum of 7 parking spaces for both the gas station and indoor commercial entertainment land uses. Only 5 parking spaces currently exist on the property and there is not adequate space to stripe any more that would meet the requirements of the Belvidere Zoning Ordinance. Ordinance 273H allowed for the reduction of the required parking spaces in conjunction with the gas station because customers are making frequent "quick purchases" and leaving. However, land uses associated with indoor commercial entertainment encourage customers to be onsite for a longer period of time, making adequate parking more crucial. If additional land uses such as video gaming are to be permitted, then the zoning ordinance's parking requirements shall be met. However, unless additional land is purchased, there is no means to meet this requirement.

The Zoning Ordinance was updated in 2006 requiring a special use for Indoor Commercial Entertainment. Bars and taverns that were in existence prior to that

date have been considered legal nonconforming for the bar use. In 2013, Illinois State Law allowed municipalities to determine that video gaming would be permitted within their jurisdiction. The State limits the number of machines to six per establishment and every establishment must have a liquor license that allows for the pouring of alcohol (except for those that qualify as a truck stop). In 2013, Belvidere voted to allow video gaming and in 2020, the City Council voted to increase the limit the number of gaming establishments from 30 to 40. The applicant is aware that granting the special use does not guarantee them a license.

The applicant is proposing to install the gaming machines to the left of the entrance doors in the direct line of sight of the cashier's counter. The machines would be separated from the convenience store by a partial wall. The existing video gaming machines in Belvidere have not been shown to be unreasonably detrimental. Although the consumption of alcohol at a gas station is currently only permitted at two gas stations, patrons drive to and from bars just as they drive to and from gas stations. However, like many older gas stations in Belvidere, the subject property does not have adequate parking or room onsite for expanding the existing parking which could force patrons to park on the adjacent residential street.

Although the property has frontage along Logan Avenue which is developed with a mix of low intensity commercial and mixed residential land uses, due to the lack of adequate parking, the indoor commercial entertainment land use could create negative traffic factors. Adding land uses to a parcel that currently does not have sufficient parking exacerbates problems such as vehicle circulation, accessibility for customers, parking on residential streets, parking in neighboring businesses' parking lots, and other issues.

Although a previous special use allowed for the gas station to operate twenty-four/seven, video gaming machines can only be operational from 6am to 2am when liquor is allowed to be sold. In order to not negatively impact neighboring businesses, such as the daycare center, the playground of which is within 25 feet of the subject property, conditions must be met to ensure that the indoor commercial entertainment land use is not noticeable outside of the building. Due to the lack of adequate parking, however, customer parking on the street or neighboring businesses is highly likely.

Although successful commercial businesses are beneficial to a community, negative impacts to neighboring residences, businesses and vehicle circulation on public rights-of-way can diminish the benefits seen. The planning staff, therefore, recommends denial of case 2021-06. If the Planning and Zoning Commission, however, wish to approve the case, the planning staff recommends the following conditions:

1. Open alcohol is prohibited outside the premises.

2. Alcohol consumption is only permitted within the video gaming area.
3. The video gaming area shall be enclosed by a partial wall and only accessible through a designated entrance.
4. The indoor commercial entertainment land use shall be restricted to the area shown on the site plan.

The Chair invited questions for the staff.

Alissa Maher asked if there shouldn't be at least six parking spaces onsite since site plan shows six video gaming machines being proposed.

Gina DelRose stated that the Zoning Ordinance parking requirements for indoor commercial entertainment are based on square footage because the land use encompasses multiple types of businesses. Ms. DelRose said that it is correct, however, to note that with employee parking, casual customers as well as patrons there for video gaming, the need for adequate parking increases. When land uses become mixed, as is the case with the subject property, parking demands increase.

Mike Drella asked Ms. DelRose if any alternative designs to address parking were discussed.

Gina DelRose stated the topic had been discussed with the applicant; no approvable alternative had been found.

Carl Gnewuch asked if the City had ever approved any sites with similar parking inadequacy.

Gina DelRose said no; high priority is given to locating necessary parking on the subject properties and not forcing parking needs to spill over to surrounding streets.

Paul Engelman asked if there is any issue with the special use being located next door to a daycare center.

Gina DelRose stated that, although there is a requirement that no such uses be located within 100 feet of a hospital or school, daycare centers are not included in that restriction.

Carl Gnewuch asked how long a video gaming patron may tend to stay at the subject property.

Gina DelRose said it depends greatly on the patrons.

Carl Gnewuch asked Ms. DelRose to clarify the parking spaces present.

Gina DelRose did so, indicating a site plan provided.

Carl Gnewuch asked where else patrons might park.

Gina DelRose said there is nowhere else on the site to locate parking spaces; parking for the proposed use should not be forced onto residential streets or neighboring properties.

The Chair invited the applicant to question staff. Mr. Chaudhary had no questions for the staff.

Jamal Chaudhary was sworn in. Mr. Chaudhary said it was his experience that patrons of the gas station do not stay long and he has never seen all five parking spaces used at once. Mr. Chaudhary asked how many are required.

Gina DelRose stated seven.

Jamal Chaudhary said that the trash dumpsters could be relocated to provide additional parking spaces as well as there being space near the gas tanks.

Mike Drella asked for clarification that the applicant had never seen high levels of parking at his gas station.

Jamal Chaudhary said that was correct.

Mike Drella asked if the applicant had ever run a bar at that location.

Jamal Chaudhary said he had not.

Robert Cantrell stated he did not often see patrons at the subject property.

Paul Engelman stated that the presence of video gaming machines may tend to change that patronage.

Gina DelRose referred to the site plan provided to commissioners. Ms. DelRose stated that relocating parking to the area near the dumpsters is unworkable as dumpsters must be located on paved ground and be accessible by garbage trucks. Ms. DelRose said patrons come and go quickly at this time, but video gaming patrons could stay at the location for hours if they chose to do so. Parking becomes a more critical issue in such a case.

Mike Drella reminded the applicant he could cross-examine Ms. DelRose's testimony.

Jamal Chaudhary asked if there are other gaming establishments approved by the City that violate the parking requirement. Mr. Chaudhary mentioned several that he felt did violate the requirement.

Gina DelRose stated that video gaming establishments located in the Downtown area are not under the same requirements for onsite parking, as the Downtown area encourages the use of municipal parking lots and patrons walking to and from the locations. Ms. DelRose said for establishments outside that area, the parking requirements cannot be waived. The City wishes for businesses to be successful so parking requirements are not reduced in anticipation of a struggling business.

The public hearing was closed at 7:05 p.m.

It was moved and seconded (Cantrell/Racz) to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Engelman/Maher) to recommend denial of case 2021-06. The motion carried with a 6-1 roll call vote. Robert Cantrell voted no.

Gina DelRose stated the case would go to the City Council for a silent reading on February 15, 2021 and a second reading and final vote on March 1, 2021.

2021-07: Bravo's Pizza, 1474 North State Street: Application of Mario Pompeo, 4014 Tatum Road, Rockford, IL 61114 on behalf of the owners Ed and Judy Winter, 1409 Walts Way, Belvidere, IL 61008 for a special use to permit indoor commercial entertainment. Specifically, video gaming at 1474 North State Street, Belvidere, IL 61008 (Belvidere Zoning Ordinance Sections 150.105(C)(5)(B)(2) and 150.904 Special Use Review and Approval Procedures) in the GB General Business District on 1.28 acres.

The public hearing opened at 7:10 p.m.

Gina DelRose was sworn in. Ms. DelRose stated the case was published in the Boone County Journal on January 22, 2021 and certified mailings were sent on January 19, 2021. Ms. DelRose summarized the staff report dated February 1, 2021.

The Bravo's Pizza tenant space occupies 1,400 square feet of the approximately 20,000 square-foot multi-tenant building. The remaining tenant spaces are occupied by a mix of commercial and professional services. There is a large parking area that has adequate parking for existing and new businesses. The restaurant has been considering obtaining a liquor license based on customer requests and is requesting the special use to allow for video gaming machines as a means to support the liquor license.

The six video gaming machines are proposed to be along the northeast wall, set back from the dining tables. These machines will be partially blocked off by the storage room and the vestibule walls. Stanchions will be placed, further delineating them from the dining room. A separate bar area may be installed so that drink purchase can be made away from the front counter. The hours of operation are not anticipated to expand but that may change in the future.

The indoor commercial land use will not be noticeable from the outside save for potential signage. There is an active special use for indoor commercial entertainment three tenant spaces away (House of Bottles). The property has adequate parking and ingress/egress off North State Street. The additional traffic from the special use is not anticipated to negatively impact the accessibility of nearby businesses. Ms. DelRose stated the planning staff recommends approval of case number 2021-07 subject to the following conditions:

1. Open alcohol is prohibited outside the premises unless otherwise permitted.
2. The video gaming shall be in substantial compliance with the site plan submitted.
3. The special use is only for the tenant space commonly known as 1474 North State Street.

The Chair invited questions for the staff. Seeing none, he invited the applicants to question staff.

The applicants had no questions for the staff.

The applicants stated they had no testimony to offer.

The public hearing was closed at 7:18 p.m.

It was moved and seconded (Mulhall/Cantrell) to accept the findings of fact as presented in the staff report. The motion carried with a 7-0 roll call vote.

It was moved and seconded (Maher/Mulhall) to recommend approval of case 2021-07 subject to the stated conditions. The motion carried with a 7-0 roll call vote.

OTHER BUSINESS: None

DISCUSSION: None

Staff Report:

Gina DelRose stated that if no applications are presented by February 10, 2021, there would be no cases before the Commission in March. There is a high probability of a large caseload in April, however.

ADJOURNMENT:

The meeting adjourned at 7:21 p.m.

Recorded by:



Cathy Crawford
Administrative Assistant

Reviewed by:



Gina DelRose
Community Development Planner