

**CITY OF BELVIDERE
PLANNING AND ZONING COMMISSION**

Minutes

**Tuesday May 11, 2021
City Council Chambers
401 Whitney Boulevard
6:00 pm**

ROLL CALL

Members Present:

Carl Gnewuch, Chair
Alissa Maher
Paul Engelman
Andrew Racz
Art Hyland
Vacancy

Staff Present:

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

Members Absent:

Robert Cantrell

The meeting was called to order at 6:07 p.m.

MINUTES: It was moved and seconded (Hyland/Racz) to approve the minutes of the April 13, 2021 meeting. The motion carried with a 5-0 roll call vote.

PUBLIC COMMENT: None

UNFINISHED BUSINESS: None

NEW BUSINESS:

2021-09: Casey's General Store #3598: Application of Casey's Retail Company DBA Casey's General Store #3598, PO Box 3001, One SE Convenience Blvd, Ankeny, IA 50021 on behalf of the property owner, Casey's Retail Company, PO Box 3001, One SE Convenience Blvd, Ankeny, IA 50021 for a special use to permit indoor commercial entertainment. Specifically, video gaming at 425 Beloit 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.

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

Gina DelRose was sworn in and stated the case was published in the Boone County Journal on April 23, 2021 and certified mailings were sent to property owners within 250 feet of the subject property on April 22, 2021. Ms. DelRose summarized the staff report dated May 4, 2021.

Gina DelRose stated that the property is part of Plat 2 of Big Thunder Village which was rezoned to commercial in 1989 and platted in 1996. On February 6, 2017 a special use for a planned development to construct the Casey's store was granted. The video gaming area is anticipated to utilize only 150 square feet of the establishment which is minimal compared to the total size of 4,620 square feet. Sixteen parking spaces are required; the site currently has 25 striped spaces not counting the areas at the gas pumps. There is, therefore, adequate parking to accommodate the dual land use.

The gaming machines will be near the kitchen area on the northeast side of the building in direct line of sight to the cashier's counter. Information included with the application proposes a glass wall-like structure enclosing the gaming area and restricting access to those that are under 21 years of age. Although the Zoning Ordinance permits the gas station to be open seven days a week, 24 hours a day, gaming machines will only be operational when liquor is allowed to be sold.

Out of the five gas station locations that have received special uses, two are operational and permit the consumption of alcohol onsite. The Speedway Gas Station on Crystal Parkway qualifies as a truck stop, therefore, they were able to offer video gaming without the allowance of alcohol consumption onsite. Staff is not aware of any problems video gaming or alcohol has created at either site.

In 2006 when the City adopted a new Zoning Ordinance that required a special use for Indoor Commercial Entertainment, bars and taverns that were in existence prior to that date were considered legal nonconforming for the bar use. In 2013 when the State of Illinois allowed video gaming, the City allowed it as a special use. At first there was a restriction to five gaming machines, now six total machines are allowed per establishment. Liquor is required to be sold and consumed on the premises. Recently the City increased the limit of gaming establishments from 30 to 40. The applicant is aware that granting of the special use does not guarantee them a gaming license.

The staff recommends approval of case 2021-09 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 invited questions from the Commission for the staff.

Paul Engelman asked Ms. DelRose to clarify the allowable consumption of alcohol at the subject property.

Gina DelRose stated the video machines are only operational while alcohol is allowed to be sold; the State of Illinois controls this through a master switch that turns the machines on and off at allowable times. The onsite consumption of alcohol, however, can only be done within the enclosed gaming area. This will prevent open alcohol from being carried inside the store where minors may be present.

Mike Drella stated the video gaming establishments must adhere to the City of Belvidere liquor code regarding hours of allowable liquor sales.

Carl Gnewuch asked for clarification of the "Three Beer" maximum.

Gina DelRose said that the maximum is imposed by the applicant; it is not included as a condition for approval as it is felt such a condition would be unenforceable outside of Casey's staff. The Kelly-Williamson Mobil gas station has a similar maximum and the relatively high cost of each item of alcohol serves to limit consumption at the video gaming area. Casey's will be using a similar model.

Mike Drella clarified that where video gaming is allowed, they must allow for alcohol with the exception of truck stops and certain veteran's organizations.

Gina DelRose further clarified that, unlike other municipalities that allow different tiers of allowable liquor sales, Belvidere chooses to regulate it through the special use process.

The Chair invited the applicant to make a presentation.

Lori Forsythe, representative of Casey's General Store, was sworn in. Ms. Forsythe made a presentation of Casey's plan for its proposed video gaming use. Ms. Forsythe discussed the operational video gaming currently in place at various Casey's stores. Ms. Forsythe described the enclosed gaming area, which would be accessible only by swiping one's license onto a scanner at the door. Ms. Forsythe stated that, in her opinion, little drinking is done by video gaming patrons as the price of alcohol items is high enough to discourage overconsumption. Ms. Forsythe stated that the majority of profit in a gas station is in retail sales, not the gasoline sold. Video gaming is a way to boost that profit.

There were no questions for the applicant.

The public hearing was closed at 6:26 p.m.

It was moved and seconded (Maher/Hyland) to accept the findings of fact as presented in the staff report. The motion carried with a 5-0 roll call vote.

It was moved and seconded (Racz/Maher) to recommend approval of case 2021-09 subject to the conditions as presented. The motion carried with a 5-0 roll call vote.

Gina DelRose stated the case would go before the City Council on May 17, 2021 and for a final vote on June 7, 2021.

2021-10: City of Belvidere (TA): Application of the City of Belvidere, 401 Whitney Boulevard, Belvidere, IL 61008 for a text amendment to the City of Belvidere Zoning Ordinance (Chapter 150 as amended) pertaining to Sections 150.105(D) Institutional District, 150.204(C) Institutional Land Uses, Table 150.405(C) Permitted Intrusions into Required Yards, Section 150.1005 Signs Exempt from Regulation Under this Section and Appendix C: Land Use Summary Chart and Section 150.902 Amendment of Zoning Regulations (Text Amendments). Specifically, the amendments in regard to setbacks for institutional land uses, permitted institutional land uses, wheelchair ramps and flag poles.

The public hearing opened at 6:27 p.m.

Gina DelRose was sworn in. Ms. DelRose stated the case was published in the Boone County Journal on April 23, 2021 and no certified mailings were required. Ms. DelRose presented the staff report dated May 4, 2021.

Gina DelRose stated the first amendment being requested is the correction of code conflicts regarding the required setbacks in the Institutional District. The required setbacks for the Institutional District conflict between those listed in Chapter 1 of the Belvidere Zoning Ordinance, and those listed as the required setback from residentially-zoned property in Chapter 2 of the Zoning Ordinance. Staff is recommending adding a cross reference to the increased setbacks in Chapter 1 to prevent potential confusion in the future. Staff is also recommending that the 50-ft setback be removed from the Indoor Institutional Minor land use category. This category encompasses land uses such as churches, museums, libraries, etc. Many of these structures existed prior to the adoption of the current Zoning Ordinance and do not meet the 50-foot setback requirements. This can create problems if extensive repairs or remodeling are ever needed to what are legally nonconforming structures. The land use is outright permitted in the Central Business District which consists mainly of buildings constructed lot line to lot line or are on lots not even 50-feet wide, let alone allowing for a 50-foot setback.

Gina DelRose stated the second amendment to the Zoning Ordinance that is being proposed is adding accessibility ramps to the list of structures in Table 150.405(C) that are allowed to encroach a certain amount into the required setback. It is not uncommon to see a residence with a ramp leading from the front door to the driveway to allow for access by someone experiencing a mobility impediment. Allowing ramps to encroach into the front and rear yards by up to 12 feet should allow for sufficient space to design the ramp with the required slopes and landing to reach from the front door to the driveway.

The third text amendment proposed would allow for residential properties to have up to three flag poles; this would discourage the display of multiple flags on the same flag pole. Multiple flags on the same pole can be unsightly and prove difficult when half-mast orders are announced.

The fourth text amendment would correct a typographical error involving the Outdoor Institutional land uses. In Chapter 1, the Outdoor Institutional is shown as permitted by right while the Table of Permitted Land Uses in Appendix C shows Outdoor Institutional as permitted by special use. Staff is recommending that the table in Appendix C be amended to reflect the same regulations as found in Chapter 1.

Staff recommends approval of case 2021-10.

Chairman Carl Gnewuch invited questions for the staff.

Paul Engelman asked for clarification that the amendment is allowing for up to three flagpoles on a property.

Gina DelRose said this is correct.

Paul Engelman asked if it is correct that there is no stipulation as to where these flag poles may be placed.

Gina DelRose said that is correct.

Paul Engleman stated his reservations in approving such a change and felt the residential display of flag poles should be more restrictive. It is Mr. Engelman's opinion that trends should not force changes to the Zoning Ordinance.

Alissa Maher asked if there is a reason the code allowed for only one flagpole originally.

Gina DelRose said she assumed this restriction was for aesthetic purposes.

Carl Gnewuch asked if there was any stated rationale given for that restriction.

Gina DelRose said there was not; the city cannot regulate what flags are displayed on flag poles due to the Freedom of Speech.

Paul Engelman asked for clarification of what the Zoning Ordinance allows regarding the potential height of a flag pole in a residential area.

Gina DelRose said in the SR-6 District, the most common residential district, a flag pole would not be allowed to exceed 40 feet in height.

Andy Racz moved to approve case 2021-10. Art Hyland seconded the motion.

Discussion was held regarding the height of flag poles

Mike Drella suggested each text amendment should be separately voted upon by the Commission.

The previous motion to approve was withdrawn.

It was moved and seconded (Maher/Engelman) to recommend approval of a text amendment pertaining to Section 150.105(D) Institutional District and Section 150.204(C) Institutional Land Uses. The motion carried with a 5-0 roll call vote.

It was moved and seconded (Engelman/Maher) to recommend approval of the text amendment regarding Table 150.405(C) Permitted Intrusions into Required Yards. The motion carried with a 5-0 roll call vote.

It was moved and seconded (Engelman/Maher) to recommend approval of a text amendment to Section 150.1005 Signs Exempt from Regulation Under this Section. The motion failed with a 3-2 roll call vote. Paul Engelman and Carl Gnewuch voted no.

It was moved and seconded (Maher/Engelman) to recommend approval of a text amendment to Appendix C: Land Use Summary Chart. The motion carried with a 5-0 roll call vote.

OTHER BUSINESS: None

DISCUSSION: None

Staff Report:

Gina DelRose stated there will be two cases before the Commission in June, 2021. Ms. DelRose said the first Buchanan Street Strolls event would take place on May 16, 2021 from 1:00 p.m. to 6:00 p.m.

ADJOURNMENT:

The meeting adjourned at 6:50 p.m.

Recorded by:


Cathy Crawford
Administrative Assistant

Reviewed by:


Gina DelRose
Community Development Planner