



# Agenda Cover Memorandum

Meeting Date: January 25, 2016

Meeting Type:  COW (Committee of the Whole)  City Council  Budget Workshop

Item Title: Discussion of an ordinance amending Sections 4 and 5, regarding procedures for zoning applications

Action Requested:  Approval  For discussion  
 Feedback requested  For your information

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## Background:

Due to recent cases and a subsequent evaluation of procedures for zoning applications by the City Attorney, modifications have been drafted to the Zoning Ordinance. The changes include having denials of major variances and special uses move forward to City Council to make the final determination; clarifying that minutes, reports, ordinances or other written record may serve as findings of fact; allowing majority votes on Council initiated text amendments; and creating an appeals process for site plans.

On a recent case involving a major variance for a fence in the front yard setback, 831 Home Avenue, the Zoning Board of Appeals (ZBA) recommended approval on a close vote of 4 to 3. The code currently identifies that if the Board votes to deny an application it is the final administrative decision so it does not move on to Council. On the fence variance the Council approved the case on a vote of 7-0. This case instigated a review of major variance denials. Upon review of the code by the City Attorney they found that while the code refers to ZBA and the Planning and Zoning Commission (PZC) as recommending bodies, it also gives those bodies certain administrative authority on denials. The recommended changes address this inconsistency by removing those final administrative decisions by ZBA and PZC. It is recommended that a denial of a major variance or a special use, including Planned Developments, would move to Council for a final decision.

The fence case also raised questions by the Council on the form of findings of fact. During the discussion of the zoning case the Council, as part of the determination of whether to waive the second reading and moving forward with approval, received the opinion from the City Attorney that other elements can serve as findings of fact other than the form previously forwarded by ZBA or PZC. The draft amendment clarifies this issue.

On a separate case, 400 Talcott, a site plan was denied. The code identifies that PZC approval or denial of a site plan is the final administrative decision and does not offer an appeal process for the applicant. The City Attorney has identified that allowing an appeal to Council gives the City more protection by having the final determination by the legislative body. This process avoids undue time for all applicants going to Council but allows for the appeal of denials to the elected officials.

The Zoning Amendment Action Table is also recommended to be modified. It is not clear on why the current ordinance necessitates a supermajority vote for a City Council initiated text or map amendment after a negative PZC recommendation. It is recommended that in those cases, the vote required for adoption be by majority.

The process for changes to the Zoning Ordinance that are initiated by the City is to have the issue as a discussion item at the Committee level (January 25th) and then for approval at the next available meeting. The approval would move the issue forward to Council. Council would direct whether to move

forward with the text amendment. If supported by Council the case would go through a public hearing process at PZC before coming back to Council for a final decision.

Recommendation:

Discussion of an ordinance amending Sections 4 and 5, regarding procedures for zoning applications.

Budget Implications:

Does Action Require an Expenditure of Funds:  Yes  No

If Yes, Total Cost:

If Yes, is this a Budgeted Item:

Yes  No  Requires Budget Transfer

If Budgeted, Budget Code (Fund, Dept, Object)

Attachments:

- Draft Ordinance modifying procedures for zoning applications

**2016 -  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PARK RIDGE  
AMENDING THE ZONING ORDINANCE OF PARK RIDGE  
REGARDING PROCEDURES FOR ZONING APPLICATIONS**

WHEREAS, the City of Park Ridge is an Illinois home rule municipal corporation organized and operating pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, pursuant to its home rule powers and 65 ILCS 5/11-13-1 *et seq.*, the City has enacted zoning regulations that have been codified as the Zoning Ordinance of the City of Park Ridge (“Zoning Ordinance”); and

WHEREAS, from time-to-time, the City reviews its Zoning Ordinance to determine whether it needs to be updated or amended to better address current circumstances; and

WHEREAS, in accordance with Section 4.8 of the Zoning Ordinance, proposed amendments to the Zoning Ordinance pertaining to the administration and procedures for zoning applications were referred to the Planning and Zoning Commission (“PZC”) for public hearing and recommendation; and

WHEREAS, pursuant to notice duly published, the PZC conducted a public hearing on \_\_\_\_\_, 2016, regarding the proposed amendments to the Zoning Ordinance, and at the conclusion of the public hearing, the PZC recommended in favor of the adoption of certain of the proposed amendments to the Zoning Ordinance; and

WHEREAS, the Corporate Authorities find and determine that it is in the best interests of the City and its residents to amend the Zoning Ordinance, as set forth in this Ordinance; and

BE IT ORDAINED by the City Council of the City of Park Ridge, Cook County, Illinois, pursuant to its home rule authority provided under Article VII of the Illinois Constitution of 1970 as follows:

**SECTION 1:** Paragraph 3, entitled "Procedure for Major Variance," of Subsection D, entitled "Procedure," of Section 4.4, entitled "Zoning Variance," of the Zoning Ordinance is amended as follows:

**3. Procedure for Major Variance**

- a. Major variances, defined as any variance other than those described in Paragraphs D.1 (Administrative Variance) and D.2 (Minor Variance) above, shall be reviewed by the Zoning Board of Appeals in a public hearing, but the Board shall have no authority to grant final approval for or denial of such major variances.
- b. The Zoning Board of Appeals shall conduct a public hearing in accordance with Section 3.4 (Public Hearing) within sixty (60) days of receipt of a complete application. The Zoning Board of Appeals shall ~~make~~ recommend findings of fact to the City Council, based upon the evidence presented at the public hearing, with respect to each of the standards in Paragraph E (Findings of Fact) below. If, in the Zoning Board of Appeal's judgment, the application does not contain sufficient information to enable the Board to properly discharge its responsibilities, the Board may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information.
- c. The Zoning Board of Appeals shall vote to recommend approval or approval with conditions, or to recommend denial of ~~deny~~ the application. The Zoning Board of Appeals shall, within forty-five (45) days of the close of the public hearing, forward its recommendation to the City Council. ~~If the Board shall vote to deny an application, such action shall constitute a final administrative decision.~~
- d. The City Council shall consider the major variance ~~by enactment of an ordinance~~ within thirty (30) days of receipt of the Zoning Board of Appeals recommendation. The City Council shall have the authority to approve the major variance by enactment of an ordinance, with or without conditions, or to deny the major variance. The City Council may also refer the application back to the Zoning Board of Appeals for further consideration.
- e. The Zoning Board of Appeals may recommend, and the City Council may impose, such conditions and restrictions upon the location, construction, design and use of the property benefited by a variance as may be necessary or appropriate to protect the public interest, adjacent property and property values. Failure to maintain such conditions or restrictions as may be imposed shall constitute grounds for revocation of the variance. The terms of relief granted, including any conditions or restrictions, shall be

specifically set forth in the ordinance approving the major variance ~~concluding statement separate from the findings of fact.~~

**SECTION 2:** Paragraph 1 of Subsection E, entitled “Findings of Fact,” of Section 4.4, entitled “Zoning Variance,” of the Zoning Ordinance is amended as follows:

**E. Findings of Fact**

1. No variance from the provisions of this Ordinance shall be granted unless the Zoning Administrator (administrative variance), the Zoning Board of Appeals (minor variance) and City Council (major variance) makes specific written findings of fact based directly on the standards and conditions imposed by this section. This requirement may be satisfied by incorporating the findings of fact into the meeting minutes of the Zoning Board of Appeals or City Council, the Zoning Administrator’s report, the ordinance approving the variance, or other written record.

These standards are as follows:

- a. The strict application of the terms of this Zoning Ordinance will result in undue hardship.
- b. The plight of the owner is due to unique circumstances.
- c. The variance, if granted, will not alter the essential character of the locality.

**SECTION 3:** Paragraph b of Paragraph 2, entitled “Planning and Zoning Commission Site Plan Review,” of Subsection D, entitled “Procedure,” of Section 4.5, entitled Site Plan Review, of the Zoning Ordinance is amended as follows:

- b. **Procedure for Site Plan Review by Planning and Zoning Commission**
  - i. A decision on a completed application for site plan review by the Planning and Zoning Commission shall be rendered within sixty (60) days of the date the complete application is received by the Zoning Administrator. Notice shall be given in accordance with Section 3.3.C (Posted Sign Notices).
  - ii. If, in the Planning and Zoning Commission’s judgment, the site plan review application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that

event, the sixty (60) day period shall be suspended pending receipt of all requested information.

iii. The Planning and Zoning Commission shall approve, approve with conditions or deny the site plan within sixty (60) days. The vote on every decision of the Planning and Zoning Commission, with respect to site plan review shall be included in the Commission's minutes. The Zoning Administrator shall notify the applicant within ten (10) days of the action taken. The Planning and Zoning Commission shall evaluate the site plan pursuant to the applicable standards in Paragraph D (Standards for Site Plan Review) below. Planning and Zoning Commission approval or denial of a site plan shall be considered a final administrative decision. Planning and Zoning Commission denial of a site plan may be appealed by the applicant as set forth in paragraph iv below.

iv. An applicant may appeal the Planning and Zoning Commission's denial of its site plan to the City Council by submitting a written request to the Zoning Administrator within ten (10) days of the notice of the denial. The City Council will consider the applicant's appeal within 60 days of receipt of the applicant's request. The City Council has the authority to grant the applicant's appeal and approve the site plan, with or without modifications, or deny the applicant's appeal and uphold the denial of the site plan.

**SECTION 4:** Subsection D, entitled "Procedure," of Section 4.6, entitled "Special Use," of the Zoning Ordinance is amended as follows:

**D. Procedure**

Applications for special uses shall be filed with the Zoning Administrator in accordance with the requirements in Section 3.2 (Application). Upon receiving a complete application, the Zoning Administrator shall schedule the application for consideration by the Planning and Zoning Commission. (See Appendix B for Flowchart 4: Special Use Process.)

**1. Action by the Planning and Zoning Commission**

a. The Planning and Zoning Commission shall conduct a public hearing on a proposed special use in accordance with Section 3.4 (Public Hearing) no more than sixty (60) days of receipt of a complete application. Notice for the

public hearing shall be in accordance with Section 3.3 (Public Notice). If, in the Planning and Zoning Commission's judgment, the application does not contain sufficient information to enable the Commission to properly discharge its responsibilities, the Commission may request additional information from the applicant. In that event, the sixty (60) day period shall be suspended pending receipt of all requested information.

- b. Following a public hearing on an application for special use, the Planning and Zoning Commission shall ~~determine whether or not~~ vote to recommend approval or approval with conditions or to recommend denial of the special use. The Planning and Zoning Commission shall, within forty-five (45) days of the close of the public hearing, forward its recommendation ~~or approval or approval with conditions~~ to the City Council together with the minutes of the hearing and the Commission's findings of fact. The Planning and Zoning Commission shall make findings of fact, based upon the evidence presented at the public hearing, pursuant to each of the applicable standards in Paragraph E (Findings of Fact) below and the standards of Section 4.5.D (Standards for Site Plan Review). ~~If the Commission shall vote to deny the application, such action shall constitute a final administrative decision.~~
  
- ~~e. The Planning and Zoning Commission shall vote to recommend either approval or approval with conditions of the special use, and such recommendation shall be forwarded to the City Council together with the minutes of the hearing and the Commission's findings of fact. The Planning and Zoning Commission shall make findings of fact, based upon the evidence presented at the public hearing, pursuant to each of the applicable standards in Paragraph E (Findings of Fact) below and the standards of Section 4.5.D (Standards for Site Plan Review). If the Planning and Zoning Commission shall vote to deny the special use application, such action shall constitute a final administrative decision.~~

## 2. Action by the City Council

The City Council shall consider the special use within thirty (30) days of receipt of the Planning and Zoning Commission recommendation. The City Council shall have the authority to approve the special use by enactment of an ordinance, with or without conditions, or to deny the special use. In granting any special use, the City Council may require such evidence and guarantees as it may deem necessary to assure compliance with

the stipulated conditions. The City Council may refer the application back to the Planning and Zoning Commission for further consideration.

**3. Conditions on Special Uses**

a. — The Planning and Zoning Commission may recommend, and the City Council may impose, such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as may be deemed necessary for the protection of the public interest.

b. — ~~Furthermore, the Planning and Zoning Commission may recommend and the City Council may approve “exceptions” to the zoning district requirements where the special use is to be located to achieve the objectives of the zoning district and the special use, and to mitigate the impact of the special use on neighboring properties. However, no exceptions shall be recommended by the Planning and Zoning Commission to the City Council unless the Commission has made separate findings of fact, based upon the evidence as presented at public hearing, to support each of the applicable standards for special use in accordance with Paragraph E (Findings of Fact) below.~~

**SECTION 5:** Subsection E, entitled “Findings of Fact,” of Section 4.6, entitled “Special Use,” of the Zoning Ordinance is amended to add a new paragraph 3, as follows:

3. The findings of fact requirement may be satisfied by incorporating the findings of fact into the meeting minutes of the Planning and Zoning Commission or City Council, the Zoning Administrator’s report, the ordinance approving a special use permit, or other written record.

**SECTION 6:** Subsection H, entitled “Limitations on Denials,” of Section 4.6, entitled “Special Uses,” of the Zoning Ordinance is amended as follows:

**H. Limitations on Denials**

If an application for a special use has been denied, ~~by either the City Council or the Planning and Zoning Commission,~~ no application for substantially the same special use may be filed for a period of one (1) year from that date of denial. Whether the application is for “substantially the same” special use shall be within the discretion of the Zoning Administrator.



**SECTION 7:** Paragraph 2.b of Subsection C, entitled “Procedure,” of Section 4.8, entitled “Zoning Amendment,” of the Zoning Ordinance is amended as follows:

b. City Council Zoning Amendment Action Table. The following table describes the action requirements for the various zoning amendments.

<b>ZONING AMENDMENT ACTION TABLE</b>				
<b>Type of Amendment Request</b>	<b>Planning and Zoning Commission Recommendation After Public Hearing</b>	<b>Initiating Party</b>	<b>Further Action</b>	<b>City Council Vote required for Adoption*</b>
Text	Denial	City Council	Forwarded to City Council	Super <del>m</del> Majority
Text	Denial	Anyone Other Than City Council	Forwarded to City Council	Super majority
Text	Approval	City Council	Forwarded to City Council	Majority
Text	Approval	Anyone Other Than City Council	Forwarded to City Council	Majority
Map	Denial	City Council	Forwarded to City Council	Super <del>m</del> Majority
Map	Denial	Anyone Other Than City Council	Forwarded to City Council	Super majority
Map	Approval	City Council	Forwarded to City Council	Majority
Map	Approval	Anyone Other Than City Council	Forwarded to City Council	Majority

\*For the purposes of this table a super majority vote shall be defined as six ~~voted~~ votes of the City Council, including the Mayor.

**SECTION 8:** Subsection E, entitled “Limitations on Denials,” of Section 4.8, entitled “Zoning Amendment,” of the Zoning Ordinance is amended as follows:

**E. Limitations on Denials**

If an application for an amendment has been denied, ~~by either the City Council or the Zoning Board of Appeals,~~ no application for substantially the same amendment may be filed for a period of one (1) year from that date of denial. Whether the application is for “substantially the same” amendment shall be within the discretion of the Zoning Administrator.

**SECTION 9:** Subparagraph c of Paragraph 2, of Subsection C, entitled “Application for a Special Use for a Planned Unit Development,” of Section 5.6, entitled “Procedure,” of the Zoning Ordinance is amended as follows:

- c. Within forty-five (45) days of the close of the public hearing, the Planning and Zoning Commission shall take one of the following actions:
  - i. Advise the applicant in writing of any recommended changes, additions or corrections to the Stage 1 Development Plan. If such advice is given, the applicant may, within thirty (30) days, submit a revised Stage 1 Development Plan for Planning and Zoning Commission consideration at a new public hearing. The applicant may do so without paying an additional filing fee. The Planning and Zoning Commission shall then recommend approval or denial of the Planned Development and submit its written recommendation to the City Council; or
  - ii. ~~Recommend denial of~~ **Recommend denial of** Deny the application for the planned development. ~~The Commission shall set forth, in writing, the reasons for its decision. Such action shall constitute a final administrative decision;~~ or
  - iii. Recommend approval of the planned development (including the Stage 1 Development Plan) and submit its written recommendation to the City Council.

**SECTION 10:** Subsection 4, entitled “Limitations on Denials,” of Subsection C, entitled “Application for a Special Use for a Planned Unit Development,” of Section 5.6, entitled “Procedure,” of the Zoning Ordinance is amended as follows:

**4. Limitations on Denials**

If an application for a special use for a planned development has been denied, ~~by either the City Council or Planning and Zoning Commission,~~ no application for substantially the same special use may be filed for a period of one (1) year from that date of denial. Whether the application is for “substantially the same” special use shall be within the discretion of the Zoning Administrator.

**SECTION 11:** This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

**SECTION 12:** The City Clerk is hereby authorized and directed to publish said Ordinance in pamphlet form according to law.

Adopted by the City Council of the City of Park Ridge, Illinois this \_\_\_\_ day of \_\_\_\_\_, 2016.

VOTE:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

Approved by me this  
\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Acting Mayor Marty Maloney

Attest:

\_\_\_\_\_  
City Clerk

4850-0246-2507, v. 3