

CITY OF BATAVIA
100 N. Island Ave., Batavia, IL 60510
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www.cityofbatavia.net

PLAN COMMISSION & ZONING BOARD OF APPEALS
AGENDA

Wednesday, January 6, 2016 7:00 PM
City Council Chambers - First Floor

1. Call To Order
2. Roll Call
3. Items Removed/Added/Changed
4. Approval Of Minutes: November 18, 2015

Documents: [PC ZBA 11-18-15.PDF](#)

5. Subdivision Code: Amendment To The Subdivision Code Title 11, For As-Built Surveys, Grading Permits And Deposits
Ordinance 16-04: Proposed revisions to Title 11 of the City of Batavia Municipal Code: Subdivision Regulations
City of Batavia, Applicant

Documents: [M_15_12-21 ORD 16-04 AMEND 11-2-4_11-5-11-12 PC PACKET.PDF](#)

6. Subdivision Code: Amendment To The Subdivision Code Chapter 11-5-9,

Documents: [SIDEWALKWAIVER-11-5-9-122292015.PDF](#)

7. Other Business
8. Adjournment

Plan Commission

Tom Gosselin
Sara Harms
Joan Joseph
Tom LaLonde, Chair
Sue Peterson
Gene Schneider, Vice-Chair

MINUTES
November 18, 2015
PLAN COMMISSION & ZONING BOARD OF APPEALS
City of Batavia

PLEASE NOTE: These minutes are not a word-for-word transcription of the statements made at the meeting, nor intended to be a comprehensive review of all discussions. They are intended to make an official record of the actions taken by the Committee/City Council, and to include some description of discussion points as understood by the minute-taker. They may not reference some of the individual attendee's comments, nor the complete comments if referenced.

1. Meeting Called to Order of the Plan Commission and Zoning Board of Appeals

Chair LaLonde called the meeting to order at 7:00pm.

2. Roll Call:

Members Present: Chair LaLonde; Vice-Chair Schneider (entered at 7:01pm); Commissioners Harms, Joseph, Peterson and Gosselin

Members Absent:

Also Present: Mayor Schielke (entered at 7:52pm); Joel Strassman, Planning and Zoning Officer; Drew Rackow, Planner; Jeff Albertson, Building Commissioner; and Jennifer Austin-Smith, Recording Secretary

3. Items to be Removed, Added or Changed

There were no items to be removed, added or changed.

4. Approval of Minutes: October 7, 2015 Plan Commission

Motion: To approve the Plan Commission minutes for October 7, 2015

Maker: Joseph

Second: Peterson

Voice Vote: 5 Ayes, 0 Nays, 1 Absent
Motion carried.

5. Public Hearing: Variances for Parking for Park & Sons Auto Repair, 403 East Wilson Street (NE Corner of Prairie Street) Kiho and Cristina Park, applicants

Motion: To open the Public Hearing

Maker: Peterson

Second: Joseph

Voice Vote: 5 Ayes, 0 Nays, 1 Absent
Motion carried

* Schneider entered the meeting at 7:01pm

Strassman reported City staff has been working with Kiho and Christina Park, owners of Park and Sons Auto Repair to address ongoing parking and landscaping code compliance issues. The

2005 conditional use and design review that approved this use specified that vehicles be parked only in striped spaces and mandated landscape planters along the north, west, and east property lines. Staff has been seeking compliance to limit parking and to provide the planters per the 2005 approval.

To help the business and code compliance, staff suggested the Parks seek variances to allow additional striped parking spaces and an alternate landscape treatment. The proposed variances to allow a narrower drive aisle and omit the required end landscape island will allow for 3 additional parking spaces along Wilson. The 2005 approval specified large concrete landscape planters; the Parks are seeking to replace these with smaller ones that can be taken away for snow removal operations.

In support of their requested variances, the Parks state:

- The odd lot shape makes it difficult to provide the required parking geometry
- Landscaped islands would make snow removal difficult and tow truck maneuvering nearly impossible
- Site use would not change – there have been no neighbor complaints

The success of the Park & Sons has created the need for more parking. While the business complied with the code in 2005, the current code requires 10 spaces. The proposed site plan would bring the business closer to the number of spaces required. The requested drive aisle width variance would establish the width often available, and proposes to provide parking where vehicles are usually parked.

Narrow aisles can create problems for customers, but typically, an automobile repair business has employees moving vehicles into and out of parking spaces. The Batavia Fire Department states the variance requests have no effect on emergency response since they would not enter the site today due to the existing drive aisle configuration. Staff supports the requested parking lot geometry variance as shown on the proposed site plan. Due to the limited space available, staff also supports the omission of the end landscape island. Providing the island would result in the loss of a parking space and further reduction of the drive aisle width, making tow truck maneuvering more difficult. The plan proposes adding perimeter planters that, in staff's opinion, meet the spirit and intent of the original conditional use approval. Staff feels removal of the planters as proposed for snow clearing is reasonable.

Strassman reminded the Zoning Board of Appeals (ZBA) of its obligation to consider all information submitted by the applicants and provided by staff, together with the information given at the public hearing. The ZBA must determine if the required variance Findings for Approval have been met as demonstrated by information that addresses the Findings.

To address Finding A, staff believes the configuration of the property is unique. The angle of the south property line results in inefficient use of some lot area evidenced by wider drive aisle at the west end and a narrower to the east. The requirement of an end landscape island was added by the City long after Park & Sons was established. Other properties with a more rectangular configuration developed when the landscaped islands were not required do not have to add the

islands to use existing paved areas for parking. Staff believes that the ZBA can find in the affirmative for Finding A.

To address Finding B, staff notes that while the decision to create the subject property in that configuration and to locate the building, curbing, and parking as existing was established by some owner of the property, the City had no parking requirements in the Zoning Code in effect at the time of initial development. The property use has included vehicle service since before parking requirements were established. Staff believes that the ZBA can find in the affirmative for Finding B.

To address Finding C, it should be noted that automobile repair businesses keeping customers' vehicle is a requirement of the business. The best way to keep vehicles safe is to keep them on the premises. Public parking in the immediate vicinity of the site is very limited. Staff believes that the ZBA can find in the affirmative for Finding C.

To address Finding D, this is a uniquely configured property and having been developed before parking requirements were established justifies allowing reduced parking lot geometry and omission of a landscaped island. Additionally, the business operates differently than most businesses in the manner in which it parks vehicles. Staff believes that the ZBA can find in the affirmative for Finding D.

To address Finding E, this property would essentially function with the variances as it has done for several years. The City has received no neighbor complaints about this business. Staff believes that the ZBA can find in the affirmative for Finding E.

In discussing the requested variances, the ZBA can consider limiting the requested variances for the drive aisle width and omission of the landscaped island to be applicable only to continued use of vehicle services. Staff notes that parking wheel stops exist on site and should be provided for all spaces. Staff recommends the ZBA open, conduct, and close the public hearing. After considering all the information presented at the public hearing, the ZBA must decide if it can find in the affirmative for each finding, and make a motion for action on each. Staff notes that its opinion on each finding is based on the information available prior to the hearing; new information may be presented this evening.

For the ZBA recommendation to the City Council, staff recommends approval of variances to Section 4.205 to allow parking spaces and access aisles not meeting the minimum dimensional requirements and to Section 4.211 to omit the required end landscape island between the east parking space and drive aisle, in substantial conformance with the proposed site plan, and subject to:

1. Revising the site plan to add parking lot wheel stops as approved in Ordinance 05-03;
2. Revising the site plan to add wheel stops for all proposed parking spaces, on the private property and in line with those approved in Ordinance 05-03;
3. Variances shall be null and void for any business other than vehicle services and before any other use is established, the property owner shall restore the parking lot to a conditions meeting the requirements of the Zoning Code; and

4. All planters may be removed from the site to facilitate snow removal. Planters shall be removed no earlier than November 1 each year, and replaced no later than April 1 of the following year.

Joseph asked about the planters on the east side on the proposed site plan. Strassman answered that the City would like the same amount of planters that was approved in 2005. The applicant is looking to provide more planters but smaller that could be easily removed. LaLonde asked about parking. Strassman stated that no parking has been added since the plan was approved in 2005. City staff was seeking removal of parked vehicles from the area not marked with parking spaces.

LaLonde welcomed the applicant to address the Zoning Board of Appeals and swore-in those who wanted to speak. Steve Vasilion, Vasilion Architects, addressed the Board. He stated that over time, using the concrete planters was not a feasible solution for the applicants. They need the maximum amount of moving space. The suggested planters are metal and they would like to duplicate a similar size and purchase additional ones if needed. There are no problems with the wheel stops. The way that we are proposing the site plan is exactly the way the Parks are using the site since they have been here. They all function efficiently. Vasilion shared that the Parks do a lot of free services for seniors, veterans and single moms. Not having the extra spaces would curtail their ability to provide these sorts of services. They are not servicing the vehicles in the parking stalls. All servicing of vehicles happens in the facility.

Vasilion continued that in addition to the planters, they have done a significant amount of landscaping outside of their property lines. They have been good citizens and good neighbors and this solution makes sense. The Parks want to get it fixed and done right. They are happy with anything between 15 to 18 foot lengths for parking. The Board discussed parking, fire department access, and the landscaping. Schneider stated that he has no problem with what is proposed whatsoever and does not see any adverse effects.

Chris Evans, 738 Nordic Court, announced that he has been a Batavia citizen since 1977 and has been a customer since they were established. This property is in the best shape since he has been in town. It is better now than it has ever been. It is a prospering business. The property at night is tidied up and neat. He would like to see what the City could do to support this local business owner and keep him in town.

LaLonde asked if there was anyone else who wanted to speak. There were none.

Motion: To close the Public Hearing
Maker: Joseph
Second: Harms
Voice Vote: 6 Ayes, 0 Nays, 0 Absent
Motion carried.

Peterson stated that the landscaping has been kept up so beautifully and it is a very nice looking business. Any improvements, which she thinks these are, are welcome. Harms stated that she walks by with her dog every morning and she appreciates what was done to the property and how nice it is. LaLonde recalls what was there previously and it is a vast improvement. There is

a nostalgia that comes with this property and the building was kept and improved upon. Cristina Park stated that they intentionally tried to keep the building in its original form, and are accepting of staff's recommendation. LaLonde noted that if we were to make them put the planters in there would be a lot of effort to maintain those planters.

Motion: To approve all five findings of fact in the affirmative as recommended by staff

Maker: Peterson

Second: Schneider

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider

Nay: None

6-0 Vote, 0 Absent, All in favor. Motion carried.

Motion: To recommend to Council approval of variances to Section 4.205 to allow parking spaces and access aisles not meeting the minimum dimensional requirements and to Section 4.211 to omit the required end landscape island between the east parking space and drive aisle, in substantial conformance with the proposed site plan, and subject to:

1. Revising the site plan to add parking lot wheel stops as approved in Ordinance 05-03;
2. Revising the site plan to add wheel stops for all proposed parking spaces, on the private property and in line with those approved in Ordinance 05-03;
3. Variances shall be null and void for any business other than vehicle services and before any other use is established, the property owner shall restore the parking lot to a conditions meeting the requirements of the Zoning Code; and
4. All planters may be removed from the site to facilitate snow removal. Planters shall be removed no earlier than November 1 each year, and replaced no later than April 1 of the following year.

Maker: Schneider

Second: Gosselin

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider

Nay: None

6-0 Vote, 0 Absent, All in favor. Motion carried.

6. Public Hearing: Amendments to the Text of the Zoning Code.

1) Chapter 5.7: Amendments to the Zoning Code Text or the Official Zoning Map

2) Chapter 5.8: Amendments to the Comprehensive Plan Text or Map City of Batavia, Applicant

Motion: To open the Public Hearing

Maker: Joseph

Second: Harms

Voice Vote: 6 Ayes, 0 Nays, 0 Absent

Motion carried

Rackow distributed a handout of draft amendments titled "Chapter 5.7: Amendments to Zoning Code Text or the Official Zoning Map". Rackow reported that legal counsel has advised the City to look at the findings for a zoning map amendment and bring in the LaSalle Factors for consideration during a Zoning Map amendment. Currently, with a Zoning Map amendment the only matter that is looked at is compliance with the Comprehensive Plan. Rackow discussed the

amendment process with the Commission. The Board discussed the court case that led to the formation of the LaSalle Factors. Strassman explained that if our decision is ever challenged in court it would be better for us to have gone through the LaSalle Factors than not.

Chair LaLonde asked if there were any members from the public that wanted to comment on this agenda item. There were none.

Motion: To close the Public Hearing

Maker: Harms

Second: Gosselin

Voice Vote: 6 Ayes, 0 Nays, 0 Absent
Motion carried.

Motion: To recommend to City Council amending the text of the Zoning Code to address the LaSalle Factors for amendments to the Zoning Map as per the draft presented this evening

Maker: Joseph

Second: Peterson

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider

Nay:

6-0 Vote, 1 Absent, Motion carried.

7. Approval: Preliminary and Final Plat of Subdivision for Consolidation of Lots, East Side of Kirk Road at Giese Road

Mark Korso, LLC Law on Behalf of Fermi National Accelerator Laboratory, Applicant

Rackow reported that when Woodland Hills Unit 3 was subdivided, it created 57 lots on the east side of Kirk Road. The State of Illinois pursued those properties and bought them to be part of Fermi Lab. There was no formal action to get rid of the streets or parcels or setbacks and rights of way and they have existed on paper since 1968. Staff and the applicant would like to consolidate all the lots and vacate the rights of way so they would no longer exist. The action would create one lot and would be a Fermi lot within the City of Batavia. Our zoning controls would not apply to that property for lab activities. This parcel is north of where the proposed Neutrino project is and would not be affected in any way. Staff is recommending approval of the final plat of subdivision for consolidation of lots to the City Council.

Mayor Schielke questioned if the parcel would stay in the City limits or would the parcel be de-annexed. Rackow answered that the proposed actions would not de-annex the parcels. In staff discussions with Fermi Lab representatives indicated that Fermi Lab is okay with it staying in the City because it does not affect their jurisdiction either way. Mayor Schielke raised the question of who would have jurisdiction over this parcel if there were an emergency situation. He stated that he was hoping that the City would de-annex this parcel. Rackow stated that one issue to de-annex the parcel is that the City provides electric to the cell tower and de-annexing would remove it from our service area. Rackow stated that in terms of jurisdiction, he was discussing the land use and zoning standpoint, the parcel would remain within Batavia Police's jurisdiction with the requested actions. This requested action would address zoning conformity and

ownership issues. De-annexation would be a separate conversation with the City Council. The Board discussed the location of the parcel, jurisdiction, the proposed Neutrino project, and the proposed plat of consolidation.

Motion: To recommend to City Council approval of the submitted Plat of Consolidation as a Preliminary and Final Plat of Subdivision for Fermilab

Maker: Harms

Second: Joseph

Roll Call Vote: **Aye:** Gosselin, Harms, Joseph, LaLonde, Peterson, Schneider

Nay:

6-0 Vote, 1 Absent, Motion carried.

8. Other Business

Mayor Schielke announced Ed Weiss's resignation. The Commission commended Weiss on his work during his tenure on the Commission. Mayor Schielke stated that at the next City Council meeting he would announce Weiss's resignation and have a northeast quadrant representative placed on the Plan Commission.

Mayor Schielke reported on the progress on the new Walgreens. He stated that Walgreens would not close the old store until the new store opens. Mayor Schielke discussed Walgreens strong drive-through business. He added that the Panera Bread in that shopping center is interested in a drive through window.

Strassman reported on a future design review that the Plan Commission would be charged with for the drive through for a Dunkin Donuts at the Shell Gas Station on Batavia Avenue.

Mayor Schielke stated that the old Walgreen's building might be revamped into a grocery store. He noted that the Blue Goose Grocery Store of St. Charles Illinois is interested in opening another location in that space.

Harms asked about what is going on in the old Phips building. Albertson answered that the Healing Arts center will be moving across the street into that building. They would be occupying the Wilson Street level and the lower level.

Mayor Schielke stated that modifications may be made on Randall Road with a right-in-right-out for the Great Escape store location.

9. Adjournment

There being no other business to discuss, Chair LaLonde asked for a motion to adjourn the Plan Commission and Zoning Board of Appeals meeting. Gosselin moved to adjourn the meeting, Harms seconded. All were in favor. The motion carried. The meeting was adjourned at 8:43pm.

Minutes respectfully submitted by Jennifer Austin-Smith

CITY OF BATAVIA

DATE: December 21, 2015
TO: Plan Commission for 1/6 Meeting
FROM: Andrea M. Podraza, P.E., CFM, Senior Civil Engineer
Engineering Division
SUBJECT: **Ordinance 16-04: Proposed revisions to Title 11 of the City of Batavia Municipal Code: Subdivision Regulations**

Background

City Staff constantly tracks areas in the Subdivision Regulations where improvements can be made to the current processes in place. Over the course of the last 1-2 years staff has noticed that more defined parameters would expedite the processes involved regarding as-built surveys required to close out a project and the issuance of grading permits and the duration that they are valid.

Summary of Subdivision Regulations

The Subdivision Regulations address site improvements, such as grading and permit drawings and closeout documents. Currently the subdivision regulations require a record survey drawing to be submitted and approved (section 11-5-12E) but does not specify a time limit for completion. In addition the subdivision regulations require a site grading permit for sites that:

- are larger than ¼ acre or larger
- sites that are currently under building review and want to start grading prior to the issuance of the full building permit
- any sites that contain a stormwater management area that will be doing any grading work including maintenance, and
- any sites that are located in special flood hazard areas as denoted on FEMA FIRM (Flood Insurance Rate Maps) panels

The permit does not have specific requirements for the duration of the site grading work or how many times the permit can be renewed.

Analysis of Subdivision Regulations

Attached for your review and approval are the proposed revisions to the Batavia Municipal Code in Title 11 (Subdivision Regulations), Chapter 2 (Plan Review & Inspection Costs) and Chapter 5 (Site Grading and Survey Standards and Monumentation). Staff would like to require potential developers to deposit an escrow for as-built drawings at the time the building permit fees are due. Currently there is no deposit required and both engineering and the building department staff have spent unnecessary additional time tracking developers, their engineers, etc. to obtain these required drawings and documents. Some current projects still waiting as-built closeouts have been completed over a year ago. Establishing the requirement for an escrow deposit will hopefully alleviate additional time for staff to track down the developer and instead encourage them to actively closeout the project with as-builts, as noted in section 11-5-12F of the Subdivision Regulations. The revisions of Chapter 11 include the addition of paragraph E in section 11-2-4 which specify the criteria for the deposit, when the deposit is due, when the as-builts are due and consequences of submitting as-builts late or not within the outlined timeframe. The as-built deposit will be fully refunded if as-builts are submitted and approved within the outlined six month time frame.



In addition for the Site Grading permit staff will be adding expirations to the permit, increase the initial permit fee and require justifications for extending the permit an additional year as well as implications for not completing the approved work in said timeframe. Staff will require a Letter of Credit at the time the grading permit is issued to ensure the work will be completed instead of left incomplete. The LOC will be released once the required survey is submitted showing overall compliance with the approved grading plan. The first changes to section 11-5-11 can be found under section A, numbers 2-4 were added for consistency since they currently appear on the grading permit application. Other changes occur in section 11-5-11D, including raising the initial application fee from \$100 to \$150. This fee was first implemented back in 2000, when this section was initially added to the code and staff feels that the increase is appropriate since it has stayed the same for fifteen years. Lastly, the grading must be completed within two years otherwise the LOC will be pulled to complete the work.

Staff Recommendations:

Staff recommends for approval of Ordinance 16-04

1. Amendments to Title 11 Chapters 2 & 5 of the Batavia Municipal Code: Subdivision Regulations and Ord 16-04.

This matter will be on the Wednesday, January 6, 2016 Plan Commission.

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 16-04**

**AN ORDINANCE AMENDING TITLE 11 CHAPTERS 2 & 5,
OF THE BATAVIA MUNICIPAL CODE**

SUBDIVISION REGULATIONS

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS 19TH DAY OF JANUARY, 2016**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 19th day of January, 2016

Prepared by:

City of Batavia
100 N. Island Ave.
Batavia, IL 60510

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 16-04**

**AN ORDINANCE AMENDING TITLE 11 CHAPTERS 2 AND 5
OF THE BATAVIA MUNICIPAL CODE**

SUBDIVISION REGULATIONS

WHEREAS, the City of Batavia has reviewed its Subdivision Regulations Code; and

WHEREAS, it has been determined that it is appropriate to revise and update the provisions relating to Site Grading and Survey Standards and Monumentation; and

WHEREAS, it has been determined that it is appropriate to add provisions relating to Plan Review & Inspection Costs;

NOW THEREFORE, be it hereby ordained by the Mayor and City Council of the City of Batavia, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: That Title 11, Chapter 2, Section 4, of the Batavia Municipal Code is hereby revised to provide as follows:

11-2-4: SITE GRADING:

All improvements proposed (and/or required) to be made under the provisions of this title shall be inspected, during the course of construction, by the city engineer or their designee. Fees and costs shall be paid according to the following schedule:

- A. An escrow account shall be established for the engineering review upon receipt of a completed Subdivision or Zoning submittal to the Community Development department. The escrow is to defray the engineering expenses incurred by the City Staff in reviewing initial submittals prior to a Building Permit issuance. An escrow account will remain active throughout the final engineering review process and not charged more than the fees outlined in the review schedule in section 11-2-4B.

The escrow account will be utilized if the City determines, in its sole and exclusive discretion, that it is necessary to obtain or provide professional services, including but not limited to, attorneys; engineers; planners; architects; surveyors; court reporters; traffic, drainage or other consultants, and/or to incur costs related to any required notices or recordations, in connection with any Petition or Application filed by the Petitioner/Applicant.

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The City Engineer is hereby authorized to assign the above described services to the City Staff or to consultants, as they deem appropriate. When the City Staff renders any services contemplated by this agreement, then in such case the City shall be reimbursed for its cost per work hour (\$75.00/hour) for each staff person providing said services.

At the time the Subdivision or Zoning Submittal is made by the Petitioner/Applicant they shall deposit the following amounts with the City as an initial deposit

Number of Review Items	Under 5 acres	5-15 acres	16-75 acres	Over 75 acres
1	\$1,000	\$2,000	\$3,000	\$4,000
2 or 3	\$2,000	\$4,000	\$5,000	\$7,000
4 or more	\$3,000	\$5,000	\$7,000	\$10,000

Any remaining balance of funds deposited pursuant to this section of the code shall be refunded after written request and upon the later occurring of the following events: completion of City deliberation on the petition or application, recordation of all necessary documents associated with the petition or application, or by issuance of a building permit upon the real property in question and all outstanding consultant bills have been paid in full.

The applicant shall sign the bottom of the application/petition agreeing to the terms of this section of the code.

- B. Prior to the approval of a final plat by the city council, the subdivider or developer shall pay to the city a fee for the engineering costs of reviewing the construction plans for improvements; said fee to be computed in accordance with the following table: (Note: The fee will be calculated as Plan Review Fee minus the escrow already deposited)

<u>Estimated Cost Of Construction Of Improvements</u>	<u>Plan Review Fee</u>
\$2,500.00 or less	4% of estimated cost, but not less than \$50.00
\$10,000.00 or less, but more than \$2,500.00	3% of estimated cost, but not less than \$100.00
\$25,000.00 or less, but more than \$10,000.00	2.5% of estimated cost, but not less than \$300.00
\$50,000.00 or less, but more than \$25,000.00	2% of estimated cost, but not less than \$625.00
\$100,000.00 or less, but more than \$50,000.00	1.75% of estimated cost, but not less than \$1,000.00
\$200,000.00 or less, but more than \$100,000.00	1.5% of estimated cost, but not less than \$1,750.00

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\$400,000.00 or less, but more than \$200,000.00	1.25% of estimated cost, but not less than \$3,000.00
\$600,000.00 or less, but more than \$400,000.00	1% of estimated cost, but not less than \$5,000.00
More than \$600,000.00	0.75% of estimated cost, but not less than \$6,000.00

- C. Prior to the approval of a final plat by the city council, the subdivider or developer shall pay to the city a fee for electrical engineering, electrical layout and construction inspection for the electrical improvements at a rate of seventy five dollars (\$75.00) per residential living unit. The cost of the electrical improvements shall not be included in the estimated costs of improvements in subsection A of this section.

Prior to the recordation of a final plat, the subdivider or developer shall pay the city a fee equal to two percent (2%) of the costs of construction of improvements, as and for all inspection services rendered by the city during said construction. The subdivider or developer shall also pay, prior to any preliminary or final plat approval, the fee for the review and commentary upon any proposed subdivision concept plan, preliminary and/or final plat by the consulting land planner, as required in section [11-3-1](#) of this title. (Ord. 03-53, 12-1-2003)

- D. Prior to granting a construction permit for site improvements that will utilize Best Management Practices, as noted in the Kane County Stormwater Ordinance, a plat must be provided that includes the latest City of Batavia Storm Water Easement language. If the current location already is encompassed by a Storm Water Easement the owner will need to update the plat or provide a separate easement document for recording with the relevant easement language as approved by the City. To the extent the easement provides provisions for facilities that will require ongoing maintenance and inspection requiring the City to retain outside consultants for inspection and/or maintenance, the owner of the underlying property shall be responsible to reimburse the City for the cost plus a ten (10%) administrative fee. This shall apply from the time the plants are installed until the plants are established and signed off by a professional wetland scientist, typically three to five years from the time they are installed. The said fees shall be waived if the site was required to obtain a Army Corps of Engineer Permit that requires a five year monitoring and reporting document.

- E. Prior to granting of a construction permit for site improvements, the subdivider or developer shall pay an As-Built Deposit Fee equaling 1% of the Total Estimated Construction Value, or \$1,000, whichever is greater. This fee shall be paid at the same time as the Building Permit fee is due. If a Letter of Credit is required for the project the fee shall be included in the LOC for Public Improvements which is also due prior to the release of the Building Permit. If the as-built is submitted within six (6) months of substantial completion and accepted by the City Engineer then the deposit shall be fully refunded. If at the six (6) month time frame the as-built has not been approved by the

City Engineer but has been submitted for review, the fee may still be refundable, either full or partial, as determined by the City Engineer. If an as-built is not submitted within six (6) months of substantial completion, then the deposit will no longer be refundable; the deposit shall be drawn from the LOC used by the City to obtain as-builts. For projects submitting Letter of Credits (LOC), the LOC shall not be reduced or released until the as-built is reviewed and approved by the City Engineer. For LOC held deposits, if the as-builts are not submitted in the time frame outlined in this section a draw will be done on to pay for the City to obtain as-builts.

SECTION 2: That Title 11, Chapter 5, Section 11, of the Batavia Municipal Code is hereby revised to provide as follows:

11-5-11: SITE GRADING:

- A. A. Site grading is the excavation or filling of any lot or parcel that changes the existing contours of the parcel. A permit shall be required for:
 - 1. The site grading of any lot or parcel of land within the city which is one-quarter ($\frac{1}{4}$) of an acre or larger and which has not previously been granted a building permit or approved development plan relating to the proposed site grading for the site.
 - 2. Sites where a building permit is under review and developer / owner would like grading to commence as long as all site grading issues have been addressed and resolved.
 - 3. Any site that contains a stormwater management area, i.e., detention / retention basin, bioswales, etc. and will be doing any type of grading work, including maintenance activities.
 - 4. Sites that are located in a SFHA (Special Flood Hazard Area), i.e. floodplain / floodway.

- B. A site grading permit application, together with the following documents, shall be submitted for approval by the city engineer:
 - 1. A topographic survey of the parcel showing the existing and proposed contours, existing utilities, foundation elevation of adjacent buildings within one hundred feet (100'), nearest storm sewer structure or culvert, and, where applicable, the 100-year flood elevation and wetlands delineation (the limits of both which shall be staked at 50 foot intervals). The survey shall be signed and sealed by an Illinois registered professional engineer.
 - 2. A detention facility design appropriate for the zoning classification showing point release of storm water channeled or piped to the nearest storm sewer system.
 - 3. An erosion control plan, and for parcels one acre or larger, an NPDES permit from IEPA shall also be required.

- C. Following the grading, the completed site shall be topsoiled and stabilized by either seed and mulch or sod within the requirements of the Illinois ILR10 permit.

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- D. A fee of one hundred and fifty dollars (\$150.00) shall be paid to the city of Batavia for processing the permit application. In addition, a letter of credit will be due at the time of issuance of the grading permit to cover the cost of grading and stabilization measures based on an engineer's estimate approved by the City Engineer. The terms of the permit are as follows:
1. A Grading Permit shall be valid for one year from the date of issuance.
 2. A Grading Permit may be extended for one additional year with submission of a renewed Permit Application, payment of a one hundred dollar (\$100.00) Renewal Fee prior to the expiration of the original grading permit and justification for extension of permit.
 - a. Site Grading work under a renewed Grading Permit must be completed by the end of the one year renewal period.
 - b. Site Grading work not completed at the expiration of an approved renewed Site Grading Permit shall be in violation of this Code. At that time, the City shall draw on the letter of credit to complete the grading and stabilize the site.
 - c. Any grading permits previously granted prior to approval of this amendment shall only be allowed one additional year to comply with this updated provision from date of expiration, i.e. no more than 2 years to complete grading without being in violation of this Code.
- E. Upon completion of the site grading a topographic survey showing that the completed work is in compliance with the approved grading plan must be submitted. The survey shall be signed and sealed by a professional engineer or land surveyor registered in the state of Illinois.

SECTION 3: That Title 11, Chapter 5, Section 12, of the Batavia Municipal Code is hereby revised to provide as follows:

11-5-12: SURVEY STANDARDS AND MONUMENTATION:

- A. Conformance To Requirements: All survey work for public and private developments within the city shall conform to the requirements described in the following publications and any subsequent additions thereto:
1. "Standard Specifications For Geodetic Control Networks", federal geodetic control committee, September 1984.
 2. "Geodetic Bench Marks", U.S. department of commerce, NOAA manual NOS NGS 1, September 1978.

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- B. Vertical Control: The vertical survey control for all development engineering plans shall be directly tied into at least two (2) established Kane County, IDOT, or city of Batavia bench marks that are referenced to the North American vertical datum of 1929 (NAVD 29), and shall be to a second order, class II level of vertical accuracy. For projects that involve floodplain/floodway issues, the vertical survey shall also reference at least one established FEMA bench mark provided on the appropriate currently effective flood insurance rate map. Topographic contour intervals shall be one foot (1') unless otherwise approved by the city engineer.
- C. Horizontal Control: The horizontal survey control for all development engineering plans shall be tied into at least one of the established Kane County or IDOT second order survey control monuments listed below. These monuments are referenced to the North American datum of 1983 (NAD 83).
1. IL KANE 18 39 8 Kane County monument located at Fabyan Parkway and Kaneville Road
 2. IL KANE 32 39 8 Kane County monument located at Mooseheart Road and Randall Road
 3. IL KANE 25 39 8 Kane County monument located at Kirk Road and Wind Energy Pass
 4. KAN25-1BIDOT monument located at Fabyan Parkway and North Raddant Road
- D. Other Monuments; Approval: When approved by the city engineer, other survey monuments may be used for horizontal and vertical control provided that it can be demonstrated that these monuments have been tied into the Kane County and/or IDOT monuments described above with second order, class I level of horizontal accuracy and a second order, class II level of vertical accuracy as defined in the reference in subsection A1 of this section.
- E. Survey Monumentation: A permanent survey monument will be required to be installed within any development or redevelopment project three (3) acres or larger. The city will require the owner/developer of such a development or redevelopment project to make a direct payment to the city for installing the survey monument in lieu of the owner/developer performing this work. Development or redevelopment sites less than three (3) acres will be charged a prorated cost for survey monumentation.

The city will contract with a professional land surveyor, licensed in the state of Illinois, on an annual basis to install all required survey monuments. The monument shall be a class A rod mark constructed to the standards referenced in subsection A2 of this section with a second order, class I level of horizontal accuracy and a second order, class II level of vertical accuracy as defined in subsection A1 of this section. The monument cap shall be engraved to state that it is a city of Batavia survey monument. The city engineer will determine a per acre cost for establishing survey monuments. This cost will be revised annually based on the current cost of performing such work.

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F. Record Survey Drawings: After completion of all construction and before the final inspection for acceptance of the public improvements by the city council, and/or the issuance of a certificate of occupancy, and within six months of substantial completion a full size set of record survey drawings or "as built" shall be submitted to the engineering department for review and approval. The record drawings shall consist of the approved final engineering plans appended with information to show any field changes, change orders, and additions made during construction. All corrections or changes shall be noted on the plan sheets. No original information shown on the approved engineering plans should be removed from the record survey plan sheets. All constructed site dimensions, elevations, and locations for storm sewers, sanitary sewers, water mains, utility services, all utility lines plugged, capped, or abandoned, pavements, grading, storm water detention/retention facilities, changes in material, and all other site work shall be surveyed, verified and certified by a professional land surveyor or professional Engineer licensed in the state of Illinois. The engineer that sealed the approved final engineering drawings shall also certify the record survey drawings. All constructed dimensions and GIS data shall be at the same level of detail and accuracy as the approved final engineering plans.

All as built numerical values and material names shall be shown adjacent to the plan value or name and circled. A single light line shall be struck through the plan value or name such that it is still legible. A leader shall point from the actual as built item to the circled change if further clarification is needed.

Once the engineering department has accepted the record survey drawings with any subsequent additions and/or corrections made thereto, the owner/developer shall provide the city with one Mylar copy of the drawing and a digital version of the same in a format compatible with the current city software standards.

Upon acceptance of the record survey drawings by the City Engineer, the As-Built Deposit fee, shall be refunded if it complies with the conditions as noted and as required by 11-2-4-E of this Code.

Footnote 1: See [title 9, chapter 8](#) of this code.

Footnote 2: The requirement of the payment of the fee described in this section shall specifically apply to any subdivision within the city which contains streets which have not yet been accepted by the city, and to any and all subdivisions approved in the future.

SECTION 4: The effective date of this Ordinance shall be ten days following its presentation, passage and publication according to law.

CITY OF BATAVIA

DATE: December 29, 2015
TO: Plan Commission
FROM: Drew Rackow AICP, Planner
SUBJECT: Amendment to the Subdivision Code Chapter 11-5-9, Creating a Fee in Lieu for a Sidewalk Construction Waiver

Background

In November 2015, the City Council requested that staff review policy changes to address sidewalk requirements with new residential construction. At issue is requiring new sidewalks that may not be near the existing sidewalk system and where additional sidewalks may not be scheduled to be built in the future.

The City has required new sidewalks to be installed with any new construction project. The City Council, through the Subdivision Code and Comprehensive Plan has stated a goal of providing sidewalks on both sides of all streets. The proposed amendment would create a limited *fee in lieu of program* for locations where certain criteria are met. This proposed amendment to the Subdivision Code is presented to the Plan Commission for review and recommendation.

Staff Analysis

The proposed amendment attempts to balance the goal of providing sidewalks in all instances, and addressing concerns that have arisen regarding sidewalks being installed without meaningful connections for extended periods of time. For many years, the City has had a new sidewalk installation program, which prioritized creating connecting sidewalks to schools and parks. This program has been put on hold at different times due to budgetary constraints. In recognizing that there may not be funds in the near term, the proposed amendment would allow properties that are more than 1,000 feet from a Park, School or Bus Route and greater than 500 feet from an existing sidewalk segment to provide a fee rather than constructing walks. Properties within subdivisions with approved sidewalk plans cannot seek a waiver. These requirements would be reviewed prior to granting a fee in lieu for sidewalk construction with a project.

The proposed amendment would require that upon approval of the waiver request, the applicant would be required to pay a fee that is equal to an engineer's cost estimate for the sidewalk improvement that is reviewed and approved by the City Engineer. These funds would go toward other sidewalk improvements in the City and would not be refunded.

Overall, staff believes that the proposed text would allow for a limited number of instances where a fee in lieu could be pursued. Staff believes that the proposed conditions will still require

sidewalks near areas where future sidewalk construction programs will provide connection points in critical pedestrian areas.

Staff Recommendation

Staff recommends approval of the amendment to the Subdivision Code as presented.

Please review the proposed amendment in preparation for the January 6, 2016 Plan Commission meeting.

Attachment: Redlined Draft of 11-5-9 Revisions

C: Mayor and City Council
Department Heads
Media

11-5-9: SIDEWALKS AND DRIVEWAYS:

A. Sidewalks: Unless the city council approves otherwise after discussion and recommendation by the plan commission, or waiver is granted pursuant to 11-5-9-A.8. Portland cement concrete sidewalks in accordance with the standards set forth herein shall be required on both sides of all streets in all single-family and multi-family developments, and shall also be required on both sides of all streets in commercial, industrial, other developments and interconnects between park and school sites.

1. Construction Completed: Sidewalks shall not be placed until building construction has been completed to the point that construction traffic need no longer cross the sidewalk area. In areas where there are to be no buildings (parks, etc.) sidewalks shall be completed following trench settlement and grading of site.
2. Occupancy Permit: Sidewalk construction shall be completed prior to the issuance of an occupancy permit, except during periods when weather prohibits the installation of the new walk. In such cases, the owner/builder may execute a bond in an amount equal to that of current city policy, to ensure the work is completed.
3. Placement: Sidewalks shall be placed one foot (1') off of the property line. Exceptions may be made, with approval of the city engineer or his designee, to avert trees and other natural features.
4. New Sidewalks: All new sidewalks shall have the following minimum widths:

Central Business District	10 feet with grass parkway 14 feet without grass parkway
Commercial areas	6 feet minimum
Arterial and collector streets	6 feet minimum
Industrial areas	5 feet minimum
Multi-family/single-family	5 feet minimum
Carriage walks (when permitted)	6 feet minimum

5. PCC Sidewalk: Class X concrete shall be used for all sidewalk work. Class X concrete shall be in accordance with the appropriate section of the Illinois department of transportation "Standard Specifications For Road And Bridge Construction" as adopted January 1, 1997, or latest edition thereof.
6. Minimum Thickness: All new sidewalks shall have a minimum thickness of five inches (5"). Sidewalks shall have a minimum thickness of six inches (6") for wheelchair ramps, carriage walks and driveways.

7. Replacement Sidewalks: All replacement sidewalks shall be the same thickness as the removed portion of the sidewalk. In no instance shall the replacement sidewalk be less than four inches (4") or six inches (6") at driveways. Sidewalk extensions in the older established sections of the city shall be four inches (4") thick.

8. Waiver for Sidewalk Construction in Certain Locations: In subdivisions that do not include sidewalk improvements as part of an approved engineering plan, the City Engineer may approve a written request for a sidewalk installation exemption for locations where the entirety of the required sidewalk segment's physical location is:

a. greater than 1,000 linear feet from a park, school or PACE bus route; and

b. greater than 500 linear feet from an existing sidewalk segment.

9. Fee in Lieu for a Sidewalk Construction Waiver: In the event that the request is granted, an approved waiver shall require a non-refundable fee due at permit issuance. The fee shall be determined by the City Engineer, by reviewing and approving a provided cost estimate for the otherwise required sidewalk. Funds collected shall be used to fund new sidewalk installation in the City Limits. A waiver shall be requested and reviewed prior to issuance of the building permit. Waivers requested after a permit has been issued shall be reviewed at the discretion of the City Engineer.

B. Driveways: A paved driveway entrance, either Portland cement concrete or bituminous concrete, shall be required from the back of curb to the property line.

1. Curb cut for driveway approaches shall not exceed twenty two feet (22') in width including a minimum of two foot (2') transitions cut from barrier curb to depressed curb on either side of driveway entrance, unless approved by the city engineer.

2. Driveway approaches shall not exceed twenty two feet (22') in width at edge of pavement.

3. Driveway shall not exceed eighteen feet (18') in width at both front and back of sidewalk with garage setbacks less than forty five feet (45') from the garage door to the front property line.

4. Driveway shall not exceed fourteen feet (14') in width at both the front and back of sidewalk for all setbacks greater than forty five feet (45') from the garage door to the front property line.

5. Driveways may be constructed to within one foot (1') of the side property line only when a new driveway conforms to existing grades or the proposed grades on the approved engineering plan.
6. Driveways that require a retaining wall shall have a minimum five foot (5') setback from side property line to face of wall, unless otherwise approved by city engineer. (Ord. 00-22, 4-3-2000)