

CITY OF BATAVIA
100 N. Island Avenue, Batavia, IL 60510
(630) 454-2000 <http://cityofbatavia.net>

Committee of the Whole Agenda
Tuesday, May 24, 2016
7:30 PM Council Chambers 1st Floor

1. Roll Call
2. Items Removed/Added/Changed
3. Matters From The Public (For Items NOT On Agenda)
4. Discussion: SCB Discussion Inclusionary Housing Ordinance (Scott Buening 5/17/16) CD
Documents: [INCLUSIONARY HOUSING DISCUSSION COMBINED REP.PDF](#)
5. Discussion: SCB Wayfinding Signage For Downtown (Scott Buening 5/12/16) CD
Documents: [SIGNAGE DISCUSSION WAYFINDING 2016-05 COMBINED REP.PDF](#)
6. Discussion: Ordinance 16-34: Regulating Body Work Establishments (WRM 5/18/16) CD
Documents: [16-05-19 MEMO BODY WORK ORDINANCE 16-34.PDF](#)
7. Ordinance #16-35: Amendments To The City Of Batavia Zoning Code, City Of Batavia, Applicant (Joel Strassman 5/19/16) CD
Documents: [COW ORD 16-35 AMEND ZONING CODE TEXT.PDF](#)
8. Approval: B-5 Liquor License - Shell Of Batavia (Batavia Avenue) (Chief Schira 5/17/16) GS
Documents: [CLASS B-5 LIQUOR LICENSE APPLICATION - SHELL OF BATAVIA_REDACTED.PDF](#)
9. Approval: B-5 Liquor License - Citgo (E. Fabyan Pkwy) (Chief Schira 5/17/16) GS
Documents: [CLASS B-5 LIQUOR LICENSE APPLICATION - CITGO - FABYAN PKWY.PDF](#)
10. Project Status
11. Other
12. Closed Session: Personnel
13. Adjournment

CITY OF BATAVIA

DATE: May 17, 2016
TO: Committee of the Whole-CD
FROM: Scott Buening, Community Development Director
SUBJECT: Discussion and Direction Regarding Inclusionary Housing Policies

1. **Summary:** Discussion and direction on whether to implement an Inclusionary Housing Policy Ordinance in relation to new housing developments.
2. **Background:** In March of this year, the Committee of the Whole reviewed the idea of a Community Land Trust. This was not viewed favorably due to the potential long term costs and that the benefits to the community were not entirely articulated. That said, the idea of encouraging housing that encompasses a variety of demographics is in our housing study as a goal for the community. Staff has taken the prior direction from the Committee, and has found a local example that may be worth considering further.

The City of St. Charles has had an Inclusionary Housing Ordinance in place since 2008. This ordinance requires developers to provide either affordable housing within their developments, a fee-in-lieu of the units, or a combination of both, depending on the circumstances. Smaller developments (1-15 units) need to provide 5% of their units as affordable, and larger developments (> 15 units) need provide 10% of the units as affordable. Providing units or a fee-in-lieu are determined on a case by case basis by the City Council, though the ordinance originally required 50% of the affordable units to be constructed. The City Council determines the amount of the fee-in-lieu on a regular basis, and is determined by the State's affordability calculations for each community. In the case of St. Charles they require the fee-in-lieu to be for the cost of 25% of a down payment for two affordable units. The affordable home value has been calculated by the State to be \$145,639.00, so the fee-in-lieu is \$72,819.50 per affordable housing unit not actually being built. So by example, a home development of 10 units that is required to provide 5% fee-in-lieu would submit a donation of \$36,409.75 (1/2 of a single unit), and a development of 100 homes that is required to provide 10% of affordable housing or 10 affordable housing units would provide \$728,195.00 of fee-in-lieu.

The ordinance also allows for alternative housing plans based on several criteria. These can be to provide alternative affordable housing units by grants and acquisition, or rehab of existing housing units off site. The City considers this for special circumstances such as environmental conditions on the development site, unique site conditions such as excessive slope or unusual shape, or providing units that are lower in sale or rental price than the minimum thresholds established in the affordable housing levels set by the State.

The ordinance also allows a certain amount of density bonuses for each affordable unit actually built, with variances that are granted to lot area, width and lot coverage. Waivers of certain fees and land-cash donations for affordable housing units are also available.

One issue that comes up with affordable units is: how are the units guaranteed to remain affordable after resale? This ordinance has a mechanism to guarantee the affordability of constructed units for a period of 15 years, which is locked in by a deed restriction recorded

on the property. The value of the unit when sold should be at a price no higher than the affordability amount set by the state at the time it is sold. The sale price may be increased by any repair or replacement of various structural elements that end up increasing the value of the home. When the property is sold to the second or subsequent buyers, there is a promissory note that is executed and given to the City. This note is at a value between the sales price of the unit and the fair market value of the unit. If the unit is then sold at a market price then the City receives the value of the promissory note as a way to replace this unit which is no longer affordable.

This ordinance is very comprehensive and includes some provisions that may not be acceptable at this time. However, this ordinance can be used as a framework for us to encourage housing developers to construct affordable units or to provide fees-in-lieu. The City can use these fees to build or subsidize affordable units elsewhere in the community. While we feel that the fee-in-lieu amounts are a bit high for Batavia, we feel that a lower amount would still allow us to help buy down the cost of certain housing units in the community.

We are providing a copy of the ordinance to start a discussion on whether we should begin drafting something similar to this to encourage additional housing as called for in the housing study. We have not drafted a separate ordinance at this time, but would like to have an open discussion on the topic.

3. **Alternatives, including no action if viable:**

- **Direct staff to proceed with drafting an inclusionary housing ordinance with parameters set by the Committee**
- **Table the discussion to a date certain to consider the topic further**
- **Direct staff to not draft an ordinance, and advise what to do regarding affordable housing initiatives**

- **Pros:** Drafting an inclusionary housing ordinance would allow the City to encourage the construction of affordable housing units or alternatively collect fees to have units built elsewhere in the community. Fees-in-lieu would allow full flexibility to buy down the price of units, subsidize rehab of existing homes for resale, or even build affordable units in the City.
- **Cons:** The requirement to build or pay for affordable units may discourage some housing developers from some of our remaining parcels. However, Saint Charles as a nearby community already has this in place so the precedent has been set for implementing an inclusionary housing ordinance.
- **Budget Impact:** Undetermined at this time. Staff and attorney time would be used to draft the ordinance.
- **Staffing Impact:** No additional staff would be required for this initiative.

4. **Timeline for actions:** While there is no set timeline, new development on existing parcels is imminent. Having this ordinance in place would ensure construction of affordable units and/or collection of fees-in-lieu for affordable housing.

5. **Staff recommendation:** Staff recommends the Committee discuss the Saint Charles ordinance and the concepts and give direction to staff on how to proceed.

Attachments:

1. Saint Charles Inclusionary Housing Ordinance
2. Inclusionary Housing Article.

19.02 – Inclusionary Housing Ordinance

Sections

- 19.02.010 – Purpose and Intent
- 19.02.020 – Implementation
- 19.02.030 – Enforcement
- 19.02.040 – Definitions
- 19.02.050 – Applicability
- 19.02.060 – Affordable Units and Fee In-Lieu Required
- 19.02.070 – Alternative Affordable Housing Plan
- 19.02.080 – Density Bonus
- 19.02.090 – Development Cost Offsets
- 19.02.100 – Location, Phasing and Design.
- 19.02.110 – Maximum Price of Affordable Units
- 19.02.120 – Ownership and Occupancy of Affordable Units.
- 19.02.130 – Development Applications that Include Affordable Units.
- 19.02.140 – Affordable Housing Agreement and Documents

19.02.010 – Purpose and Intent [1]

To provide opportunities within the City for affordable housing, either within new residential developments by requiring Developers to provide a proportionate share of affordable housing, or fees in lieu thereof, to ensure that an adequate stock of affordable housing is, and remains, available in the City of St. Charles.

(2016-M-7 [2]: § 2)

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19.02.020 – Implementation [3]

The Director of Community and Economic Development or Director's designee shall promulgate regulations and forms as may be necessary for the implementation of this Chapter. Said regulations shall be reported to the Housing Commission and City Council.

(2016-M-7 [2]: § 2)

19.02.030 – Enforcement [4]

1. The provisions of this Chapter shall apply to all agents, successors and assignees of an Applicant.
2. The City of St. Charles may institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this Chapter. In addition, any person, firm, or entity, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for each offense by the payment of a fine of not more than \$750.00 dollars per day. Such person, firm, or entity shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is commenced, continued, or permitted by such person, firm, or entity, and shall be punishable as herein provided.

(2016-M-7 [2]: § 2)

19.02.040 – Definitions [5]

The following words and phrases shall have the meanings set forth in this Section. Words and phrases not defined in this Section, but defined elsewhere in the St. Charles Municipal Code, shall have the meanings set forth therein. In the event that a word or phrase is not defined, it shall have the common and ordinary meaning ascribed thereto. In interpreting the provisions of this Chapter, in the event there is a conflict between a definition in this Section and one found elsewhere, the definition in this Section shall apply.

1. Affordable Housing: Housing that has a sales price or rental amount that is within the means of an "Eligible Household" as defined herein. In the case of Dwelling Units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of Dwelling Units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy

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the unit.

2. Affordable Unit: A Dwelling Unit of Affordable Housing that satisfies the requirements of this Chapter.
3. Affordable Housing Agreement: Any agreement between the City and an Applicant as required by Section 19.02.140 of this Chapter.
4. Applicant: Any Developer who applies to the City to receive approval of a Residential Development pursuant to this Chapter.
5. Area Median Income (AMI): The median income level for the Chicago Primary Metropolitan Statistical area, as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, and adjusted for household size.
6. Base Density: The number of Dwelling Units permitted to be constructed on a parcel in conformance with the requirements of the Zoning District in which it is located, prior to applying any applicable density bonus.
7. Developer: Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops a dwelling or units, not including any governmental entity or a Housing Provider as defined herein.
8. Director: The Director of the Community and Economic Development Department, or his or her designee.
9. Dwelling Unit: A Dwelling Unit as defined in Chapter 17.30, “Definitions”, of Title 17 “Zoning”. For purposes of this Chapter, the term Dwelling Unit includes Affordable Units and Market Rate Units.
10. Eligible Household: A household with an income at or below eighty percent (80%) of the Area Median Income (AMI) for for-sale units and at or below sixty percent (60%) of the AMI for rental units, based on the size of the household.
11. Housing Provider: An entity approved by the City of St. Charles to develop, manage or own Affordable Dwelling Units.
12. Market Rate Units: All Dwelling Units in a Residential Development that are not Affordable Units as defined herein.
13. Residential Development: The establishment of one or more Dwelling Units in any of the following instances:
 1. Construction of one or more Dwelling Units pursuant to a Final Plat of Subdivision, where the Preliminary Plat is approved by the City Council after February 15, 2008.
 2. Construction of one or more Dwelling Units within a Planned Unit Development, where the Preliminary PUD Plan is approved by the City Council after February 15, 2008.
 3. Construction of one or more Dwelling Units on a lot created after February 15, 2008 by means other than a Plat of Subdivision or Planned Unit Development, including but not limited to a division conforming to the Statutory Plat Act Exemptions.
 4. Issuance of a building permit for a new Dwelling Unit following demolition of a Dwelling Unit on the lot, when the last sale price prior to demolition of the Dwelling Unit was at or below the price of an Affordable Unit with the same number of bedrooms; if the last sale occurred more than two years prior to demolition, then the equalized market value assigned by the Township Assessor as of the date of demolition shall be used.
 5. Issuance of a building permit for alteration of an existing building, in whole or in part, that increases the number of Dwelling Units from the number that existed prior to its alteration.

(2016-M-7 [2]: § 2)

19.02.050 – Applicability [6]

1. The provisions of this Chapter shall apply to any Residential Development, as defined herein. Residential
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Developments undertaken in phases, stages, or otherwise constructed in distinct parts by one or more developers, but which are located within the same Planned Unit Development or Subdivision, or which are otherwise approved as a whole, shall be considered a single Residential Development.

2. The requirements of this Chapter shall not apply in the following instances:
 1. Moving a building containing one or more Dwelling Units from one location to another within the City.
 2. Construction of a single Dwelling Unit on a lot that was of record prior to February 15, 2008 and upon which no Dwelling Unit or part thereof has existed for a period of ten years or more prior to issuance of a building permit.
 3. Upon issuance of a building permit for a new Dwelling Unit following demolition of a Dwelling Unit on the lot, when the new Dwelling Unit is intended to be occupied by the same household or individual that occupied the Dwelling Unit that was demolished, and the demolition occurred more than one (1) year after the date of purchase by said household or individual.
 4. When a Dwelling Unit is destroyed by fire or other casualty or act of God, by any means not within the control of the property owner or tenant.
 5. When an application for Special Use for Planned Unit Development, Preliminary Plat of Subdivision, and/or Final Plat of Subdivision in relation to a Residential Development was filed with the City on or before February 16, 2016.
 6. When an application for building permit for a Residential Development was filed with the City on or before February 16, 2016.

(2016-M-7 [2]: § 2)

19.02.060 – Affordable Units and Fee In-Lieu Required [7]

1. General requirement. Affordable Units, and/or a fee in lieu thereof, shall be required for every Residential Development. The City Council may permit the Applicant to provide Affordable Units or pay a fee in lieu of constructing some or all of the required Affordable Units within a Residential Development.
2. Number of Affordable Units Required:
 1. Calculation. The number of Affordable Units required for a Residential Development shall be a percentage of the total number of Dwelling Units to be constructed within the Residential Development, but not including any bonus Market Rate Units permitted by Section 19.02.080. The minimum requirement shall be calculated as follows:
 - 1 to 15 Dwelling Units: 5 percent
 - More than 15 Dwelling Units: 10 percent
 2. Fractions. In the event that the calculation of the number of required Affordable Units results in a fraction, the following rules shall apply: For that portion of the requirement that is to be satisfied by the construction of Affordable Units, the fraction shall be rounded to the nearest whole number; a fraction of exactly $\frac{1}{2}$ shall not be counted as a required Affordable Unit. For that portion of the requirement that is to be satisfied by payment of a fee in-lieu, any fraction shall be used in calculating the total fee in lieu to be paid by the Developer.
3. Amount of Fee In-Lieu Per Unit. The amount of the per-unit fee in-lieu of Affordable Units shall be determined annually by the City Council. If no fee has been determined by the City Council for the current year, the fee most recently determined by the City Council shall apply.
4. Calculation of Total Fee In-Lieu. For purposes of determining the total fee in-lieu payment amount, the per unit fee in-lieu shall be multiplied by the required number of Affordable Units, including any fractional units.

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5. Payment of Fee In-Lieu. Unless otherwise approved by the City Council in the Affordable Housing Agreement, for Residential Developments constructed in multiple phases the fee in-lieu payments due under the provisions of this Chapter shall be paid for the entire phase to be developed prior to issuance of the first building permit for the applicable phase. For Residential Developments constructed in a single phase the fee in-lieu payment shall be paid for the entire Residential Development prior to issuance of the first building permit.

(2016-M-7 [2]: § 2)

19.02.070 – Alternative Affordable Housing Plan [8]

A. Alternative Affordable Housing Plan Criteria

As an alternative to compliance with the provisions of Section 19.02.060, the Developer may request the City Council to approve, concurrent with the approval of the overall development and after receiving a recommendation from the Housing Commission, one or more of the alternatives listed in this Section. The City Council shall not approve an Alternative Affordable Housing Plan unless the Developer demonstrates and the City Council finds in the affirmative that the Alternate Affordable Housing Plan is justified based on one or more of the following criteria:

1. A demonstrated financial hardship exists that is not of the developer's own making. Items to be considered shall include but shall not be limited to:
 - a. The financial hardship must be equal to or greater than 10% of the total project cost and purchase price, but cannot include any costs incurred as part of the normal and orderly development of the property.
 - b. Environmentally sensitive or natural areas to be protected are equal to or greater than 20% of the total development site area (not including stormwater retention/detention facilities or park sites related to the construction of the project).
2. The development site does not allow for the density bonus as stated in Section 19.02.080 due to limitations on development capacity. Items to be considered shall include but shall not be limited to:
 - a. Insufficient water or sewer utility capacities.
 - b. Unique parcel configurations, which shall include but shall not be limited to steep slopes above an 8% grade or irregular shaped parcels that create unbuildable areas equal to or greater than 20% of the development site.
3. The development will fulfill an alternative City Policy or goal such as redevelopment of a vacant, underutilized, or blighted parcel that cannot otherwise be readily redeveloped and comply with all other applicable requirements.
4. The creation of the Alternative Affordable Housing Plan represents an equal or greater opportunity to create Affordable Housing in the City. Examples of these greater opportunities shall include but shall not be limited to:
 - a. Providing units below the maximum affordability thresholds established by Illinois Housing Development Authority for rental or owner-occupied units. (Example: Pricing rental units at or below 50% of area median income)

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b. Providing offsite affordable units in vacant or foreclosed homes.

c. Providing affordable units for a period of time longer than the fifteen year minimum affordable period stated in Section 19.02.110 Maximum Price of Affordable Units.

B. Alternative Affordable Housing Plan

For instances in which the Developer is requesting to utilize an Alternative Affordable Housing Plan, the Developer shall submit the proposed Alternative Affordable Housing Plan. This plan shall detail the Developer's course of action chosen to create Affordable Housing opportunities in St. Charles. This plan is required to be submitted in writing and must detail how the Alternative Affordable Housing Plan fulfills the criteria listed in Section 19.02.070.A.

One or more of the following options shall be utilized by the Developer:

1. External Funding Sources – The Developer will apply for grants, tax credits, and/or any other applicable funding mechanism each year that the project is under construction. These funds will be used to subsidize the costs associated with the construction of onsite or offsite Affordable Housing Units.

2. Purchase Offsite Units – The Developer shall purchase for-sale or foreclosure properties and then sell or rent them at the established Affordable Housing price.

3. Construction of a portion of the required Affordable Units onsite and/or payment of a portion of the required fee in-lieu, and any combination of the two options listed above.

(2016-M-7 [2]: § 2; 2013-Z-3 [9]: § 4)

19.02.080 – Density Bonus [10]

A. A density bonus shall be permitted when Affordable Units are constructed within the Residential Development in accordance with Section 19.02.060 (B). One bonus Dwelling Unit shall be permitted for each Affordable Unit constructed within the Residential Development; however, in no event shall the total number of Dwelling Units constructed within the Residential Development exceed one hundred twenty percent (120%) of the Base Density.

B. In implementing this density bonus, the following requirements of Title 17 of the St. Charles Municipal Code, the St. Charles Zoning Ordinance, may be varied without additional justification:

1.
Lot area.
2.
Lot width.
- 3.

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Building coverage.

(2016-M-7 [2]: § 2)

19.02.090 – Development Cost Offsets [11]

An Applicant that fully complies with the requirements of this Chapter, including any rules or regulations promulgated thereunder, shall, upon written request to the City, receive a waiver of all building permit, demolition, and plan review fees required by Title 15 of the St. Charles Municipal Code, sewer and water connection fees required by Title 13 of the St. Charles Municipal Code, and cash contributions (when required in lieu of park and school land dedications) as required by Title 16 of the St. Charles Municipal Code, but only relative to the required Affordable Units constructed within the Residential Development.

(2016-M-7 [2]: § 2)

19.02.100 – Location, Phasing and Design. [12]

Affordable Units shall be integrated into the Residential Development by location, construction phasing, and design as described below. Waivers or variances as to the location, construction phasing, or appearance of Affordable Units may be granted by the City Council following a review and recommendation by the Housing Commission, based on supporting evidence that demonstrates that said waiver(s) or variance(s) will further affordable housing opportunities to an equal or greater extent than compliance with otherwise applicable requirements, or that integrating the Affordable Units will create a hardship.

A. Location of Affordable Units. Affordable Units shall be dispersed among the Market-Rate Dwelling Units throughout the Residential Development

B. Phasing of Permits. The Affordable Units shall be constructed concurrently with the Market-Rate Units within the Residential Development. Building and occupancy permits for Market-Rate Units shall be issued only if building and occupancy permits, respectively, for the required Affordable Units have been issued in accordance with the following schedule:

Market-Rate Units (%)	Affordable Units (%)
Up to 50%	At least 30%
Up to 75%	At least 60%
100%	100%

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C. **Exterior Appearance.** The exterior appearance of the Affordable Units in any Residential Development shall be visually compatible with the Market-Rate Units in the development. External building materials and finishes shall be substantially the same in type and quality for Affordable Units as for Market-Rate Units.

D. **Interior Appearance and Finishes.** Affordable Units may differ from Market-Rate Units with regard to interior finishes and gross floor area, provided that:

1. **Bedroom Mix.** The number of bedrooms per Dwelling Unit in the Affordable Units within the Residential Development shall be in equal proportion to the number of bedrooms per Dwelling Unit in the Market-Rate Units within the Residential Development. This provision is not intended to require the same floor area in Affordable Units as compared to Market-Rate Units.

2. **Energy Efficient Improvements.** Affordable Units and Market-Rate Units shall have the same type and quality of improvements related to energy efficiency, including plumbing, insulation, windows, and heating and cooling systems.

(2016-M-7 [2]: § 2)

19.02.110 – Maximum Price of Affordable Units [13]

A. **Affordability Controls; Waivers.** All Affordable Units developed in accordance with this Chapter shall be subject to restrictions as provided in this section.

B. **For-Sale Affordable Units.** Affordable Units shall be offered for sale in conformance with the following principles:

1. The sale of Affordable Units to the first purchaser shall be governed by the following:

a. Affordable Units shall be offered for sale at no more than the maximum price that is affordable to an Eligible Household based on household size in accordance with paragraph D of this Section, using the limits established annually by the Illinois Housing Development Authority (IHDA).

b. The property shall be subject to a deed restriction or other suitable instrument limiting the maximum sale price of the property for a period of fifteen years, and specifying the conditions under which title to the property may be transferred to an entity other than an Eligible Household, including but not limited to transfer of title to heirs.

c. The purchaser shall execute a promissory note in favor of the City in an amount equal to the difference between the purchase price for the Affordable Unit and its fair market value as determined by a licensed appraiser. Said

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promissory note shall be non-interest bearing and shall be secured by a Mortgage on the property. The City shall subordinate the Mortgage to that of the primary lender. (Said promissory note shall be due upon sale of the Affordable Unit after the initial fifteen-year period if the property is sold at market value in accordance with Section 19.02.110.B.3.b.)

2. Subsequent sales of Affordable Units during the first fifteen years following the initial sale shall be governed by following, unless the property owner is granted a waiver by the City Council based upon supporting market-related evidence of undue hardship on the owner of the Affordable Unit:

a. The maximum sale price shall be the initial sale price plus 1) appreciation in the property's value, but not to exceed any increases in the IHDA affordability limit since the last sale of the property; 2) an allowance for the cost of repair and/or replacement of heating, electrical, plumbing, roofs, and structural elements necessary to address safety of the occupants or integrity of the structure.

b. The seller shall receive any of the Affordable Unit's appreciation in value based on the sale price as determined in Section 19.02.110.B.2.a.

c. The purchaser shall execute a promissory note in favor of the City in an amount equal to the difference between the purchase price for the Affordable Unit and its fair market value as determined by a licensed appraiser. Said promissory note shall be non-interest bearing and shall be secured by a Mortgage on the property. The City shall subordinate the Mortgage to that of the primary lender. (Said promissory note shall be due upon sale of the Affordable Unit after the initial fifteen-year period if the property is sold at market value in accordance with Section 19.02.110.B.3.b.)

3. Subsequent sales of Affordable Units after the initial fifteen-year period shall be governed by either (a) or (b) as follows:

a. Resale as an Affordable Unit. If the sale price does not exceed the initial sale price plus 1) appreciation in the property's value, but not to exceed any increase in the IHDA affordability limit since the last sale of the property; and 2) an allowance for the cost of repair and/or replacement of heating, electrical, plumbing, roofs, and structural elements necessary to address safety of the occupants or integrity of the structure, then the property shall be sold as an Affordable Unit in accordance with Section 19.02.110.B.2.

b. Resale at market value. The full amount of the promissory note shall be payable to the City and shall be deposited into the Housing Trust Fund or other fund devoted to providing affordable housing. In the event the amount of the promissory note is in excess of the difference between market value and the purchase price paid by the seller, with allowances granted to the seller for any increase in the IHDA affordability limit since the last sale of the property and for the cost of repair and/or replacement of heating, electrical, plumbing, roofs and structural elements necessary to address safety of the occupants or integrity of the structure, then the excess amount shall be forgiven by the City. Once the promissory note is paid and/or forgiven in accordance with this Section, all restrictions of this Chapter applicable to the Affordable Unit, including its designation as such, shall cease.

C. For-Rent Affordable Units. The maximum gross rent (including a utility allowance for utilities not provided with the rent) for Affordable Units offered for rent shall be calculated using the gross rent limits established annually by the Illinois Housing Development Authority on the basis of thirty percent (30%) of gross monthly income at fifty percent (50%) to sixty percent (60%) of AMI, based on household size in accordance with paragraph D of this Section. The net rent charged by the owner shall not exceed the maximum gross rent minus a utility allowance for any utilities to be paid separately by the tenant. All Affordable Units shall be offered at not more than the maximum rent calculated in accordance with this paragraph in perpetuity or as long as permissible by law.

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D. Household Size. In calculating the maximum sale and rental prices of Affordable Units, the following relationship between the number of bedrooms per unit and household size shall apply:

Size of units:	Affordable for:
Efficiency units:	1-person household
One-bedroom units:	2-person household
Two-bedroom units:	3-person household
Three-bedroom units:	4-person household
Four-bedroom and larger units:	5-person households and larger

E. Sale or Rental to Housing Providers. Every Affordable Unit required by this Chapter shall be offered for sale or rental to an Eligible Household as a primary resident, except for units purchased by Housing Providers. Housing Providers designated by the City of St. Charles shall have the right, but not the obligation, to purchase any for-sale Affordable Units, but only for the purpose of reselling to an Eligible Household.

(2016-M-7 [2]: § 2)

19.02.120 – Ownership and Occupancy of Affordable Units. [14]

Owner-occupied Affordable Units shall only be sold to and occupied by Eligible Households. Affordable Units that are rented shall only be rented to and occupied by Eligible Households. Subletting of Affordable Units shall not be permitted. Priority will be given to Eligible Households where one or more members live or work in St. Charles, and to employees of the City of St. Charles, the St. Charles Park District, and Community Unit School District No. 303, regardless of their initial place of residence, to the extent permitted by law.

1. Increase in Annual Income for Owner-Occupied Affordable Units. If a Household's gross income increases above the maximum Eligible Household income level for a household of its size, the Household may continue to own and occupy the Affordable Unit, and the Affordable Unit shall otherwise remain subject to the limitations set forth in Section 19.02.110.

2. Increase in Annual Income for Renter-Occupied Affordable Units. If a Household's gross income increases above the maximum Eligible Household income level for a household of its size, the Household may continue to lease and occupy the Affordable Unit, and renew said lease, and the Affordable Unit shall otherwise remain subject to the limitations set forth in Section 19.02.110.

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(2016-M-7 [2]: § 2)

19.02.130 – Development Applications that Include Affordable Units. [15]

As part of the application for approval of a Residential Development, the Applicant shall submit information describing how the Residential Development will comply with the requirements of this Chapter. The Director of Community and Economic Development may require any or all of the following to be submitted for review:

1. The number and rental/for sale status of Market-Rate Units and Affordable Units to be constructed including type of dwelling, number of bedrooms per unit, proposed pricing, and construction schedule, including anticipated timing of issuance of building permits and occupancy certificates.
2. Documentation and plans regarding locations of Affordable Units and Market-Rate Units, and their exterior appearance, materials, and finishes.
3. A description of the marketing plan that the Applicant proposes to utilize and implement to promote the sale or rental of the Affordable Units within the development; and,
4. Any proposal to pay fees in lieu of providing the required Affordable Unit, per Section 19.02.060.
5. Alternative Affordable Housing Plan Submittal Requirements
 - a. The Applicant shall submit a financial statement or pro-forma including the following:
 - i. Purchase price of the property.
 - ii. Identification of the financial hardship and cost estimates associated with absorbing and/or remediating the identified hardship.
 - iii. All non-hardship development costs and expected profits.
 - b. Where the Applicant will apply for external funding sources, the following is required:
 - i. An action plan clearly identifying the external funding sources that will be applied for during the construction phase and frequency of application to each funding source. The Action Plan shall clearly demonstrate that the project is eligible for the funding source that will be utilized.
 - ii. Commitment to providing a copy of all grant applications at the same time the application is submitted to the funding authority.
 - iii. Statement of the number of Affordable Units targeted to be affordable.
 - iv. Documentation and plans regarding locations of Affordable Units and Market-Rate Units onsite or offsite, and their exterior appearance, materials, and finishes should external funding be awarded.
 - c. Where the Applicant will purchase offsite units, the following is required:

19.02 – Inclusionary Housing Ordinance

i. An action plan or market study identifying the number of offsite units planned for purchase, the location of available offsite units, and purchase price of these units.

ii. Any supplemental information necessary to support the proposed plan such as, anticipated cost of renovations for offsite properties.

iii. The expected timing for the purchase of offsite units.

iv. Commitment to submitting a copy of the home inspection report to the City for review. This report shall include the following:

- Identification of the age and condition of all major systems (plumbing, HVAC, electrical, and structural)
- Identification and condition of all major appliances
- A list of all necessary repairs that the Developer proposes to perform before the offsite unit is resold to an Eligible Household.

The Developer shall provide a copy of this inspection report to the affordable household who has signed a contract to purchase the unit.

(2016-M-7 [2]: § 2; 2013-Z-3 [9]: § 5)

19.02.140 – Affordable Housing Agreement and Documents [16]

Prior to issuance of a building permit for any Residential Development in which Affordable Units are to be provided, the Applicant shall have entered into an Affordable Housing Agreement with the City. Said agreement shall set forth the commitments and obligations of the Applicant, including but not limited to the number, timing and location of the required Affordable Units, and/or the amount and payment schedule for any fee in lieu thereof, to ensure that the provisions of this Chapter are met. The Applicant shall execute any and all documents deemed necessary by the City, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the Affordable Units in accordance with this Chapter.

(2016-M-7 [2]: § 5)

HOUSING POLICY AND GOVERNANCE

Inclusionary Zoning

City of St. Charles Inclusionary Zoning Ordinance

St. Charles, Kane County

St. Charles took a unique approach to its inclusionary zoning legislation, and created a tiered system that requires developments of different sizes to incorporate a different percentage of affordable homes.

Policy Background

Due to its strong housing market and desirable location, St. Charles has experienced a loss in affordability over the past several years. If this trend continues, moderate-income families may eventually be priced out of the community. In 2008, to provide more affordable housing options for working families, the city adopted an inclusionary zoning ordinance. Along with legislation establishing a housing trust fund, this ordinance will provide more options for families to work and live in St. Charles.

The ordinance is part of the city's housing action plan, developed with the assistance of the Metropolitan Planning Council, to identify strategies and programs that will preserve and create diverse housing options for city residents. The St. Charles Inclusionary Zoning ordinance is one part of the city's larger plan to increase and preserve affordable housing in the city, which includes other initiatives like employer-assisted housing, preserving and upgrading the existing affordable housing stock, and leveraging federal, state and local resources.

One of the city's major goals was to ensure this new ordinance could function effectively within St. Charles' housing market. The city worked closely with S.B. Friedman and Co., a real estate consultant, to ensure that developers, instead of opting to pay in-lieu fees into the housing trust fund, would be more likely to build the affordable homes. S.B. Friedman evaluated bottom-line expenditures and profits, which helped the city establish cost offsets like a density bonus and municipal fee waivers. These offsets help to lessen the impact on a developer's overall profitability.

How It Works

St. Charles is one of several local communities to adopt inclusionary zoning (also, Highland Park, Lake Forest, Evanston, and Chicago), yet the city took a unique approach to its legislation. Unlike most communities, which require developers to set aside a flat percentage of homes as affordable for any qualified development, St.

Goal

To address the decreasing supply of housing for moderate-income workers, and provide more affordable housing options for families wishing to live and work in St. Charles.

Target

St. Charles families earning 80% or below AMI (\$60,300 for family of four in 2009) for homeownership, and between 50% and 60% AMI (\$37,700-\$44,940) for rental properties.

Financing

The ordinance provides fee waivers for affordable homes and a density bonus to make construction financially viable for developers.

Success

First Street, a new large-scale development in downtown St. Charles, became the first development to incorporate affordable homes. The city negotiated its affordable set aside with the developer on a voluntary basis in 2007, prior to the passage of the inclusionary zoning ordinance. All of First Street's 16 affordable apartments have been rented. Another development, Delnor Woods, includes four affordable rental units.



Inclusionary Zoning

City of St. Charles Inclusionary Zoning Ordinance

St. Charles, Kane County

Charles created a “tiered” system. It requires developments of different sizes to incorporate a different percentage of affordable homes. Five percent of developments with one to ten homes are required to be affordable, while this percentage is increased to 10 percent for developments with 11-50 homes, and 15 percent for developments with more than 50 homes.

The ordinance applies to all new residential developments, including conversions that add units to a property. Families who earn between 50 and 60 percent, or \$37,700 to \$45,240 for a family of four in 2009, of the Chicago region’s Area Median Income (AMI) qualify for affordable rental homes and apartments, and those earning 80 percent of AMI, (\$60,300 for a family of four in 2009) or less qualify for for-sale developments. Rental and sale prices are determined by the family’s ability to pay housing costs, which can be up to 30 percent of income.

For affordable homes required but not built on site, developers must pay in-lieu fees. The City Council sets these fees on an annual basis, although the in-lieu fees have remained at the rate set for 2007-2008 (\$140,000 per unit) for the past two years. Developers may pay in-lieu fees in full for small

developments (1-10 homes), but larger developments must follow more stringent guidelines. For medium developments (11-50 homes), the City Council accepts in-lieu fees for no more than 50 percent of the required affordable homes for the site, so developers must construct at least half of the required affordable homes. For large developments (50 or more homes), developers must construct all of the required affordable homes, or need special approval from the City Council and housing commission to pay in-lieu fees. Even if they receive this special approval, developers still need to construct at least 50 percent of the required affordable homes.

Public Involvement

The city’s outreach effort is one of the greatest triumphs of its inclusionary zoning planning process. Beyond the housing commission’s numerous open meetings, the commission met with various stakeholders to get feedback on the ordinance’s potential effects. These stakeholders included school and park district representatives, developers, and real estate professionals. The ordinance also was discussed at many City Council and Plan Commission meetings, both of which are open to the public.



Contact
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morourke@stcharlesil.gov

CITY OF BATAVIA

DATE: May 6, 2016
TO: Committee of the Whole-CD
FROM: Scott Buening, Community Development Director
SUBJECT: Discussion: Wayfinding Signage for Downtown

Summary: Reopening a discussion regarding wayfinding signage in the Downtown area.

Background: Back in March 2014, the City submitted an application for a Riverboat Grant through Kane County to pay for a signage study. The study was to encompass various City signage including entry monuments, downtown wayfinding and general directional signage. The City did not receive any funds from that program, and instead decided to pursue the entry monument signage as a separate project.

Batavia MainStreet has now approached the City staff asking for this project to be revived as their Board would like to pursue the downtown wayfinding aspects of the signage program. The City does not have any specific funding for this project this fiscal year, however funding from the Speedway site sale and other land sales could be made available to fund this study. As was noted in a previous report, a full study for this type of signage would range from \$20,000 to over \$100,000 with an average of \$50-60,000. These costs were for the study only and not for any manufacturing or installation of signage.

MainStreet representatives will be at the meeting to discuss the project and their desire to pursue this initiative. We anticipate they would be an active participant in the study and would assist in working with the consultant in the analysis.

Alternatives:

- a. **Pros-** This would restart a project that has been looked at in the past but has not been funded. Improved signage would help create a unified identity for the downtown area.
- b. **Cons-** The City does not have money specifically budgeted to this project right now. However, land sales funds could be used towards this effort, and MainStreet has indicated they could provide some funding for the study as well. After completion of the study the City would need to budget additional funds for signage manufacturing and installation. City staff has limited time and resources to dedicate to the study at this time, so MainStreet would need to be an active participant with the hired consultant.
- c. **Budget Impact-** The cost of a study would be somewhere in the range of \$20,000-\$100,000; which funds have not been budgeted at this time. MainStreet has agreed to participate with an undetermined amount of funds to assist in moving the study forward.

d. Staffing Impact- City staff would be required to provide data and input as the study progresses. No additional staff would be hired as part of this project.

Timeline for actions: There is no specific timeline for action on this matter.

Staff recommendation: Staff recommends the Committee discuss the proposed initiative and give staff direction on how to proceed.

Attachments:

1. Staff memo of March 25, 2014.

Cc: Mayor & City Council
File

CITY OF BATAVIA

DATE: March 25, 2014
TO: Joint Committee of the Whole-CD
FROM: Scott Buening, Community Development Director
SUBJECT: Resolution 14-46-R Authorizing Application for a Kane County 2014 Riverboat Fund Grant

Background

Kane County each year receives funds from the Riverboat Fund Program which is funded by revenues from the Grand Victoria Casino in Elgin. The County uses these funds to give grants for projects which further the goals of Education, Environment or Economic Development. These grants go to various governments and other non-governmental agencies for a variety of projects.

Analysis

Staff has investigated possible projects that could be funded by this program and has determined that the best option is for us to apply for funds for the signage study we will be undertaking. This study is to analyze and make recommendations for improving the entry monument, downtown wayfinding and directional signage within the City. The City has already budgeted \$20,000 for this study in line 10-13-6355. This budgeted amount was based on a Saint Charles study back in 2002 that cost \$15,000, but current day estimates put that closer to \$20,000. Staff recently found another community in Illinois that did a similar study, and the costs for the study alone from the Request for Proposals received ranged from \$20,000 to \$112,000. Most of the proposals were right around \$50,000 to \$60,000. Thus we feel to get a high quality study, we should apply for a Riverboat grant to supplement the funds budgeted thus far. Note that these costs do not include any finding for implementation such as fabrication, construction or installation of the signs.

The attached Resolution would authorize the City to make such an application with Kane County. We would be applying for a total of \$40,000 in grant funds which would allow us to fund this project to the amount of \$60,000. The Resolution would authorize the City Administrator to sign the application and any other documents to apply for this grant. The deadline for this grant is April 7, 2014 at 4:30 PM. As we have in the past due to typical meeting time/grant deadline conflicts, we would submit the application before the deadline, and the signed Resolution would go to the County a few days later.

Recommendation

Staff recommends approval of Resolution 14-46-R Authorizing Application for a Kane County 2014 Riverboat Fund Grant.

Attachments:

1. Resolution 14-46-R Authorizing Application for a Kane County 2014 Riverboat Fund Grant.
2. Riverboat Fund Grant Application.

Cc: Mayor & City Council
City Administrator
City Attorney
Press
File

CITY OF BATAVIA

DATE: May 19, 2016
TO: Mayor & City Council
FROM: Bill McGrath, City Administrator
SUBJECT: Draft Ord 16-34 Regulating Bodywork Establishments

Attached is a draft ordinance for the regulation of bodywork establishments. It is important to note that the term "bodywork" under this ordinance is broader and thus more inclusive than the term "massage" is under state statute. The reason for that is to reach some activities such as Asian Bodywork that are not regulated by the State but are still subject to the same exploitation that massage sometimes is. This makes it a little hard to comprehend but it makes it much stronger.

It also represents the combined thoughts and input of staff, local massage therapists, a business owner which offers massage as an adjunct part of the overall business, and a representative of the state organization for massage therapists.

It calls for a certain level of retroactivity. We believe that this issue may not be as of much importance what with the recent work of the Police Department and other staff following up on the criminal and zoning violations discovered in two of the local facilities.

We have made the fees very reasonable with our legitimate practitioners in mind; the profitability of illegitimate activity probably wouldn't be discouraged even by much higher fees.

Staff has tried to balance the values of the community with the respect for legitimate practitioners who bring much relief to many of our residents along with the rights that people have under our laws including the Constitution. This is not an easy task and thus while the ordinance is on the agenda for Tuesday evening we won't be surprised if there might be some aspects raised that require more contemplation. Please send us any questions or comments you have before the meeting so we can be prepared.

This matter will be on the Committee of the Whole agenda on Tuesday May 24, 2016 for discussion.

Thank you

Attachment

C: Department Heads
Deputy Chief Eul
Deputy Chief Autenrieth
Sgt. Shawn Mazza
Local therapists and spas

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 16-34**

**REVISING TITLE 3 OF THE BATAVIA MUNICIPAL CODE APPROVING THE
REGULATION OF BODYWORK ESTABLISHMENTS**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
___ DAY OF _____, 2016**

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

Prepared by:

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

CITY OF BATAVIA, ILLINOIS
ORDINANCE 16-__

**REVISING TITLE 3 OF THE BATAVIA MUNICIPAL CODE APPROVING THE
REGULATION OF BODYWORK ESTABLISHMENTS**

WHEREAS, massage therapists are regulated exclusively by the State, but massage establishments and establishments that perform bodywork are not regulated by the State; and,

WHEREAS, in recent years in some establishments throughout the area purporting to provide legitimate massage services but actually providing illegal sexual activity such that there is a need for local regulation to prevent such activity in the City of Batavia; and

WHEREAS, Illinois Compiled Statutes 225 ILCS 57/25(g) exempts “practitioners of Asian bodywork approaches” from the licensing requirements of the Massage Licensing Act (225 ILCS 57/1, *et seq.*) if the practitioner is a member of the American Organization of Bodywork Therapies of Asia as a certified practitioner, or if approved by an Asian bodywork organization based upon a minimum level of training, demonstration of competency, and adherence to ethical standards set by their governing body; and

WHEREAS, the City of Batavia, based upon research, law enforcement investigations and materials presented to its Corporate Authorities, has concluded that there is evidence that the Asian bodywork approach exemption set forth in 225 ILCS 57/25(g) is being used, in some instances, by businesses and persons who are not state licensed massage therapists or bona fide practitioners of Asian bodywork approaches but for the purposes of conducting unlawful sexual activities for consideration; and

WHEREAS, the Illinois Department of Financial and Professional Regulation (the “Department”) has opined that the exemption under 225 ILCS 57/25(g) of the Massage Licensing Act, does not limit the ability of a home rule municipality to regulate the practitioners of Asian bodywork approaches who are not massage therapists licensed by the Department; and

WHEREAS, the Corporate Authorities of the City of Batavia find that certain non-Asian body work exemptions set forth in 225 ILCS 57/25 are more easily identified as bona fide and have not been subject to the same sexual misconduct abuses as the Asian body work exemption, but nevertheless require regulation by the City but to a lesser extent than Asian bodywork approach establishments; and

WHEREAS, the Corporate Authorities have determined that the amendments to this Section 3-12 set forth in this Ordinance, will reduce the probability that establishments

purporting to house legitimate bodywork as defined in this Ordinance will be used to promote illegal sexual activities while protecting lawful providers of such bodywork approaches; an

WHEREAS, the City of Batavia is a home rule municipality under the laws of the State of Illinois, and this ordinance is enacted pursuant to said powers and authority; and

WHEREAS, this Ordinance is not intended to regulate the licensing of massage therapy or massage therapists or to encroach on the State's exclusive authority to regulate those activities: and

WHEREAS, it is in the best interests of the City and of the public for the City to regulate bodywork establishments (as defined within this Ordinance) to prevent such establishments from being the sites of violations of the laws, rules, regulations and/or ordinances of the City and the State for the safety and welfare of the public.

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. Title 3, Chapter 12 of the Batavia Municipal Code is hereby revised in its entirety as follows:

3-12-1: DEFINITIONS:

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

ACT: The Illinois Massage License Act (225 ILCS 57/1 et seq.).

ADVERTISE: The issuance of any card, sign, or device to any person; the causing, permitting, or allowing of any sign or marking on or in any building, vehicle, or structure; advertising in any newspaper, magazine, television, radio, Internet streaming, blog, chat room, website or social media; any listing or advertising in any directory; or commercials broadcast by any means and any similar or equivalent communications of a person, business or establishment.

APPLICANT: Any person or entity seeking a bodywork establishment license. If the applicant is a sole proprietorship, the information sought to be provided shall be for the individual owner; if a partnership, by each general and each limited partner; if a joint venture, by each joint venturer; if a corporation, by each officer and director, and unless the corporation's stock is publicly traded, by each shareholder owning or holding more than 5% of the outstanding stock in said corporation; if a limited liability company, by each manager and by each member owning or holding more than a 5% membership interest; if an entity is made up of one or more sub-entities, then the foregoing information shall be provided or for each sub-entity. It shall also include the business manager or other person principally in charge of the operation of the business.

BODYWORK or BODYWORK SERVICES: Any method of applying pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, touching or stimulating, the external parts of the body, by another individual, with the hands, any body part, or with the aid of any mechanical or electrical apparatus or appliances, with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams lotions, ointments or similar preparations, for compensation. The definition of bodywork for purposes of this Chapter is intentionally not the same and is broader than the definition of massage in the Act, and is intended to cover massage, bodywork services provided by bodywork practitioners and similar services that fit the definition, regardless of what the services or the person providing the services is called, unless expressly excluded by this Chapter.

BODYWORK ESTABLISHMENT: Any commercial, fixed place of business where any person, firm, association, or corporation advertises, offers, engages in, or carries on, or permits to be offered, engaged in or carried on, bodywork services to patrons in exchange for compensation, excluding home-based bodywork providers.

BODYWORK PROVIDER: Any person who provides bodywork services, including licensed massage therapists.

COMPENSATION: the payment, loan, advance, donation, contribution, deposit, or gift of money or anything of value.

CONVICTION: A plea of guilty or *nolo contendere*, finding of guilty, stipulation to such a finding, jury verdict or entry of judgment by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States

EMPLOYEE: Any person over 18 years of age, other than a massage therapist, who renders any service in connection with operation of a massage establishment and receives compensation from the owner or operation of the establishment or from its patrons.

LICENSEE: The owner and/or operator of bodywork establishment.

"MASSAGE" or "MASSAGE SERVICES" or "MASSAGE THERAPY" means, as provided in the Act, a system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied by a licensed massage therapist with or without the aid of lubricants, salt or herbal preparations, hydromassage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage, as licensed under this Act, is to enhance the general health and well-being of the mind and body of the recipient. "Massage" does not include the diagnosis of a specific pathology. "Massage" does not include those acts of physical therapy or therapeutic or corrective measures that are outside the scope of massage therapy practice as defined in this Section.

MASSAGE COMMISSIONER: The Mayor is the Massage Commissioner.

MASSAGE THERAPIST: Any person who is licensed under the Act and administers massage for compensation.

OWNER: An individual, if a sole proprietorship, or any of the following individuals who have a five percent (5%) or more interest in a business and/or are entitled to share in five percent (5%) or more of the profits of the business, including but not necessarily limited to, general partners, shareholders and members, and including the individuals who have any ownership interest in any partnership, corporation, LLC or other entity that is a partner, member or shareholder of the entity in which name a business is conducted. An owner is intended to mean individuals, only, and if a business is owned by another entity, the owners for that business, for purposes of this Chapter, mean the ultimate individuals who are the owners; if a business has successive entities in ownership, the owners for purposes of this Chapter shall be the individuals at the end of the chain of ownership.

PATRON: Any person who receives bodywork services under such circumstances that are reasonably expected that he or she would pay money or give any other form of compensation therefore.

PERMIT: For purposes of this Chapter a person permits something if the person knows or by due diligence should have known of the conduct and does not stop or prevent the conduct from happening.

PERSON: Any individual, partnership, firm association, limited liability company, joint stock company, corporation or combination of individuals of whatever form or character.

RECOGNIZED SCHOOL: A recognized school means any school or educational institution licensed to do business as a school or educational institution in the state in which it is located, or any school recognized by or approved by or affiliated with the American Massage Therapy Association, the National Certification Board for Therapeutic Massage and Bodywork, or the Federation of State Massage Therapy Boards, and which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a resident course of study before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

SEXUAL OR GENITAL AREA: The genitals, pubic area, anus, or perineum of any person, or the vulva or breasts of a female.

3-12-2 BODYWORK ESTABLISHMENT LICENSE REQUIRED

City Bodywork Establishment License Required. No person shall advertise, offer, engage in, conduct or carry on, or permit to be advertised, offered, engaged in, conducted or carried on, bodywork services in any establishment, or provide bodywork in return for compensation in any establishment in the City without first having obtained a bodywork

establishment license issued by the City pursuant to the provisions of this Chapter for each and every premises used for conducting or providing bodywork services for compensation, with the exception of the following:

- A. Home based bodywork practices operated by a person who has a State massage license or who is exempt therefrom, providing that the individual is in compliance with the City Zoning Code provisions that apply to home occupations;
- B. Bodywork establishments that are open for business and operating on the date this Chapter is approved by ordinance and becomes effective, providing that an application for a bodywork establishment license shall be filed and the bodywork establishment be in full compliance with the provisions of this Chapter no later than ninety (90) days from the effective date of this Ordinance approving this Ordinance.
- C. Bodywork establishments that are expressly exempted from the requirement of a bodywork establishment license pursuant to Section 3-12-3.

Regardless of whether a bodywork establishment is required to be licensed under this Chapter, any bodywork establishment or individual who violates any applicable provision of the Act or of this Chapter may be subject to prosecution for such violation pursuant to State or local citation.

3-12-3 MASSAGE THERAPIST LICENSE REQUIRED

No person shall provide or permit another person to provide massage therapy or massage services for compensation in any capacity in the City of Batavia unless the person providing the massage therapy or massage services is a licensed massage therapist or demonstrates with appropriate proof that he or she is exempt from the Act (225 ILCS 57/25).

3-12-4 PREMISES EXEMPT FROM LICENSING

A bodywork establishment license shall not be required for the premises and businesses at which all of the employees, independent contractors and agents are limited to one or more of the following exempt categories, even if the services they perform fall under the definition of bodywork:

- A. Physicians, surgeons, chiropractors, osteopaths, podiatrists, naprapaths, occupational therapists or physical therapists who are duly licensed to practice their respective professions in the state and persons overseen by them in the course of such professional practice.
- B. Athletic trainers for any athletic program of a private or public school, college or university or for any athletic team regularly organized and engaging in competition.

- C. State-licensed physician assistants, practical nurses and registered nurses acting in the normal course of their medical duties under the supervision of licensed physicians, surgeons, chiropractors, osteopaths, podiatrists, naprapaths and similar licensed medical professionals.
- D. Barbers, estheticians and cosmetologists who are duly licensed under the laws of this state, except that this exemption shall apply solely to the massaging of the neck, back, face, scalp, hair, hands and feet of the customer or client for cosmetic or beautifying purposes, and provided that these services are provided to patrons who are fully clothed.
- E. Hospitals, sanitariums, nursing homes, assisted living facilities, home health agencies, hospice programs and other such programs as defined and licensed by the state under ILCS Ch. 210.
- F. Bodywork provided by massage therapy students enrolled in a recognized school during the course of clinical externships, practicums or community services, provided that such bodywork services are part of the curricular requirements of the recognized school and for which no compensation is received.
- G. Bodywork services performed at the patron's premises, including the patron's place of business or residence.

The burden of proof is on the person who claims an exemption to establish by clear and convincing evidence that the exemption applies.

3-12-5 APPLICATION FOR BODYWORK ESTABLISHMENT LICENSE

An application shall be filed for every bodywork establishment in the City that is required to obtain a license on the form provided by the City made under oath with the payment of nonrefundable annual license fees in the amount set forth in Section 3-12-6.C of this Chapter. The applicant must be 18 years old or older and the owner of the business for which the application is sought or an agent of the owner with authority to bind the owner. The application shall include consent to perform investigations of the veracity of all of the information and documentation provided, criminal background checks and fingerprinting of the persons required to be identified in the application. The cost of the criminal record check and fingerprint submissions shall be borne by the applicant.

- A. Business. The application shall include the following information and documentation:
 - 1. The name of the business, all assumed names under which the business is to be conducted and employer identification number of the business providing the bodywork services.
 - 2. The federal employer identification number (FEIN) and state of Illinois business tax number (IBT) of the business.

3. The type of business entity, i.e. sole proprietorship, partnership, corporation, LLC, etc.
 4. A copy of the records that establish the current ownership of any interest in the business of five percent (5%) or greater (such as partners, shareholders, members, and if the legal owner of the business is an entity, a copy of the records that establish the individual owners of the ownership entity, and so on until the records establishing the individual owners at the end of the chain of ownership are established.)
 5. A copy of the business records that establish the persons with current management authority (such as officers, members, managers, general partners, etc.) and supervisory authority.
 6. Proof that the business and all underlying entities with ownership interest of five percent (5%) or more is in good standing with the State (or other state or country) if the business is chartered by the State (such as for corporations, LLCs, limited partnerships, etc.) or other state or country.
 7. Street addresses and names under which all of the record owners identified pursuant to Section 4 above have operated any existing or prior business(es) owned or operated within the last five (5) years under the same business entity or entities or any of the owners of the business for which the application is being filed.
 8. A description of the services to be provided on the premises and whether any bodywork services provided or to be provided as defined in this Chapter are a primary or ancillary activity that will take place on the premises. Bodywork services are the primary business if fifty percent (50%) or greater of the revenue generated from sales of service or products on the premises are derived from bodywork services.
 9. All telephone numbers, websites and Internet addresses of the business and sample copy of the advertising of the bodywork services being provided, if the business is already in operation.
 10. A statement whether the business or any affiliated or predecessor business has ever had a business license of any kind denied, suspended or revoked, and the reasons therefor.
- B. Premises. The application shall contain the following information and documentation of the premises for which a bodywork license is sought:
1. The street address, mailing address (if different) and all telephone numbers for the business where the bodywork services are or will be conducted.
 2. If the premises is leased,

- a. A copy of the Lease, and any Sub-Leases, Assignments and Acceptances of such Sub-Leases or assignments in effect,
 - b. The name, address and phone number of the owner of the premises,
 - c. The name, address and phone number of the tenant of the premises, if the tenant is other than the applicant or the business that is or will be operating in the premises in which bodywork services will be provided.
 - d. The name, address and phone number of the landlord of the premises, if the landlord is other than the owner of the premises in which the bodywork services will be provided.
 - e. Signed authorization by the owner, landlord and/or tenant of the premises for the application to be filed, acknowledging that the owner, landlord and/or tenant has a copy of the application to be filed, has read the contents of it and agrees with the representations to be made by the owner and/or landlord.
4. A drawing or floor plan of the premises designating each room by its purpose and the activity that will take place in each room.
- C. Business Owners and Supervisors. The applications shall include the following information and documentation of the business Owners, as defined in Section 3-12-1 (collectively referenced as “Owners” herein), and all directors, officers, managers and persons with supervisory authority:
1. Name, gender, residential address and phone number(s), facsimile number(s), e-mail address(es), and other contact information.
 2. Date of birth, place of birth, driver’s license number and social security number.
 3. The previous two (2) residential addresses.
 4. Photo identification issued by the federal or state government, or a subdivision or agency thereof.
 5. A complete list of any aliases.
 6. The business, occupation, and employment history for the past three (3) years.
 7. A statement whether the owners or any directors, officers, managers or persons with supervisory authority have ever owned, been involved with or worked for a business that has had a business license of any kind denied, suspended or revoked, and the reasons therefor.

8. A statement whether the owner or any director, officer, manager, person with supervisory authority and or any person who has or will perform bodywork services to the Applicant's knowledge has ever been convicted of a crime, other than misdemeanor traffic violations, including the dates of convictions, nature of the crimes and place convicted, including but not limited to a) any felony; and b) any misdemeanor, or local ordinance or code violation an essential element of which is i) dishonesty, ii) illicit drugs, iii) sexual offenses as defined in 720 Illinois Compiled Statutes 5/11-1, *et seq.*, iv) the use of violence or force, or that is directly related to the practice of the massage or bodywork or operation of a bodywork establishment.
 9. Proof that the owners and any directors, officers, managers or persons with supervisory authority are at least 18 years of age.
 10. Authorization for the police to conduct criminal background checks and take fingerprints.
 11. The name and address of any other business currently owned or operated by any Owner, director, officer, manager or person with supervisory authority.
- D. Business Employees and Agents. The applications shall include the following information and documentation of the employees and independent contractors or agents that have been or are intended to be employed to provide massage or bodywork services:
1. The names, residential addresses and phone numbers.
 2. Photo identification issued by the federal or state government, or a subdivision or agency thereof.
 3. A copy of the State issued massage therapy licenses or State or National licenses of certifications by which authority the persons may perform the massage or bodywork or proof of exemption from the requirement of licensing or certification under Section 25 of the Act.
 4. A description of the type of bodywork approach or modality that will be practiced by each employee and each independent contractor or agent who is or will be performing bodywork in the premises.
- E. Miscellaneous. The Application shall include the following additional information and documentation:
1. Proof that the bodywork establishment for which the license is being sought currently carries or has secured a commercial general liability policy and professional liability policy reflecting limits of no less than on millions (\$1,000,000) dollars per occurrence and two million (\$2,000,000) dollars in the aggregate for covered claims arising out of but not limited to, bodily

injury, property damage, personal and advertising injury, and contractual liability in the course of the license holder's business.

2. Any other information and documentation that may be deemed necessary or appropriate for determination whether the criteria for obtaining a bodywork establishment license is warranted.
- F. Each owner shall provide a complete set of fingerprints, except that anyone holding a valid state massage therapist license shall not be required to submit to fingerprinting or a criminal background check if he or she submits a true and accurate copy of his or her state license
- G. As a condition of the application and right to obtain a license, any person filing an application and any business for which a license is issued under this Chapter is deemed to have authorized the City, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for a license, including a background criminal check of the applicant and any of the owners and employees or agents identified in the application, and the business must allow inspections of the bodywork establishment at any time the business is advertised to be open for business and any time a business is receiving patrons for service, even if the business is not advertised as open to the public at that time. The deemed authorization and submission to investigation and inspection that accompanies the filing of an application and issuance of a license is not intended to require or authorize the licensee, the business or its employees, independent contractors or agents to violate HIPAA, privacy laws or the privacy rights of patrons.
- H. All of the information and documentation to be provided with the application shall be updated and brought current at the time of annual renewal of the license, except that all information and documentation of the Owners, directors, officers, managers, persons having supervisory authority, employees, independent contractors and agents of the licensee who perform body work services shall be updated within ten (10) days after such change occurs.

Submission of an application by a person other than the owner of the business for which a license is sought shall be deemed to have been authorized by the business and its owners once the application is approved, a license is issued and the establishment holds itself out for business to the public at the licensed premises

3-12-6 TERMS OF LICENSE; LICENSE FEES; LICENSE RENEWAL

- A. The term for licenses issued under this Chapter is for one year beginning June 1, and ending on May 31.
- B. All license fees shall be paid at the time that the application is made. All applicable license fees and any other required fees, including costs of fingerprinting, shall be paid prior to the issuance of any license.

- C. The license application fee and the annual license renewal fee for a bodywork establishment license shall be as follows:
 - 1. \$100 for establishments for which bodywork is the primary service being provided;
 - 2. \$50 for establishments for which bodywork is not the primary service being provided
 - 3. Fingerprint fee and background check fees in the amount assessed against the City (except that licensed massage therapists shall be excluded from this requirement due to the fingerprinting done at the State as a condition of the State license, unless the fingerprinting has not been done within five (5) years of the application or renewal).
- D. In addition to the fees identified in subsection C. above, an applicant filing an initial application for a new business and/or new premises shall pay an initial license application fee of \$100.
- E. A license may be revoked for failure to pay the license fees and for those grounds stated in 3-12-18. Such revocation may be in addition to any fine imposed.
- F. In addition to the annual fee, the applicant shall provide updated information for all licensed massage therapists and for all persons performing massage services who are exempt with proof of the exemption.

3-12-7 SANITATION AND SAFETY REQUIREMENTS

All licensed premises shall be periodically inspected by a duly authorized representative of the City for safety of the structure and adequacy of plumbing ventilation, heating, illumination and fire protection. In addition, the premises shall comply with the following regulations.

- A. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given.
- B. Floors shall be free from any accumulation of dust, dirt or refuse.
- C. The premises shall have adequate equipment for disinfecting and sanitizing non-disposable instruments and materials used in administering massages. Such non-disposable instruments and materials shall be disinfected after use on each patron. All equipment used in the bodywork establishment shall be maintained in a clean and sanitary condition.
- D. Soaps, towels, linens and laundered sheets must be provided. All such towels, linens and items for the personal use of operators and patrons shall be clean and freshly laundered after each use thereof and stored in a sanitary manner.

- E. Towels, linens and sheets shall not be used for more than one patron.
- F. All bodywork services or practices are prohibited in any cubicle, room, booth or other area within a bodywork establishment which is fitted with a door capable of being locked.
- G. Toilets, dressing room facilities, lockers, steam baths, tubs or showers, if provided, shall not be utilized by more than one patron and/or staff member at any one time.
- H. Closed cabinets shall be provided and used for the storage of clean linen, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas

3-12-8 ISSUANCE AND DENIAL OF LICENSES

- A. The Bodywork Commissioner shall act to approve or deny an application for a license under this chapter within a reasonable period of time, and in no event shall the Bodywork Commissioner act to approve or deny the fully completed license later than sixty (60) days from the date that the application was accepted by the City.
- B. In the case of an application for bodywork establishment license, the Building Commissioner shall cause the premises to be licensed to be inspected to assure that the proposed operation complies with all applicable laws, including the building, electrical, plumbing, health, housing, zoning, and fire codes of the City, and any other regulations of the city relating to the public health, safety and welfare. The Building Commissioner shall make written verification to the Bodywork Commissioner concerning compliance with the codes and ordinances of the City.
- C. Upon receipt of a properly completed application for bodywork establishment license, the Bodywork Commissioner shall submit the completed application to the Chief of Police for an investigation into the applicant's criminal history and to obtain fingerprints of the persons identified in the application.
- D. The Bodywork Commissioner, with the advice and consent of the City Council, shall either issue a license, or notify the applicant in writing that the application has been denied. The license shall be denied if the applicant fails to comply with the requirements of this chapter or with the requirements of any other provision of this code which is applicable to the establishment and/or activities of the applicant. In addition, no license shall be issued to any applicant if:

1. The proposed operation does not comply with all applicable laws, including, but not limited to, the building, electrical, plumbing, health, housing, zoning and fire codes of the City; or
 2. The applicant, if an Owner; or any of the officers, directors, managers or persons having supervisory authority or employees or other persons who have or will perform bodywork services in the premises of the establishment have been:
 - a. Convicted of a felony under the laws of the state of any other state, or under the federal laws of the United States, within five (5) years of the date of the application or any misdemeanor, an essential element of which is i) dishonesty, ii) illicit drugs, iii) sexual offenses as defined in 720 Illinois Compiled Statutes 5/11-1, *et seq.*, iv) the use of violence or force, or that is directly related to the practice of the massage or bodywork;
 - b. Convicted of a violation of any provision of the Act of this Chapter.
 3. The applicant has had a bodywork business, massage therapist or similar license denied, suspended or revoked by the City, by a state or by a unit of local government; or
 4. The applicant has knowingly made false, misleading or fraudulent statements of fact in the license application or in any document required by the City in conjunction with the license application or has knowingly withheld material information.
 5. The premises for which the bodywork establishment license or similar license is being sought is a premises for which a bodywork establishment license has been revoked at any time within the last five (5) years, or the owner or landlord of the premises has had a bodywork establishment license or similar license revoked on the premises or any other premises owned or rented by the owner or landlord within the last five (5) years.
- E. In the event that the license is denied for failure to comply with the requirements of this Chapter, the Bodywork Commissioner shall promptly notify the applicant in writing or by telephone of the reasons for the proposed denial. If the failure is not cured within ten days after the date on which the Bodywork Commissioner denies the issuance of the license, the denial shall become final.
- F. The Bodywork Commissioner is authorized to make any rules and regulations necessary to implement this Chapter which are not inconsistent with or prohibited by this Chapter.

3-12-9 DISPLAY OF LICENSES

Every bodywork establishment shall display at all times the bodywork establishment is open for business to the public in a prominent place in the public reception area of the bodywork establishment the bodywork establishment license issued pursuant to this Chapter, the licenses of all massage therapists and the licenses or certifications of all other people who perform bodywork services on patrons of the bodywork establishment.

3-12-10 REGISTRATION AND REGULATION OF EMPLOYEES & AGENTS

- A. The licensee, the owner(s) and any person designated by the licensee as a supervisor of a licensed bodywork establishment shall maintain a register of the persons who perform bodywork services at the establishment, as employees, independent contractors and other agents, including the names and residential addresses for each person along with either:
 - 1. A copy of the state massage therapy license issued by the State;
 - 2. A copy of the license or certificate issued by an organization recognized by the State as providing an exemption under the Act (225 ILCS 57/25);
 - 3. Other proof of exemption under the Act (225 ILCS 57/25);
 - 4. A copy of a valid I-9 form; and
 - 5. A copy of photo identification issued by the State or federal government.
- B. The licensee, the owner(s) and any person designated by the licensee as a supervisor of a licensed bodywork establishment shall update the register required by this Section and shall supply the updated information contained in the register to the City when the information changes, and no person shall be allowed to perform bodywork services on patrons at the premises who are not listed in the register or for which the updated information has not been provided to the City
- C. The register required by this Section shall be located and available at the bodywork establishment for inspection by representatives of the City at all times during regular business hours.
- D. It shall be unlawful for any bodywork establishment to allow any person to engage in bodywork or provide bodywork services in the bodywork establishment unless:
 - a. The massage license or equivalent license or certificate for that person is displayed as provided in Section 3-12-9; and
 - b. The information required to be maintained by this Section is in the register is current and any updated information has been supplied to the City.
- E. It shall be unlawful for any bodywork establishment to allow any person to engage in any conduct that is in violation of the Act or this Chapter

3-12-11 CONDITIONS AND RESTRICTIONS OF LICENCES

- A. Supervision. The premises of the bodywork establishment shall be supervised at all times when open for business. Any establishment providing massage services shall have at least one person who is a licensed massage therapist on the premises at all times while the establishment is open. The licensee shall personally supervise the business, or shall delegate such supervisory responsibility to a manager whose name is listed on the bodywork business license and shall not violate, or permit others to violate, any applicable provisions of the chapter. The violation of any provision of this chapter by any agent or employee of the licensee shall constitute a violation by the licensee.
- B. Sanitary conditions. Every portion of the bodywork establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition as required by Section 3-12-7.
- C. Employee dress code. All employees and agents performing bodywork services shall be clean, and wear clean, nontransparent outer garments, covering at least the entire torso and the sexual and genital areas as defined within.
- D. Separate license for each premises. Licenses shall apply only to the premises described in the application, and the license issued thereon, and only one location shall be so described in each license.
- E. Transfer of license. A license shall be a purely personal privilege, effective for a period not to exceed one year after issuance unless sooner revoked as provided in this chapter, and shall not constitute a property interest. No bodywork establishment license is transferrable, separate or divisible, and such authority as license confers shall be conferred only on the licensee named therein.
- F. Minors prohibited. No establishment or person licensed under the provisions of this Chapter shall permit any person under the age of 18 to come or remain on the premises of any bodywork establishment including employees and patrons unless accompanied by or with the written consent of the adult parent or legal guardian of the minor. Persons under the age of 18 may patronize the establishment only with the presence or written consent of their parent or legal guardian.
- G. Alcoholic beverages prohibited. No person shall sell, give, dispense, provide, keep, possess or consume, or cause to be sold, given dispensed, provided, kept, possessed or consumed, any alcoholic beverage on the premises of any bodywork establishment without a valid liquor license, and no liquor shall be sold, offered or consumed in the rooms in which bodywork services are performed unless the room is open to the public.
- H. Solicitations prohibited. No bodywork establishment or person in connection therewith shall place, publish or distribute, or cause to be placed, published or distributed, any advertisement, picture, or statement in any manner and in any

- medium of advertisement which is known to be false, deceptive or misleading in order to induce any person to purchase or utilize any bodywork services, or which reasonably appears to suggest or imply any sexual activity in connection with bodywork or other services or which appear on any adult website or website or other platform that is known to advertise pornographic, sexual or similar services or products.
- I. Hours of operation. No portion of any business premises used in any way for or by a bodywork establishment shall be kept open for any purpose between the hours of 10:00 p.m. and 6:00 a.m. of the following day.
 - J. Inspections. The Bodywork Commissioner or his or her authorized representative may from time to time make inspection of each bodywork establishment and the books and records of the bodywork establishment for the purposes of determining that the provisions of this Chapter are fully complied with. It shall be unlawful for any licensee to fail to allow access to the premises inspection or hinder an authorized City agent who is performing an inspection in any manner. This provision does not authorize or require a licensee, business or employee or agent of the business to violate HIPAA, other privacy laws or the privacy of any patron, and inspections shall be conducted in such a way as to avoid any HIPAA violations, violations of other privacy laws or violations of the personal privacy of patrons.
 - K. Residence prohibited. No one shall reside in the bodywork establishment, and no one shall be allowed to remain overnight in the bodywork establishment premises. This prohibition is not intended to prohibit anyone from living in a separate portion of a commercial building that is zoned and authorized for residential use or from conducting bodywork services out of private residential property that is zoned for residential use and is being used in compliance with zoning laws.
 - L. Open Door during Business Hours. The main entry to the bodywork establishment, other than single rented rooms in buildings with multiple tenants that are not performing bodywork services, shall be open and unlocked all hours that the bodywork establishment is open for and doing business, including all hours that the bodywork establishment is advertised to be open for business and/or bodywork services are performed in the premises.
 - M. Open Sign. A sign indicating the premises is open for business shall be maintained at all times that bodywork services are being provided, and a sign indicating that the premises is not open for business shall be maintained at all times the premises is not open for business.
 - N. Public Access. Every bodywork establishment that operates on the first floor of a building with direct access from outside the building shall separate the area of the premises in which bodywork services are performed from a public reception and/or waiting room area, and the public entrance to the establishment shall be open and unlocked during all of the hours that a bodywork is open or advertised

to be open to the public while bodywork services are being performed. This requirement does not apply to premises in which bodywork is performed by appointment only in:

1. Single offices that are rented on second stories; or
 2. Single offices in first floors that are interior spaces from which patrons have access through public spaces.
- O. Effect of Revocation. No bodywork establishment license shall be issued as to any applicant, business or any owner if the applicant, business or any owner has had any involvement in a business as to which a bodywork license or similar license has been revoked, and property shall be eligible for a bodywork establishment license in the City if a bodywork license has been revoked at any time in the previous five (5) years on that property or any other property owned or rented by the owner or landlord of that property in the City.

3-12-12 SALE, TRANSFER OR SALE OF ESTABLISHMENT

Upon the sale, transfer or relocation of bodywork establishment, the license therefore shall become immediately null and void, and a new license shall be required if a successor bodywork establishment is intended in the same location. Upon the death or incapacity of the licensee or any co-licensee of the bodywork establishment, any heir or beneficiary of a deceased licensee, or any guardian of an heir or beneficiary of a deceased licensee, may continue the business of the bodywork establishment for a reasonable period of time not to exceed sixty (60) days to allow for the approval of a new license.

3-12-13 PROHIBITED ACTS AND CONDITIONS

- A. No person shall conduct or operate a bodywork establishment without first obtaining and maintaining a bodywork establishment license as required by this Chapter unless exempted by Section 3-12-3 of this Chapter.
- B. No person shall operate or conduct any bodywork establishment that does not comply with all of the terms and conditions of Section 3-12-11 of this Chapter.
- C. No person having a license under this Chapter shall operate under any name or conduct business under any designation not specified in that license or permit.
- D. No person shall advertise, promote, or refer to him or herself as a massage therapist as herein defined without qualifying and being licensed by the State as a massage therapist pursuant to the Act.
- E. No person or message establishment shall advertise or hold themselves out in any way, including in the signage of the premises and printed materials, using the terms "massage", "massage therapy" or "massage therapist" unless that person is massage therapists having a current license issued by the State in compliance with

- the Act or that establishment employs a person who is a massage therapist having a current license issued by the State in compliance with the Act; providing that this prohibition does not apply to licensed professionals who are allowed to include massage in their scope of practice.
- F. A patron's sexual and genital areas, as defined herein, must be covered by towels, sheets, cloths or similar nontransparent garments or materials when in the presence of a bodywork practitioner or employee.
 - G. No person, knowingly, in a bodywork establishment, shall expose or fail to conceal his or her sexual and genital parts, or any portion thereof, to any other person. It shall also be unlawful for any person, knowingly, in a bodywork establishment, to expose the sexual or genital parts, or any portion thereof, of any other person.
 - H. No person, knowingly, in a bodywork establishment, shall place his or her hands upon, to touch with any part of his or her body, to fondle in any manner or to massage a sexual or genital area of another person, except as authorized for a licensed massage therapist in keeping with the provisions of the Act in the treatment of post-surgery mastectomy and lymphatic drainage patients.
 - I. No person shall perform or offer or agree to perform any act, whether or not for compensation in any form, which would require the touching of the patron's sexual or genital area, except as authorized for a licensed massage therapist in keeping with the provisions of the Act in the treatment of post-surgery mastectomy and lymphatic drainage patients.
 - J. No person, owning, operating or managing a bodywork establishment, shall knowingly cause, allow or permit in or about such bodywork establishment, any agent, employee or any other person under his or her control or supervision to perform any acts prohibited by this Chapter.
 - K. No bodywork establishment shall obstruct the windows at the entrance, reception area or other area open to the public of the bodywork establishment, and such windows shall be maintained to provide an open and clear view into the public areas of the bodywork establishment.
 - L. No person or business shall do anything that is prohibited by the Act or fail to do anything that is required by the Act, and any prohibited act or failure to act that is required is a violation of this Chapter.
 - M. No person shall commit or permit any gratuitous sexual activity or sexual activity for payment on the premises or the solicitation of gratuitous sexual activity or sexual activity for payment or any procedure during the performance of services that are performed for the purpose of or is reasonably to be expected to cause sexual arousal or gratification of any person or the trafficking of persons or

controlled substances or cannabis on the premises or in connection with a bodywork establishment.

- N. No licensee or business licensed under this Chapter shall knowingly hire or retain or allow bodywork services to be performed on the premises by any person who has been convicted of a crime involving sexual activity, independent contractor or other agent, and no property owner or landlord shall knowingly rent to a person who has been convicted of a crime involving sexual activity or who hires or retains a person or allows bodywork services to be performed by a person who has been convicted of a crime involving sexual activity.
- O. No person shall violate any of the provisions of the Act or of this Chapter. Any act or failure to act of an employee, a person performing massage at or on behalf of a massage establishment as an independent contractor or otherwise, or an agent of the licensee with respect to the licensed business shall be deemed to be the act of the licensee. The licensee and individual committing a violation are jointly and severally liable for any fines or penalties assessed pursuant to this Chapter.

3-12-14 ENFORCEMENT

The Bodywork Commissioner, Police Department and Community Development Department shall have the authority and the duty to enforce the provisions of this Chapter and to delegate enforcement authority as the Bodywork Commissioner deems necessary and appropriate for the health, safety and welfare of the public.

3-12-15 BODYWORK COMMISSIONER

- A. The Bodywork Commissioner is charged with the administration of this Chapter and of such other ordinances relating to bodywork establishments and licensing as may be from time to time enacted by the City Council.
- B. The Bodywork Commissioner shall be apprised of all warnings and citations issued to bodywork establishment licensees and any person who violates any provision of this Chapter.
- C. The Bodywork Commissioner has the authority to suspend a bodywork establishment license without a hearing as provided in Section 3-12-16, subject to a right to a hearing, to conduct hearings on the citations issued as provided in Section 3-12-17.

3-12-16 SUSPENSION WITHOUT A HEARING

If the Bodywork Commissioner has reason to believe that any of the following circumstances exist, a bodywork establishment license may be suspended upon the issuance of a written order stating the reason for the suspension without prior notice or hearing for not more than seven (7) days, giving the licensee an opportunity to be heard during that period; provided that, if the licensee is also engaged in another business on

the licensed premises, such order shall not be applicable to the other business. A license may be suspended temporarily without hearing for the following reasons:

- A. Continued operation of the licensed premises will immediately threaten the welfare of the community;
- B. Bodywork services are being performed in the premises, but no person employed by the business has a valid state massage therapy license or is validly exempted from licensing under the Act;
- C. A person who manages, supervises is employed by or was present at the bodywork establishment has been arrested and charged with any criminal activity in connection with the bodywork establishment or is otherwise charged with any conduct involving sexual activity.

3-12-17 REVOCATION OR SUSPENSION; HEARING PROCEDURE; FINES AND COSTS

The local massage commissioner may, in accordance with law and the provisions of this Chapter, cite a bodywork establishment for violations of the provisions of this Chapter and recommend revocation or suspension of any license and/or fines to be imposed for such violations, suspension or revocation of the license and/or fines may be imposed following a hearing, if requested by the licensee, as provided in this Section.

- A. No license shall be suspended for longer than seven (7) days without a hearing, except as specifically provided herein.
- B. Citations or notices of violation of this Chapter shall be given to the licensee in writing, and shall include the following information:
 - 1. A summary of the alleged violations;
 - 2. The right of the licensee to a hearing and presentation of evidence in the licensee's defense;
 - 3. Setting a hearing date within seven (7) days of the effective date of the notice;
 - 4. The of the licensee to be represented by legal counsel;
 - 5. A finding of a violation may result in suspension or revocation of the license and/or fines;
 - 6. The licensee may request a pre-hearing conference with the Bodywork Commissioner and/or an extension of time for the hearing, provided that the licensee agrees to remain closed until the hearing can be held; and
 - 7. If the licensee does not appear for the hearing, a determination shall be made in the licensee's absence.

- C. Citations or notices shall be given by:
1. Hand delivery to the licensee or any agent or employee of the licensee at the licensee's premises, or posted on the door of the licensed premises if the bodywork establishment during business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, if the door to the premises is locked and/or the premises is not open for business during those times; or
 2. By certified and regular mail addressed to a) the licensee or to any partner, member, shareholder or other person having at least five percent (5%) of the ownership interest in the bodywork establishment, b) the person designated as the manager or supervisor of the premises or c) the local registered agent at the address reflected in the application on file with the City, and any such notice shall be deemed delivered on the second (2nd) day after the day it was placed in the US mail. If the certified mailing is unclaimed, but the regular mailing is not returned to the City as undeliverable, the notice shall be assumed to have been received.
- D. Hearings shall be open to the public, and the licensee shall be given an opportunity to hear the charge and the testimony and evidence in support of the charge, cross examine any witnesses called in support of the charge, and present evidence, testify and witnesses in defense of the charge.
- E. Within ten (10) days after the hearing, the Bodywork Commissioner shall issue a determination in writing and serve it on the licensee by hand delivery or mail as provided in Section 3-12-18.C above, indicating whether a violation is found to have occurred and the details of any order of suspension, revocation or fines imposed.
- F. The written determination of the Bodywork Commissioner shall be final and appealable by certiorari to the local circuit court.
- G. In addition to or in lieu of a suspension or revocation, the Bodywork Commissioner may levy a fine on the licensee not to exceed one thousand dollars (\$1000.00) for each violation and not to exceed fifteen thousand dollars (\$15,000.00) for all fines in the aggregate. Each day on which a violation continues shall constitute a separate violation. Proceeds from such fines shall be paid into the general corporate fund of the City.
- H. In addition to any suspension, revocation or fine, the bodywork commissioner shall determine the costs incurred by the City for the enforcement of this Chapter and hearing, including but not limited to, attorneys' fees, court reporter's fees, fees incurred by the City, Chief of Police and the Bodywork Commissioner, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses incurred by the City or such lesser sum as to the bodywork commissioner may allow, and the licensee who has been found in violation of this Chapter shall pay the costs assessed by the Bodywork Commissioner.

- I. The licensee shall pay fines and costs to the City within thirty (30) days of notification of the fines costs by the Bodywork Commissioner. Failure to pay such costs within thirty (30) days of notification is a violation of this Chapter and may be cause for license suspension or revocation, or the levy of a fine. A period of suspension shall not lapse if any fines or costs remain unpaid.
- J. If a bodywork establishment license is revoked for any cause, no bodywork establishment license shall ever be granted by the City to the owners of the business for which the license was issued or be granted for the property on which the premises was located for which the revoked license was issued for a period of five (5) year after the date of the revocation that will allow a bodywork establishment to be operated on the premises described in the revoked license unless the revocation order has been vacated by court order.

3-12-18 CAUSE FOR SUSPENSION, REVOCATION AND/OR FINES

A bodywork establishment license may be revoked or suspended and/or a fine may be imposed after a public hearing if it is found that:

- A. The licensee has violated any one or more of the provisions of this Chapter;
- B. Any employee of the licensee, including a massage therapist, has engaged in any conduct at the licensee's premises that violates any provision of this Chapter and the licensee knew or by due diligence should have known of such conduct;
- C. Any applicant for a bodywork establishment license has made a false statement on the application;
- D. A licensee has refused to allow any duly authorized police officer, county law enforcement officer, local code enforcement officer or health inspector to inspect the bodywork establishment premises;
- E. The premises of the bodywork establishment are at any time not in compliance with the City building, health or fire codes;
- F. The premises of the bodywork establishment are not in compliance with any of the conditions and restrictions set forth in Section 3-12-13;
- G. The license holder has committed an act(s) of fraud or deceit in the application for license or application for renewal thereof;
- H. The license holder is engaged in the practice of bodywork under a false or assumed name, or is impersonating a massage therapist of a like or different name;
- I. The license holder commits or permits an act of fraudulent, false, misleading or deceptive advertising, or prescribing medicines, drugs, or engaging in the

practices of any licensed profession without legal authority therefore in connection with the bodywork establishment;

- J. The license holder commits or permits any gratuitous sexual activity or sexual activity for payment on the premises or elsewhere commits or permits the solicitation of gratuitous sexual activity or sexual activity for payment or commits or permits any procedure during the performance of services that are performed for the purpose of or is reasonably to be expected to cause sexual arousal or gratification of any person, or commits or permits the trafficking of controlled substances or cannabis on the premises or in connection with a bodywork establishment;
- K. A license holder conducts or permits bodywork activities in the City during a period of time when the license holder's license is suspended or the license holder reasonably should have known the bodyworks activities are being conducted while the license is suspended;
- L. A license holder is delinquent in payment to the City for ad valorem taxes of any other taxes, fees or costs owed to the City.

3-12-19 COMPLAINT OF VIOLATION

Any complaint that any person, corporate or private, or any licensee, has been or is violating the provisions of this Chapter shall be made to the Bodywork Commissioner, Police Department or the Community Development Department. Complaints may be made by any person, including employees and representatives of the City.

3-12-20 PENALTY FOR VIOLATION OF THIS CHAPTER

Any person, corporation, firm or partnership found guilty of violation, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be subject to a fine of not less than \$100.00, nor more than \$1,500.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

3-12-21 3-12-21 Responsibility for Supervision. Business owners are responsible to monitor and oversee any business as to which a license for bodywork establishment is issued under this Chapter, and any business owner that is absent from the premises for which a bodywork license is issued shall designate a person with supervisory authority to be present at all times. In the absence of a designated supervisor, any person who is acting in a supervisory role shall be deemed a supervisor for purposes of this Chapter.

- A. Business owners shall be vicariously responsible and liable for the violations of this Chapter that occur on or in connection with any premises that is licensed or is required to be licensed pursuant to this Chapter and/or the Act; and such violations may be taken into account in determining whether a bodywork establishment license should be suspended or revoked; and fines may be levied

against the business owner(s) in addition to any fines or other penalties that may be levied against the persons whose actions or inactions violated the provisions of this Chapter and/or Act.

- B. Designated supervisors shall be vicariously responsible and liable for the violations of this Chapter that occur on or in connection with any premises that is licensed or is required to be licensed pursuant to this Chapter and/or the Act during the time that such designated supervisors are working or are designated to be working by the business owner(s); and such violations may be taken into account in determining what fines may be levied against the designated supervisor(s) in addition to any fines or other penalties that may be levied against the persons whose actions or inactions violated the provisions of this Chapter and/or Act.
- C. Any person acting in a supervisory role over other persons in connection with the premises, including any person who is the only person at the premises when a violation occurs on the premises, shall be vicariously responsible and liable for the violations of this Chapter that occur on or in connection with any premises that is licensed or is required to be licensed pursuant to this Chapter and/or the Act during the time that such person acting in a supervisory role over other persons are exercising supervisory authority; and such violations may be taken into account in determining what fines may be levied against the person acting in a supervisory role in addition to any fines or other penalties that may be levied against the persons whose actions or inactions violated the provisions of this Chapter and/or Act.

3-2-22 INCORPORATION OF THE MASSAGE LICENSING ACT

All of the terms of the Illinois Massage Licensing Act are incorporated herein and adopted hereby as material components of this Chapter; the provisions of this Chapter shall be interpreted and applied in harmony with the Act; and the all of the provisions of the Act shall be enforced as provisions of the City Code except to the extent that the City is preempted by the Act in respect to the regulation of massage therapy and licensing of massage therapists.

SECTION 2. As of the effective date of this Ordinance, any bodywork establishments that are currently in existence shall have ninety (90) days to apply and conform to the requirements of this Ordinance and the provisions of Title 3, Chapter 12 adopted by this Ordinance.

SECTION 3. This Ordinance shall be in full force and effect upon its presentation, passage and publication according to law.

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this _____ day of _____, 2016.

CITY OF BATAVIA, ILLINOIS ORDINANCE 16-34_____

APPROVED by me as Mayor of said City of Batavia, Illinois, this this ____ day of _____, 2016.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fisher				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Theлин Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										

VOTE: ____ Ayes ____ Nays ____ Absent ____ Abstentions Total holding office: Mayor and 14 aldermen
--

ATTEST:

Heidi Wetzel, City Clerk

CITY OF BATAVIA

DATE: May 19, 2016
TO: Committee of the Whole-CD
FROM: Joel Strassman, Planning and Zoning Officer
SUBJECT: Ordinance 16-35: Amending the Text of the Zoning Code, Title 10 of the City Code

Summary: On May 18, 2016, the Plan Commission conducted a public hearing to review proposed amendments to three Chapters of the Zoning Code. These amendments address setbacks for R1-H single family residences, and for accessory structure setbacks in the R1-H, R1-M, and R2 zoning districts. Additionally, the Zoning Board of Appeals (ZBA) would like to follow the Plan Commission's lead of allowing officers (Chair and Vice-Chair) to be elected to successive terms of office that requires the Zoning Code to be amended accordingly. The Plan Commission recommended approval of these changes at the Public Hearing. The attached draft Ordinance is presented for review by, and recommendation from the Committee of the Whole (COW).

Background: Recently the Zoning Board of Appeals (ZBA) has recommended, and the City Council has approved variances for reduced single family residence setbacks in the R1-H District and for single family accessory structures. The current interior side setbacks of 10 feet on one side and 5 feet on the other for residences in the R1-H District is the only zoning district that has different interior side setbacks. Applying the proposed 7.5 feet on each side would be simpler to use while preserving each lot's buildable width. The proposed change for accessory structure interior side and rear setbacks from the current 5 feet to 3 feet in the R1-H and R1-M Districts would restore the setbacks allowed for "infill lots" (mostly found in these 2 zoning districts) under the previous Zoning Regulations. Duplex residences often have private rear yards that can accommodate accessory structures. Currently, the R2 District limits accessory structures other than garages to the building envelope for the principal structure (the residences). Detached garages may be located a bit closer to the side and rear property lines.

Another Zoning Code change is proposed to accommodate the ZBA's desire to allow its officers to be elected to successive terms. The Zoning Code does not allow this. The Plan Commission recently amended its by-laws to allow this; the Zoning Code does not specify Commission officer terms. Having matching ZBA and Commission officers' terms simplifies their joint meetings. For a complete background on the issues and all proposed Code changes, please see the attached staff report to the Plan Commission.

No audience members spoke at the hearing. The Commission felt that the proposed setback changes would allow for more residential improvement opportunities consistent with recent City Council variance actions. Having alignment of Board and Commission officer terms allows for such officers to gain and use their experience and for more expedient joint meetings. The Commission recommended City Council approval of the proposed Zoning Code amendments.

Alternatives: The City Council can approve or deny the Ordinance as presented, propose changes to the Ordinance, remand the changes back to the Commission for further review, or take no action.

- **Pros** – The proposed amendments will adjust the Zoning Code to be in line with recent City Council variance approvals and allow for reasonable accessory structures on duplex properties. The amendments will also help the ZBA operate more effectively and efficiently.
- **Cons** – Staff has not identified any negative circumstances with the proposed action.

- **Budget Impact** – None.
- **Staff Impact** – None.

Timeline for Actions: With a COW recommendation, Ordinance 16-35 will be placed on the City Council agenda for final action on June 6th. This will allow the ZBA to elect officers at their June 15th meeting

Recommendations: By a vote of 5-0, the Batavia Plan Commission recommended approval of the Zoning Code text amendments, as presented.

Ordinance 16-35 is drafted in accordance with the Commission’s recommendation, therefore, staff recommends the COW recommend approval of Ordinance 16-35 as presented.

Attachments

1. Draft Ordinance 16-35: Amending the Text of the Zoning Code
2. Staff Report to the Plan Commission, Including redlined Zoning Code Sections to be Amended

- c Mayor and City Council
- Department Heads
- Media

**CITY OF BATAVIA, ILLINOIS
ORDINANCE 16-35
AMENDING THE CITY OF BATAVIA ZONING CODE
TITLE 10 OF THE CITY CODE**

**ADOPTED BY THE
MAYOR AND CITY COUNCIL
THIS 6TH DAY OF JUNE, 2016**

Published in pamphlet form
by authority of the Mayor
and City Council of the City of Batavia,
Kane & DuPage Counties, Illinois,
This 7th day of June, 2016

Prepared by:
City of Batavia
100 N. Island Ave.
Batavia, IL 60510

CITY OF BATAVIA, ILLINOIS
ORDINANCE 16-35
AMENDING THE CITY OF BATAVIA ZONING CODE
TITLE 10 OF THE CITY CODE

WHEREAS, the City of Batavia's Zoning Code (City Code Title 10) contains definitions and provisions relating to the use and development of land in the City of Batavia; and

WHEREAS, said provisions have been reviewed and it has been determined that these and certain other provisions, and requirements should be amended in order to better regulate the use and development of land in the City of Batavia; and

WHEREAS, public notice of proposed amendments to Title 10 of the Batavia City Code was duly given and published as required by law; and

WHEREAS, the Plan Commission of the City of Batavia did, on May 18, 2016 conduct a public hearing with respect to proposed amendments that would accomplish the appropriate changes to Title 10, and voted to recommend approval of said amendments to Title 10 of the City Code to the City Council's Committee of the Whole; and

WHEREAS, the City Council of the City of Batavia has received the recommendation of both the Batavia Plan Commission and the Committee of the Whole, and has considered same; and

WHEREAS, it is in the best interests of the City of Batavia and its residents that the proposed Ordinance be adopted by the City Council of the City of Batavia.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Batavia, Kane and DuPage Counties, Illinois:

SECTION 1: That the City of Batavia Zoning Code (Title 10 of the City Code) is hereby amended in conformance with the terms of this Ordinance.

SECTION 2: That the City of Batavia Zoning Code, Chapter 2.1: Single Family Residential Districts, is hereby amended by providing new interior side setbacks in the R1-H District and new interior side and rear setbacks for accessory structures in the R1-H and R1-M Districts in Table 2.104, with Table 2.104 to be amended as stated in Exhibit "A" attached hereto.

SECTION 3: That the City of Batavia Zoning Code, Chapter 2.2: Multi-Family Residential Districts, is hereby amended to accommodate accessory structures in Table 2.204 and Section 2.205.A.1 as stated in Exhibit "B" attached hereto.

SECTION 4: That the City of Batavia Zoning Code, Chapter 5.1: Planning Administration is hereby amended to allow Zoning Board of Appeals Officers to be elected to successive terms, with Section 5.104.A to state as follows:

A. *Creation, Membership and Officers.* The seven members of the Plan Commission shall serve as the Zoning Board of Appeals. One of the members of the ZBA shall be named by

CITY OF BATAVIA ORDINANCE 16-35

the Mayor as chair at the time of his or her appointment. The chair shall serve for two years, at which time the ZBA shall elect a chair from its membership. The ZBA shall elect a vice-chair from its membership. Officers shall serve two year terms, and shall not serve for more than three consecutive terms.

SECTION 5: That this Ordinance 16-35 shall be in full force and effect upon its presentation, passage and publication according to the law.

PRESENTED to and **PASSED** by the City Council of the City of Batavia, Illinois, this 6th day of June, 2016.

APPROVED by me as Mayor of said City of Batavia, Illinois, this 6th day of June, 2016.

Jeffery D. Schielke, Mayor

Ward	Aldermen	Ayes	Nays	Absent	Abstain	Aldermen	Ayes	Nays	Absent	Abstain
1	O'Brien					Fischer				
2	Callahan					Wolff				
3	Hohmann					Chanzit				
4	Mueller					Stark				
5	Botterman					Atac				
6	Cerone					Russotto				
7	McFadden					Brown				
Mayor Schielke										
VOTE:		Ayes	Nays	Absent	Abstention(s)					
Total holding office:		Mayor and 14 aldermen								

ATTEST:

Heidi Wetzel, City Clerk

Exhibit A

Table 2.104: Lot Development Regulations – Single Family Residential Districts					
Standards	R0	RI-L	RI-M	RI-H	Additional Regulations
Minimum Lot Area (sq. ft.)	14,000	9,500	7,200	5,000	
Minimum Lot Width (ft.)	95	80	60	45	
Maximum Height (ft.)					
<i>House</i>	35	35	30	30	
<i>Accessory Structure</i>	25	25	25	25	
Maximum Floor Area Ratio (FAR)	0.35	0.40	0.45	0.50	
Front Setback (ft.)					
<i>House</i>	30	30	25	20	
<i>Attached Garage</i>	(A)	(A)	(A)	(B)	See 2.106.J
Rear Setback (ft.)	30	30	30	25	
Interior Side Setback (ft.)	15	12	10	7.5 (L1)	
Corner Side Setback (ft.)	30	30	12	10	
Accessory Structure Setbacks (ft.)					See 2.106.A
<i>Front</i>	30	30	30	30	(C)
<i>Rear</i>	10	6	3	3	(D)
<i>Interior Side</i>	10	6	3	3	(D)
<i>Corner Side</i>	30	30	12	10	
<i>Principal Structure</i>	10	10	10	10	(E)
Maximum Percentage of Building Frontage as Garage with Vehicle Door(s)	50	50	50	50	(F)
<p>(A) Attached garages shall be set back a minimum of 6 feet from the front plane of the house.</p> <p>(B) Attached garages shall be set back a minimum of 12 feet from the front plane of the house.</p> <p>(C) Detached garages shall be located at least 6 feet behind the front plane of the principal structure</p> <p>(D) Rear and interior side setbacks shall be increased by 1 foot for each 2 feet or fraction thereof in excess of 15 feet in height.</p> <p>(E) Structure may be located closer in compliance with applicable Building and Fire codes</p> <p>(F) Unroofed porches wider than the enclosed building shall be excluded from the width of the building frontage</p> <p>(L1) Interior side setbacks on corner lots shall be a minimum of 5 feet</p>					

Exhibit B

Standards	R2	R3	R4	R5	Additional Regulations
Minimum Parcel Area (sq. ft.)	10,000	15,000	20,000	87,120	
Minimum Net Land Area per Unit (sq. ft.)	5,000	4,375	2,333	1,750	
Maximum Net Land Area per Unit (sq. ft.)	10,000	7,000	4,375	2,333	
Maximum Height (ft.)	35	35	40	45	
Building Step-back	0	0	0	10' at 3 rd floor	
Minimum Perimeter Building Setbacks (ft.)					
Front	25	25	30	40	
Side (Corner)	25	25	30	40	
Side (Single and Two Family Residential)	10	15	30	40	
Side (Multi-Family and Non-residential)	10	15	20	30	
Rear (Single and Two Family Residential)	25	20	30	40	
Rear (Multi-Family and Non-residential)	30	25	20	30	
Minimum Perimeter Accessory Structure Setbacks (ft.)					
Front	25	See Section 2.205.A.1	See Section 2.205.A.1	See Section 2.205.A.1	
Corner Side	25				
Interior Side	5				
Rear	5				
Minimum Perimeter Landscape Area (depth in ft.)					
Front	20	20	20	20	
Side (Corner)	20	20	20	20	
Side (Single and Two Family Residential)	--	15	15	15	
Side (Multi-Family and Non-residential)	--	15	20	20	
Rear	20 (LI)	20	20	20	
Separation Between Buildings (ft.)					
Single story		15	15	20	
Two story		20	25	25	
Three story		20	25	25	
Building Setback to Parking (ft.)		10	10	10	See Section 4.203.N
Off-Street Parking and Loading					(A)
Private Open Space (sq. ft.)		80	60	60	(B)

Standards	R2	R3	R4	R5	Additional Regulations
Common Open Space (minimum)		50% of net site area	45% of net site area	40% of net site area	(C)
Common Open Space Landscaping		1 tree/unit	1 tree/unit	1 tree/unit	(C)
Landscaping (Perimeter & Public Street Frontages)		Perimeter & Public Street Frontages: 1 tree/40 linear ft.			(D)
Exterior Lighting Standards (ft.)	15	15	15	20	See Section 4.103
(A)	Parking for Multi-Family Buildings. In the R4 and R5 zoning districts, a minimum of 25 percent of required parking shall be in enclosed buildings.				
(B)	Private Open Space. Each unit shall contain an exterior private open space. The minimum dimension of private open space is 6 feet. Private open space shall be covered and screened by a barrier fence or wall a minimum of 4 feet in height. Ground floor private open space may be screened by a fence or wall exceeding 4 feet, but no more than 8 feet in height. Screen walls or fences shall be a minimum 50 percent opacity.				
(C)	Common Open Space Amenities. Common open space shall contain the following amenities: 1. One enclosed community facility of at least 1,000 square feet for developments of 100 units or more; 2. One children’s play area of at least 600 square feet with play equipment, located outside of stormwater management areas. Age-restricted developments are exempt from this requirement.				
(D)	Street Frontage Landscape. Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas and lighting.				
(LI)	Accessory structures may be located in the Perimeter Landscape Area				

2.201 Additional Use and Development Regulations

- A. **Accessory Structures.** Accessory structures shall comply with the following regulations:
1. **Location.**
 - a. Accessory structures may be located anywhere within the building envelope, and in other areas in the R2 District as specified in Table 2.204.
 - b. In the R3, R4, and R5 Districts, parking canopies and garages shall be set back a minimum of 10 feet from nonresidential and multi-family residential zoning districts or properties designated as nonresidential or multi-family in the Comprehensive Plan.
 - c. In the R3, R4, and R5 Districts, parking canopies and garages shall be set back a minimum of 20 feet from single family residential zoning districts or properties designated as single family residential in the Comprehensive Plan.

CITY OF BATAVIA

DATE: May 12, 2016
TO: Plan Commission
FROM: Joel Strassman, Planning and Zoning Officer
SUBJECT: PUBLIC HEARING - Amendments to the Text of the Zoning Code
Chapter 2.1: Single Family Residential Districts
Chapter 2.2: Multi-Family Residential Districts
Chapter 5.1: Planning Administration

Background

A May 18th public hearing is set to review proposed Zoning Code amendments related to items staff has encountered through the administration of the Zoning Code. Recent variance applications have sought and have received reductions in setbacks for single family residences and accessory structures. The proposed amendments address these situations. Another proposed amendment would clarify term limits for Zoning Board of Appeals (ZBA) officers.

Summary of Proposed Text Amendments

Chapter 2.1 Single Family Residential District -Table 2.105: Lot Development Regulations

Residence Setback: In the current Zoning Code residences in the R1-H District require one side setback of at least 10 feet (including corner side setback) with the other side setback of at least 5 feet. This is the only zoning district that requires different interior side setback widths. While this can provide flexibility, it does not address well existing residences that lack a side setback of 10 feet. To better accommodate these existing situations while retaining the allowed buildable width of R1-H properties, staff is recommending that each interior side setback be 7.5 feet, with the interior side setback on corner lots being 5 feet.

Accessory Structure Setbacks: When adopted in 2010, the Zoning Code increased the required interior side and rear setbacks on many of the older single family properties to 5 feet from 3 feet allowed previously. Staff is seeking to restore the previous setback for most of these older properties that are now zoned R1-H and R1-M Single Family Medium Density. Roof overhangs on accessory structures effectively would need to be set back 3 feet.

Chapter 2.2 Multi-Family Residential Districts

Currently, accessory structures may be located only in the principal structure building envelope. Staff feels that detached garages on duplex properties zoned R2 can reasonably be located in the rear and side setback areas, with a minimum setback of 5 feet. Staff has drafted such regulations.

Chapter 5.1: Planning Administration

Zoning Code Section 5.104.A prohibits ZBA Chair and Vice-Chair from being reelected. Staff is proposing amending this Section to be consistent with the ZBA's desire for officer terms as established with the recently amended ZBA By-Laws. This Section is proposed to specify that officers may be elected to up to 3 consecutive 2-year terms.

Below are excerpts from the Zoning Code showing the proposed amendments to Chapters 2.1 and 5.1. Proposed Amendments to Chapter 2.2 are attached.

Staff Recommendation

Staff recommends the Plan Commission open and conduct the public hearing. The Commission should then discuss the proposed amendments. Once discussion has concluded, the Commission may provide further direction for staff to research or prepare additional language for consideration. The Commission may elect to keep the Hearing open to gather additional information. Otherwise, the hearing may be closed and a recommendation may be made to the Committee of the Whole.

- c Mayor and City Council
 - Department Heads
 - Media

Attachment: Draft Chapter: 2.2 Multi-Family Residential Districts

Standards	R0	RI-L	RI-M	RI-H	Additional Regulations
Minimum Lot Area (sq.ft.)	14,000	9,500	7,200	5,000	
Minimum Lot Width (ft.)	95	80	60	45	
Maximum Height (ft.)					
House	35	35	30	30	
Accessory Structure	25	25	25	25	
Maximum Floor Area Ratio (FAR)	0.35	0.40	0.45	0.50	
Front Setback (ft.)					
House	30	30	25	20	See 2.106.J
Attached Garage	(A)	(A)	(A)	(B)	
Rear Setback (ft.)	30	30	30	25	
	15	12	10	5-one side 10-one side 7.5 (LI)	
Interior Side Setback (ft.)					
Corner Side Setback (ft.)	30	30	12	10	
Accessory Structure Setbacks (ft.)					See 2.106.A
Front	30	30	30	30	(C)
Rear	10	6	53	53	(D)
Interior Side	10	6	53	53	(D)
Corner Side	30	30	12	10	
Principal Structure	10	10	10	10	(E)
Maximum Percentage of Building Frontage as Garage with Vehicle Door(s)	50	50	50	50	(F)
(A) Attached garages shall be set back a minimum of 6 feet from the front plane of the house. (B) Attached garages shall be set back a minimum of 12 feet from the front plane of the house. (C) Detached garages shall be located at least 6 feet behind the front plane of the principal structure (D) Rear and interior side setbacks shall be increased by 1 foot for each 2 feet or fraction thereof in excess of 15 feet in height. (E) Structure may be located closer in compliance with applicable Building and Fire codes (F) Unroofed porches wider than the enclosed building shall be excluded from the width of the building frontage (LI) Interior side setbacks on corner lots shall be a minimum of 5 feet					

5.104 Zoning Board of Appeals

The Zoning Board of Appeals of the City of Batavia (ZBA) is established pursuant to Illinois Compiled Statutes.

- A. *Creation, Membership and Officers.* The seven members of the Plan Commission shall serve as the Zoning Board of Appeals. One of the members of the ZBA shall be named by the Mayor as chair at the time of his or her appointment. The chair shall serve for two years, at which time the ZBA shall elect a chair from its membership. The ZBA shall elect a vice-chair from its membership. Officers shall serve two year terms, and shall not ~~serve for more than three consecutive terms, succeed themselves.~~ serve for more than three consecutive terms.

Chapter 2.2: Multi-Family Residential Districts

Sections:

- 2.201 Purposes
- 2.202 Multi-Family Residential Districts
- 2.203 Land Use Regulations
- 2.204 Site Development Regulations
- 2.205 Additional Use and Development Regulations

2.201 Purposes

The purposes of multi-family residential districts established in this chapter are to:

- A. Provide for multi-family residential uses in appropriate locations;
- B. Provide for a variety of housing opportunities;
- C. Establish reasonable regulations to create and preserve quality higher density living environments; and
- D. Provide for appropriate transitions to other uses.

2.202 Multi-Family Residential Districts

The multi-family residential districts are:

R2 (Two Family Residential). This district permits two family residences, either in a side by side or stacked configuration.

R3 (Multi-Family Low Density). This district permits multi-family housing at densities of approximately 5-8 dwelling units per acre.

R4 (Multi-Family Medium Density). This district permits multi-family housing at densities of approximately 8-14 dwelling units per acre.

R5 (Multi-Family High Density). This district permits multi-family housing at densities of approximately 14-25 dwelling units per acre.

2.203 Land Use Regulations

- A. ***Regulations.*** Table 2.203: Land Use Regulations – Multi-Family Residential Districts sets forth the land use regulations for multi-family residential districts. The regulations for each district are established by letter designations as follows:

"P" designates permitted uses.

"L" designates uses that are permitted subject to certain limitations. Number designations refer to the limitations listed at the bottom of Table 2.203: Land Use Regulations – Multi-Family Residential Districts.

"T" designates uses that are permitted to be conducted for a temporary period of time. Time limitations are listed in Table 4.509: Temporary Uses.

"A" designates uses that require an Administrative Use Permit pursuant to Chapter 5.4: Use Permits.

"C" designates uses that require a Conditional Use Permit pursuant to Chapter 5.4: Use Permits.

- B. **Unlisted Uses.** Uses are defined in Chapter 6: Use Definitions. If a proposed use is not listed in the Use Definitions, the Planning and Zoning Officer shall determine if the proposed use is substantially similar to a permitted use; in that event, the Planning and Zoning Officer shall assign the proposed use to a permitted use definition.
- C. **Prohibited Uses.** Uses not listed in Table 2.203: Land Use Regulations – Multi-Family Residential Districts below, or not assigned to a Use Definition pursuant to Section 2.203B: Unlisted Uses, are prohibited.
- D. **Additional Use and Development Regulations.** Additional use and development regulations for multi-family residential districts are set forth in Section 2.205: Additional Use and Development Regulations.

Table 2.203: Land Use Regulations – Multi-Family Residential Districts					
Use Classification	R2	R3	R4	R5	Additional Regulations
Amateur Radio Facilities	P, LI	P, LI	--	--	See Chapter 4.8
Bed and Breakfast Homes	C	C	--	--	In single family detached structures only
Carnival	T	T	T	T	See Title 3-4
Child Day Care, Home Occupation	P, LI	P, LI	P, LI	P, LI	See Section 4.503
Congregate Living Facility	--	--	C	C	
Day Care Home	C	C	--	--	
Garage Sales	T	T	T	T	See Section 4.509
Group Home	P	P	--	--	
Home Occupation	P	P	P	P	See Section 4.502
Homeowner Association Facilities	P	P	P	P	
Laundry Services	--	--	P, LI	P, LI	
Mobile Home Park	--	C	C	--	See Title 3-9
Model Home	T	T	T	T	See Section 4.511
Nursing Home	--	--	C	C	
Over-The-Air Reception Device	P	P	P	P	See Chapter 4.8
Religious Assembly	C, L2	C, L2	C, L2	C, L2	

Table 2.203: Land Use Regulations – Multi-Family Residential Districts					
Use Classification	R2	R3	R4	R5	Additional Regulations
Residential, Permanent					
<i>Single Family, Detached</i>	P	P	--	--	
<i>Single Family, Attached (Duplex)</i>	P	P	--	--	
<i>Multi-Family</i>	--	P	P	P	
<i>Townhouse</i>	--	P	P	--	
Satellite Dish Antenna, Large	P, L1	P, L1	P, L1	P, L1	See Chapter 4.8
Schools, Public or Private	C, L2	C, L2	C, L2	C, L2	
Senior Housing	P	P	P	P	
Utilities					
<i>Facilities</i>	A	A	A	A	
<i>Well Site</i>	A	A	A	A	
L1: Only as a use incidental to the principal use of the property L2: Public and Private Schools and Religious Assembly Uses are permitted as separate structures, but not permitted in multi-family residential structures					

2.204 Site Development Regulations

Table 2.204: Site Development Regulations – Multi-Family Residential Districts, sets forth the site development regulations for multi-family residential districts, which are in addition to the regulations set forth in Section 2.205: Additional Use and Development Regulations and Chapter 4. Letter designations in the Additional Regulations column refer to regulations that follow Table 2.204: Site Development Regulations.

Table 2.204: Site Development Regulations – Multi-Family Residential Districts					
Standards	R2	R3	R4	R5	Additional Regulations
Minimum Parcel Area (sq. ft.)	10,000	15,000	20,000	87,120	
Minimum Net Land Area per Unit (sq. ft.)	5,000	4,375	2,333	1,750	
Maximum Net Land Area per Unit (sq. ft.)	10,000	7,000	4,375	2,333	
Maximum Height (ft.)	35	35	40	45	
Building Step-back	0	0	0	10' at 3 rd floor	
Minimum Perimeter Building Setbacks (ft.)					
Front	25	25	30	40	
Side (Corner)	25	25	30	40	
Side (Single and Two Family Residential)	10	15	30	40	
Side (Multi-Family and Non-residential)	10	15	20	30	
Rear (Single and Two Family Residential)	25	20	30	40	
Rear (Multi-Family and Non-residential)	30	25	20	30	

Table 2.204: Site Development Regulations – Multi-Family Residential Districts					
Standards	R2	R3	R4	R5	Additional Regulations
Minimum Perimeter Accessory Structure Setbacks (ft.)					
Front	<u>25</u>	<u>See Section 2.205.A.1</u>	<u>See Section 2.205.A.1</u>	<u>See Section 2.205.A.1</u>	
Corner Side	<u>25</u>	<u>2.205.A.1</u>	<u>2.205.A.1</u>	<u>2.205.A.1</u>	
Interior Side	<u>5</u>				
Rear	<u>5</u>				
Minimum Perimeter Landscape Area (depth in ft.)					
Front	20	20	20	20	
Side (Corner)	20	20	20	20	
Side (Single and Two Family Residential)	--	15	15	15	
Side (Multi-Family and Non-residential)	--	15	20	20	
Rear	20 <u>(LI)</u>	20	20	20	
Separation Between Buildings (ft.)					
Single story		15	15	20	
Two story		20	25	25	
Three story		20	25	25	
Building Setback to Parking (ft.)		10	10	10	See Section 4.203.N
Off-Street Parking and Loading					(A)
Private Open Space (sq. ft.)		80	60	60	(B)
Common Open Space (minimum)		50% of net site area	45% of net site area	40% of net site area	(C)
Common Open Space Landscaping		1 tree/unit	1 tree/unit	1 tree/unit	(C)
Landscaping (Perimeter & Public Street Frontages)		Perimeter & Public Street Frontages: 1 tree/40 linear ft.			(D)
Exterior Lighting Standards (ft.)	15	15	15	20	See Section 4.103
<p>(A) Parking for Multi-Family Buildings. In the R4 and R5 zoning districts, a minimum of 25 percent of required parking shall be in enclosed buildings.</p> <p>(B) Private Open Space. Each unit shall contain an exterior private open space. The minimum dimension of private open space is 6 feet. Private open space shall be covered and screened by a barrier fence or wall a minimum of 4 feet in height. Ground floor private open space may be screened by a fence or wall exceeding 4 feet, but no more than 8 feet in height. Screen walls or fences shall be a minimum 50 percent opacity.</p> <p>(C) Common Open Space Amenities. Common open space shall contain the following amenities:</p> <ol style="list-style-type: none"> 1. One enclosed community facility of at least 1,000 square feet for developments of 100 units or more; 2. One children’s play area of at least 600 square feet with play equipment, located outside of stormwater management areas. Age-restricted developments are exempt from this requirement. <p>(D) Street Frontage Landscape. Unless otherwise permitted by the Zoning Code, street frontage landscape areas shall not contain parking areas, buildings, fences, parking screen walls or other permanent improvements other than sidewalks, permitted signs, stormwater management areas</p>					

Table 2.204: Site Development Regulations – Multi-Family Residential Districts					
Standards	R2	R3	R4	R5	Additional Regulations
and lighting.					
(L1) Accessory structures may be located in the Perimeter Landscape Area					

2.205 Additional Use and Development Regulations

- A. **Accessory Structures.** Accessory structures shall comply with the following regulations:
 - 1. **Location.**
 - a. Accessory structures may be located anywhere within the building envelope, [and in other areas in the R2 District as specified in Table 2.204.](#)
 - b. [In the R3, R4, and R5 Districts,](#) parking canopies and garages shall be set back a minimum of 10 feet from nonresidential and multi-family residential zoning districts or properties designated as nonresidential or multi-family in the Comprehensive Plan.
 - c. [In the R3, R4, and R5 Districts,](#) parking canopies and garages shall be set back a minimum of 20 feet from single family residential zoning districts or properties designated as single family residential in the Comprehensive Plan.
 - 2. **Maximum Height.** The maximum height of accessory structures shall be 15 feet.
- B. **Gated Facility Entrances.** A minimum of 40 feet of vehicle queuing area shall be provided behind each security control point. The minimum width of the vehicular entry shall be 20 feet in width. A vehicular turn-around area shall be provided between the control point and the security gate. The vehicular turn-around area shall have a minimum interior turning radius of 35 feet and an exterior turning radius of 55 feet.
- C. **Recreational Vehicles on Residential Lots.** Recreational Vehicles owned by the occupant of a developed R2: Two Family Residential lot or parcel may be kept on the property. Recreational Vehicles shall be kept entirely over a hard surface of asphalt, concrete or pavers accessible by a continuous driveway to the curb or edge of street pavement. A Recreational Vehicle cannot be located closer than 5 feet from the rear or interior side property line. Recreational Vehicles on other Multi-Family Residential Zoning District lots are prohibited on commonly shared parking lots or driveways, unless parked in a location designated for Recreational Vehicles on an approved Design Review Plan.

- D. **Utility Vehicles on Residential Lots.** Utility Vehicles owned by the occupant of a developed Residential lot or parcel may be kept on a residentially zoned property when entirely over a hard surface of asphalt, concrete or pavers and not in the front or corner side setback areas. Utility Vehicles may be parked on a residentially zoned property entirely over a hard surface in the front or corner side setback area only on a driveway or Additional Parking space (per Section 4.203.X) for a period not to exceed 48 hours when being loaded, unloaded, or serviced. Recreational Vehicles shall remain unoccupied while on a Residential lot.
- E. **Access to Nonresidential Property.** Use of multi-family zoned property to provide primary vehicular access to a nonresidential use is prohibited.
- F. **Storage, Outdoor.** Outdoor storage, as defined in Chapter 7 of this code, is prohibited.
- G. **Play Equipment.** Play Equipment is a permitted structure and not subject to the issuance of a building permit. Play Equipment shall:
1. not be placed in an easement,
 2. not be located in a Front or Corner Side Setback area,
 3. be located a minimum of five feet from all lot lines.
- H. **Large Refuse Receptacles.** Large refuse receptacles, as defined in this code, are permitted on a residentially zoned property. Large Refuse Receptacles may be placed:
1. on a driveway or other hard surface for a period not to exceed 14 days.
 2. on a driveway or other hard surface for a period greater than 14 days when used in conjunction with an active building permit.
 3. on properties containing multi-family residences, other than Two Family Residences, for a period greater than 14 days solely in accordance with regulations set forth in Section 4.106: Refuse and Recycling Enclosures.

CITY OF BATAVIA

MEMO TO: William R. McGrath
City Administrator

FROM: Gary J. Schira
Chief of Police



DATE: May 17, 2016

**SUBJECT: Class B-5 Liquor License Application for Shell of Batavia
108 North Batavia Avenue, Batavia, Illinois**

The Batavia Police Department conducted an investigation and background check (Report #16-9412) to determine whether the corporation (HM1 Corporation.), d.b.a Shell of Batavia located at 108 N. Batavia Avenue and the corporate officer (President – Hardik Methta) might be suitable to receive a Class B-5 Liquor License in the City of Batavia. We have found no problems which would preclude the corporation or corporate officer from receiving a Class B-5 Package Liquor Sales at Gas Stations as of this date.

I would ask that this be put on the COW agenda of Tuesday, May 24, 2016 and then the City Council Agenda on June 6, 2016 for final approval.

Should you have any questions in this regard, please contact me.

Copy to: Liquor File
Deputy Chief Autenrieth
Detective Bretz



City of Batavia, Illinois
100 North Island Avenue
Batavia IL 60510
630-454-2000

For Office Use Only	
License Class	_____
License No.	_____
ID No.	_____
License Fee Paid	/ /
Receipt No.	_____

City Alcoholic Liquor License Application

Application must be completed in full. Incomplete application will be rejected.

Business Information	
Business Classification:	<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Other _____
Business Name	SHELL OF BATAVIA
Business Address	108 NORTH BATAVIA AVE, BATAVIA, IL 60510
Business Phone	630-326-9336
Email	HARRYNM@GMAIL.COM
Contact Person	HARDIK MEHTA
Title	OWNER
Phone	708-985-5020
BASSETT Certification	YES
License Class:	B-5
If Corporation, Corporate Name	HM1 CORPORATION
Corporation Address	108 NORTH BATAVIA AVE, BATAVIA, IL 60510
Corporate officers must include President, Vice President, Secretary and Treasurer, plus Manager of Establishment Or Sole Proprietor	
1. Office:	PRESIDENT
Name:	HARDIK MEHTA
Address:	108 NORTH BATAVIA AVE, BATAVIA, IL 60510
Phone:	708-985-5020
Email:	HARRYNM@GMAIL.COM
2. Office:	_____
Name:	_____
Address:	_____
Phone:	_____
Email:	_____
SSN:	____-____-____
Date of Birth:	_____
3. Office:	_____
Name:	_____
Address:	_____
Phone:	_____
Email:	_____
SSN:	____-____-____
Date of Birth:	_____
4. Office:	_____
Name:	_____
Address:	_____
Phone:	_____
Email:	_____
SSN:	____-____-____
Date of Birth:	_____
5. Office:	_____
Name:	_____
Address:	_____
Phone:	_____
Email:	_____
SSN:	____-____-____
Date of Birth:	_____
6. Office:	_____
Name:	_____
Address:	_____
Phone:	_____
Email:	_____
SSN:	____-____-____
Date of Birth:	_____
Have you had a business within the City of Batavia under any other corporate name:	_____ Yes <input checked="" type="checkbox"/> No
If yes, list name and address of business	N/A
If State of incorporation is NOT Illinois, date when corporation became qualified to transact business in Illinois:	
*All managers of corporate-owned establishments must have fingerprints and background checks on file with the Liquor Commissioner's Office. New managers must contact the City of Batavia Police Department at 630-454-2500 to schedule an appointment.	

Owner Information	
Owner's Name	HARDIK MEHTA
Corporate Registered Agent (if applicable)	HARRY MEHTA
Owner's Address (home/corporate)	108 NORTH BATAVIA AVE, BATAVIA, IL 60510
Owner's Phone	708-985-5020
Email	HARRYNM@GMAIL.COM
State of Incorporation (if applicable)	ILLINOIS
Owner's Social Security/FEIN No.	46-3544784
Owner's Date of Birth/Date of Incorporation	08/29/13
Have any persons prohibited by city code or state status acquired more than 5% ownership in corporation or partnership?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

If born outside of the United States, complete this section:	Citizenship GREEN CARD	Naturalization: Own Papers <input type="checkbox"/> Parent's Papers <input type="checkbox"/>			
	Born of US Parent/s	Court	City	State	Date
	Naturalized				

Does the owner of the liquor establishment lease the premises where business is conducted? Yes No

Lessor's Name N/A

Lessor's Address N/A

Lessor's Home Phone N/A Cell# N/A Lease End Date N/A

Please include a copy of your current lease.

Does the owner hold a liquor license at another premise? Yes No

Name of other establishment (if different from business named above) N/A

Address of other establishment N/A

Is any action currently pending against business or owner for violation of the Retailer's Occupation Tax Act of the State of Illinois? Yes No

Since the last license issuance, has a previous liquor license held by the applying entity or any owner of more than 5% ownership interest been revoked by any state or subdivision thereof, or by the Federal Government? If so, give details (date, place, reasons): N/A

Indicate principal liquor business conducted on premises:

<input type="checkbox"/> Bar	Storage of Alcoholic Beverages
<input checked="" type="checkbox"/> Packaged	<input checked="" type="checkbox"/> Stored on Premises
<input type="checkbox"/> Predominantly Food	<input type="checkbox"/> Stored off Premises
<input type="checkbox"/> Table Service of alcohol only	
<input type="checkbox"/> Table service and stand alone bar service	

When applying for a new liquor license please note that there is a \$250.00 non-refundable application fee. That fee is in addition to the liquor license itself. This is a one-time fee. This fee does not apply to renewal liquor licenses. The following is a listing of the current City of Batavia liquor license fees revised April 18, 2016.

Class A (Tavern)	\$1,500.00	Class F (Not-For-Profit Event)	\$ 50.00
Class B-1 (Pkg Store)	\$ 750.00	Class F Outdoors	N/A
Class B-2 (Pkg Grocery)	\$ 750.00	Class G-1 (Special Use/Single Event)	\$ 50.00
Class B-3 (Pkg Pharmacy)	\$ 750.00	Class G-2 (Special Use/Series Events)	\$ 100.00
Class B-4 (Pkg Gas Station Beer/Wine Only)	\$ 750.00	Class G Outdoors	N/A
✓ Class B-5 (Pkg Gas Station All Alcohol)	\$ 750.00	Class H (Micro-Brewery)	\$1,300.00
Class C-1 (Carry-In Restaurant)	\$ 100.00	Class I (Caterer)	\$ 200.00
Class C-2 (Carry-In Salon)	\$ 100.00		
Class C-3 (Carry-In Event)	\$ 100.00		
Class D-1 (Restaurant All Alcohol)	\$1,800.00		
Class D-2 (Restaurant Beer/Wine Only)	\$1,800.00		
Class E-1 (Church/Club)	\$1,500.00		
Class E-2 (Church/Club <30 days)	\$ 150.00		
Class E-3 (Bowling/Amusement)	\$1,500.00		
Class E-4 (Limited Retail)	\$ 100.00		
Class E-5 (Limited Retail/Salon)	\$ 100.00		

Overlay License(s) Requested

Fees are in addition to the basic license fee(s) listed above

Outdoor Adjunct	\$ 25.00
Live Entertainment	\$ 25.00
Package Liquor (Class A & Class D)	\$ 25.00
Live Entertainment (Class A Only)	\$ 300.00

Note: Please see additional requirements in separate applications for overlay licenses.

- APPLICATION MUST INCLUDE THE FOLLOWING:**
1. COPY OF LEASE MUST BE INCLUDED WITH APPLICATION. **N/A YES**
 2. COPY OF PROOF OF DRAM SHOP INSURANCE MUST BE INCLUDED WITH APPLICATION. **YES**
 3. PROVIDE SITE DRAWING OF THE PROPOSED LICENSED PREMISES DRAWN TO SCALE SHOWING LOCATION DESIGNATED USE AND SEATING CAPACITY OF ALL ROOMS, SEGREGATED AREAS, INCLUDING OUTDOOR SEATING AREAS AND SQUARE FOOTAGE **YES**
 4. PROVIDE PROOF OF COMPLETION OF BASSET TRAINING FOR ALL PERSONS WHO SELL/SERVE ALCOHOLIC BEVERAGES, MANAGERS WORKING ON PREMISES, AND ANYONE WHOSE JOB DESCRIPTION ENTAILS CHECKING IDENTIFICATION FOR ALCOHOL PURCHASES TO BE PROVIDED WITHIN NINETY (90) DAYS **YES**
 5. AFTER OBTAINING YOUR CITY OF BATAVIA LIQUOR LICENSE, YOU ARE REQUIRED TO OBTAIN AN ILLINOIS STATE LIQUOR LICENSE (312-814-2206) YOU MUST PROVIDE THE CITY WITH A COPY OF YOUR STATE LIQUOR LICENSE WITHIN 14 DAYS

Ordinance Requirement: Person/Manager in direct charge of premises must reside within 25 miles of City

Name: HARDIK N MEHTA
First MI Last
Address: 24103 NOTTINGHAM AVE, PLAINFIELD, IL - 60585
Phone: 708-985-5020 Fax: N/A Email: HARRYNM@GMAIL.COM
Date of Birth: 01/05/1980 Place of Birth: INDIA Citizenship: INDIA

By submission of this application for renewal, the Applicant on his or her own behalf and on behalf of the entity represented to be the licensee, states as follows:

1. Applicant is ready and willing, and does hereby agree, to operate the aforesaid place of business in accordance with the Liquor Laws and Ordinances of the City of Batavia, County of Kane and State of Illinois, now in force and any others which may be enacted during the duration of this license, herein applied for.
2. That the information contained within this application for renewal is true to the best of Applicants knowledge.
3. It is further represented that no officer, manager, director, or stockholder of the Corporation, owning more than 5% of the stock in such Corporation, has ever been convicted of felony and would not be disqualified to receive a license by reason of any matter or thing contained in the Ordinances of the City of Batavia; and that no officer, manager, director, or stockholder will violate any of the laws of the State of Illinois, or of the United States, or any Ordinances of the City of Batavia, in the conduct of his place of business.
4. Applicant acknowledges the obligation of those person identified above on this application submit to fingerprinting and background investigation upon request by the City.

Dated at Batavia, Illinois, this 21 day April, A.D. 2016.

[Signature]
Signature

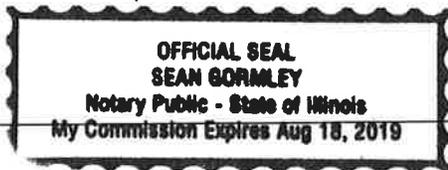
By HARDIK MEHTA
Print Name

Attest: _____
Witness

State of Illinois)
) SS
County of Kane)

I, Sean Gormley, a Notary Public, in and for the County and State aforesaid, do hereby certify that Hardik Mehta, whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and sealed the said instrument, including the representations made therein, as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this 21st day of April, A.D. 2016.

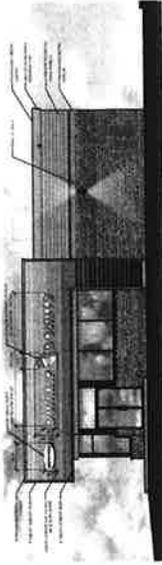


[Signature]
Notary Public

ELEVATION CONCEPTS
FINAL DESIGN TO BE
INTERIOR BUILD-OUT



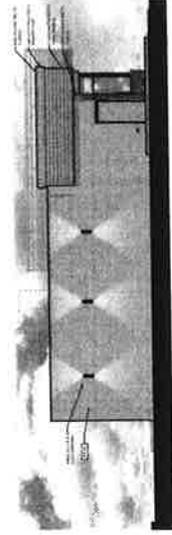
1 EAST ELEVATION



2 SOUTH ELEVATION



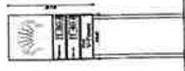
3 WEST ELEVATION



4 NORTH ELEVATION



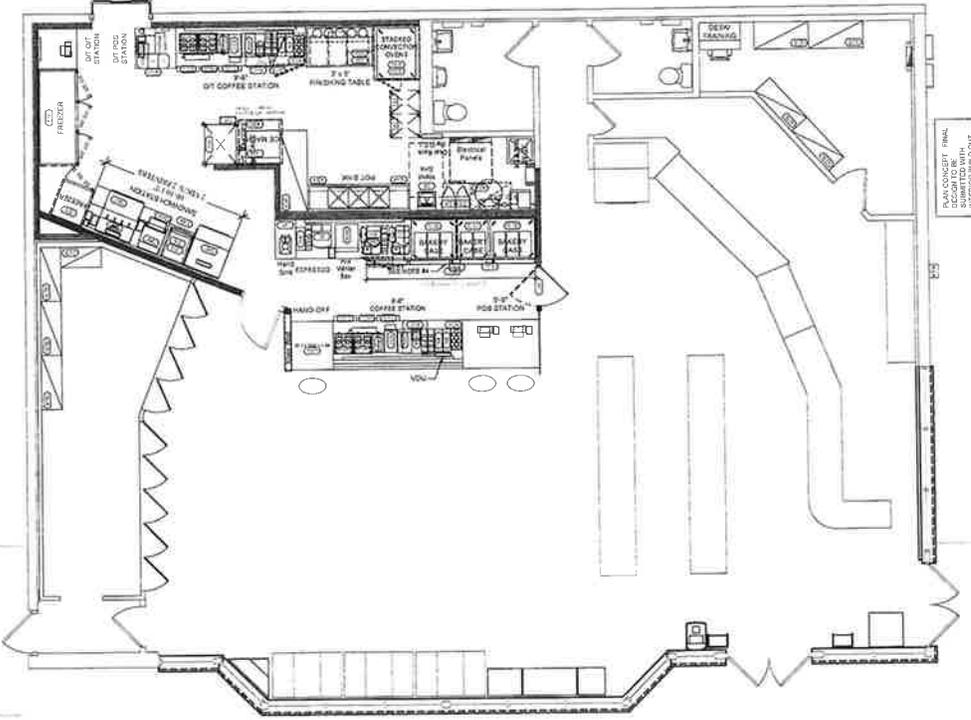
1 WINDOW DETAIL



2 DOOR DETAIL



3 WINDOW DETAIL



THIS CONCEPT FINAL
DESIGN TO BE
SUBMITTED WITH
INTERIOR BUILD-OUT

1 FLOOR PLAN

NO. 001	DATE
NO. 002	DATE
NO. 003	DATE
NO. 004	DATE
NO. 005	DATE
NO. 006	DATE
NO. 007	DATE
NO. 008	DATE
NO. 009	DATE
NO. 010	DATE

DUNKIN DONUTS CONCEPT PLAN
BATAVIA SHELL
108 N. BATAVIA AVE.
BATAVIA, IL 60510



ARCHITECT: kolbrook design
108 N. BATAVIA STREET
SUITE 200
BATAVIA, IL 60209
PH: 815-451-1992

ARCHITECT: kolbrook design
Copyright © 2015 Kolbrook Design, Inc.

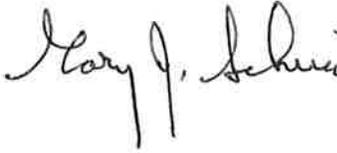
NO. DESCRIPTION	ISSUE	DATE
1 CONCEPT PROPOSAL		08/03/2015

SHEET 1 OF 1

CITY OF BATAVIA

MEMO TO: William R. McGrath
City Administrator

FROM: Gary J. Schira
Chief of Police



DATE: May 17, 2016

**SUBJECT: Class B-5 Liquor License Application for Citgo Alexander Divya Gasoline
Located at 200 E. Fabyan Parkway, Batavia, Illinois**

The Batavia Police Department conducted an investigation and background check (Report #16-9420) to determine whether the corporation (Alexander Divya Gasoline, Inc.) d.b.a Citgo located at 200 E. Fabyan Parkway and the corporate officer (President – Gaurang Patel) might be suitable to receive a Class B-5 Liquor License in the City of Batavia. We have found no problems which would preclude the corporation or corporate officer from receiving a Class B-5 Package Liquor Sales at Gas Stations as of this date.

I would ask that this be put on the COW agenda of Tuesday, May 24, 2016 and then the City Council Agenda on June 6, 2016 for final approval.

Should you have any questions in this regard, please contact me.

Copy to: Liquor File
Deputy Chief Autenrieth
Detective Bretz



City of Batavia, Illinois
 100 North Island Avenue
 Batavia IL 60510
 630-454-2000

For Office Use Only	
License Class	_____
License No.	_____
ID No.	_____
License Fee Paid	/ /
Receipt No.	_____

City Alcoholic Liquor License Application

Application must be completed in full. Incomplete application will be rejected.

Business Information	
Business Classification:	<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship <input type="checkbox"/> Other _____
Business Name	<u>ALEXANDER DIVYA GASOLINE INC.</u>
Business Address	<u>200 E FORD FARM PKWY BATAVIA IL 60510</u>
Business Phone	<u>312-607-3337</u> Email <u>ADGASOLINE@YAHOO.COM</u>
Contact Person	<u>ROY PATEL</u> Title <u>MANAGER</u> Phone <u>312-607-3337</u>
BASSETT Certification	_____ License Class: _____
If Corporation, Corporate Name	<u>ALEXANDER DIVYA GASOLINE INC</u>
Corporation Address	<u>SAME</u>
Corporate officers must include President, Vice President, Secretary and Treasurer, plus Manager of Establishment Or Sole Proprietor	
1. Office: _____	Name: <u>GAURANG PATEL</u> Address: <u>9001 GOLF RD DES PLAINES IL</u>
Phone: <u>312-607-3337</u>	Email: <u>PATELG1026@YAHOO.COM</u>
2. Office: _____	Name: _____ Address: _____
Phone: _____	Email: _____ SSN: _____ Date of Birth: _____
3. Office: _____	Name: _____ Address: _____
Phone: _____	Email: _____ SSN: _____ Date of Birth: _____
4. Office: _____	Name: _____ Address: _____
Phone: _____	Email: _____ SSN: _____ Date of Birth: _____
5. Office: _____	Name: _____ Address: _____
Phone: _____	Email: _____ SSN: _____ Date of Birth: _____
6. Office: _____	Name: _____ Address: _____
Phone: _____	Email: _____ SSN: _____ Date of Birth: _____
Have you had a business within the City of Batavia under any other corporate name: Yes _____ No _____	
If yes, list name and address of business _____	
If State of Incorporation is NOT Illinois, date when corporation became qualified to transact business in Illinois: _____	
<small>*All managers of corporate-owned establishments must have fingerprints and background checks on file with the Liquor Commissioner's Office. New managers must contact the City of Batavia Police Department at 630-454-2500 to schedule an appointment.</small>	

Owner Information	
Owner's Name	<u>GAURANG PATEL</u> Corporate Registered Agent (if applicable) _____
Owner's Address (home/corporate)	_____
Owner's Phone	<u>312-607-3337</u> Email <u>PATELG1026@YAHOO.COM</u> State of Incorporation (if applicable) <u>IL</u>
Owner's Social Security/FEIN No.	<u>074-76-9258/81-1691144</u> Owner's Date of Birth/Date of Incorporation _____
Have any persons prohibited by city code or state status acquired more than 5% ownership in corporation or partnership?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

If born outside of the United States, complete this section:	Citizenship		Naturalization: Own Papers <input type="checkbox"/> Parent's Papers <input type="checkbox"/>			
	Born of US Parent/s		Court	City	State	Date
	Naturalized					

Does the owner of the liquor establishment lease the premises where business is conducted? Yes No

Lessor's Name PPRC LLC
 Lessor's Address 1701 E WOODFIELD ROAD, SUITE 327 SCHAUMBURG IL 60173
 Lessor's Home Phone 847-306-3724 Cell# 847-845-4051 Lease End Date 3-31-2021

Please include a copy of your current lease.

Does the owner hold a liquor license at another premise? Yes No

Name of other establishment (if different from business named above) _____
 Address of other establishment _____

Is any action currently pending against business or owner for violation of the Retailer's Occupation Tax Act of the State of Illinois?
 Yes No

Since the last license issuance, has a previous liquor license held by the applying entity or any owner of more than 5% ownership interest been revoked by any state or subdivision thereof, or by the Federal Government? If so, give details (date, place, reasons):

Indicate principal liquor business conducted on premises:

<input type="checkbox"/> Bar	Storage of Alcoholic Beverages
<input checked="" type="checkbox"/> Packaged	<input checked="" type="checkbox"/> Stored on Premises
<input type="checkbox"/> Predominantly Food	<input type="checkbox"/> Stored off Premises
<input type="checkbox"/> Table Service of alcohol only	
<input type="checkbox"/> Table service and stand alone bar service	

When applying for a new liquor license please note that there is a \$250.00 non-refundable application fee. That fee is in addition to the liquor license itself. This is a one-time fee. This fee does not apply to renewal liquor licenses. The following is a listing of the current City of Batavia liquor license fees revised April 18, 2016.

Class A (Tavern)	\$1,500.00	Class F (Not-For-Profit Event)	\$ 50.00
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Class B-2 (Pkg Grocery)	\$ 750.00	Class G-1 (Special Use/Single Event)	\$ 50.00
Class B-3 (Pkg Pharmacy)	\$ 750.00	Class G-2 (Special Use/Series Events)	\$ 100.00
Class B-4 (Pkg Gas Station Beer/Wine Only)	\$ 750.00	Class G Outdoors	N/A
Class B-5 (Pkg Gas Station All Alcohol)	\$ 750.00	Class H (Micro-Brewery)	\$1,300.00
Class C-1 (Carry-In Restaurant)	\$ 100.00	Class I (Caterer)	\$ 200.00
Class C-2 (Carry-In Salon)	\$ 100.00		
Class C-3 (Carry-In Event)	\$ 100.00		
Class D-1 (Restaurant All Alcohol)	\$1,800.00		
Class D-2 (Restaurant Beer/Wine Only)	\$1,800.00		
Class E-1 (Church/Club)	\$1,500.00		
Class E-2 (Church/Club <30 days)	\$ 150.00		
Class E-3 (Bowling/Amusement)	\$1,500.00		
Class E-4 (Limited Retail)	\$ 100.00		
Class E-5 (Limited Retail/Salon)	\$ 100.00		

Overlay License(s) Requested	
Fees are in addition to the basic license fee(s) listed above	
Outdoor Adjunct	\$ 25.00
Live Entertainment	\$ 25.00
Package Liquor (Class A & Class D)	\$ 25.00
Live Entertainment (Class A Only)	\$ 300.00

Note: Please see additional requirements in separate applications for overlay licenses.

- APPLICATION MUST INCLUDE THE FOLLOWING:**
- COPY OF LEASE MUST BE INCLUDED WITH APPLICATION.**
 - COPY OF PROOF OF DRAM SHOP INSURANCE MUST BE INCLUDED WITH APPLICATION.**
 - PROVIDE SITE DRAWING OF THE PROPOSED LICENSED PREMISES DRAWN TO SCALE SHOWING LOCATION DESIGNATED USE AND SEATING CAPACITY OF ALL ROOMS, SEGREGATED AREAS, INCLUDING OUTDOOR SEATING AREAS AND SQUARE FOOTAGE**
 - PROVIDE PROOF OF COMPLETION OF BASSET TRAINING FOR ALL PERSONS WHO SELL/SERVE ALCOHOLIC BEVERAGES, MANAGERS WORKING ON PREMISES, AND ANYONE WHOSE JOB DESCRIPTION ENTAILS CHECKING IDENTIFICATION FOR ALCOHOL PURCHASES TO BE PROVIDED WITHIN NINETY (90) DAYS**
 - AFTER OBTAINING YOUR CITY OF BATAVIA LIQUOR LICENSE, YOU ARE REQUIRED TO OBTAIN AN ILLINOIS STATE LIQUOR LICENSE (312-814-2206) YOU MUST PROVIDE THE CITY WITH A COPY OF YOUR STATE LIQUOR LICENSE WITHIN 14 DAYS**

Ordinance Requirement: Person/Manager in direct charge of premises must reside within 25 miles of City

Name: RAKESH AMIN RAJEE
First MI Last
Address: 812 BRAMPTON LANE, BOLINGBROOK IL 60440
Phone: 630-697-8477 Fax: _____ Email: RAKESHAMIN73@YAHOO.COM
Date of Birth: 06/11/1973 Place of Birth: INDIA Citizenship: _____

By submission of this application for renewal, the Applicant on his or her own behalf and on behalf of the entity represented to be the licensee, states as follows:

1. Applicant is ready and willing, and does hereby agree, to operate the aforesaid place of business in accordance with the Liquor Laws and Ordinances of the City of Batavia, County of Kane and State of Illinois, now in force and any others which may be enacted during the duration of this license, herein applied for.
2. That the information contained within this application for renewal is true to the best of Applicants knowledge.
3. It is further represented that no officer, manager, director, or stockholder of the Corporation, owning more than 5% of the stock in such Corporation, has ever been convicted of felony and would not be disqualified to receive a license by reason of any matter or thing contained in the Ordinances of the City of Batavia; and that no officer, manager, director, or stockholder will violate any of the laws of the State of Illinois, or of the United States, or any Ordinances of the City of Batavia, in the conduct of his place of business.
4. Applicant acknowledges the obligation of those person identified above on this application submit to fingerprinting and background investigation upon request by the City.

Dated at Batavia, Illinois, this 21st day of April, A.D. 2016.

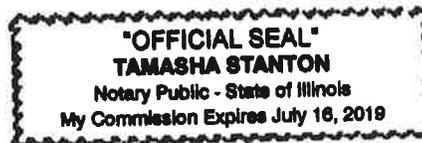
[Signature]
Signature

By Rakesh Amin
Print Name

Attest:

Witness

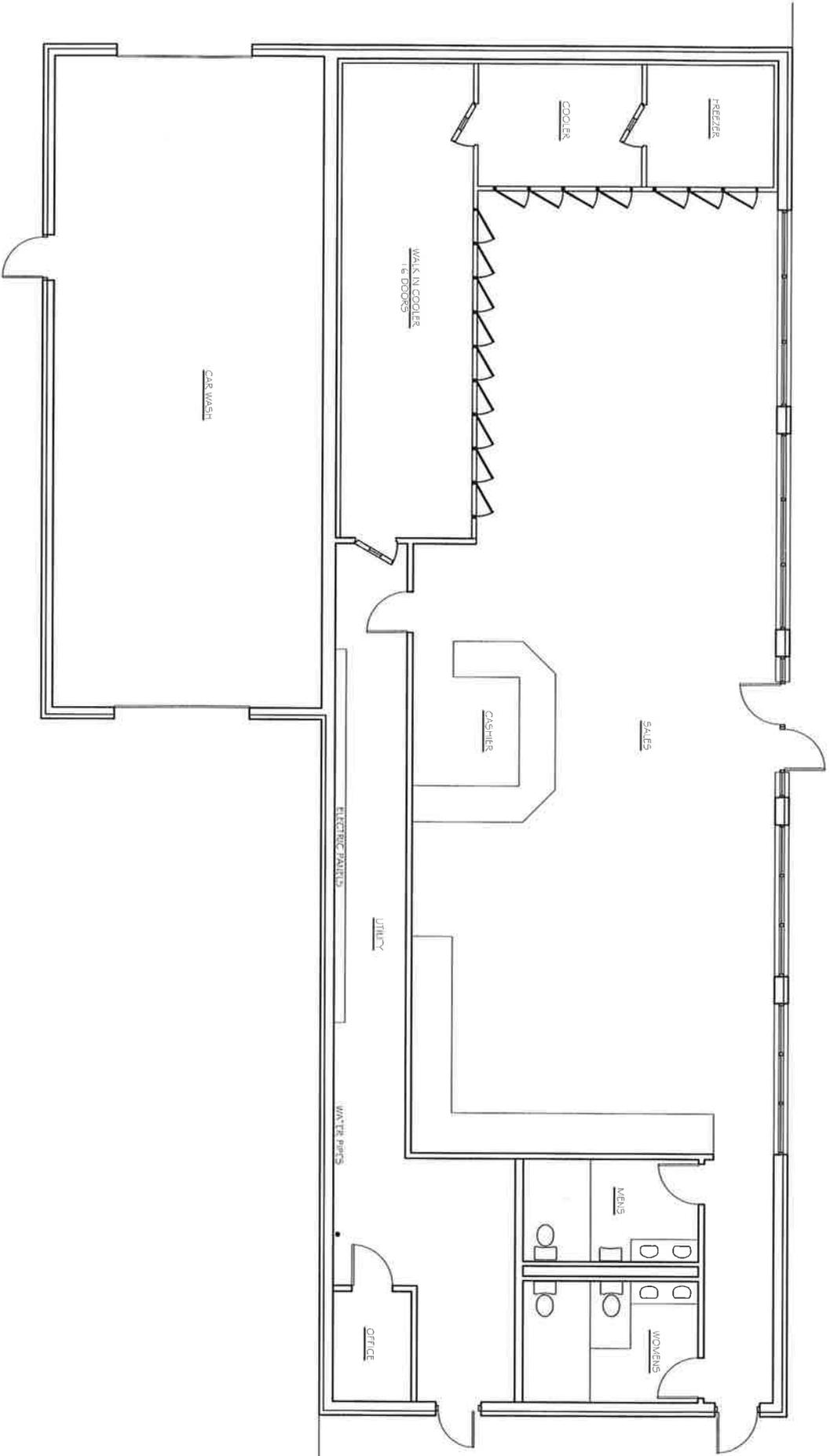
State of Illinois)
) SS
County of Kane)



I, Tamasha Stanton, a Notary Public, in and for the County and State aforesaid, do hereby certify that Rakesh V Amin, whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and sealed the said instrument, including the representations made therein, as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal, this 21 day of April, A.D. 2016.

[Signature]
Notary Public



BATAVIA 200 FABRYAN - EXT'G FLOOR PLAN

AREA = 4,556 SF $\frac{3}{32}$ " = 1' 4-6-2016

ERIKSSON ARCHITECTURE LLC

847-370-6550

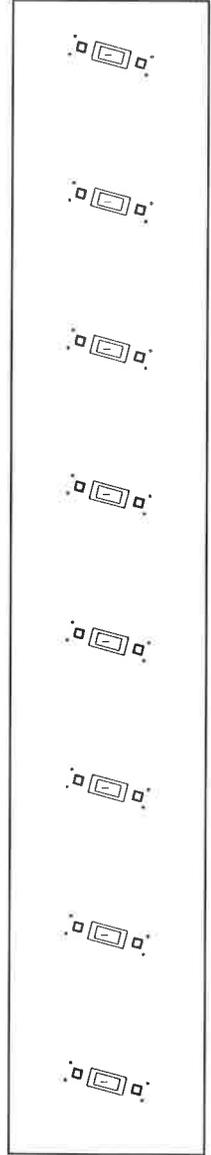
N WASHINGTON RD



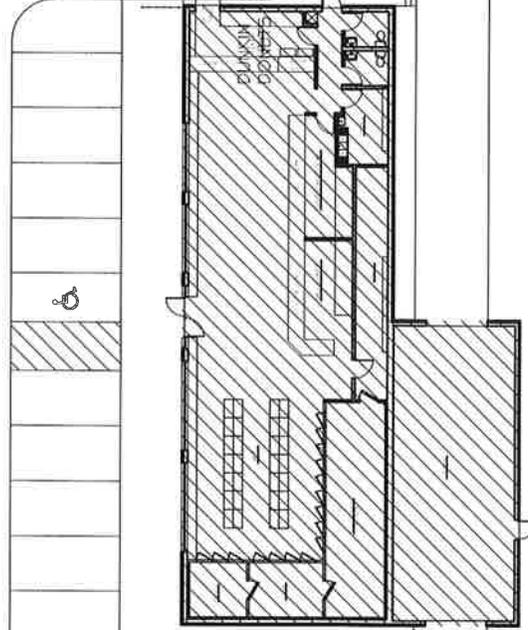
BATAVIA SITE PLAN I
SCALE: 1" = 30' - 4/6/2016

ERIKSSON ARCHITECTURE LLC
3816 LIZETTE LN GLENVIEW, IL 60026
erikssonarchitecture@comcast.net
847-370-6550

TO FABYAN R



16 PARKING



WASTE

10 CARS IN DRIVE THRU LANE

CAR WASH EXIT DRIVE

