**CITY OF BATAVIA**
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**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. Dicussion: 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. 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
7. 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
8. 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
9. Project Status
10. Other
11. Closed Session: Personnel
12. 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)

## 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

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

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 ½ 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.

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)

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.

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% |

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

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.

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.

(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:

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)

## 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.

New for 2010

HOME GROWN • LOCAL HOUSING STRATEGIES IN ACTION •

## 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.

New for 2010

**Contact** Matthew O'Rourke, AICP, Planner, Comm. Development Dept., City of St. Charles
**Phone** 630.762.6924
**Email** 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:** 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

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*** | ***R1-L*** | ***R1-M*** | ***R1-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 | |
| *Attached Garage* | (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 |
| *Front* | 30 | 30 | 30 | 30 | (C) |
| *Rear* | 10 | 6 | 3 | 3 | (D) |
| *Interior Side* | 10 | 6 | 3 | 3 | (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
(L1) Interior side setbacks on corner lots shall be a minimum of 5 feet

# Exhibit B

| 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 3rd 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 (L1) | 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) |

| Table 2.204: Site Development Regulations–Multi-Family Residential Districts | | | | | |
|---|---|---|---|---|---|
| ***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.

(L1) 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

***Table 2.104: Lot Development Regulations – Single Family Residential Districts***

| ***Standards*** | ***R0*** | ***R1-L*** | ***R1-M*** | ***R1-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 | |
| *Attached Garage* | (A) | (A) | (A) | (B) | See 2.106.J |
| Rear Setback (ft.) | 30 | 30 | 30 | 25 | |
| Interior Side Setback (ft.) | 15 | 12 | 10 | ~~5 one side 10 one side~~7.5 (L1) | |
| 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 | ~~5~~3 | ~~5~~3 | (D) |
| *Interior Side* | 10 | 6 | ~~5~~3 | ~~5~~3 | (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
(L1) 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.~~

# 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, L1 | P, L1 | -- | -- | 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, L1 | P. L1 | P, L1 | P, L1 | 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, L1 | P, L1 | |
| 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 | | | | | |
| *Single Family, Detached* | P | P | -- | -- | |
| *Single Family, Attached (Duplex)* | P | P | -- | -- | |
| *Multi-Family* | -- | P | P | P | |
| *Townhouse* | -- | 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 | | | | | |
| *Facilities* | A | A | A | A | |
| *Well Site* | A | A | A | A | |
| L1: Only as a use incidental to the principal use of the property<br>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 3rd 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*** | 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 (L1) | 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 |

(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

| Table 2.204: Site Development Regulations – Multi-Family Residential Districts | | | | | |
|---|---|---|---|---|---|
| ***Standards*** | ***R2*** | ***R3*** | ***R4*** | ***R5*** | ***Additional Regulations*** |
| and lighting.<br><br>(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, ~~P~~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, p~~P~~arking 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: ☒ Corporation ☐ Partnership ☐ Proprietorship ☐ 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 ___X___ 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?

☐ Yes ☑ No

| If born outside of the United States, complete this section: | Citizenship GREEN CARD | | Naturalization: Own Papers ☐ Parent's Papers ☐ | | | |
|---|---|---|---|---|---|---|
| | 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:

☐ Bar
☑ Packaged
☐ Predominantly Food
- ☐ Table Service of alcohol only
- ☐ Table service and stand alone bar service

Storage of Alcoholic Beverages

☑ Stored on Premises
☐ Stored off Premises

**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 | **Overlay License(s) Requested** | |
| Class D-1 (Restaurant All Alcohol) | $1,800.00 | Fees are in addition to the basic license fee(s) listed above | |
| Class D-2 (Restaurant Beer/Wine Only) | $1,800.00 | Outdoor Adjunct | $ 25.00 |
| Class E-1 (Church/Club) | $1,500.00 | Live Entertainment | $ 25.00 |
| Class E-2 (Church/Club <30 days) | $ 150.00 | Package Liquor (Class A & Class D) | $ 25.00 |
| Class E-3 (Bowling/Amusement) | $1,500.00 | Live Entertainment (Class A Only) | $ 300.00 |
| Class E-4 (Limited Retail) | $ 100.00 | | |
| Class E-5 (Limited Retail/Salon) | $ 100.00 | | |

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 (First) N (MI) MEHTA (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

By HARDIK MEHTA
Print Name

Attest:

Witness

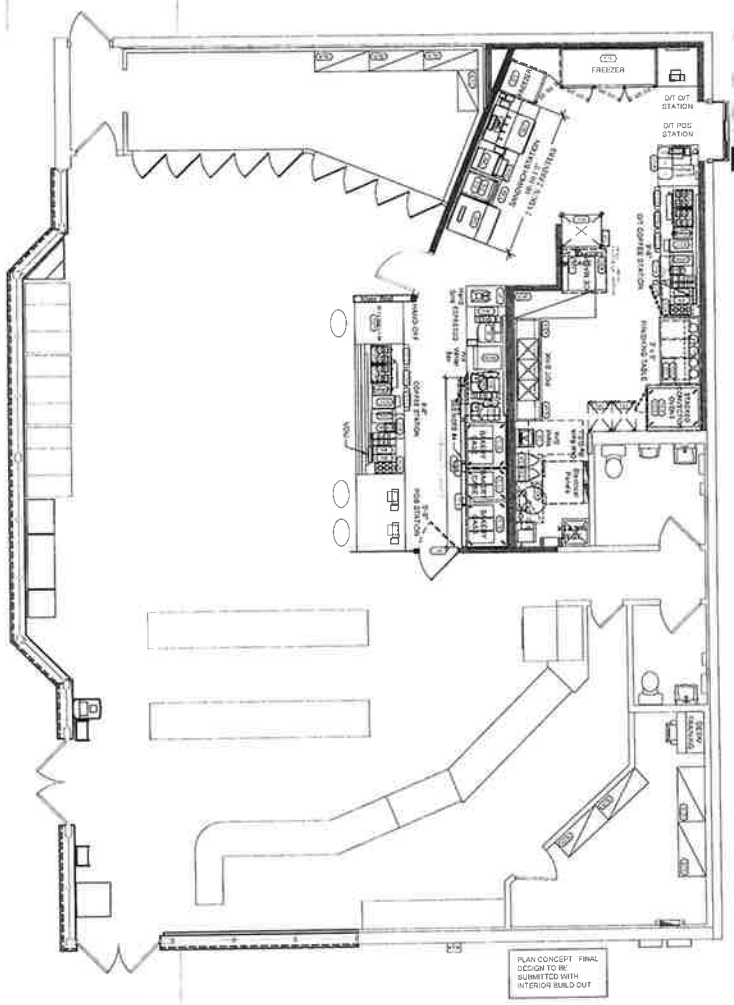
State of Illinois )
) SS
County of Kane )

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 be 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.

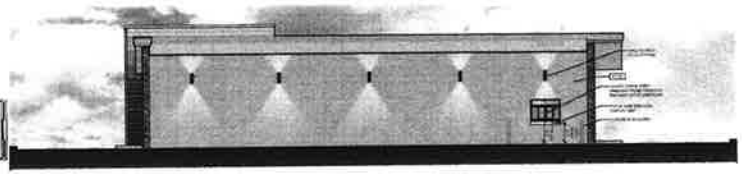
OFFICIAL SEAL
SEAN GORMLEY
Notary Public - State of Illinois
My Commission Expires Aug 18, 2019

Notary Public

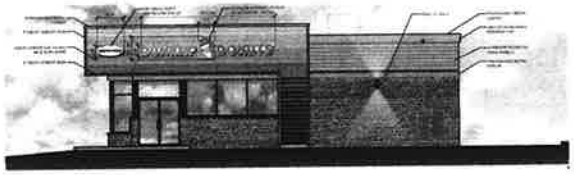



1 FINISHED FLOOR PLAN
SCALE: 1/8" = 1'-0"

ELEVATION CONCEPTS FINAL DESIGN TO BE SUBMITTED WITH INTERIOR BUILD OUT

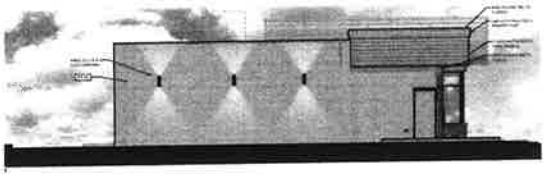


2 EAST ELEVATION
SCALE: 1/8" = 1'-0"



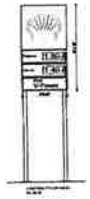
3 SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

4 WEST ELEVATION
SCALE: 1/8" = 1'-0"



5 NORTH ELEVATION
SCALE: 1/8" = 1'-0"

6 PCSTEN LOGO
SCALE: 1/8" = 1'-0"



7 EXISTING SIGN ELEVATION
SCALE: 1/8" = 1'-0"

8 PYLON SIGN ELEVATION
SCALE: 1/8" = 1'-0"

| ISSUE | | | |
|---|---|---|---|
| NO | DESCRIPTION | DATE | |
| 1 | CONCEPT PROPOSAL | 09/30/2015 | |

ARCHITECT:

kolbrook design

826 DAVIS STREET
SUITE 300
EVANSTON, IL 60201
Ph 847.492.1992

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dunkin' brands

DUNKIN DONUTS CONCEPT PLAN

BATAVIA SHELL
108 N. BATAVIA AVE.
BATAVIA, IL 60510

| | |
|---|---|
| Job No | 1425-036 |
| Issue Date | 01/21/2016 |
| Project Area | TBD |

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: ☒ Corporation ☐ Partnership ☐ Proprietorship ☐ Other _____

Business Name ALEXANDER DIVYA GASOLINE INC.

Business Address 200 E FABYAN PKWY BATAVIA IL 60510

Business Phone 312-607-3337 Email ADGASOLINE@YAHOO.COM

Contact Person ROY PATEL Title MANAGER Phone 312-607-3337

BASSETT Certification _____ License Class: _____

If Corporation, Corporate Name ALEXANDER DIVYA GASOLINE INC

Corporation Address SAME

**Corporate officers must include President, Vice President, Secretary and Treasurer, plus Manager of Establishment Or Sole Proprietor**

1. Office: _____ Name: GAURANG PATEL Address: 9001 GOLF RD DES PLAINES IL
   Phone: 312-607-3337 Email: PATELG1026@YAHOO.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** _____ **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:

*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 GAURANG PATEL Corporate Registered Agent (if applicable) _____

Owner's Address (home/corporate) _____

Owner's Phone 312-607-3337 Email PATELG1026@YAHOO.COM State of Incorporation(if applicable) IL

Owner's Social Security/FEIN No. 074-76-9258 / 81-1691144 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?

☐ Yes ☐ No

| If born outside of the United States, complete this section: | Citizenship | | Naturalization: Own Papers ☐ Parent's Papers ☐ | | | |
|---|---|---|---|---|---|---|
| | 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 PPRE 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:
☐ Bar
☒ Packaged
☐ Predominantly Food
☐ Table Service of alcohol only
☐ Table service and stand alone bar service

Storage of Alcoholic Beverages
☒ Stored on Premises
☐ Stored off Premises

**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 | **Overlay License(s) Requested** | |
| Class D-1 (Restaurant All Alcohol) | $1,800.00 | Fees are in addition to the basic license fee(s) listed above | |
| Class D-2 (Restaurant Beer/Wine Only) | $1,800.00 | Outdoor Adjunct | $ 25.00 |
| Class E-1 (Church/Club) | $1,500.00 | Live Entertainment | $ 25.00 |
| Class E-2 (Church/Club <30 days) | $ 150.00 | Package Liquor (Class A & Class D) | $ 25.00 |
| Class E-3 (Bowling/Amusement) | $1,500.00 | Live Entertainment (Class A Only) | $ 300.00 |
| Class E-4 (Limited Retail) | $ 100.00 | | |
| Class E-5 (Limited Retail/Salon) | $ 100.00 | | |

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.**
2. **COPY OF PROOF OF DRAM SHOP INSURANCE MUST BE INCLUDED WITH APPLICATION.**
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**
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**
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: RAKESH AMIN ~~PATEL~~

First MI Last

Address: 812 BRAMPTON LANE. BOLINGBROOK IL 60440

Phone: 630-697-6477 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 April, A.D. 2016.

_____
Signature

By Rakesh Amin
Print Name

Attest:

_____
Witness

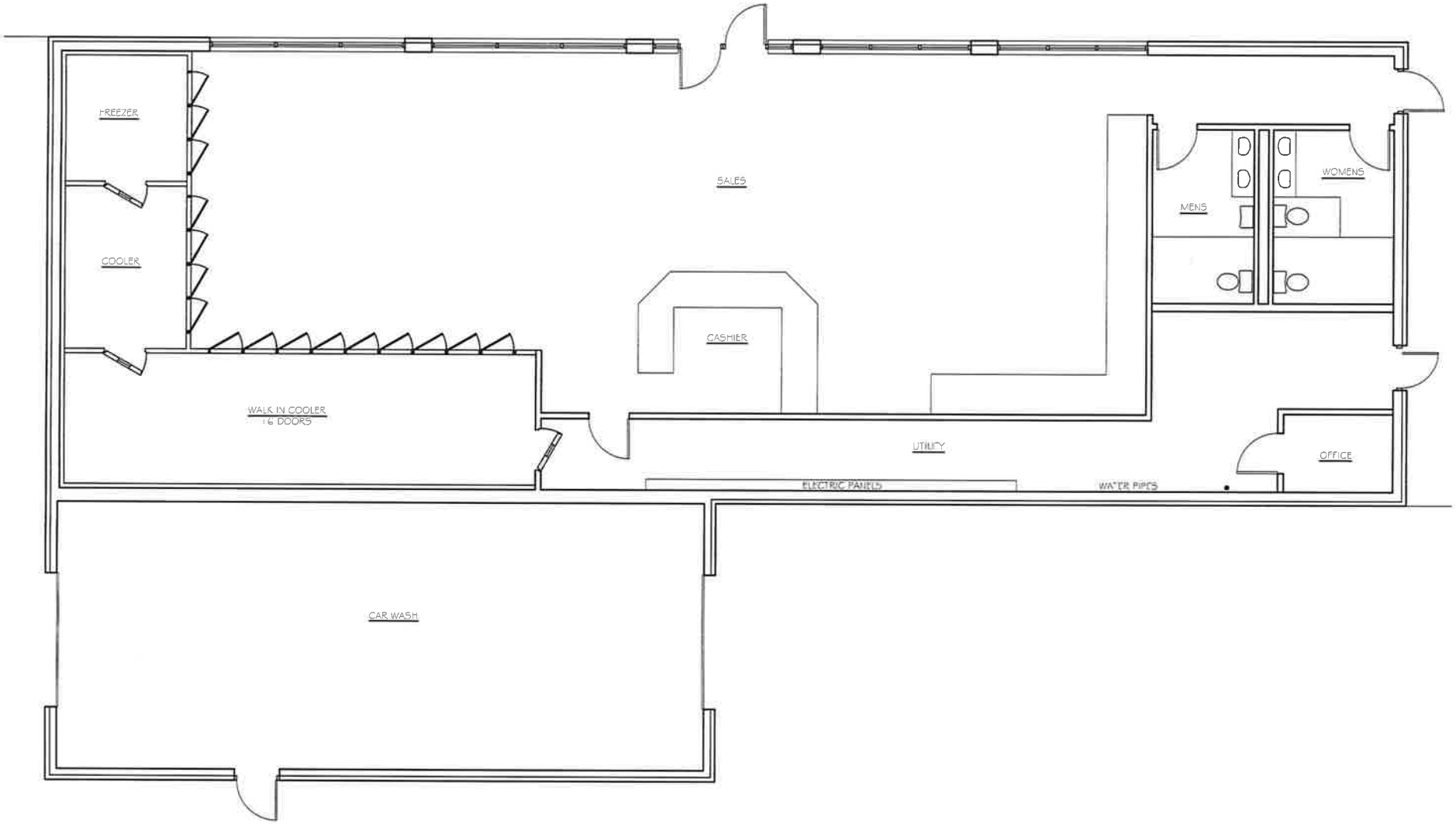
State of Illinois )
) SS
County of Kane )

"OFFICIAL SEAL"
TAMASHA STANTON
Notary Public - State of Illinois
My Commission Expires July 16, 2019

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 be 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.

_____
Notary Public

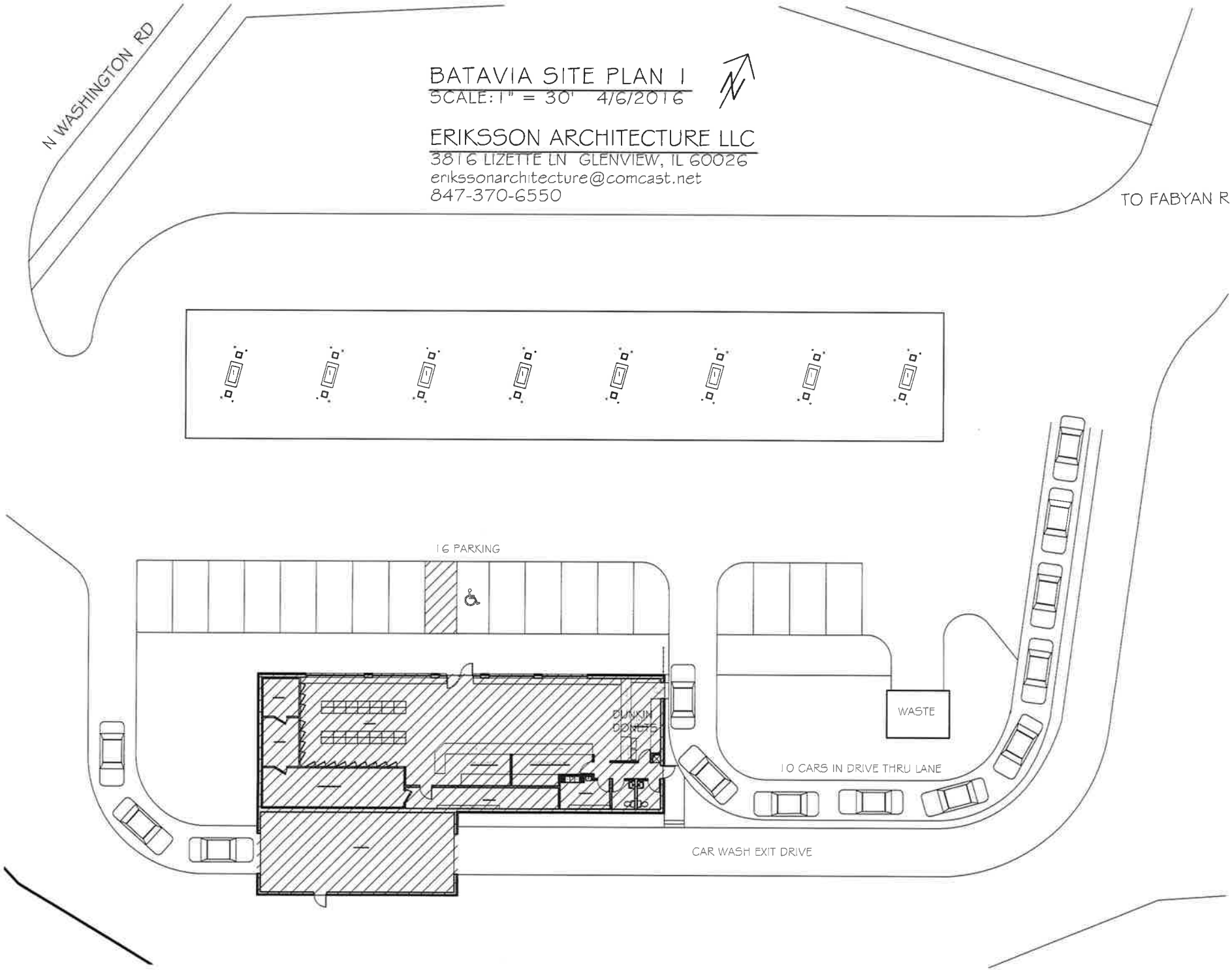



BATAVIA 200 FABYAN - EXT'G FLOOR PLAN

AREA = 4,556 SF 3/32"= 1' 4-6-2016

ERIKSSON ARCHITECTURE LLC

847-370-6550


BATAVIA SITE PLAN 1
SCALE: 1" = 30' 4/6/2016
ERIKSSON ARCHITECTURE LLC
3816 LIZETTE LN GLENVIEW, IL 60026
erikssonarchitecture@comcast.net
847-370-6550
N WASHINGTON RD
TO FABYAN R
16 PARKING
DUNKIN DONUTS
WASTE
10 CARS IN DRIVE THRU LANE
CAR WASH EXIT DRIVE