

**MINUTES**  
**June 21, 2023**  
**Plan Commission and Zoning Board of Appeals**  
**City of Batavia**

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

**1. Meeting Called to Order for the Plan Commission Meeting**

Chair Gosselin called the meeting to order at 7:01pm.

**2. Roll Call:**

**Members Present:** Chair Gosselin; Vice-Chair Moore; Commissioners Harms, Peterson, Swiecicki

**Members Absent:** LaLonde, Joseph

**Also Present:** Mayor Schielke, Scott Buening, Community & Economic Development Director, Drew Rackow, Planning & Zoning Officer; Jeff Albertson, Building Commissioner; Zach Ewoldt, Planner; and Peter Gerardi, Recording Secretary

**3. Items to be Removed, Added or Changed**

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

**4. Approval of Minutes:**

- **May 17, 2023 and Joint Elected and Appointed Officials Meeting**
- **May 23, 2023**

**Motion:** To approve the minutes from May 17, 2023 and May 23, 2023

**Maker:** Peterson

**Second:** Harms

**Roll Call Vote:** **Aye:** Harms, Gosselin, Moore, Peterson, Swiecicki

**Nay:** None

5-0 Vote, 2 Absent, Motion carried.

**5. PUBLIC HEARINGS: LBG Medical Resort - 37W284 Main Street, Kimley Horn & Associates, Applicant**

**Motion:** To open the Public Hearing

**Maker:** Moore

**Second:** Peterson

**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki

**Nay:** None

5-0 Vote, 2 Absent, Motion carried.

The Public Hearing was opened at 7:03pm.

Rackow discussed the staff report with the Plan Commission (PC). There will be three (3) public hearings associated with the property starting with the Amendment to the Comprehensive Land Use Map from Office to General Commercial to Residential >8-15 Dwelling Units per acre

Austin Dempsey from Batavia Enterprises introduced the Development Team for Ignite Batavia rapid recovery facility. Joe Mayer of Kimley Horn, the Project Engineer for the Leo Brown Group as applicant. Each gave brief remarks about their contribution to the project and made the team available for questions. Petersen asked about outdoor sitting areas for families. There is a 10,000 Sf open area in the middle of the facility according to the architect. Petersen asked if it was staffed for 24 hours a day which was answered in the affirmative by the operator. Chair Gosselin referred to the staff memo conditions A through L for approval and asked the applicant if they had any objections to the conditions. Dempsey stated their team did not have objections to the conditions. Rackow discussed additional parking requests above the maximum of 60 per the ordinance. The operator indicated a need for 107 parking spaces for this type of facility. Moore asked about the location of bike racks and the engineer said they can work with staff to locate those appropriately. Staff noted that plans identify a location at the main entrance for the racks.

Chair Gosselin opened the floor for public comment.

Scott Luken, 47 South Barton Trail, was concerned that the building location on the property comes at the expense of the adjacent residential owners. The driveway off of Deerpath is only 20' from nearby residents. Generator, electrical transformer and garbage dumpster are located close to adjacent homes on the east side. He is concerned that the 6' high fence is not sufficient for screening. Why can't the plan be flipped to avoid odors, delivery trucks, noise etc.

Melanie Impastato, 2334 Collins Court, noted her lot is 20' from the proposed driveway, and was concerned about traffic passing by her yard. She did agree that the proposal is better than the 2011 plan. She stated that more research needs to be done. She wants to know if the operator's financials have been reviewed. What happens to the property if they go bankrupt? Why do the mechanical back up to the existing homes? She was concerned about 24-hour siren noise and flashing lights from ambulances.

Don Ward, 2320 Collins Court, asked if a berm would be put up to separate the site from the houses for safety purposes. He stated a concern with vehicles coming off of the property onto the neighboring properties. Street lighting is also a concern. He asked can they move the entire project closer to Main Street to get things away from the residents?

Dempsey says we met with all the staff's recommended conditions and had already went above and beyond in terms of trees - installing double the required number of trees. He noted that additional trees would provide total screening by trees on the east side. Architect addressed site orientation, explaining the rationale for the proposed site layout, noting the locations required for access, detention, and the consideration of moving more institutional and taller parts of the buildings away from the adjoining residential. The project engineer indicated that the property

tapers to the south due to the stormwater management facility. Also, there's many mature trees at the south end that would be impacted if the building was located closer. There's a photometric plan provided to meet the City requirements and conditions - zero lot line impacts. Dempsey indicated that a bankruptcy is hard to forecast but this company has a significant number of these facilities in operation. Staff noted that it would be atypical to request a review of financial records or statements of an applicant.

**Motion:** To Close the Public Hearing  
**Maker:** Peterson  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

The Public Hearing was closed at 8:08pm.

Moore asked about the fence on the east side, and it was discussed further. Rackow indicated it's a 6' solid cedar fence per the regulations on fence height. Commissioners discussed using a taller fence. The applicant's team agreed they could provide an 8' tall fence.

**Motion:** To recommend approval of an amendment to the Comprehensive Plan Land Use Map from Office and General Commercial to Residential >8-15 Dwelling Units per Acre  
**Maker:** Peterson  
**Second:** Harms  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To adopt the Staff draft of Findings and review of conditions for the proposed amendment to the Zoning Map for an R4 Zoning District with PD Overlay District. Review of Conditions for the Zoning Map Amendments  
**Maker:** Peterson  
**Second:** Harms  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To recommend City Council approval for an amendment to the Zoning Map to reclassify the property at 37W284 Main Street from GC General Commercial District to R4 Multiple Family Residential - Medium Density District with PD Overlay District in general conformance with the plans and subject to the following modifications to the zoning code and items A thru E as listed in the Staff Report and conditions items A thru L as listed in the Staff Report with item K (v) fence changed from 6' to 8'.

**Maker:** Swiecicki  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To adopt the Findings of and approval for the conditional use permit as drafted by staff in the memo

**Maker:** Moore  
**Second:** Harms  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To recommend City Council approval of a conditional use permit for a nursing home at 37W284 Main Street in conformance with plans conditionally approved with a Planned Development Overlay.

**Maker:** Peterson  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To adopt the findings of approval as drafted by staff for design review

**Maker:** Swiecicki  
**Second:** Harms  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To approve design review for LBG Medical Resort - 37W284 Main Street in conformance with the plans conditionally approved for the Planned development overlay and subject to City Council approval

**Maker:** Harms  
**Second:** Moore  
**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To recommend approval of the Preliminary/Final Plat of Subdivision for Deerpath And Main Consolidation Subdivision - 37W284 Main Street

**Maker:** Harms

**Second:** Swiecicki

**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki

**Nay:** None

5-0 Vote, 2 Absent, Motion carried.

**6. PUBLIC HEARING: Proposed Temporary Moratorium for Zoning Applications & Building Permits for Additions and New Structures for LI and GI zoned parcels in the SRS South River Street Overlay District  
City of Batavia, Applicant**

**Motion:** To open the Public Hearing

**Maker:** Harms

**Second:** Peterson

**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki

**Nay:** None

5-0 Vote, 2 Absent, Motion carried.

The Public Hearing was opened at 8:25 pm.

Rackow discussed the staff report with the PC. The PC viewed an exhibit of the SRS Overlay District and the properties impacted by the moratorium. Moore asked how these (highlighted in yellow) properties were chosen. Rackow indicated that these are just the light and general industrial properties within the overlay district to be studied. Mayor Schielke gave a history of these former quarry properties. Petersen asked about a precedent for this. Rackow said the City has done 2 of these moratoriums in the past, both were related to matters on Randall Road in the B3/GC Commercial.

Chair Gosselin opened the floor for public comment.

Kate McCracken 1001 E Main St, St. Charles, represents Martin Farm LLC who owns 5 of the 10 parcels in the subject area. One of the parcels is for sale. The interested buyer spoke to the City about their potential use. McCracken asked that the Commission tailor the moratorium so that it does not apply to properties for sale because it would kill any potential transactions on the table. She stated there's a fundamental flaw; specific things that need to be identified; There has to be a necessity of public safety or health issues with the requested moratorium. The city has not identified the public purpose and need of the moratorium. She contended that the City appears to be interfering with the transaction as the Limestone quarry is for sale. Chair Gosselin asked if the City Attorney had reviewed the moratorium. Buening says that the City Attorney has reviewed this and had recommended the public hearing process being followed. Buening said the procedures and requirements were followed for this temporary change.

Dustin Pieper 104 North Prairie Street, inquired why the business district to the south was not included in the moratorium or study area.

Todd McConkey of Fathom Realty to back up statements by McCracken about interest in the property for sale. It's been on the market for 3 months. He represents an interested buyer.

Bob Hansen, Funway 1335 South River St, was concerned about why the City wants to do the moratorium. Will there be restrictions? The Commission had a significant discussion about the notification process surrounding the zoning moratorium and how to proceed. Chair Gosselin indicated the property owners should be notified by mail to give a better opportunity to come forward to discuss.

**Motion:** To continue the Public Hearing to 7:00 July 19, 2023 and staff to send notice to properties affected by the moratorium

**Maker:** Harms

**Second:** Swiecicki

**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

The Public Hearing on this matter was continued at 9:31pm.

**7. Public Hearing: Amendments to the Text of the Zoning Code for Truck and Semi-trailer Storage Lots.**

**Chapter 2.6: Employment Districts**

**Chapter 4.2: Off-Street Parking and Loading Regulations**

**Chapter 4.5: Supplemental Use Regulations**

**Chapter 6: Glossary**

**City of Batavia, applicant**

**Motion:** To open the Public Hearing

**Maker:** Peterson

**Second:** Moore

**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

Ewoldt gave the staff report regarding each of the proposed additional zoning amendments and asked for the commission's suggestions and thoughts, he walked through each section of the revised regulations, explaining the changes to the Commission. The Commissioner's viewed the proposed revised truck regulations on screen. The Commission requested comments from the Public.

Dustin Pieper, 104 North Prairie Street inquired whether gravel would be allowed to allow for additional percolation of water back into the ground. Staff noted that gravel driveways viewed as similar coefficient to impermeable asphalt driveways.

The 750' buffer was discussed by the commissioners, who agreed that was the most appropriate of the buffers proposed, providing separation to residential areas. The Commission agreed with the language otherwise drafted by staff and felt that all the proposed amendments make sense.

**Motion:** To close the Public Hearing

**Maker:** Harms

**Second:** Moore

**Roll Call Vote:** **Aye:** Peterson, Harms, Gosselin, Moore, Swiecicki  
**Nay:** None  
5-0 Vote, 2 Absent, Motion carried.

**Motion:** To recommend approval of the zoning amendments

**Maker:** Peterson

**Second:** Moore

**Approved by voice vote:** Motion carried.

#### **8. Matters from the Public (for items not on the agenda)**

There were no matters from the public for items not on the agenda.

#### **9. Other Business**

Rackow announced that there would be several items for the next meeting on July 19, 2023

#### **10. Adjournment**

There being no other business to discuss, Chair Gosselin asked for a motion to adjourn the Plan Commission. All were in favor. The meeting was adjourned at 10:04pm.

Minutes respectfully submitted by Peter Gerardi, Recording Secretary