



**PLANNING AND ZONING & HISTORIC COMMISSION
AGENDA**

Thursday, May 4, 2023

6:00 PM

East Dundee Police Station, 2nd Floor Meeting Room
115 E. 3rd Street, East Dundee, IL 60118

CALL TO ORDER

ROLL CALL / DECLARATION OF QUORUM

APPROVAL OF MINUTES

- 1) Draft Minutes from the April 06, 2023 Meeting

PUBLIC COMMENT

NEW BUSINESS

OTHER BUSINESS

- 1) Live Entertainment Continued Discussion
- 2) Banquet Facilities Continued Discussion

ADJOURNMENT

CALL TO ORDER:

Chair Brunner called to order the Planning and Zoning & Historic Commission ("PZHC") meeting on Thursday, April 6, 2023, at 6:00 pm.

ROLL CALL:

Commissioners Brunner, Krueger, Reyes-Brahar arrived at 6:01 pm, Scarpelli, and Steneck were present.

Commissioners Feck and Myers were absent.

Also present: Assistant to the Village Administrator ("ATVA") Franco Bottalico, Building Inspector Chris Ranieri, and Village Attorney Kelley Gandurski.

APPROVAL OF MINUTES:

1. Planning & Zoning and Historic Commission Meeting Minutes dated November 3, 2022

Motion to approve the November 3, 2022 meeting minutes by Krueger/Steneck.

4 Ayes (Krueger, Steneck, Scarpelli, Brunner). 0 Nays. Motion Carries.

2. Planning & Zoning and Historic Commission Meeting Minutes dated February 2, 2023

Motion to approve the November 3, 2022 meeting minutes by Scarpelli/Steneck with amendments to the names of the commissioners listed on the votes regarding the public hearing petition for Elgin Mall Corp. on Page 3 of the minutes.

5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

PUBLIC COMMENT: None

NEW BUSINESS:

- 1.) A request for a special use permit for tattooing as a personal service as described in Section 157.050(F)(1)(f)(1) for the property located at 324 N. River Street, East Dundee, IL 60118 PIN 03-23-310-001 in the B-1 Downtown Business District.

Motion to open the public hearing by Steneck/Scarpelli.

5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

Persons wishing to be heard were sworn in.

Applicant, Murphy Minoso, approached the commission and gave a background on her business plan and special use request to offer decorative tattooing at her business Willow & Birch. She advised she wouldn't tattoo anyone who would be intoxicated, clients are by appointment only, and they are open from 11 to 7. She advised she wouldn't take clients past 4pm; this is usually during daytime hours.

Commissioner Scarpelli asked the applicant if she is licensed through the State or Illinois. Applicant responded by stating that IL doesn't require a license for decorative tattooing; however, she is registered and cleared with the health department.

Motion to close the public hearing by Scarpelli/Krueger.

5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

Chair Brunner stated that this use may even be considered a permitted use due to its limited business plan.

A discussion ensued.

Motion to recommend approval of the special use request by Krueger/Steneck with the following conditions: 1) Tattooing services should not be visible from a street view; 2) Applicant must comply with all local, state, and federal laws and health department regulations regarding this use; 3) Tattooing should not be allowed before 8:00 am or after 8:00 pm any day of the week 4) Tattooing is by appointment only; and 5) This special use permit is subject to the PZHC's review after 90 days of commencing the permit. 5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

Chair Brunner moved on to the Findings of Fact for the special use request. Chair Brunner read each finding aloud and the PZHC agreed with staff's pre-filled replies as presented.

Motion to approve Findings of Fact by Scarpelli/Steneck.

5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

2.) A text amendment to Chapter 157 of the Village of East Dundee Zoning Ordinance in Section 157.050(F)(1)(f)(1), to add "Massage establishments and massage services as defined in Chapter 111" as "S" permitted by special use permit, and to add "Accessory use massage services as defined in Chapter 111" as "P" permitted by-right in the B-1 Downtown Business District, the B-2 Community Business District, and the B-3 Service Business District.

Motion to open the public hearing by Krueger/Steneck.

5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

There were no persons wishing to be heard.

ATVA Bottalico advised that 113 Water Street is interested in providing this service as an accessory use to her business. Building Inspector Ranieri related this would not be a primary use.

A discussion ensued on what would qualify as an accessory use based on one's business model.

Motion to close the public hearing by Krueger/Scarpelli.

5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

Chair Brunner noted that Chapter 111 may not be relevant for accessory uses. Commissioner Scarpelli advised this may be onerous.

Building Inspector Ranieri stated that this is common to see with other villages when it comes to massage services.

A discussion ensued on Chapter 111.

Motion to have staff review and amend Chapter 111 to the Village Board, and to recommend approval the text amendment as present by staff by Krueger/Steneck.

5 Ayes (Krueger, Steneck, Scarpelli, Brunner, Reyes-Brahar). 0 Nays. Motion Carries.

3.) A discussion on live entertainment.

Chair Brunner advised this discussion was brought before the PZHC from staff due to the complaints the Village has received over the years, and staff is asking for the PZHC guidance on how to address the businesses who provide live entertainment and do not have a special use permit as described in Section 157.050(F)(2), as well as to define what live entertainment is, and when and how businesses can provide it.

A discussion ensued. Building Inspector Ranieri stated that there currently is a noise ordinance in the code to enforce.

ATVA Bottalico advised staff will bring back definitions on live entertainment, what a bar or restaurant definition is, and a draft text amendment allowable use table with live entertain outdoors as a special use to review. Additionally, how to get existing businesses owners into compliance.

Deputy Police Chief Fourdyce recommended staff review and clean up the time discrepancy in the noise ordinance.

The PZHC decided to continue this discussion to the May PZHC meeting.

4.) A discussion on banquet facilities.

ATVA Bottalico advised the PZHC that the municipal code defines a banquet hall but there is no where in the allowable uses table where a banquet hall or facility can operate. He mentioned there were three existing establishments operating: two by special use permit and one by village board approval. However, the special use permit needs to be cleaned up to reference a future section in order for it to make sense. He advised the PZHC consider making the banquet hall or facility all special uses across the board with the exception of M districts per the village administrator.

A discussion ensued.

The PZHC decided to continue this discussion to the May PZHC meeting.

ADJOURNMENT:

Motion to adjourn the PZHC meeting at 7:40 pm by Kreuger/Reyes-Brahar.
Motion carries by voice vote.

Respectfully submitted,
Franco Bottalico, ATVA

Memorandum



To: Planning and Zoning & Historic Commission

From: Franco Bottalico, Assistant to the Village Administrator

Subject: Live Entertainment Continued Discussion

Date: May 4, 2023

Action Requested:

Staff recommends the Planning and Zoning & Historic Commission ("PZHC") review the attached information regarding live entertainment/music and DJ's (both indoor and outdoor) and determine a direction to proceed with that supports the business community and the residential neighbors. This may be a recommendation to staff to bring existing businesses into compliance via the special use process, or requesting that staff work with the Village attorneys to draft proposed amendments to definitions, regulations, and the Zoning Ordinance for the PZHC and/or village board to consider at a future meeting.

Background and Summary:

East Dundee is fortunate to have many restaurants and other establishments that offer a variety of entertainment to patrons. Some of these businesses have been hosting live bands and/or DJs on various days of the week, inside and outside of their building on their property. This has created some issues with nearby residents who have voiced concerns that this sometimes occurs on weekdays, often times outdoors, or sometimes the level of noise emanating from inside becomes too loud.

The above concerns could be regulated via the special use process which would have been required prior to a business that matches this use commencing operation, but were never put in place. The PZHC can also recommend to the village board of trustees updated definitions and text amendments to consider to address the issues.

Staff Analysis and Recommendations:

The table from Section 157.050(F)(1) is below which currently states that a restaurant with live entertainment or dancing requires a special use permit in B-1, B-2, and B-3. Currently, no restaurant holds a special use permit to allow live entertainment or dancing. The only tool village staff have at regulating this is by referring to Section 93.11, *Noises* - its copy is attached. Below is a text amendment to Section 157.050(F)(1)(d)(2) staff recommends the PZHC consider:

| <i>Allowable uses of land and buildings: P: Permitted by-right S: Permitted by special use permit</i> | <i>Downtown Business District (B-1)</i> | <i>Community Business District (B-2)</i> | <i>Service Business District (B-3)</i> | <i>Automotive Service Business District (B-4)</i> | <i>Office District (O-D)</i> |
|---|---|--|--|---|------------------------------|
| <i>(d) Clubs, restaurants, taverns and lodging uses.</i> | | | | | |
| <i>1. Clubs, lodges and meeting halls.</i> | | | | | |
| Clubs, lodges and meeting halls; private, fraternal or religious with no <u>live entertainment</u> or dancing | P | P | P | | P |
| Clubs, lodges and meeting halls; private, fraternal or religious with <u>live entertainment</u> or dancing | S | S | S | | S |
| <i>2. Restaurants, specialty foods and taverns.</i> | | | | | |
| Brew pub | P | P | P | | |
| <u>Brew pub - with live entertainment</u> | <u>S</u> | <u>S</u> | <u>S</u> | | |
| Delicatessen | P | P | P | P | S |
| Ice cream shop | P | P | P | P | S |
| Restaurant – no live entertainment or dancing | P | P | P | P | S |
| Restaurant - with live entertainment or dancing | S | S | S | P <u>S</u> | |
| Restaurant - drive-in or drive-through facilities | <u>S</u> | S | S | P | |
| Tavern | P | P | P | | S |
| <u>Tavern - with live entertainment</u> | <u>S</u> | <u>S</u> | <u>S</u> | | |

Definitions:

Currently, the Zoning Ordinance does not define what live entertainment can be considered and how it may differ from live music, whether a band or a DJ is present to perform on site. However, Section 116.01 defines restaurants as follows:

RESTAURANT: Specifically limited to public places kept, used, maintained, advertised, and held out to the public as a place where meals are served, as such term is defined in the state Liquor Control Law, ILCS Chapter 235, Act 5, § 1-3.23, and, in addition, which offers patrons complete meals, including at least dinner and optionally luncheon at which the service of alcoholic beverages is incidental and complementary to the service of such meals. Limited food service, such as provided by lounges, luncheonettes, diners, coffee shops, drive-ins, pizza parlors, and similar uses, does not satisfy the requirements of this definition.

Staff recommends the below definitions to be added to Section 157.003, *Rules and Definitions*, which will allow the allowable uses table above to be better interpreted:

LIVE ENTERTAINMENT: Shall consist of live music, dancing and/or singing performances, floor shows, D.J. shows and other entertainment performances, whether or not an admission fee is charged. Live entertainment shall not include subtle ambient or incidental background music provided for guests or patrons by musicians such as a background music, piano player, harpist, strolling violinist, traditional juke box, karaoke, or guitarist. However, if there is an admission charge requirement to observe or attend such subtle ambient or incidental background music or entertainment, it shall be considered live entertainment.

TAVERN: A place of business that primarily serves alcoholic beverages with a legally approved village liquor license and may include a limited food service for human consumption. A Tavern with live entertainment requires a special use permit.

Special Use vs Permitted Use Designation:

Once the PZHC makes a recommendation to the Village Board, and once the Village Board considers the recommendation, staff recommends each individual establishment that falls into the zoning compliance requirements be brought in on a one-by-one basis to be granted a special use permit. The Village Attorney also recommends this to be the best way to bring those establishments into compliance. Further, staff recommends not charging the existing businesses any fees in order to come into compliance.

Existing Tools in the Municipal Code:

Two sections in our code exist that help guide staff: One is the noise ordinance which is a

reactive solution, the other is similar to a special use permit but only relates to outside dining with respects to live entertainment.

1.) Section 93.11(D) in the East Dundee Noise ordinance states the following:

(D) Application for special permit.

(1) Applications for a special permit for relief from the noise restrictions designated in this section on the basis of undue hardship may be made to the Village Administrator. Any permit granted hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.

(2) Permit issuance shall be provided if the following conditions are found:

(a) The additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this section; or

(b) The activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with other divisions of this section; or

(c) No other reasonable alternative is available to the applicant.

(3) The Village Administrator may prescribe any conditions or requirements he or she deems necessary to minimize the adverse effects upon the community or the surrounding community or the surrounding neighborhood.

2.) Section 151.027(A)(9), titled “Specifications for outside dining area requires a license”, states the following: “Live entertainment shall be governed by the rules set forth in this chapter”. However, no further guidance on live entertainment currently exists that can be interpreted in this Chapter. Attached is a copy of this ordinance for the PZHC’s review.

Attachments:

Memo from Chief of Police


Section 93.11 Noise Ordinance

Section 151.027 Specifications for Outside Dining License Ordinance

Memorandum



To: Franco Bottalico, Assistant to the Village Administrator

From: James R Kruger, Chief of Police 

Subject: PZH Commission Music Discussion

Date: February 23, 2023

The Police Department has received a number of loud music complaints over the last several years. The majority of the complaints have been focused on live music rather than recorded music. We have also experienced different levels of concern whether the complaints were emanated from the central business district or in a residential area.

In the past, the Police Department has received calls related to loud live music from Diamond Jim's. These calls precipitated an amendment to Title 93, Section 11.E, Prohibited Noises in 2014. This amendment added the decibel standard. After some enforcement and a change of ownership this business has not experienced any recent complaints.

We have also received complaints from Rosie O'Hare's due to live music. Some of these complaints were from the special event they sponsored last year, but we have also received some complaints from our nearby residents and West Dundee residents due to live music. There are no barriers or any sound baffling at all.

There is some contraction in our ordinance as the original "plainly audible" standard for amplified music is still in the code in Title 93, Section 11.B.3.b.2. It prohibits sound in any zoning district that is heard 50 feet from the property line 10:30 PM to 7:00 AM weekdays, and Midnight to 7:00 AM weekends. This standard states:

"For the purposes of this section, PLAINLY AUDIBLE means any sound which clearly can be heard, by unimpaired auditory senses based upon a direct line of sight of 50 feet or more. However, words or phrases need not be discernable. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound."

While there is an understanding the decibel standard was passed to address the business district, the ordinance text does not limit it to a specific geographic area and it does have a different standard of 25 feet from the property line and allows up to 65 dBA 6:00 PM to 11:00 PM weekdays and 75 dBA on weekends.

Based upon our experience, the Police Department recommends the following for consideration:

- Live music should be contained within four walls for sound baffling. Whether inside a structure, or four opaque walls of an outside garden type facility designed to baffle sound to direct music and other noise upward if there is no roof.
- Live music, in all cases should cease no later than 11:00 PM.
- Recorded music emanating from outside speakers of an establishment should cease by 11:00 PM, such as from a terrace or open patio.
- Building codes should be addressed to require sound baffling between adjacent businesses within the same structure.
- Outside patios that adjoin more than one business should be required to lower the sound level to a mutually compatible level or be required to be a joint or common feed.

If you have any other questions, please let us know.

§ 93.11 NOISE.

(A) *Findings.* It is hereby declared that it is in the interest of the public health and welfare of the people of the village that the hours and days of operation of strip mines, stone quarries, gravel mines, saw mills and all other uses, operations and endeavors which do or are likely to produce loud and disturbing noises need regulation.

(B) *Prohibited noises.*

(1) *Prohibitions generally.*

(a) It is unlawful to make or cause to have made any noise or sounds of such volume or of such nature as to cause annoyance to the residents of the village.

(b) It is unlawful to disturb the peace or quiet by the creating of excessive and unnecessary noise.

(2) *Horns and whistles.* It is unlawful to blow or cause to be sounded any horn, whistle, or other signaling device of any unreasonably loud or harsh sound in the village except as a signal for starting or stopping work or in emergencies as to avoid or to prevent injury to persons or property.

(3) *Audio, musical, and similar equipment.*

(a) It is unlawful to play, use, operate, or permit to be played or operated, in any building or on any public or private premises any radio, phonograph, microphone, musical instrument, television, loudspeaker, sound amplifier, or similar equipment in such a manner as to disturb the peace, quiet, or comfort of neighboring residents, except in conjunction with a village-permitted special event or block party.

(b) 1. In all zoning districts, the operation of any radio, phonograph, microphone, musical instrument, television, loudspeaker, sound amplifier, commercial music amplification or reproduction equipment or similar equipment between the hours of 10:30 p.m. and 7:00 a.m. Sunday through Thursday, and between the hours of midnight and 7:00 a.m. Friday and Saturday, in such a manner as to be plainly audible more than 50 feet beyond the property line of the premises from which the noise is emanating, shall be *prima facie* evidence of a violation of this section.

2. For the purposes of this section, **PLAINLY AUDIBLE** means any sound which clearly can be heard, by unimpaired auditory senses based upon a direct line of sight of 50 feet or more. However, words or phrases need not be discernable. The detection of the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

(c) No person shall cause or permit to be emanated or emitted from any such device any lewd, obscene, profane, or indecent language or sounds, or any false representation of any matter, product, or project advertised thereby, the sale of which is prohibited by law, ordinance, or statute.

(d) It is prohibited to play, use, operate, or permit to be played, used, or operated any radio, television, musical instrument, phonograph, loudspeaker, sound amplifier, or similar equipment for producing sound which is audible upon the public streets of the village for the purpose of commercial advertising or of attracting the attention of the public to any building or structure except when a permit has been first procured from the Village Administrator as required by this code.

(4) *Engine exhaust.* It is unlawful to discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(5) *Defect in vehicle or load.* It is unlawful to use any automobile, motorcycle, vehicle, wagon, or cart so defective or loaded in such a manner as to create loud or unnecessary grating, grinding, rattling, or other noises.

(6) *Refuse collection.* It is unlawful for any refuse collector or firm to collect, gather, load, remove, empty, haul, or otherwise transport any refuse, recycling, or other waste materials from any container, dumpster, or other storage unit within the village, except between the hours of 6:00 a.m. and 7:00 p.m. on any day.

(7) *Construction activities.* Any activity in the construction of any building or structure (including excavation, demolition, alteration, or repair), or the laying of pavement, including but not limited to the making of an excavation, clearing of surface land, and loading or unloading materials, equipment, or supplies, anywhere in the village shall be permitted only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Saturday; 8:00 a.m. and 8:00 p.m., on Sunday.

(8) *Lawn, garden, and landscape maintenance activities.* Any lawn, garden, or landscape maintenance activities involving the operations of any gasoline or electric powered equipment, including without limitation mowers, tractors, trimmers, vacuums, blowers, tillers, hedge clippers, grinders, shredders, chainsaws, sod cutters, or other equipment the use of which is attended with a noise that is plainly audible at a distance of 50 feet from the boundaries of the premises upon which such equipment is operated or used, shall be permitted only between the hours of 7:00 a.m. and 8:00 p.m., Monday through Saturday; 8:00 a.m. and 8:00 p.m., on Sunday.

(C) *Exemptions.* The following exemptions shall be provided from the terms and restrictions provided in this section:

(1) Street sweeping operations on public right-of-ways, public parking lots, or private parking lots in non-residential zoning districts.

(2) Construction and lawn maintenance operations performed by or on behalf of the village or Dundee Township Park District on publicly owned property.

(3) Construction and/or lawn maintenance activities required as a result of a storm or emergency situation to provide for the protection, safety, and welfare of the village.

(4) Work related to sewer, water, power, or utility interruptions.

(5) Snow removal operations on any public or private property, parking lot, or right-of-way.

(D) *Application for special permit.*

(1) Applications for a special permit for relief from the noise restrictions designated in this section on the basis of undue hardship may be made to the Village Administrator. Any permit granted hereunder shall contain all conditions upon which the permit has been granted and shall specify a reasonable time that the permit shall be effective.

(2) Permit issuance shall be provided if the following conditions are found:

(a) The additional time is necessary for the applicant to alter or modify his or her activity or operation to comply with this section; or

(b) The activity, operation, or noise source will be of temporary duration and cannot be done in a manner that would comply with other divisions of this section; or

(c) No other reasonable alternative is available to the applicant.

(3) The Village Administrator may prescribe any conditions or requirements he or she deems necessary to minimize the adverse effects upon the community or the surrounding community or the surrounding neighborhood.

(E) *Prohibited noises.*

(1) *Noise measurement.* Sound level measurements for this division (E) shall be made with a properly calibrated sound level meter Type 2 or better using the A-weighted network in accordance and conforming with the noise measurement standards, promulgated by the American National Standards Institute and Testing Procedures (ANSI) for measurement of sound levels on an averaged A-weighted sound pressure level which is exceeded 10% of the time in any measurement period designated as dBA.

(2) *Noise limitation.* No person or business shall cause, allow or permit the emission of sound within the village that exceeds 65 dBA, except between 6:00 p.m. and 11:00 p.m. on Friday and Saturday that exceeds 75dBA, when measured 25 feet or more from the property line of private property or noise source if not on private property.

(1981 Code, § 12.11) (Am. Ord. 00-29, passed 12-18-2000; Am. Ord. 12-53, passed 7-16-2012; Am. Ord. 14-39, passed 11-17-2014) Penalty, see § 93.99

§ 151.027 SPECIFICATIONS FOR OUTSIDE DINING AREA REQUIRES A LICENSE.

(A) Outside dining areas are a privilege provided pursuant to a license. Said license may be granted by the Village Board upon recommendation from the Liquor Commission. If no alcohol is to be served, the license may be granted by the Village Board in its sole and exclusive discretion at their regular board meeting or any special board meeting. Outside dining areas permitted in this section are defined as those areas on private property. The issuance of this license does not waive any other ordinance requirements. The intent is to provide outside dining areas that are beneficial to patrons, residents, and businesses in East Dundee, as determined by:

(1) The outside dining area shall be enclosed by a minimum three-foot high wall, fence, or structure designed to be decorative and to prevent unauthorized entry. The maximum height of such fence or wall shall be eight feet.

(2) At least five feet of public right-of-way must be provided and maintained at all times for pedestrian traffic.

(3) At least ten feet of public right-of-way traffic must be provided between the outdoor dining area and vehicular traffic.

(4) The outside dining area shall have ingress and egress for emergency purposes and for handicap accessibility.

(5) The outside dining area shall not have a covered roof, although umbrellas, awnings, screening, and the like may be allowed, and a limited roof structure may be permitted over any service bar.

(6) No signs shall be attached to any furniture, umbrellas, awnings, or other structure related to the operation of the outdoor dining area.

(7) No permanent fixtures are to be installed and only those fixtures authorized by the permit and shown in the diagram may be stored in the public right-of-way when the outdoor dining area is not in operation. Should the licensee not utilize the sidewalk as authorized for a period of 48 hours or more, all the tables and materials must be removed.

(8) A service bar or service window for the service of alcoholic beverages may be permitted in the outside dining area. Permission for the sale of alcoholic beverages must be secured from the Liquor Commission prior to issuance of an Outdoor Dining/Sidewalk Café Permit.

(9) Live entertainment shall be governed by the rules set forth in this chapter.

(10) Outside meal seating will be permitted; however, no alcohol shall be served or consumed in the outside seating area no later than 12:00 a.m. Sunday through Thursday, and 1:00 a.m. Friday and Saturday.

(11) The outside dining area seating shall not be used in division (A) above for calculating the required number of seats for this liquor license classification.

(12) Seating for the outdoor dining area is to be restricted to the right-of-way approved by the village.

(13) The outside dining area seating capacity when combined with the indoor seating capacity shall meet the requirements of the State Plumbing Code and village plumbing ordinances with regard to restroom facilities.

(14) Persons issued a permit for an outdoor dining area/sidewalk café shall maintain the sidewalk area in a clean and safe condition. The permit holder shall clean said area at the end of each business day, so as not to have any food or drink leftovers remaining. The permit holder shall wash daily the sidewalk area approved by the village for the outdoor dining area/sidewalk café removing any food or drink residue.

(15) If the outdoor dining area interferes with a public event planned on the public right-of-way, the public event shall take precedence. The village will endeavor to notify the licensee 30 days in advance of the scheduled event.

(16) Such other requirements as may reasonably be imposed by the Liquor Commission taking into account the unique circumstances of the licensee's premises and location.

(B) Every applicant for a permit to maintain, operate or conduct an outdoor seating area shall file an application with the Village Clerk upon a form provided by the Village Clerk and pay a filing fee as set forth in the Village Annual Fee Schedule, which shall not be refundable.

(C) Application/policy requirements.

(1) Permits for operation of an outdoor dining area will be issued for operation between May 1 and November 1.

(2) The application for a permit to operate an outdoor dining area must include the following:

(a) A certificate of insurance in the amount of \$1,000,000 naming the Village of East Dundee as an additional insured, which must be renewed each year the outdoor dining area is in operation.

(b) A signed hold harmless agreement.

(c) A diagram of the proposed layout of the outdoor dining area, including sizes of fixtures and their location. A layout is to be submitted for approval should the layout change in any way from the layout originally approved by the village. The village may reduce the requested number of tables to provide for safe pedestrian passage.

(d) A formal letter requesting permission including information such as dates and right-of-way requested is required for first-time applicants.

(D) The permit is not transferable in any manner.

(E) Periodic inspections and response to complaints will be conducted by the Building Official.

(F) Any violation of the requirements set forth herein will result in the following:

(1) First notice of violation will result in a written notice of correction.

(2) Second notice of violation will result in a suspension of the permit for a two week period.

(3) Third notice of violation will result in revocation of the permit for the remainder of the calendar year.

(G) All licenses issued in accordance with this section shall be governed by the General Licensing Provisions as contained within Title XI, Business Regulations, Chapter 110, of the Village Code.

(Ord. 2001-17, passed 9-17-2001; Am. Ord. 04-22, passed 6-21-2004; Am. Ord. 06-17, passed 6-5-2006; Am. Ord. 06-33, passed 8-21-2006; Am. Ord. 16-13, passed 4-25-2016)

Memorandum



To: Planning and Zoning & Historic Commission

From: Franco Bottalico, Assistant to the Village Administrator
Chris Ranieri, Building Inspector

Subject: Banquet Facilities Discussion

Date: May 4, 2023

Action Requested:

Staff recommends the Planning and Zoning & Historic Commission ("PZHC") review the below information regarding banquet facilities/banquet halls and determine a direction to proceed with. This may be a recommendation that staff work with the Village attorneys to draft proposed amendments to definitions, regulations, and the Zoning Ordinance for the PZHC and/or village board to consider at a future meeting.

Background and Summary:

The Village was recently approached by a business owner who is considering a banquet facility on a property in the M-1 zoning district as a Special Use, if the village code is amended to allow such special use. This has sparked a discussion internally with staff as it reviewed the Village's current banquet facility ordinances. Banquet facilities / banquet halls are not explicitly listed in the Zoning Ordinance and have been determined on a case-by-case basis, which is not a best practice. The Village Board most recently granted approval in 2021 for a banquet facility located at 485 Dundee Ave. for Infinity Banquet Hall under Ordinance 21-29 which is attached to this memo. Additionally, in 2011, the Village Board granted Club Copa Cabana, located at 940 Dundee Ave., with a special use permit via Ordinance 11-42 which is also attached to this memo. The following is a table that outlines the three current banquet facilities within East Dundee:

| Name | Zoning District | Approval Method |
|------------------|-----------------|--|
| Copa Cabana | B-3 | Special Use Ordinance #11-42 |
| Gallery 611 | B-2 | Village Board approval, no special use |
| Infinity Banquet | B-3 | Special Use Ordinance #21-29 |

Further, within Chapter 116, *Alcoholic Beverages*, the Village does have a definition for a Banquet Hall use and has a Class G banquet liquor license available; however, Chapter 157, *Zoning Ordinance*, does not list which zoning district(s) this use can be allowed. The Village's definition from Section 116.01 is as follows:

BANQUET HALL. A business conducted on premises at which the exclusive activity is the catering of private parties where there is service for consumption at tables of a full multiple course meal at a prearranged, fixed unit price, hors d'oeuvres, buffet or smorgasbord, and at which alcoholic liquor may be served or sold incidental to such food services, provided that each of such private parties is prearranged under the sponsorship of a particular person or organization.

For comparison, the Village of West Dundee allows banquet halls/event facilities as a special use in their B-1 Downtown Business District, B-2 Regional Business, and B-3 Business-service district.

Recommendation:

Staff does not recommend allowing banquet halls in the M districts as the two uses are not cohesive or synergistic. Input should be gathered from the police department if there is an interest in allowing this type of use in any districts other than the B districts.

Staff recommends the PZHC consider Banquet Hall as a special use as shown below in Section 157.050(F)(1)(d)(2). Note the current table below does not take into account the text amendment recommendations associated with the live entertainment discussion.

| <i>Allowable uses of land and buildings: P: Permitted by-right S: Permitted by special use permit</i> | <i>Downtown Business District (B-1)</i> | <i>Community Business District (B-2)</i> | <i>Service Business District (B-3)</i> | <i>Automotive Service Business District (B-4)</i> | <i>Office District (O-D)</i> |
|---|---|--|--|---|------------------------------|
| 2. Restaurants, specialty foods and taverns. | | | | | |
| <u>Banquet Hall</u> | <u>S</u> | <u>S</u> | <u>S</u> | <u>S</u> | |
| Brew pub | P | P | P | | |
| Delicatessen | P | P | P | P | S |
| Ice cream shop | P | P | P | P | S |
| Restaurant – no live entertainment or dancing | P | P | P | P | S |
| Restaurant - with live entertainment or dancing | S | S | S | P | |

| | | | | | |
|---|---|---|---|---|---|
| Restaurant - drive-in or drive-through facilities | | S | S | P | |
| Tavern | P | P | P | | S |

Attachments:

Ordinance 11-42

Ordinance 21-29

ORDINANCE NUMBER - 11-42
An Ordinance Zoning and Granting Certain Special Uses
for Property Commonly Known as Pima Illinois, LLC,
With an Address of 14N963 Illinois Route 25

WHEREAS, the Village of East Dundee, an Illinois home rule municipal corporation located in Kane and Cook counties (the "Village"), has been requested in a written petition signed by Pima Illinois, LLC, (the "Owner") that upon annexation, certain property located on the east side of Illinois Route 25 and legally described in Section 1 of this Ordinance (the "Property"), be zoned B-3, General Service Business District, and grant certain special use permits; and

WHEREAS, a public hearing was held before the Planning and Zoning Commission, after due notice as provided by law; and

WHEREAS, the Board of Trustees has considered the evidence, including but not limited to that presented at the public hearing to the Planning and Zoning Commission by the Owner and believe the zoning classification and the special use permits will be in the best interests of the Village.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of East Dundee as follows:

SECTION 1: The following legally described territory (the "Property") shall be zoned B-3, General Service Business District, pursuant to the terms of the East Dundee Zoning Chapter:

Parcel One: The northerly half of that part of Sections 25, 26, 35 and 36, Township 42 north, Range 8 east of the Third Principal Meridian, described as follows: commencing at the southwest corner of Section 25; thence north along the west line of said Section 9.7 feet; thence westerly 124.15 feet on a line making an angle of 80 degrees, 51 minutes, 0 seconds to the northwest, with said west line of Section 25, to the center line of the Elgin and Dundee Road for a point of beginning; thence easterly along said last course, 380 feet on a line making an angle of 89 degrees, 58 minutes 0 seconds to the southeast with the centerline of the Elgin and Dundee Road; thence southerly parallel with the centerline of said road, 343.9 feet; thence westerly 380 feet on a line making an angle of 89 degrees, 58 minutes 0 seconds to the northwest with said center line to the center line of the Elgin and Dundee Road; thence northerly along the center line of said road, 343.9 feet to the point of beginning, in Dundee Township, Kane County, Illinois; and

Parcel Two: That part of the southwest quarter of Section 25, of the southeast quarter of Section 26 and of the northwest quarter of Section 36, all in Township 42 north, Range 8 east of the Third Principal Meridian, described as follows: commencing at the southwest corner of the southwest quarter of said Section 25; thence north along the west line of said southwest quarter 9.7 feet; thence westerly along a line forming an angle of 80 degrees, 51 minutes, 0 seconds to the northwest with said west line,

124.15 feet to the center line of State Route 25 for the point of beginning; thence easterly along the last described course and said course extended on a line forming an angle of 89 degrees, 58 minutes, 0 seconds to the southeast with said center line 380 feet; thence southerly parallel with said center line, 171.95 feet; thence easterly along a line forming an angle of 89 degrees, 58 minutes 0 seconds to the southeast with said center line 370 feet; thence northerly parallel with said center line, 340.95 feet; thence westerly along a line forming an angle of 80 degrees, 51 minutes, 0 seconds to the northwest with the west line of the southwest quarter of Section 25, 750 feet to the center line of said State Route 25; thence southerly along said center line 169 feet to the point of beginning, in Dundee Township, Kane County, Illinois (together, the "Property").

SECTION 2: The Board of Trustees hereby makes the following findings of fact with respect to the requested special use permits:

1. The uses permitted by the exceptions are necessary or desirable and are appropriate with respect to the primary purpose of the development;

Each of the proposed indoor commercial sports and entertainment facility, banquet hall, and auto repair and servicing center special uses on the Property will be consistent with existing uses in the area insofar as the trend of growth and development on the relevant portion of Illinois Route 25 is retail and serving the public with services. These proposed special uses are consistent with the Village's Comprehensive Plan. An indoor commercial sports and entertainment facility will serve sports enthusiasts, including but not limited to, youths interested in soccer leagues, and which is not presently well served by open, outdoor parks during winter months. It is also desirable to have an entertainment venue which would tend to utilize the facilities in the evening after athletic leagues or games have been completed. It is the Board of Trustees belief that the Village and surrounding community is underserved with respect to entertainment venues. The banquet hall is desirable and would serve the community and would fit well with an indoor commercial sport use for team banquets and dinners and appears to be a natural fit and an amenity to the community. The proposed auto repair and servicing center use is appropriately located on a state route utilized by commuters and is reasonably proximate to residential neighborhoods to enable them to utilize such auto repair services as well.

2. The uses permitted by the exception are not of such a nature or so located as to exercise a detrimental influence on the surrounding neighborhood;

Due to development around the Property in the past decade, an indoor commercial sports and entertainment facility, banquet hall, and auto repair and servicing center special uses on the Property are appropriate for the commercial corridor on Illinois Route 25, which would be utilized by patrons of these special uses rather than access coming through residential neighborhoods which would avoid excessive traffic coming through any residential neighborhood to the Property and will not have an adverse or detrimental influence or impact on the surrounding neighborhoods.

The Property is a former car dealership which was desirable and appropriate and any auto repair is a natural extension of this one time use of the Property as a dealership.

3. Not more than 20% of the ground area or of the gross floor area of the development shall be devoted to the uses permitted by the exception;

The Board of Trustees is of the opinion that this standard has been met. The proposed special uses are subject to final plans to be approved by the Village to enable the Village to insure that this requirement is met. Based on witness testimony, it is anticipated that the proposed uses will not exceed 20% of the ground area of the development.

4. In an industrial planned development, the additional uses allowed by exception shall conform with the performance standards of the district in which the development is located;

This criteria is inapplicable insofar as there is no request for an industrial planned development.

5. The use exceptions so allowed are reflected by the appropriate zoning district symbols and so recorded on the zoning district map;

The Village's zoning map will be amended to reflect such uses upon any approval by the Board of Trustees.

6. The special uses will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

While the special uses are of a more intense nature than permitted uses, the anticipated distance between the buildings and the property lines lead this Board of Trustees to believe that the proposed special uses will not be injurious to the use and enjoyment of other property in the nearby vicinity. This belief is reinforced by Village ordinances in effect for entertainment venues which place limitations thereon and the banquet facility and auto repair uses would remain subject to general Village ordinances. No convincing testimony was provided which would demonstrate that property values in any neighborhood proximate to the Property would be impaired or substantially diminished.

7. The establishment of the special uses will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

Insofar as some of the anticipated structures and facilities are already on the Property, with direct access from Illinois Route 25, the testimony reflects that in no way will the normal, orderly development and improvement of surrounding property be impeded.

8. Adequate utilities, access roads, drainage or necessary facilities have been or will be provided;

The plans for the Property on which the special uses are requested have or will provide for the extension of sanitary sewer and potable water mains to the Property. Insofar as the Property is si-

uated on Illinois Route 25, an adequate access road is in place for each of the special uses. The Board of Trustees believes that the testimony reflects that drainage will be handled in accordance with all applicable standards. No testimony was provided that any of the proposed utilities, means of access or drainage facilities will be deficient in any manner.

9. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;

Judging from the evidence provided by the petitioner at the hearing and the personal knowledge of the Board of Trustees relative to the Property, it is our conclusion that adequate measures are in place to minimize traffic congestion by the use of proposed turn in lanes on Illinois Route 25 and that the highest level of activity will be in the evenings or on the weekends so as to minimize any increase of traffic during weekday "rush hours" when commuter traffic is at its peak.

10. The special uses shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the President and Board of Trustees at such time a final plan is submitted to the Village.

SECTION 3: The following special uses, subject to the conditions and restrictions imposed herein and in the Annexation Agreement, including the conditions of submission of a final plan by the Owner for each special use as well as approval of same by the Village, between the Village and the Owner, are hereby granted for the Property:

- a. Indoor commercial sports and entertainment establishment as provided in Chapter 157.053 in the East Dundee Zoning Chapter; and
- b. Banquet hall as provided in Chapter 157.053 in the East Dundee Zoning Chapter; and
- c. Auto repair and servicing, provided all such activity is within an enclosed building and as provided in Chapter 157.053 in the East Dundee Zoning Chapter.

SECTION 4: All other requirements set forth in the East Dundee Zoning Chapter, as would be required by any owner of property zoned in the same manner as the Property, shall be complied with, except as otherwise provided in the Annexation Agreement between the Village and the Owner.

SECTION 5: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed, to the extent of such conflict.

SECTION 7: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

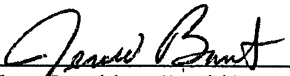
Ayes: 6 - Justices Gorman, Lynam, Miller, VanOstenbridge, Skillecorn
& President Bartels

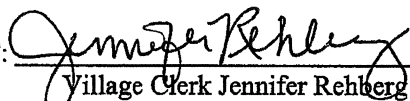
Nays: 0

Absent: 1 - Justice Ruffalo

Abstain: 0

APPROVED:

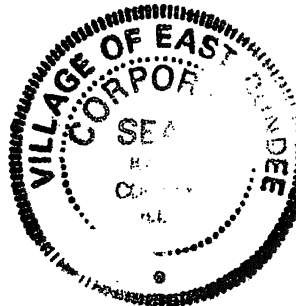

Village President Jerald Bartels

(SEAL)
ATTEST: 
Village Clerk Jennifer Rehberg

Passed: September 19, 2011

Approved: September 19, 2011

Published: September 21, 2011



Prepared by/Mail to:

Michael J. Smoron

Zukowski Rogers Flood & McArdle

50 Virginia Street

Crystal Lake, IL 60014

815.459.2050

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CERTIFICATION

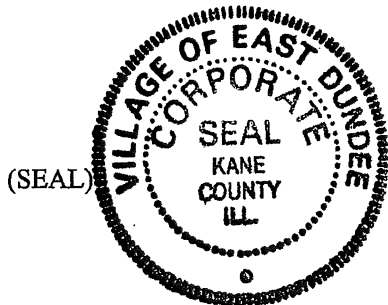
I, JENNIFER REHBERG, do hereby certify that I am the duly appointed, acting and qualified Clerk of the Village of East Dundee, Kane County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the President and Board of Trustees of said Village.


I do hereby further certify that at a regular meeting of the President and Board of Trustees of the Village of East Dundee, held on the 19th day of September, 2011, the foregoing Ordinance entitled *An Ordinance Zoning and Granting Certain Special Uses for Property Commonly Known as Pima Illinois, LLC, With an Address of 14N963 Illinois Route 25*, was duly passed by the President and Board of Trustees of the Village of East Dundee.

The pamphlet form of Ordinance No 11-42, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the East Dundee Village Hall, 120 Barrington Avenue, East Dundee, IL, commencing on the 19th day of September 2011, and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said Village for safekeeping, and that I am the lawful custodian and keeper of the same.

IN WITNESS WHEREOF I have affixed my name as Clerk and caused the seal of said Village to be affixed hereto this 19th day of September, 2011.




Jennifer Rehberg, Village Clerk
Village of East Dundee,
Kane County, Illinois

COMMERCIAL SPORTS AND ENTERTAINMENT ESTABLISHMENT, INDOOR.

A fully enclosed facility with a capacity of 100 or more people, with or without seating for spectators, the primary purpose of which is providing accommodations for a fee for a variety of individual or organized sports, recreation, and competition activities as well as a variety of sales or entertainment events, either passive or active, for the pleasure of the patrons including performances, exhibitions, educational programs, religious services, flea markets, collector shows, and other forms of public gathering. This use includes accessory food services facilities but does not include adult uses as defined in Chapter 117 of this code, or any of the regulated activities included within said chapter.

ORDINANCE NUMBER 21- 29

AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, APPROVING A SPECIAL USE PERMIT FOR A BANQUET HALL IN THE B-3 GENERAL SERVICE BUSINESS DISTRICT FOR THE PROPERTY LOCATED AT 485 DUNDEE AVENUE, EAST DUNDEE, ILLINOIS

WHEREAS, the Village of East Dundee ("Village") is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, pursuant to Section 157.224 of the Village of East Dundee Zoning Ordinance ("Zoning Ordinance") and the Village's home rule authority, the Village President and Board of Trustees of the Village ("Corporate Authorities") may provide for and allow the classification of special uses in its zoning ordinances; and

WHEREAS, under the authority of the Zoning Ordinance, the property at 485 Dundee Avenue, East Dundee, Illinois ("Property"), as legally described in Section 2 below, is located in the B-3 General Service Business Zoning District, in which a banquet hall is allowed if the Corporate Authorities first grant a special use permit, per to Section 157.050(F)(1)(g)(4) of the Zoning Ordinance; and

WHEREAS, pursuant to the Zoning Ordinance, any person owning or having an interest in property may file an application to use such property for one or more of the special uses provided for in the zoning district in which the land is situated; and

WHEREAS, the Corporate Authorities have received a request for a special use permit for a banquet hall to be operated at the Property ("Application") from the contract purchaser of the Property, Infinity Banquet Hall and Event Planners ("Applicant"); and

WHEREAS, notice of a public hearing on the Application before the Village's Planning and Zoning Commission was duly given and a public hearing was held on the Application on September 2, 2021; and

WHEREAS, the Planning and Zoning Commission reviewed the standards set forth in Section 157.224 of the Zoning Ordinance for a special use permit and recommended approval of the Application, subject to the conditions in Section 3 below, which recommendation and related findings of fact are incorporated herein; and

WHEREAS, the Corporate Authorities have reviewed the Planning and Zoning Commission's findings of fact and recommendations on the Application, and hereby approve the proposed special use of a banquet hall on the Property, subject to the conditions in Section 3 below;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of East Dundee, Kane and Cook Counties, Illinois, as follows:

SECTION 1: Incorporation. That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

SECTION 2: Approval of Special Use Permit. The Corporate Authorities hereby approve the Application and grant a special use permit for the Property legally described as:

LOT 2 OF LPC SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF SECTION 23, AND PART OF THE NORTHEAST QUARTER OF SECTION 26, ALL IN TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRICIPAL MERIDIAN, IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS.

commonly known as 485 Dundee Avenue, East Dundee, Illinois (P.I.N. 03-23-479-006), for a banquet hall, subject to the conditions in Section 3 below.

SECTION 3: Conditions of Approval. That the special use permit granted herein shall be constructed, operated and maintained in accordance with any plans and diagrams submitted as part of the Application, and shall be subject to the following terms and conditions:

1. The Special Use Permit cannot be transferred and shall expire at such time the Infinity Banquet Hall and Event Planners at 485 Dundee Avenue, Dundee, IL 60118 ceases operations at this location.
2. Banquet activities shall not occur between the hours of 12:00 a.m. to 9:00 a.m.
3. All entertainment must be confined to inside the building.
4. Size of the events cannot exceed the maximum occupancy of the space dedicated to the banquet venue as determined by the Building Code.
5. Does not provide carry-out service to individuals.
6. The venue shall comply with all Village noise regulations and requirements.
7. Repairs to the parking lot are adequately addressed.

SECTION 4: Severability. That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 5: Repeal. That all ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

SECTION 6: Effect. That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

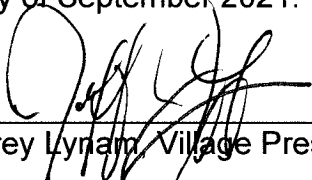
PASSED this 13th day of September 2021 pursuant to a roll call vote as follows:

AYES: Trustees Mahony, Andresen, Kunze, Britton, Saviano
and Treiber

NAYES: Ø

ABSENT: Ø

APPROVED by me this 13th day of September 2021.



Jeffrey Lynam, Village President

ATTEST:

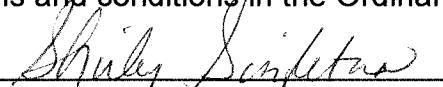


Katherine Diehl, Village Clerk

Published in pamphlet form this 13th day of September 2021, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on September 21, 2021.

The Applicant acknowledges hereby the reasonableness of the above and foregoing terms and conditions in the Ordinance, and hereby accepts the same.

By: 

Applicant

Date: September 23 2021