



MINUTES
MEETING OF VILLAGE OF FRANKFORT
PLAN COMMISSION / ZONING BOARD OF APPEALS
SEPTEMBER 9, 2021 – VILLAGE ADMINISTRATION BUILDING
432 W. NEBRASKA STREET

Call to Order: Chair Rigoni called the meeting to order at 6:30 P.M.

Commissioners Present: Chair Maura Rigoni, Nichole Schaeffer, Ken Guevara, Dan Knieriem, David Hogan, Lisa Hogan, Will Markunas

Commissioners Absent: None

Staff Present: Senior Planner Christopher Gruba, Senior Planner Janine Farrell, and Director of Community and Economic Development Michael Schwarz

Elected Officials Present: None

A. Approval of the Minutes from August 26, 2021

Motion (#1): Approval of the minutes from August 26, 2021

Motion by: Markunas Seconded by: Guevara

Approved: (5 to 0) Markunas and Lisa Hogan abstained

B. Public Hearing: Village of Frankfort Zoning Ordinance Text Amendments *(tabled from August 26, 2021)*

Chair Rigoni introduced the request to amend several sections of the Zoning Ordinance to provide regulation for vacation rentals. She asked for all members of the public wishing to speak on this item or all subsequent items to be sworn-in.

Senior Planner, Janine Farrell, reviewed the request:

- The Zoning Ordinance text amendment was first heard at the August 26th meeting and was tabled with requests for additional information.
- The number of detached homes, townhome dwelling units and dwelling units within mixed use buildings located within the H-1 zone district was provided to the Commission:
 - 9 detached single family homes
 - 13 townhomes or attached single family homes
 - 45 apartments/condos as part of mixed-use structure

- The draft language for changes to Chapter 123 in the Code of Ordinances was explained, which would be reviewed separately by the Village Board.
- Since the last Plan Commission meeting, the draft language remained largely unchanged, pending discussion and direction from the Commission.
- At the previous Plan Commission meeting, a member of the public suggested reexamining the proposed 10-guest maximum limit. They noted that the renting of an entire house could plausibly accommodate 10 people. However, if the owner only chose to rent out 1 bedroom, the maximum number of guests permitted would remain at 10, which could be problematic. To address this concern, text could be added to allow for the Plan Commission to review maximum occupancies on a case-by-case basis, but in no instance allowing the maximum occupancy to exceed 10 persons.
- Farrell discussed the new information provided to the Commission since 8/26:
 - Homeowners/Condo/Neighborhood Association approval: Chapter 123.03(D) already includes this.
 - Hours of operation: There are no regulations for the hours of operation in the Zoning Ordinance for residential uses, only commercial uses. Regulating operating hours for vacation rentals could be difficult to enforce.
 - Age and background checks: The minimum renter age and requiring background checks are not necessarily land use issues, but the Commission could make recommendations to the Board regarding these to include in Chapter 123.
 - Noise: There are existing noise regulations in both the Zoning Ordinance and in Chapter 123 of the Code of Ordinances.
 - Maximum days: Chapter 123.04(B)(4) limits the number of days that a dwelling could be rented per year to 60.
 - Minimum night: Chapter 123.04(B)(1) requires a minimum rental time of 24 hours, but this could be increased if desired and a recommendation made to the Board.
 - Insurance: Insurance is not necessarily a land use issue and is already included in Chapter 123.03(A) and 123.06(A).
 - Deposit/Bond: There are no regulations to require a bond or damage deposit. This is not necessarily a land use issue and the Commission may recommend it be included in Chapter 123.

During the Plan Commission Discussion:

Commissioner Lisa Hogan noted that the minimum age requirement makes sense but questioned whether the Village should be tasked with enforcing background checks and security deposits. She noted that property owners would probably perform background checks of renters on their own to ensure the safety of their property and that the Village should not be involved in regulating this aspect.

Commissioner Knieriem stated that he didn't think that the background check regulation should be included in the Zoning Ordinance, as this might cause the Village to assume liability.

Chair Rigoni reaffirmed that the background checks and security deposit requirements should be listed in Chapter 123 and not in the Zoning Ordinance. Farrell responded in the affirmative.

Commissioner Knieriem stated that per Section 123.04, he would like to see the minimum rental stay extended from 1 day to 2 days. He also noted that per Section 123.10, he would like to see the penalty for violations increased from \$50 to perhaps \$200 to better discourage breaking the rules.

Commissioner David Hogan suggested that dwellings located within mixed-use buildings should not be permitted to rent their property as a vacation rental.

Chair Rigoni opened the discussion for public comment.

Resident Deborah Hardwick spoke before the Commission. She noted that most of the proposed vacation rental language was aimed at the property owner but did not address things that might affect neighboring properties. Chair Rigoni responded that vacation rentals would be permitted only as special use and that the Village had the ability to revoke the special use permit and could also revoke the business license. She also stated that the Plan Commission should remain more focused on regulations proposed for the Zoning Ordinance, not Chapter 123 of the Code of Ordinances.

There were no other public comments.

Commissioner Lisa Hogan stated that a property owner offering only 1 or 2 bedrooms should not have the ability to rent to 10 people and that the number of guests should be based on either square footage available or the number of bedrooms.

Commissioner Markunas asked staff for their recommendation regarding the number of guests permitted. Farrell responded that the number of guests should be made on a case-by-case basis by the Plan Commission during each special use permit request, but that in no instance shall this amount exceed 10.

Commissioner Schaeffer mentioned that she would prefer not to duplicate regulations by repeating the same vacation rental requirement in both the Zoning Ordinance and Chapter 123 of the Code of Ordinances.

Chair Rigoni reiterated that the Commission would not be recommending a regulation regarding background checks, but would be recommending that a minimum stay should be 48 hours and that the penalty fees should be similar to other violation fees that the Village charges.

Resident Deborah Hardwick spoke again. She asked whether the minimum age to rent would be 18 years old; if so, that age 18 is too young. Chair Rigoni replied that the age requirement would be part of Chapter 123 and would be acted upon by the Village Board, but that the Plan Commission could convey a preference to have the age limit raised. Conversation ensued regarding the terminologies of "vacation rental" and "guestroom". Farrell stated that a guestroom is a space within a vacation rental. As an example, a vacation rental could have four guestrooms within the house. A property owner could rent only one room of the house or rent the entire house. Commissioner Lisa Hogan stated that the owner may or may not be living in the house during the time that the guestroom(s) is/are rented.

Ms. Hardwick asked the Commission who would be enforcing the ordinance, such as if a guestroom were rented over the maximum consecutive 14 days. Ms. Hardwick felt that enforcement seemed to become the responsibility of the neighbors. Commissioner Schaeffer stated that the owner or manager of the property would still have to be within 30 miles of the property, per the proposed changes to Chapter 123. Ms. Hardwick asked if the Police Department would have a record of which property owners had vacation rentals in the Village. Chair Rigoni responded that the Village would have this information.

Motion (#2): Recommend the Village Board approve text amendments to the following Zoning Ordinance sections in order to create a new use category, vacation rentals, in accordance with public testimony and the Findings of Fact: Article 5, Section B, Table of Permitted and Special Uses; Article 5, Section C, Use Standards as amended; Article 7, Section B, Part 2, a, Off-Street Parking & Loading; and Article 12, Section A, Part 2, Definitions. The amendment to Article 5, Section C, Part 38 'a' shall read "maximum occupancy shall be reviewed on a case by case basis but in no instance shall exceed ten (10) guests per Vacation Rental."

Motion by: Lisa Hogan

Seconded by: Markunas

Approved: (7 to 0)

The Commission also made two recommendations to the Village Board regarding Chapter 123:

- 123.04(B)(1) = increase the minimum period of time to forty-eight (48) consecutive hours instead of twenty-four (24) hours
- 123.10 = ensure that the penalties or fines are similar to other penalties or fines in the Village

C. Public Hearing: 300 S. Maple St. (Tabled from August 26, 2021)

Chair Rigoni introduced the case and noted that the Village-initiated rezoning would be tabled until the September 23, 2021, Plan Commission meeting.

Motion (#3): Table until the September 23, 2021, Plan Commission meeting.

Motion by: Lisa Hogan

Seconded by: Schaeffer

Approved: (7 to 0)

D. Public Hearing Request: 21116 Washington Parkway – Two Special Use Permits (Massage establishment and personal service to operate a salon and spa)

Chair Rigoni introduced the case. The applicant, Tracy Powers, is requesting two special uses for a massage establishment and personal services to operate a salon and spa at 21116 Washington Parkway.

Senior Planner, Janine Farrell, reviewed the request:

- There are two special use requests for massage establishment and personal service to operate a salon/spa.

- The property is located at 21116 Washington Parkway and is one unit within the Brookside Office Condominium. There are three buildings within that office condominium; this is the middle or center building.
- Farrell showed the unit dimensions on the screen. The subject unit is labeled Unit 1 on this plan, later renumbered Unit 6. It is about 2,497 square feet which includes both levels, a first floor and a basement level.
- Farrell showed the applicant's concept plan for the interior build-out of the space which includes spa treatment rooms, shampoo and nail stations, bathrooms, reception, and waiting areas.
- The applicant is proposing spa and salon or beauty services such as massage, facials, waxing, makeup, microblading, spray tanning, nails, lash extensions, and hair services.
- The business hours are M-F 9:00a.m.-9:00p.m.; Sat & Sun 8:00a.m.-4:00p.m.
- There will be seven employees, although currently there are five. The applicant plans to hire two additional with this transition to the new location.
- Parking is a concern for this proposal. The minimum Zoning Ordinance parking requirement of twenty parking spaces is not met. Farrell displayed the parking evaluation chart on the screen. The unit sizes on the chart include the basement levels. This chart reflects the bare minimum space requirements since staff does not have specific information on how many exam rooms exist in each unit.
- Zoning Ordinance Article 7, Section B, Part 5, outlines procedures for reduction of the requirements of off-street parking but staff does not believe that the applicant has provided sufficient evidence for the Commission to amend or reduce the required parking at this time.
- Farrell reviewed the Findings of Fact as detailed in the report:
 - A – The uses should not be detrimental to the public's health, safety, morals, comfort, or general welfare.
 - B – The uses should not substantially diminish property values, but may impact neighboring units and the ability to sell if there is no parking available.
 - C – Without addressing the parking deficiency, the lack of parking may deter new tenants.
 - D – There are no exterior changes and the interior build-out will be flexible with treatment rooms which are not so different than exam rooms which could be found in other units.
 - E – The interior contains adequate facilities, but there is not adequate parking for the uses.
 - F – There is only one point of ingress/egress which appears to be adequate to not create congestion on Washington Parkway.
 - G – The uses do not conform to the Zoning Ordinance parking requirements for the personal services use.
- Staff received three objections to this request. One was through a voicemail from a doctor within the Brookside Office Condominiums, one was a phone call with a neighbor in the Brookside II Subdivision, and one was a letter received from the Brookside Office Court Condo Owners Association President Dr. Ronald Harrison. Farrell read the objection letter into the record and provided copies to the Commissioners.
 - Letter from Dr. Ronald Harrison, President of the Brookside Office Court Owners Association. "To Whom It May Concern: This letter is in regard to Public Hearing request Ref #105. I, as president of the

Brookside Office Court Condo Owners Association will recommend to the board and other owners my opposition to the proposed spa and massage salon. My opposition is focused on two issues. First, our parking lot has never been able to support current employees and clients. As it is, Dr. Perry and his staff park on the street, encroaching on our neighbors in Brookside II. The applicant states that seven parking spots may be needed for staff and an additional seven for clients, totaling fourteen spots, far exceeding the number used by the former tenant. The increased demand could potentially put ten or more additional cars onto the streets of Brookside II. Secondly, Brookside Office Court was intended for, and has always been occupied by professional groups, primarily medical. A salon does not fit the image we wish to project for the complex. For these reasons, I request the proposals be denied.”

- Staff recommends that the special uses be conditioned upon the reduced parking information provided in Article 7, Section B, Part 5.

The applicant, Tracy Powers, was present before the Commission. She noted that as the letter from Dr. Harrison noted, that the site is currently deficient in parking and that any future user of the space would require some amount of parking. She also noted that she does not yet have seven employees but would hope to with growth of the business. She also stated that the proposed use would be busiest on weekends, when most of the other businesses in the development would be closed. She did not think that she would need 14 parking spaces.

Chair Rigoni asked the applicant to further define the nature of her proposed business. Ms. Powers responded that it would be more of a spa than a salon and that she would only have two hair stylists. The business is more focused on skin care and that most customers live in Frankfort.

Chair Rigoni asked for questions from the commissioners.

Commissioner David Hogan asked how many of the current tenants are owners. Farrell responded that she did not have that information. Hogan asked if the applicant was proposing to purchase the space. Farrell responded in the affirmative.

Commissioner Knieriem asked whether any options existed that would provide parking for the employees (not patrons). Ms. Powers responded that there would be seven employees and they could park in the street or in the development east of Washington Parkway. She also stated that as it currently exists per code, there is only one parking space available for the vacant tenant space and that any future user of this space is sure to exceed this amount.

Commissioner Markunas asked the applicant if she would be willing to have approval based on the condition that employees must park off-site. Ms. Powers responded in the affirmative. Commissioner Knieriem noted that the Brookside Subdivision residents were opposed to cars parked on the street.

Commissioner Lisa Hogan did not think that the parking table made practical sense. As an example, the parking requirements seemed inaccurate regarding the existing dentist use. Commissioner Lisa Hogan believed that if this commercial plaza was only

intended for medical users, this should have been included as a condition in the covenants and restrictions. Farrell responded that the parking table was a best estimate for the parking requirements, as she did not have the number of exam rooms and employees for each existing user.

Chair Rigoni opened the public comment portion of the meeting.

Don Bettenhausen, an owner within the Brookside Office Condo, approached the podium. Summarized, he stated the following:

- He has eight (8) signatures from the eight other units in the development and all are opposed to the special use permit for the salon/spa. Mr. Bettenhausen distributed a letter and the petition to the Commission.
- There are a total of 53 parking spaces on site, 4 of which are handicap accessible.
- Most of the existing tenants operate on the ground level and that the basements are used only for storage.
- All the tenant spaces except for one are owner-occupied.
- Presidents Row east of Washington Parkway is under a different association and they do not want overflow parking.
- The residents of Brookside do not want parking on the street.
- It is dangerous to have cars park on the street.

Commissioner Lisa Hogan asked how many exam rooms Mr. Bettenhausen had. He replied that he didn't have any and was an attorney office. Commissioner Knieriem asked where his office was located. Mr. Bettenhausen responded that his office is located at the end of the building.

Jim Water, association vice president, approached the podium. Summarized, he stated the following:

- Their property is "landlocked" and restricted with respect to parking.
- The other tenants have employees, but also clients that come and go. As an example, he stated that the accounting office has a high volume of clients, especially during tax season.
- The traffic on Washington Parkway moves fast, as Route 30 has a higher speed of traffic and motorists carry this mentality onto Washington Parkway.
- The ingress/egress to the site aligns with Presidents Row across the street. This causes dangerous traffic turning movements. This could be made safer by eliminating the landscaped median and installing turn lanes.

Commissioner Lisa Hogan asked how many employees Mr. Water had. He responded that he has no more than three at any given time. She asked the applicant what currently exists in the tenant space. Ms. Powers responded that it is currently the "International Council of Community Churches", which she believed is an office use.

A resident who lives at 592 Johnson Avenue (possibly Frank Barre, signature difficult to read), approached the podium. Summarized, he stated the following:

- There is an issue with insufficient parking. People already park on Johnson.
- Washington Parkway narrows at the intersection with Johnson Avenue, so that

the streets don't align properly. The streets are already confusing, and drivers get lost with regularity.

Commissioner Knieriem asked the resident whether parking could be restricted to only one side of Johnson Avenue and whether this would be a workable compromise. The resident responded that Johnson Avenue is already filled with cars on the north side and that patrons for Presidents Row are starting to park on surrounding streets as well.

Commissioner Schaeffer asked whether the flow of traffic could be changed on the nearby streets, such as creating one-way streets. Chair Rigoni responded that traffic circulation falls under the purview of the Traffic Advisory Committee.

Commissioner Guevara stated that parking on the street is not a good solution and that the proposed use would add to an existing problem.

Commissioner Lisa Hogan stated that any new user of the subject tenant space would exacerbate the current parking situation.

Chair Rigoni stated that parking on the street was not a viable solution. She noted that when the buildings were originally approved, it was not anticipated that businesses would use the basements for anything other than storage.

Commissioner Markunas expressed an openness to allow parking on the streets.

Commissioner Knieriem asked whether the units were approximately of equal size. If so, each tenant space should share the parking spaces equally. He asked whether the current tenants park on the street. Mr. Bettenhausen responded that if there are spaces available, he will park in the lot, otherwise, he will park in the street. He also stated that he believes that the basements of the other tenants are used only for storage.

Commissioner David Hogan asked staff if the required parking space chart was the best guess. Farrell responded in the affirmative. He stated that the property is already operating with parking at over capacity, but also suggested that if a dentist moved into the suite, that it would attract more customers than a salon/spa.

Commissioner Knieriem asked the other tenants in the plaza what their solution would be to fix the parking situation. There did not appear to be a direct answer.

Todd Dawson, a resident at 297 Mulberry, approached the podium. He stated that the parking situation is so bad that occasionally people will park in his driveway and sit on the bench in front of his house. He stated that the proposed salon/spa use would negatively affect nearby residents.

Chair Rigoni suggested that the businesses within the development should not be allowed to use their basements for anything other than storage, which would reduce usable floor area and help alleviate the demand for parking.

Motion (#4): Recommend the Village Board approve a special use for a massage establishment at 21116 Washington Parkway in accordance with the reviewed plans, public testimony, and Findings of Fact.

Motion by: Lisa Hogan Seconded by: Knieriem

Denied: (6 to 1, Lisa Hogan only “aye” vote)

Motion (#5): Recommend the Village Board approve a special use for personal service at 21116 Washington Parkway in accordance with the reviewed plans, public testimony, and Findings of Fact.

Motion by: Markunas Seconded by: Knieriem

Denied: (7 to 0)

E. Public Hearing Request: 9975 W. Lincoln Highway (Unit 2) – Special Use Permit (Indoor recreation and entertainment use)

Chair Rigoni introduced the case. The applicant, Jennifer Zeiger, is requesting two special uses for indoor recreation and entertainment and extended hours of operation at 9975 W. Lincoln Highway, Suite #2.

Gruba presented the case. The special use request is for indoor recreation and entertainment to operate treadmill and strength training classes. The business would be open from 5:00am-11:00pm and there are two motions for two special use requests including the extended business hours. Each class would have one employee, with class sizes not exceeding 13 people. Gruba showed the aerial on the screen. There are 26 spaces on the site which includes a dentist and investment firm. The use only requires five parking spaces per the Zoning Ordinance. With the other two uses and the proposed use, 22 spaces will be used out of the 26 spaces available. There is a cross-access agreement with Aurelio’s to the east, but staff did not find a shared parking agreement. The use complies with the Findings of Fact as detailed in the report. Gruba presented pictures of the site on the screen.

Chair Rigoni asked if the applicant was present. Jennifer Zeiger approached the podium. Ms. Zeiger explained her business is called Treadfit, which is treadmill interval fitness training with strength training. There is no receptionist, only one instructor, and 13 people in the class maximum. The classes have a 15 to 20-minute space in-between so there is no overlap. Commissioner Knieriem asked if this was similar to Orange Theory. Ms. Zeiger confirmed.

Chair Rigoni asked if there were any initial questions of the Commissioners.

Commissioner Knieriem confirmed with the petitioner that there is no overlap in the class times and that there is a separate waiting area. Commissioner Knieriem asked about shared parking to the west. Ms. Zeiger stated that it is not shared parking and there is only one space which straddles the properties. Commissioner Knieriem and Ms. Zeiger discussed hours of operation. The 6:00am class is the most popular and when Treadfit is busiest. The last class is at 8:00pm but the special use is required since the hours extend earlier than 7:00am. Aurelio’s does not open until 11:00am so

there should not be conflict of peak business hours.

Commissioner Markunas asked if the main entrance was the rear of the building. Ms. Zeiger stated they prefer people to enter through the rear, not the front.

Chair Rigoni asked if there was a shared parking agreement with Aurelio's. Betsy Wittingham, the owner of the property, approached the podium. Ms. Wittingham stated that shared parking is implied on the cross-access agreement. There is a stipulation that the other businesses' customers cannot park in front of the building, but the remainder of the lot is open.

Chair Rigoni stated that previous indoor recreation special use requests were conditioned so the back door cannot be left open before 7:00am. Gruba confirmed this was for Method Athletics. Ms. Zeiger stated that they are sensitive to neighbors and will be putting in soundproofing as well.

Commissioner Lisa Hogan confirmed with the petitioner that there is only one employee per class.

Commissioner Guevara confirmed with the petitioner that the hours of operation are by appointment only, there are no walk-ins, and no intent to stay open until 11:00pm.

Commissioners David Hogan and Schaeffer had no questions.

Chair Rigoni asked if anyone from the public wished to comment. There were no public comments.

Chair Rigoni asked if the Commissioners agreed to add a condition prohibiting the rear door to be propped open from 5:00am-7:00am. The Commissioners agreed.

Motion (#6): Recommend the Village Board approve a special use for indoor recreation and entertainment to permit the operation of JFZ Fitness proposed at 9975 Lincoln Highway, Unit 2, in accordance with the reviewed plans, public testimony, and the condition prohibiting the rear door to be propped open from 5:00am-7:00am.

Motion by: Knieriem Seconded by: Schaeffer

Approved: (7 to 0)

Motion (#7): Recommend the Village Board approve a special use for extended hours of operation to permit the 5:00 a.m. opening of JFZ Fitness proposed at 9975 Lincoln Highway, Unit 2, in accordance with the reviewed plans, public testimony, and the condition prohibiting the rear door to be propped open from 5:00am-7:00am.

Motion by: Lisa Hogan Seconded by: Guevara

Approved: (7 to 0)

F. Final Plat: Homestead Center

Chair Rigoni introduced the request for final plat approval for Homestead Center.

Gruba presented the case. The site plan and building have already been approved, but the final plat for the two-lot subdivision was not approved at that time. There are no changes to the site plan. Staff and Robinson Engineering reviewed the cross-access, public utility, and drainage easements and verified there were no issues. Gruba showed the approved site plan on the screen. Lot 2 is shown as unimproved and undeveloped. Lot 1 is intended to have a retail building.

Chair Rigoni asked the petitioners if they wished to speak. The petitioner stated she had nothing to add.

Chair Rigoni asked if there were any initial comments by the Commissioners. There were none.

Motion (#8): Recommend the Village Board approve the final plat for Homestead Center in accordance with the reviewed plans and public testimony.

Motion by: Lisa Hogan

Seconded by: Schaeffer

Approved: (7 to 0)

G. Public Comments – None.

H. Village Board & Committee Updates

Schwarz stated that the Village Board approved the special uses for Cheer City at 10315 Vans Dr. and the vet clinic at 20815 S. LaGrange Rd. at their meeting on Tuesday, September 7.

I. Other Business – None.

J. Attendance Confirmation (September 23, 2021)

Chair Rigoni asked the Commissioners to notify staff if they will be unable to attend the September 23rd meeting. Commissioner Lisa Hogan stated that she may not be able to attend but is unsure at this time. Commissioner Schaeffer stated that she will be out of town and unable to attend.

Motion (#9): Adjournment 8:33 PM

Motion by: Knieriem

Seconded by: Schaeffer

Unanimously approved by voice vote.

Approved September 23, 2021

As Presented X As Amended

Maura G. Rigoni /s/Maura Rigoni, Chair / Christopher Daulton /s/ Secretary