

**MINUTES  
COMMITTEE OF THE WHOLE MEETING  
VILLAGE OF VERNON HILLS  
May 21, 2019**

President Pro Tem Koch called the meeting to order at 8:05 p.m.

IN ATTENDANCE: President Pro Tem Koch, Trustees Brown, Marquardt, Oppenheim, and Schultz. President Byrne and Trustee Takaoka were absent. A quorum was established.

Also present were: Village Manager Fleischhauer, Assistant Village Manager Petrillo, Finance Director Fairbairn, Finance Consultant Nakrin, Ed McKee, Lauterbach & Amen LLP, Chief Kreis, Director of Community Development Atkinson, Attorney Hunt, Brad Farber and Recording Secretary Fischbach.

**1. APPROVAL OF COMMITTEE OF THE WHOLE MEETING MINUTES OF APRIL 16, 2019**

Motion by Trustee Schultz second by Trustee Marquardt to approve Committee of the Whole Minutes for the April 16, 2019 meeting.

Roll call vote:

AYES: 5–Brown, Schultz, Koch, Oppenheim, Marquardt

NAYS: 0 – None

ABSENT AND NOT VOTING: 2 – Byrne, Takaoka

Motion carried.

**2. REQUEST FOR AN OUTDOOR DINING AND SEATING ESTABLISHMENT PERMIT FOR SHAKE SHACK LOCATED AT 864 E. TOWNLINE ROAD (DIR CD ATKINSON)**

Representatives of Shake Shack have submitted an application for an outdoor dining and seating establishment permit for their establishment located in Mellody Farm. Ten (10) tables with a seating capacity of thirty-six (36) customers is proposed on their patio located on the south/west corner of the building. A fence would be located around the perimeter separating the public from customers who may be consuming alcohol. Self-closing/self-latching gates would be provided on the north and south side of the patio.

The application and plans along with a picture of the proposed furniture is attached to your packet.

In 2000, the Village Board approved Ordinance #2000-61 that outlines the permitting requirements and operating standards for all outdoor establishments. As this is the applicant's initial request, the Village Board has authority to consider the application.

If the COW feels that this request is appropriate, s:

1. Compliance with the requirements described in the Village of Vernon Hills Code of Ordinances, Chapter 10, Article VI.
2. Compliance with the application and plan, dated April 19, 2019.
3. A self-closing/self-latching gate shall be provided on the north and south side of the patio.
4. Graphics of any kind are not permitted on table umbrellas.

Motion by Trustee Schultz second by Trustee Marquardt directing staff to prepare a resolution approving the request subject to the above condition.

Roll call vote:

AYES: 5–Brown, Schultz, Koch, Oppenheim, Marquardt

NAYS: 0 – None

ABSENT AND NOT VOTING: 2 – Byrne, Takaoka

Motion carried.

**3. RAMEN HOUSE SHINCHAN – 701 N. MILWAUKEE – CONSIDERATION OF A REPORT AND RECOMMENDATIONS FROM THE PLANNING & ZONING COMMISSION FOR APPROVAL A SPECIAL USE PERMIT, ALLOWING A RESTAURANT TO SERVE ALCOHOLIC BEVERAGES (DIR CD ATKINSON)**

**Public Hearing:**

Representatives from Ramen House Shinchan appeared before the Planning & Zoning Commission on May 1, 2019 to present their plans for a new restaurant at Rivertree Court Shopping Center, 701 N. Milwaukee Avenue, Suite 268 and requested the following:

- Approval of special use permit allowing a restaurant to serve alcoholic beverages.

Ramen house is a quick service dine-in/dine-out restaurant with the concept of providing unique ramen noodle Japanese dishes. Included on the beverage menu is bottled cold sake and Japanese beer. The dining room would provide seating for 38 customers. The hours of operation will be M-F 11:30 AM - 2:30 AM (lunch) and 6:00 PM - 10:45 PM (dinner). Weekend hours would be 11:30 AM - 2:30 AM (lunch) 5:00 PM – 10:45 PM (dinner). The restaurant will provide multiple dining options including carry out. They are not proposing delivery options at this time, but may consider it the future via delivery services such as Grubhub or Seamless.

**Special Use Permit:**

In reviewing this business, the commission determined the use was a new and unique concept for the Village. The use is not a chain style restaurant which is something the community continues to ask for. Parking for the use is readily available due to the size of the existing lot. They are not proposing any changes to the building façade other than placement of a new sign. The Commission does not believe that service of liquor at this location will have a negative impact on the community or surrounding area under the conditions setforth in section 18.3.

**Public Notice:**

Notices were sent out to the surrounding property owners. No comments were received.

**Recommendations:**

The Commission voted 6-0 (Cotton absent) to recommend approval of the following:

Approving a Special Use Permit allowing a restaurant to serve alcoholic beverages, subject to the conditions referenced herein; and

**General Compliance with the following plans:**

Compliance with the plans prepared by John Y. Kim & PNK Design + Build, with date of January 15, 2019 and consisting of plan sheet A2.1.

**Conditions of Approval for the entire site:**

1. Receipt of a liquor license from the Liquor and License Committee.
2. Receipt of all required licenses from the Village and Lake County Health Department prior to issuance of a final certificate of occupancy.
3. Compliance with the Village Sign Ordinance.
4. Compliance with all ordinances and standards of the Village except as may otherwise be provided.

Motion by Trustee Schultz second by Trustee Oppenheim directing staff to prepare a resolution approving the request subject to the above conditions

Roll call vote:

AYES: 5–Brown, Schultz, Koch, Oppenheim, Marquardt

NAYS: 0 – None

ABSENT AND NOT VOTING: 2 – Byrne, Takaoka

Motion carried.

**4. PANDA EXPRESS – 290 HAWTHORN VILLAGE COMMONS – CONSIDERATION OF A REPORT AND RECOMMENDATIONS FROM THE PLANNING & ZONING COMMISSION FOR APPROVAL A SPECIAL USE PERMIT, APPROVAL OF ZONING & SIGN VARIATIONS, APPROVAL OF SITE PLAN, LANDSCAPE PLAN AND ARCHITECTURAL ELEVATIONS ON THE PROPERTY COMMONLY KNOWN AS THE HAWTHORN VILLAGE COMMONS (DIR CD ATKINSON)**

**Public Hearing:**

Representatives from Panda Express appeared before the Planning & Zoning Commission on May 1, 2019 to present their plans for construction of a new restaurant, located at 290 Hawthorn Village Commons and requested the following:

1. Approval of special use permit to allow a restaurant with drive-thru service to be known as Panda Express; and
2. Grant certain variations related to the Zoning Code and the Sign Code on the legally described property; and
3. Preliminary and final approval of the site and landscaping plans; and
4. Preliminary and final approval of the architectural elevations.

The “Fast casual” restaurant would include a drive-thru and dining room with a seating capacity of fifty-four (54) customers. Please note: the petitioner will appear before The Planning and Zoning Commission and The Village Board on a later date to request approval of a plat of subdivision creating a separate lot of record for the restaurant. The plat will also include right of way dedication allowing for the widening of Lakeview Parkway located on the west side of the shopping center.

**Special use permit:**

The petitioner is proposing a drive thru, which requires a special use permit. Based on the queuing analysis, the length of the drive thru lane accommodates up to nine cars, including five cars prior to the menu board.

**Zoning variations:**

- Lot Area                      *Required:* 40,000 square feet  
                                      *Proposed:* 38,411 square feet **Variation Required**
  
- Lot Width                      *Required:* 200 feet  
                                      *Proposed:* 182.73 feet **Variation Required**
  
- Front Yard (Bldg.)        *Required:* 60'  
                                      *Proposed:* 45.5' **Variation Required**
  
- Side Yard                      *Required:* 35.00'  
                                      *Proposed:* 15.00' (West) **Variation Required**
  
- Landscape Buffer Strip   *Required:* 25.0'  
                                      *Proposed:* 18.1' **Variation Required**

In reviewing the variations, the Planning and Zoning Commission was supportive of the setback variation requests and feel that it improves the overall layout for the site.

**Site Plan:**

The new building would be located within a separate lot of record that would be created adjacent to Townline Road, generally in front of Hobby Lobby. The limits of the project are set by the perimeter of the parking lot and the existing development. Internal traffic circulation works well and the site is very visible from Townline Road. The Planning and Zoning Commission determined that the overall design of the site plan and building placement are appropriate. Adequate ingress/egress measures would be in place to minimize traffic impacts under the conditions set forth in section 18.3, "Standards."

Sufficient detention capacity is available within the existing development. No additional detention facilities will be required.

**Parking:**

The existing parking lot currently has 491 parking spaces. This is 69 spaces short of current Zoning Code requirements. Hawthorn Village Commons was regulated by less restrictive parking requirements at the time of initial construction. Zoning Code requirements have since become more restrictive and the center is now classified as legal non-conforming. In consideration of the Panda Express development, staff requested that sufficient parking be provided that would comply with current zoning requirements serving the restaurant and not reduce the number of parking spaces serving the existing center. Based on the restaurants seating capacity and employee count, 29 spaces are required. As such, 520 parking spaces (491- existing center + 29 – restaurant) are required for the overall site. This has been achieved by the construction of 21 new parking spaces along Townline Road and by changing the existing parking lot layout from angled to 90 degrees.

**Landscaping:**

The Planning and Zoning Commission reviewed the landscape plan and it appears to be acceptable although a more complete review by the Village's landscape technician will be required during permit review. It was noted that several exiting trees would be lost when the parking lot islands are reconfigured. These trees are required to be replaced, or if necessary relocated on the site.

### **Architectural Design:**

The petitioner is proposing to use cast stone on all four elevations, primarily near the base of the building. "Fiberon" faux wood planking would be located near the top of the south, east and west elevations. Dark grey and earth tone EIFS material would also be incorporated into the overall design. Decorative art panels would be located on the west elevation. A steel canopy would extend off the south and west facades. A material sample board identifying the building materials and colors were made available at the meeting for review.

The petitioner was requested to use decorative art panels on the north elevation to promote four-sided architecture and to provide architectural relief to that elevation.

### **Sign Variations:**

#### *East Elevation:*

- A variation is required allowing a 36 square foot sign on an elevation with no street frontage.
- A variation is required allowing the size of a logo to exceeds 4 square feet.

#### *North Elevation:*

- A variation is required to have a 16 square foot sign on an elevation with no street frontage.
- A variation is required for the logo if the size exceeds 4 square feet. Please provide dimension to verify compliance with this requirement.

#### *South Elevation:*

- A variation is required to allow a wall sign that is 34.04 square feet rather than the maximum permitted size of 30 square feet.

#### *Site Signage:*

- A variation is required to allow a "Panda Express" sign on the drive thru clearance pole to be 3.34 square feet rather than the maximum permitted size of 2.0 square feet.
- A variation is required to allow a "Panda Express" sign on the drive thru speaker board to be 5.3 square feet rather than the maximum permitted size of 2.0 square feet.

The Planning and Zoning Commission is supportive of the sign variations. Although not having frontage on the east and north facade, signs on these walls are appropriate to identify the restaurant. Additionally, the size of the logos would be in proportion with the size of the wall they are located.

### **Public Notice:**

Notices were sent out to the surrounding property owners. No comments were received.

### **Recommendations:**

- I. The Commission voted 6-0 (Cotton absent) to recommend approval of the following:  
Approving a special use permit to allow a restaurant with drive-thru service to be known as Panda Express, subject to the conditions referenced herein; and

- II. The Commission voted 5-1 (Heidner against - Cotton absent) to recommend approval of the following:  
Granting certain variations related to the Zoning Code and the Sign Code, as outlined in this report, subject to the conditions referenced herein; and
- III. The Commission voted 6-0 (Cotton absent) to recommend approval of the following:  
Granting preliminary and final approval of the site and landscaping plans, subject to the conditions referenced herein; and
- IV. The Commission voted 6-0 (Cotton absent) to recommend approval of the following:  
Preliminary and final approval of the architectural elevations, subject to the conditions referenced herein.

**General Compliance with the following plans:**

1. General compliance with the proposed floor plan and exterior color elevations, prepared by Klover Architects, dated January 25, 2019; and
2. General compliance with the sign drawings, prepares by priority sign, dated April 17, 2019
3. General compliance with the landscape plan prepared by Klover Architects, dated January 25, 2019, consisting of pages 11.0 and 13.0; and
4. General compliance with the civil engineering plans which include existing conditions/demolition site plan, striping plan, geometric plan; and grading/utility plan prepared by Klover Architects, dated January 25, 2019.

**Conditions of Approval for the Entire Site:**

1. Review and approval of landscaping plans by the Village Landscape Technician shall be required prior to issuance of a full building permit for the project. The Landscape Technician may require plant substitutions where, in his opinion, the substitution is appropriate for this project. He shall require replacement of any trees lost due to construction based on one new tree planted for every tree lost. The trees shall comply with the approved trees as set forth in the landscape ordinance; and
2. Final engineering is subject to review and approval by the Village Engineer prior to issuance of building permit.
3. Review and approval of site lighting and parking lot light fixtures by the Director of Community Development.
4. The Director of Community Development shall review and approve the exterior lighting on the building prior to issuing any building or site development permit.
5. The petitioner and property owner shall provide evidence that a permanent access easement is executed for the entire property either by covenant or restriction on the plat of subdivision. The petitioner and the shopping center owner shall affirm that access is allowed.

6. Decorative art panels shall be provided on the north elevation and are subject to review and approval by The Community Development Director.
7. Compliance with all ordinances and standards of the Village.
8. Landscaping shall be provided on the west side of the building for the full length of the landscape island.
9. Preliminary and final plat of approval is required prior to issuance of building permit.

Said approval is subject to general compliance with the plans and conditions of approval recommended by the Planning and Zoning Commission at their public hearing on May 1, 2019 and in accordance with the conditions of approval referenced herein.

In addition to consideration of the Planning and Zoning Commission's recommendation, The Village Board is also requested to grant a variation from the Building Code to allow exterior wall finish materials that are not brick or stone.

**Requested Board Action:**

If the COW feels that the request is appropriate, staff should be directed to prepare an Ordinance approving the following:

1. Approving a special use permit to allow a restaurant with drive-thru service to be known as Panda Express, subject to the conditions referenced herein; and
2. Granting certain variations related to the Zoning Code and the Sign Code on the legally described property subject to the conditions referenced herein; and
3. Granting preliminary and final approval of the site and landscaping plans, subject to the conditions referenced herein; and
4. Preliminary and final approval of the architectural elevations, subject to the conditions referenced herein; and
5. Granting a variation from the Building Code to allow exterior wall finish materials that are not brick or stone.

Motion by Trustee Schultz second by Trustee Marquardt directing staff to prepare a resolution approving the request subject to the above conditions

Roll call vote:

AYES: 4—Brown, Schultz, Koch, Marquardt

NAYS: 1 - Oppenheim

ABSENT AND NOT VOTING: 2 – Byrne, Takaoka

Motion carried.

**5. CONSIDERATION OF A REPORT AND RECOMMENDATION FROM THE PLANNING AND ZONING COMMISSION FOR APPROVAL OF A ZONING TEXT AMENDMENT**

**PROHIBITING THE SALE OF DOGS, CATS AND RABBITS IN THE VILLAGE (DIR CD ATKINSON)**

**Request:**

Pursuant to Article 21, Section 21.7 of the Vernon Hills Zoning Ordinance, requesting the following amendments of Appendix C of the Code of Ordinances, being the Vernon Hills Zoning Ordinance of 1982, as amended from time to time is requested.

**Text amendment:**

- Amend Article 3, Section 3.2, “Definitions” by adding the following new definitions, to read as follows.

***Animal care facility*** means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

***Animal rescue organization*** means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include any entity, which is, or is housed on the premises of, a breeder or broker, obtains dogs from a breeder or broker in exchange for payment or compensation, or resells dogs obtained from a breeder or broker and provides payment or compensation to such breeder or broker.

***Cat*** means a member of the species of domestic cat, *Felis catus*.

***Dog*** means a member of the species of domestic dog, *Canis familiaris*.

***Offer for sale*** means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away or otherwise dispose of a dog or cat.

***Pet Shops*** shall mean any individual or entity who sells or supplies for consideration, profit or monetary benefit any or all of the following items: pet food; training equipment and services; accessories for pets such as leashes, collars, toys, apparel, crates, cages, carriers and pet fences; medications or medical services for pets; grooming, veterinary services; pet sitting services; or other supplies, devices or equipment related to the health, well-being, nutrition and sustenance of domesticated animals and pets; provided, however, that the term “***Pet Shops***” shall not include the sale of cats, dogs or rabbits sold, bartered, exchanged or traded for consideration, profit or monetary benefit. This definition shall not include an animal hospital, animal clinic or animal rescue organization, as defined.

***Rabbit*** shall mean is a small, long eared, stubby or long tailed mammal with soft fur that bounces and burrows.

**Petitioner:**

Village of Vernon Hills  
290 Evergreen Drive  
Vernon Hills, IL, 60137

**Background:**



In response to feedback from animal advocacy groups, and for the purpose of preventing inhumane breeding conditions, promoting community awareness of animal welfare, and fostering a more humane environment, the Village Board directed staff to prepare regulations that would prohibit the sale of cats and dogs within the Village.

The Ordinance was prepared that would immediately create such prohibition. This Ordinance does not affect a consumer's ability to obtain a dog or cat of his or her choice directly from an animal hospital, clinic or rescue organization. The Village Board, at its meeting on February 5, 2019 approved Ordinance 2019-019 prohibiting the sale of dogs and cats within the Village.

As part of discussion, the Village Board determined that rabbits should be added to the list of prohibited animal sales. Staff was directed to prepare an Ordinance, amending Ordinance 2019-019, prohibiting the sale of rabbits within the Village. The Ordinance was prepared and ultimately passed by the Village Board at their meeting on March 19, 2019.

Concurrent with the Ordinances referenced above, the Village Board directed that a zoning text amendment be forwarded to the Planning and Zoning Commission for review and recommendation to the Village Board. The proposed text amendment will be essentially the same as the previously approved Ordinances whereby a definition of "Pet Shop" will be added with language that clearly and specifically prohibits the sale of dogs, cats and rabbits. Additional definitions have been included to provide greater clarity.

**Public Hearing:**

The Planning and Zoning Commission conducted a public hearing on May 1, 2019 to consider amendments to the Zoning Ordinance as referenced in this report. No one appeared to speak in favor of or against the amendment.

**Report:**

The P & Z Commission was advised of feedback received from animal advocacy groups and the Village Board's rationale for requesting an amendment to the Zoning Ordinance. Commission members thoroughly reviewed and discussed this matter, including review of the proposed text language. In response to questions, the Commission was advised that the prohibition would apply to retail shops, breeders and any other entity the purpose of which is to sell these types of animals for profit or monetary benefit. Animal hospitals, clinics and rescue organizations would be the only exemptions. Some members voiced concern that legitimate breeders should also be allowed to sell dogs, cats and rabbits.

**P&Z Recommendation:**

The Commission voted on a motion to recommend approval of the following amendment to Appendix C of the Ordinance, being the Vernon Hills Zoning Ordinance:

- Amend Article 3, Section 3.2, "Definitions" by adding the following new definitions, to read as follows.

*Animal care facility* means an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

**Animal rescue organization** means any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include any entity, which is, or is housed on the premises of, a breeder or broker, obtains dogs from a breeder or broker in exchange for payment or compensation, or resells dogs obtained from a breeder or broker and provides payment or compensation to such breeder or broker.

**Cat** means a member of the species of domestic cat, *Felis catus*.

**Dog** means a member of the species of domestic dog, *Canis familiaris*.

**Offer for sale** means to sell, offer for sale or adoption, advertise for the sale of, barter, auction, give away or otherwise dispose of a dog or cat.

**Pet shops** shall mean any individual or entity who sells or supplies for consideration, profit or monetary benefit any or all of the following items: pet food; training equipment and services; accessories for pets such as leashes, collars, toys, apparel, crates, cages, carriers and pet fences; medications or medical services for pets; grooming, veterinary services; pet sitting services; or other supplies, devices or equipment related to the health, well-being, nutrition and sustenance of domesticated animals and pets; provided, however, that the term "*Pet Shops*" shall not include the sale of cats, dogs or rabbits sold, bartered, exchanged or traded for consideration, profit or monetary benefit. This definition shall not include an animal hospital, animal clinic or animal rescue organization, as defined.

**Rabbit** shall mean is a small, long eared, stubby or long tailed mammal with soft fur that bounces and burrows.

Upon roll call, the following vote was recorded:

Ayes: 1 - Gorog  
Nays: 5 – Morris Ballowe, Hezner, Heidner, Mulcrone  
Absent: 1 – Cotton

The motion was not approved. This matter is forwarded to the Village Board with no recommendation from the Planning Zoning Commission.

Motion by Trustee Schultz second by Trustee Oppenheim directing staff to take the amendment back to the Planning & Zoning Commission for reconsideration.

Roll call vote:

AYES: 5–Brown, Schultz, Koch, Oppenheim, Marquardt

NAYS: 0 – None

ABSENT AND NOT VOTING: 2 – Byrne, Takaoka

Motion carried.

## 5. ADJOURNMENT

Motion by Trustee Schultz, second by Trustee Marquardt, to adjourn the Committee of the Whole.

On a voice vote, the meeting was adjourned at 8:45 pm

AYES: 5 – Brown, Schultz, Koch, Oppenheim, Marquardt  
NAYS: 0 – None  
ABSENT AND NOT VOTING: 2 – Byrne, Takaoka  
Motion carried.

Meeting adjourned 8:45 p.m.

Approved this 4<sup>th</sup> day of June 2019



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Mark Fleischhauer, Village Manager



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Thom Koch, President Pro Tem