

**VILLAGE OF VERNON HILLS
ORDINANCE 2023-055**

AN ORDINANCE AMENDING APPENDIX C, ZONING, OF THE VERNON HILLS CODE OF ORDINANCES, SECTION 3.2 AND SECTION 15.3, TO DEFINE CATERING SERVICE AND INCLUDE THE NEW USE CATEGORY AS A SPECIAL USE IN THE OR&D DISTRICT

WHEREAS, the Village of Vernon Hills is a municipal corporation existing under the laws of the State of Illinois, and

WHEREAS, the Planning and Zoning Commission, per Section 21.7 of the Zoning Code, has the responsibility to review and make recommendations upon petitions for zoning code text amendments; and

WHEREAS, the Village received a petition by Proskin Enterprises, dba Catered Productions, to amend the zoning code in order to establish a definition of Catering Service and insert the new use category as a Special Use in the Office, Research and Development District (OR&D); and

WHEREAS, the petition by Proskin Enterprises is associated with a petition for a Special Use to permit a Catering Service at 1017 Butterfield Road, which may only be granted subject to approval of this Ordinance; and

WHEREAS, the Planning and Zoning Commission held a public hearing, duly noticed, on April 26, 2023, and has recommended approval of the proposed amendment as documented in Exhibit A, Findings of Fact and Recommendation;

WHEREAS, the Committee of the Whole discussed the recommendation of the Planning and Zoning Commission at its meeting on May 2, 2023 and directed Staff to prepare an Ordinance amending the zoning code as described herein; and

WHEREAS, the President and Board of Trustees, having determined that the requested amendment is in the best interest of the Village of Vernon Hills and meets the relevant standards contained within the Zoning Code, hereby finds adopts this ordinance amending the Zoning Code of the Village of Vernon Hills pursuant to its duty to regulate the uses of land within the Village of Vernon Hills.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, COUNTY OF LAKE AND STATE OF ILLINOIS:

SECTION I. The above recitals are hereby incorporated into and made part of this Ordinance.

SECTION II Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Article 3, Definitions, Section 3.2, Definitions, is hereby amended to insert the following:

Catering service: An establishment providing the processing, assembly and packaging of food into servings for consumption off-premises without provision for on-site consumption. Tastings and customer pick up of scheduled orders may be offered by appointment.

SECTION III Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Article 15, OR&D District, Section 15.3, Special Uses, is hereby amended to insert "Catering Service" as Subsection 15.3.9.

SECTION IV. SEVERABILITY. In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect. If any part of this ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

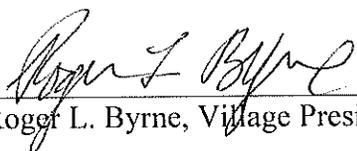
SECTION V. REPEAL AND SAVINGS CLAUSE. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the Village of Vernon Hills prior to the effective date of this ordinance.

SECTION VI. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

SECTION V. ORDINANCE NUMBER. This ordinance shall be known as Ordinance Number 2023-055.

Adopted by roll call vote as follows:

AYES: 7 – Oppenheim, Schenk, Forster, Marquardt, Takaoka, Koch, Byrne
NAYS: 0 - None
ABSENT AND NOT VOTING: 0 - None


Roger L. Byrne, Village President

PASSED: 05/16/2023
APPROVED: 05/16/2023
ATTEST: 05/16/2023

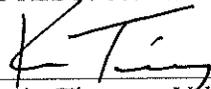

Kevin Timony, Village Clerk



EXHIBIT A

Planning and Zoning Commission

Findings of Fact and Recommendation

Planning and Zoning Commission – Meeting Minutes
April 26, 2023 - 7:30 p.m.

I. Call to Order and Roll Call

Chairman Morris called the meeting to order at 7:05PM.

Attendance: Chairman Morris, Commissioners Cotton, Lis, Nabat, and Smith were present. Commissioner Heidner had given prior notice that he would be absent.

Also attending: Andrew Jennings, Director of Community Development.

II. General Public Comment

No one from the public came forward to speak.

III. Items for Review

Chairman Morris called for the opening of the following public hearing:

1. Case #2023-02, a petition filed by Smokin' Deal BBQ LLC, contract lessee, requesting approval of a Special Use in accordance with Appendix C, Zoning, of the Village of Vernon Hills Code of Ordinances, Section 15.3, Special Uses in the OR&D District, and Article 18, Special Use Requirements, to operate a retail store within the OR&D District.

Subject Property: 1007 Butterfield Road, zoned OR&D (Office, Research and Development District)

ALL PERSONS PROVIDING TESTIMONY WERE SWORN IN

Jeff Silvers, Smokin' Deal BBQ, 888 Tower Road, Suite H, Mundelein, IL 60060

Mr. Silvers presented the background of the business to the Commission. He stated that he spent 30 years working for various Fortune 10 companies before founding the business in 2014. The business is currently in Mundelein. It operated out the Bannockburn / Deerfield area and Highwood prior to that. The Butterfield Road location would be the fourth unit. They've seen significant increase in demand and they've had to rethink their strategy for growth.

The currently location is only 3,200 square feet, which is very limited in terms of warehousing and showroom space. The new store would include opportunities to increase visitors, such as training in outdoor cooking/barbequing.

Mr. Silvers presented photos of the current store. He explained that they have seen an increase in built-in outdoor cooking equipment as people entertain more and dine out less. The store also supports professional teams that compete in cooking competitions, and there is equipment specifically designed for that. Overall the industry is very popular right now. The store prides itself in stocking primarily US-made equipment. The market is growing exponentially.

Mr. Silvers explained that the plan includes a retail area as well as an indoor version of an outdoor grilling island for training and demonstrations. It would allow manufacturers to demonstrate a product, and be available for private events after hours.

Chairman Morris questioned whether the indoor grill required the Commission's approval. Director Jennings explained that the island would require a building permit review.

Mr. Silvers presented the floor plan, noting that the demo island in the showroom would seat 12-15 people.

Commissioner Cotton asked whether alcohol would be served at after-hours events. Mr. Silvers was unsure, but stated that it would likely be through a third party caterer. Mr. Jennings asked Mr. Silvers to provide the details to help the Village determine whether a license would be required.

Commissioner Nabat requested clarification regarding the educational component. Mr. Silvers explained it would be a combination of classes and private events. They have 20-25 attendees, and a vendor brings a product to demonstrate to the group.

Commissioner Nabat asked whether equipment is leased to businesses or for residential use. Mr. Silvers confirmed that the equipment is not leased by the store itself. They support businesses connecting with vendors, who may lease equipment.

Commissioner Lis requested confirmation that everything is indoors, and Mr. Silvers confirmed that it was.

Chairman Morris noted that the building was built as an office / warehouse building, and the proposed business would have additional waste. Mr. Silvers explained that the lease references a new trash enclosure. It is not on the site plan provided, but it would be located in the parking area along West End Court.

Commissioner Cotton noted the proximity to a residential area, and asked whether the dumpster would be screened. Mr. Silvers had not gotten into the details with the landlord, but noted a representative was present at the meeting.

Mr. Jennings explained that the trash enclosure requirements had been provided to the property manager along with recommendations to improve the durability of enclosure.

Cindy Dixon, the broker for the landlord, was sworn in. She confirmed the landlord planned to construct the trash corral per the requirements provided. She explained that there was previously a trash enclosure on the property and the new enclosure would be placed in the same location. Chairman Morris stated that the recommendation would include a condition referencing the requirement to install an enclosure per the code.

Chairman Morris requested discussion of the additional rooftop units. Mr. Silvers explained that the plan was to install a commercial hood for the island that would connect to a smoke evacuator on the roof. He confirmed that he understood that it would need to be screened if visible from the ground.

Chairman Morris asked for an explanation of the exhaust from the smoke evacuator. Director Jennings stated that there is similar equipment in closer proximity to residential units. The concern in this case was the visual impact. The requirements could be reviewed during permitting.

Commissioner Cotton expressed a concern for the potential odor at an office park. Mr. Silvers emphasized that the store is not a restaurant. The island would not be used every day.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

No one from the public spoke. Public comment was closed by Chairman Morris.

PUBLIC NOTICE

Chairman Morris noted that public notice went out and no comments were received.

Chairman Morris noted that the petitioner had provided responses to the Standards for a Special Use in Section 18.3. Chairman Morris disagreed with the response to Standard 1; the surrounding uses include residential to the east and are not all commercial. Aside from that issue, the responses to the standards are incorporated into the Findings of Fact.

Chairman Morris stated that before the Commission that there is a standing motion to recommend approval, and read the draft motion from the staff report. Commissioner Cotton seconded the motion to:

Make Findings of Fact and Recommend Approval of a Special Use for a Retail Store, for the property located at 1007 Butterfield Road, as required by Section 15.3 (Special Uses in the OR&D District), Article 18 (Special Use Standards), and Section 21.6 (Special Use Procedures) as described in the application by Smokin' Deal BBQ LLC, dated March 1, 2023, and in substantial conformance with the following plans and exhibits:

- Project Narrative, dated March 1, 2023
- Site Plan for 1000 Butterfield Road complex
- Floor Plan, Suite 1007, dated February 28, 2023

And with the following conditions of approval:

1. The petitioner shall work with Staff to screen new rooftop equipment associated with the commercial kitchen hood if it is determined that it is visible from the ground; and
2. A trash enclosure meeting the requirements of the zoning code shall be installed within the parking area south of Building A.

Chairman Morris requested discussion of the motion. He stated that his vote would be predicated on the fact that this is a singular discussion as it relates to this particular use in this particular area. He does not believe that the use category in 15.3.7 is intended to apply uniformly to retail. He referred to the phrase “primarily to serve the convenience needs of persons employed in the area.” That is a high standard, and this particular business gets close enough to meeting it due to its low intensity of use. He would not vote in favor of a typical retail store serving a larger area. This store may meet the Special Use Standards, but the recommendation isn’t precedential regarding retail in the OR&D.

AYES: Cotton, Lis, Nabat, Smith, Morris

NAYS: none

ABSENT: Heidner

Motion approved.

THE PUBLIC HEARING WAS CLOSED BY A VOICE VOTE AT 7:51 PM.

Chairman Morris called for the opening of the following public hearing:

2. Case 2023-04 is a by Proskin Enterprises (dba Catered Productions), contract lessee, requesting approval of the following actions:
 1. Approval of a Zoning Code Text Amendment pursuant to Section 21.7, Amendments to:
 - a. Amend Section 3.2, Definitions, to include a definition of Catering Service; and
 - b. Amend Section 15.3, Special Uses in the OR&D District, to insert 15.3.9 Catering Service
 2. Approval of a Special Use Permit to operate a Catering Service in the OR&D District pursuant to Section 15.3, Special Uses in the OR&D District, and Article 18, Special Use Requirements, pending approval of the associated Text Amendment.

ALL PERSONS PROVIDING TESTIMONY WERE SWORN IN

Michael Proskin, Proskin Enterprises (dba Catered Productions), 277 W. Peterson, Libertyville, IL

Mr. Proskin introduced the background of the business. He explained that he and his wife have owned Catered Productions in Libertyville since 1996. They’ve outgrown their current location. The business is a production kitchen and does not invite the public to the facility.

Chairman Morris indicated that there are two requests. The first is a text amendment to insert a definition of catering service and add it to the OR&D district. He asked Director Jennings if the

use would appear elsewhere. Director Jennings confirmed that it would only appear in the OR&D as a Special Use.

Chairman Morris questioned whether the restriction referring to carryout orders in the definition would be too limiting when applied to all other caterers. Same day orders might be requested of a caterer. Director Jennings stated that he had been working with the petitioner on the definition, and the purpose of the statement was to distinguish between carryout restaurants and catering. The idea was to discourage carryout and pickup.

Chairman Morris asked whether the business specialized in bulk vs. individual orders. Mr. Proskin confirmed that they discourage small orders, and the vast majority of events are for fifty people and up. Every now and then someone may request a dozen boxed lunches for pickup the next day. That's not common though. He provided an example of a single call from a hotel that turned into over 20,000 meals for the National Guard serving and testing stations during the Covid pandemic.

Director Jennings suggested that the last sentence could be deleted from the definition and a similar phrase could be added as a condition on the Special Use instead. Carryout may be more appropriate in other locations, such as a restaurant in a shopping center that also offers catering.

Chairman Morris explained to the petitioner that he was trying to ensure that they wouldn't be too limited. Mr. Proskin stated that they do occasionally get same day phone orders but they deliver the order.

Commissioner Smith suggested re-phrasing the last sentence as "does not include establishments similar to carryout restaurants." Director Jennings noted that other definitions in the code had similar clarifying "does not include" statements.

Commissioner Nabat asked whether the business could limit itself to delivery for same day orders. Mr. Proskin said that the business has so few pick up requests that they would agree to a restriction if it made things easier.

Chairman Morris proposed that the last sentence could be deleted from the definition and a similar phrase could be added as a condition on the Special Use instead. Director Jennings agreed that approach would make sense.

Chairman Morris concluded the discussion of the definition asked whether there was any discussion on the second aspect of the amendment, which was to insert the use as a Special Use in the OR&D district. The Commission had no concern with the second part of the text amendment.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

No one from the public spoke regarding the text amendment. Public comment was closed by Chairman Morris.

PUBLIC NOTICE

Chairman Morris noted that public notice went out and no comments were received.

Commissioner Cotton asked whether the business conducts tastings. Mr. Proskin explained that most tastings are for weddings and occur in January and February.

Chairman Morris noted that the petitioner had provided responses to the Standards for a Zoning Text Amendment. The responses and Staff commentary are part of the record. He suggested voting on the text amendment separately first.

Chairman Morris stated that before the Commission that there is a standing motion to recommend approval, and read the draft motion from the staff report. Commissioner Lis seconded the motion to:

Make Findings of Fact and Recommend Approval of a Zoning Code Text Amendment, in accordance with by Section 21.7 (Amendments) of the Zoning Code, as described in the application by Proskin Enterprises, dba Catered Productions, dated April 1, 2023, to amend the zoning code as follows:

1. Amend Section 3.2, Definitions, to insert the following definition of Catering Service:

"Catering service" is an establishment providing the processing, assembly and packaging of food into servings for consumption off-premises without provision for on-site consumption. Tastings and customer pick up of scheduled orders may be offered by appointment.
2. Amend Section 15.3, Special Uses in the OR&D District, to insert "Catering Service" as Subsection 15.3.9.

AYES: Cotton, Lis, Nabat, Smith, Morris

NAYS: none

ABSENT: Heidner

Motion approved.

Chairman Morris opened the testimony specific to the Special Use request. Mr. Proskin stated that they would have a trash enclosure constructed similar to what was discussed with the previous petitioner. The business cooks on premise and would require a hood. They have convection ovens and a small fryer, but no grills.

Commissioner Nabat noted that she is a former restaurant owner, and questioned whether the business would need a full buildout with drain improvements. Mr. Proskin confirmed that the business is working with an architect on the plans currently.

Mr. Proskin presented photos of the current location. Chairman Morris reviewed the open questions. The trash enclosure, as mentioned, would be per Village standards. Second, he asked whether additional rooftop mechanical units were needed. Mr. Proskin acknowledged the need for screening.

The third item from the Staff report was a reference to vehicles. Mr. Proskin confirmed they would park their vehicles on the site. Chairman Morris referred to the sign code restriction on using vehicles as signage. Director Jennings recommended a condition of approval to prevent the appearance of using the vehicles as advertising. He noted that the other commercial vehicles on the property tend to park near the interior of the lot. Director Jennings also noted that the Staff recommendation was to allow an increase in the number of vehicles.

Chairman Morris requested discussion of the enclosure. Cindy Dixon, on behalf of the landlord, was present and previously sworn in. She stated that the landlord would provide a single enclosure large enough for both new tenants.

Commissioner Smith asked whether the business would have same day removal of the grease from the fryer, or if a container would be needed. Mr. Proskin stated they have a receptacle that is emptied as needed. They don't need frequent service because they don't fry very much. Director Jennings stated that the enclosure would be sized based on the receptacles needed for both businesses.

Mr. Proskin stated that they currently have a 10 yard garbage container and a 2.5 yard cardboard container.

Commissioner Nabat asked whether the business would have regular pest control. Mr. Proskin confirmed that they would.

Commissioner Lis questioned whether screening would be required if the vehicles park along West End, facing the residential area. Director Jennings stated that screening is typically required for larger vehicles or vehicles with open equipment.

Chairman Morris noted there are several areas of the parking lot, and asked whether the whole lot is shared. Ms. Dixon confirmed the lot is shared and the southeast area would be available.

Commissioner Lis preferred that the commercial vehicles be away from the residents. Chairman Morris asked whether the business would agree to park in the central area, and Mr. Proskin confirmed they would be able to park as needed.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

No one from the public spoke regarding the Special Use. Public comment was closed by Chairman Morris.

PUBLIC NOTICE

Chairman Morris noted that public notice went out and no comments were received.

Chairman Morris noted that the petitioner had provided responses to the Standards for a Special Use in Section 18.3. The responses appear to repeat the questions, but through the testimony he felt the standards had been addressed.

Chairman Morris stated that before the Commission that there is a standing motion to recommend approval, and read the draft motion from the staff report. Commissioner Lis seconded the motion to:

Make Findings of Fact and Recommend Approval of a Special Use for a Catering Service, for the property located at 1017 Butterfield Road, as required by Section 15.3 (Special Uses in the OR&D District), Article 18 (Special Use Standards), and Section 21.6 (Special Use Procedures) as described in the application by Proskin Enterprises, dba Catered Productions, dated April 1, 2023, and in substantial conformance with the following plans and exhibits:

- Project Narrative / Introduction Letter
- Site Plan for 1000 Butterfield Road complex
- Floor Plan, Suite 1017, dated March 23, 2023

And with the following conditions of approval:

1. The special use is subject to the approval of the associated Zoning Code Text Amendment;
2. The petitioner shall work with Staff to screen new rooftop equipment associated with the business if it is determined that it is visible from the ground;
3. A trash enclosure of an appropriate size shall be added to the site south of Building A, sized to be combined with other tenants, subject to permit review by the Community Development Department;
4. The business may increase the number of delivery vehicles from 6 to 9 without requiring a review to amend the Special Use Permit; and
5. Vehicles shall be parked in the area west of Building A, but not along Butterfield Road in a manner that would be construed as advertising signage.

Commissioner Lis requested confirmation regarding conditions 4 and 5, which were confirmed as written. A vote was not taken on the original motion. Commissioner Cotton noted that the consensus was to include a condition in the Special Use recommendation to address the carryout order restriction that was removed from the zoning code text amendment.

Chairman Morris agreed that the consensus had been to include the condition. Mr. Proskin requested clarification of the intent. Commissioner Cotton noted that a same day order for a funeral service may be appropriate but other types of orders would not be. Mr. Proskin stated that they don't intend to offer typical carryout service.

Director Jennings suggested using the verbiage from the definition of catering service in the staff report. Chairman Morris suggested "Phone orders similar to a carryout restaurant are not permitted." Commissioner Smith suggested removing "phone" since there are other ways to order. The Commission agreed with the verbiage [Condition #6 in the second motion, below was added].

Chairman Morris restated that before the Commission that there is a standing motion to recommend approval, and read the draft motion from the staff report. Commissioner Cotton seconded the motion to:

Make Findings of Fact and Recommend Approval of a Special Use for a Catering Service, for the property located at 1017 Butterfield Road, as required by Section 15.3 (Special Uses in the OR&D

District), Article 18 (Special Use Standards), and Section 21.6 (Special Use Procedures) as described in the application by Proskin Enterprises, dba Catered Productions, dated April 1, 2023, and in substantial conformance with the following plans and exhibits:

- Project Narrative / Introduction Letter
- Site Plan for 1000 Butterfield Road complex
- Floor Plan, Suite 1017, dated March 23, 2023

And with the following conditions of approval:

1. The special use is subject to the approval of the associated Zoning Code Text Amendment;
2. The petitioner shall work with Staff to screen new rooftop equipment associated with the business if it is determined that it is visible from the ground;
3. A trash enclosure of an appropriate size shall be added to the site south of Building A, sized to be combined with other tenants, subject to permit review by the Community Development Department;
4. The business may increase the number of delivery vehicles from 6 to 9 without requiring a review to amend the Special Use Permit;
5. Vehicles shall be parked in the area west of Building A, but not along Butterfield Road in a manner that would be construed as advertising signage;
6. Orders similar to a carryout restaurant are not permitted.

AYES: Cotton, Lis, Nabat, Smith, Morris

NAYS: none

ABSENT: Heidner

Motion approved.

THE PUBLIC HEARING WAS CLOSED BY A VOICE VOTE AT 8:25 PM.

IV. Approval of minutes the December 14, 2022 Planning & Zoning Commission minutes

A motion was made by Chairman Morris, seconded by Commissioner Cotton, to approve the minutes of the December 14, 2022 Planning & Zoning Commission meeting. All were in favor by a voice vote.

A motion was made by Chairman Morris, seconded by Commissioner Nabat, to approve the minutes of the April 12, 2023 Planning & Zoning Commission meeting. All were in favor by a voice vote.

V. Development Review

DCD Jennings noted that the April 12th meeting had a long list of updates, and he was happy to provide updates on request. The Commissioners requested updates on the following items:

- Chilis. No updates.
- Bally's. No updates.
- Domaine, Hawthorn Row, is now open for hard hat tours for small groups by appointment only.
- Retail, Hawthorn Row. No leases, but the developer is in discussions with tenants.

VI. Adjournment

With no further items on the agenda, Chairman Morris made a motion to adjourn, seconded by Commission Smith. The motion was approved by a voice vote.

The meeting adjourned at 8:27.

Respectfully submitted,

Andrew Jennings
Director of Community Development

Distribution:
President and Board of Trustees
Village Manager/Village Clerk
Commission Members

Approval Date

Chairman Morris

Secretary Cotton

VILLAGE OF VERNON HILLS

ORDINANCE NO. 2023-055

AN ORDINANCE AMENDING APPENDIX C, ZONING, OF THE VERNON HILLS CODE OF ORDINANCES, SECTION 3.2 AND SECTION 15.3, TO DEFINE CATERING SERVICE AND INCLUDE THE NEW USE CATEGORY AS A SPECIAL USE IN THE OR&D DISTRICT

Published in pamphlet form by the Authority of the President and Board of Trustees of the Village of Vernon Hills, Lake County, Illinois, this 16th day of May, 2023

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, KEVIN TIMONY, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2023-055 AN ORDINANCE AMENDING APPENDIX C, ZONING, OF THE VERNON HILLS CODE OF ORDINANCES, SECTION 3.2 AND SECTION 15.3, TO DEFINE CATERING SERVICE AND INCLUDE THE NEW USE CATEGORY AS A SPECIAL USE IN THE OR&D DISTRICT TO BE POSTED IN THE VILLAGE HALL AS REQUIRED BY LAW FROM MAY 16, 2023 TO MAY 26, 2023.



Kevin Timony, Village Clerk

SUBSCRIBED AND SWORN TO BEFORE
THIS 16th DAY OF MAY 2023



Notary Public

