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Winnetka Plan Commission

Meeting Notice

Wednesday, August 24, 2016

The **Winnetka Plan Commission** will convene a regular meeting on Wednesday, August 24, 2016 in the Council Chambers of Winnetka Village Hall, 510 Green Bay Road, Winnetka, Illinois, at 7:00 P.M.

Agenda

1. Adoption of May 25, 2016 meeting minutes;
2. **Case # 16-14-SU**: Consideration of Special Use Permit request by Winnetka Dental Group, LTD., Michael Czarkowski DDS, to permit a dental office on the ground floor in the C-2 Commercial Overlay District at 715 Elm Street.

Note: Public comment is permitted on all agenda items.

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that persons with disabilities, who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting facilities, contact the Village ADA Coordinator, at 510 Green Bay Road, Winnetka, Illinois 60093 (telephone: (847) 716-3541; T.T.Y.: (847) 501-6041), no less than 3 working days before the hearing date.

**WINNETKA PLAN COMMISSION
MEETING MINUTES
MAY 25, 2016**

Members Present: Tina Dalman, Chairperson
Caryn Rosen Adelman
Mamie Case
Jack Coladarci
Dana Fattore Crumley
Paul Dunn
John Golan
Louise Holland
Keta McCarthy
Jeanne Morette
John Thomas

Non-voting Members Present: Andrew Cripe

Members Absent: Mary Hickey

Village Staff: Brian Norkus, Assistant Director of Community Development

Call to Order:

The meeting was called to order by Chairperson Dalman at 7:30 p.m.

Welcome of New Plan Commission Members Andrew Cripe (Village Trustee) and Mary Hickey (ZBA)

Chairperson Dalman welcomed Andy Cripe who is a Village trustee to the Commission as well as Mary Hickey from the ZBA who could not attend today's meeting.

Adoption Of January 27, 2016 And February 24, 2016 Meeting Minutes

Chairperson Dalman stated that the Commission would adopt the January 27, 2016 and February 24, 2016 meeting minutes. She then asked for a motion.

Mr. Thomas moved to adopt the January 27, 2016 and February 24, 2016 meeting minutes as written. The motion was seconded. A vote was taken and the motion was unanimously passed.

Discussion and Adoption of Plan Commission Public Hearing Rules and Procedures

Chairperson Dalman stated that as many of the Commission members are aware, the Attorney General's office received a complaint regarding the Open Meetings Act requirements as they relate to the last hearing held by the Plan Commission regarding the One Winnetka application. She explained that the complaint was based on the fact that the Commission did not take public comment on the One Winnetka item at the September 30th meeting. Chairperson Dalman stated that the complaint was filed despite the fact that the Plan Commission's discussion and hearing had remained open for several consecutive meetings from March through September. She stated that it has been determined that the Commission hadn't done as good of a job as they could have in publishing the Commission's rules and procedures.

Chairperson Dalman stated that the Attorney General's office found no harm due to the abundance of hearings and testimony, and because the Commission provided ample opportunity for people to testify. She stated that the Commission allowed discussion of the One Winnetka item at the conclusion of the September meeting, but that genesis of the complaint was based on the fact that the Commission did not hear public testimony prior to deliberation.

Chairperson Dalman explained that the Attorney General's office found that the Commission did not violate the law, but recommended that the Commission adopt and publish rules and procedures.

Chairperson Dalman then stated that they asked Peter Friedman to put together recommended procedures for the public and for the Commission and that the Commission members should have had a chance to review them. She stated that she had no issues with them and that she wanted to give everyone a chance to give comments and suggestions.

Ms. McCarthy stated that she saw in the notes that all legal counsel testimony goes prior to the public. She stated that may be what they do all the time and that she is wondering what if there are three or four counsel representing an applicant, and that there are private citizens who are somewhat resentful that they have to stand behind other people and asked if that is something to think about.

Chairperson Dalman stated that she meant in terms of giving priority to those represented by counsel.

Ms. McCarthy stated that counsel may speak for 30 minutes and that an individual may speak for five minutes.

Chairperson Dalman responded that is common in most municipalities in Illinois and that they have all adopted that as a procedure although she is not sure with regard to Holland & Knight but indicated that it is commonplace. She stated that the concept is that it is going to be more organized but that she did not know.

Mr. Coladarci stated that another reason that they give the lawyers 30 minutes is that they are

representing the petitioning parties and that they would be responsible for providing the case. He stated that is one of the problems they had with regard to the way in which the rules were written and that they had certain errors in drafting in terms of making sure that it is always Plan Commission and not the Zoning Board. He also stated that they wrote this for One Winnetka and that there is a One Winnetka reference for planned development. Mr. Coladarci then stated that another problem with the rules is that it is a formal structure for the informal way in which they do things.

Chairperson Dalman responded there have been several court rulings in Illinois that have made it necessary to tighten up meeting procedures.

Mr. Coladarci stated that he had no problem with adding structure to which people are to follow and which he described as very helpful. He stated that he had a big problem with putting people under oath when they are not witnesses and are going to be offering opinion and described it as very intimidating and contrary to the spirit of the public body. Mr. Coladarci stated that in court, you have opinion and you have fact and that a person's comment on the appearance of the building is an opinion that they might feel unable to share under oath for fear that the proponent can say that they are not being truthful.

Mr. Thomas recalled going to years ago at the first Fell property New Trier Partners development and that the public hearing they had was part of the planned development testimony and the Village Council said they have to be put under oath and that it is testimony and is to be part of the record.

Mr. Coladarci stated that he attempted to research this and find and that the notes are here and that there is nothing to say what does the case say or what does the law say about people testifying. He then stated that lawyers do not have to be under oath when they are in court but that he is arguing for someone. Mr. Coladarci stated that the witnesses and the jury are under oath to deliberate fairly. He then stated that to put people under oath to make commentary.

Mr. Cripe stated that the ZBA has an oath requirement which has been applied without any problem but stated that it is not as he recalled applied to those making public comment. He stated that if the parties seeking petition for relief are put under oath and those who are opposing relief are put under oath and he stated that it is important because with sworn testimony, if you fail to swear in witnesses you are depriving people of due process. Mr. Cripe then stated that if the board were to make a decision not based on sworn testimony, it would be really bad. He stated that he did not get the sense that is an option for them.

A Commission member stated that she hoped that the procedure that they came up with is not just for the Commission but would be for all of the boards.

A Commission member stated that her point is that the last case has gone before every single board and that it would be nice if there was a consistency in terms of how all of the public hearings take place. She also asked if this is for the public hearing procedure and not just Commission hearings.

Chairperson Dalman confirmed that it is only for public hearings.

Ms. Holland stated that the draft rules refer to “zoning relief” throughout, and that that the Plan Commission does not give zoning relief.

A Commission member asked whether the ZBA, if they do not administer the oath to anybody but a petitioner or someone who has formally objected.

Mr. Cripe confirmed that is correct and stated that it is for the reasons stated by Mr. Coladarci in that someone may be offering commentary or opinion.

A Commission member then asked how do you blend between fact and opinion.

Mr. Cripe stated that at the ZBA meetings, it is asked at the beginning who would be offering testimony.

Mr. Coladarci stated that the problem is that people do not know what they are going to be doing as to whether they would be giving an opinion which is why he did not like swearing in everyone.

Mr. Cripe stated that what is needed here is clarification and that this is very similar to what the ZBA has and that they should get some guidance from Mr. Friedman. He stated that the issue of getting sworn testimony for applicants and for people opposing is not optional and that it has to be done.

A Commission member asked if there is a way that they can take attendance for those at the meeting and for them to sign in with their name and address. She stated that if they knew who was here and if they wanted to be on the agenda to speak, that would allow some feeling of what the sense is.

Mr. Coladarci stated that he read somewhere that some places would have sign ins for those who intended to speak. He then stated that he would not do it ahead of time because people do not know.

Chairperson Dalman stated that there are some jurisdictions in some villages where she cannot speak unless she signed in at the beginning. She stated that it is also a way for them to determine how long a meeting is going to be.

A Commission member stated that it would also be a way to see if there are the same people showing up at every single meeting.

The Commission members agreed that did not matter.

A Commission member asked if there would ever be an opportunity for the Commission to go into a closed session and if everything had to be open.

Chairperson Dalman responded that they cannot and that there can never be a meeting of at least three of them. She also stated that they do not qualify for an executive session.

Ms. Morette stated that to Ms. Holland's point, if they are limiting people's comments to five minutes, she asked what is the protocol for the people who do not follow the rules. She stated that over the course of all the hearings on this matter, they have had the same guy speak week after week and that there was no new information. Ms. Morette asked if he is entitled to do that.

Mr. Coladarci stated that he is not. He stated that the speaker came in with different people and argued the same point.

Mr. Thomas stated that it says that designated counsel will be represented by several groups or groups of residents. He then asked if they are to give that person 30 minutes which he indicated bothered him a lot. Mr. Thomas asked if they are representing a group of people, he asked if they should know who the group is so that later on, the group does not get up and battle.

Mr. Coladarci stated that for One Winnetka, the architect gave a presentation which he described as fact in terms of what they are going to do and would state that it is the most beautiful building he has ever seen which he described as opinion. He stated that each one of those people that they put up is one of the witnesses who would be taking an oath if they are going to testify and referred to the parking consultant who gave a factual presentation on which they should be able to rely as being factual. Mr. Coladarci stated that when a person states that they made measurements in terms of height and that the light is going to work this way, they are going to be factual witnesses and that it could be if they are an expert witness, they are not going to be correct. He stated that if they had formal hearings and described this as overkill. Mr. Coladarci stated that they need to have as much openness as they can.

A Commission member stated that the team did a good job and that they get all of the facts first and then let the community bubble up. She stated that it was only when there were major issues that they had and that the "experts" had to come back to clarify or restate. She stated that how you orchestrate the calendar of the presentations can allow for that. She stated that they know that the first meeting for a presentation is going to contain a lot of paper and a lot of facts which is their responsibility to absorb it along with the community.

Chairperson Dalman asked Mr. Coladarci if he is uncomfortable with the formal process and that the ship has sailed on that. She stated that her attempt was to create some sort of process up front.

A Commission member stated that he thought that the process was fine.

Chairperson Dalman stated that she felt that it worked ok. She then referred to trying to take in as much public comment as possible while at the same time, trying to preserve some sort of basis of a process to deliberate on a recommendation which had to be made at some point. Chairperson Dalman added that it is not the Commission's decision.

Mr. Cripe stated that to her credit, that is why the Attorney General stated that substantively, they had it right but that procedurally, they needed to have something on paper.

Ms. Holland stated that when you get to number 5, the first four or five are how the Commission functioned. She then stated that under Designated Counsel, you would have to go through that and loosen it a little and referred to the sections related to testimony and questions. Ms. Holland then stated that as to timing, it is fine to say either five minutes or half an hour and commented that most of it is fine. She then referred to the section entitled Zoning Relief.

Chairperson Dalman indicated that may be a typographical error.

Ms. Holland stated that most of it related to the way in which the Commission functioned.

Mr. Thomas referred to limiting the comments of the residents/tax payers to three minutes and questioned whether they could come back if they did not get it all in.

Mr. Cripe stated that the chair would have a lot of discretion and that even the Attorney General will recognize that the Chairperson Dalman has discretion which is why they do not have in there a mandatory three minute time limit.

Mr. Thomas informed the Commission that the Park Board adopted the three minute rule a long time ago.

Ms. Holland stated that the Village did not.

A Commission member stated that people get upset about how long someone is talking about something which is a controversial topic.

Mr. Thomas stated that the Park Board used a timer which indicated that the speaker's time is up.

Ms. Holland stated that for 146 years, the Village has never had a time limit on public comment until recently in the last 3½ years. She stated that there are ways of asking people to limit the time on their comments.

Chairperson Dalman stated that she appreciated that but that the problem is that they have to be somewhat consistent in the timing so that they are not allowing someone to speak for a long time and that they have to treat everyone equally.

A Commission member stayed that the chair would set the tone and that they can tweak the procedures.

Chairperson Dalman stated that how many One Winnetka projects would they have and that they may not have another request of this type within another two or three years. She then stated that the expectation is that if they publish the rules and procedures, it would set the tone and that there would not be so much of an issue.

Ms. McCarthy stated that the public appreciated the fact that someone is not talking for 20 minutes.

Mr. Coladarci referred to Mr. Sobel as the other person who kept going back to the same thing. He indicated that he did not see that they had a huge problem with the other people who spoke.

Chairperson Dalman stated that there may have only been two other people who she informed spoke with regard to the same things which were included in their written comments.

Ms. McCarthy then asked what about non-residents.

Chairperson Dalman stated that it would be up to them to weigh.

Ms. McCarthy also stated that for those who are being represented by counsel, she referred to Conney's who provided comments and that the owners also provided comments.

Chairperson Dalman indicated that may have been more in response to the Commission's questions.

Mr. Coladarci stated that there may be times when the Commission had questions for someone.

Ms. McCarthy commented that these are good guidelines.

A Commission member asked where does this go once the Commission decided on it.

Chairperson Dalman responded that as a body, the Commission can adopt rules and procedures of their entity without getting the Village counsel involved.

Mr. Thomas suggested that it might be drafted so that it would be reduced to one page which would allow people to understand it.

Chairperson Dalman stated that she is hearing that there is concern with regard to the oath and the public comment portion and referred to it being consistent with other village entities.

Mr. Cripe stated that there may be more discretion than may be apparent in reading these. He suggested that the Commission have a conversation with Mr. Friedman for clarification. He then stated that generally, you do want to have paid counsel go first since you would not want to impose a burden on a petition in terms of the fees they are changing.

Chairperson Dalman stated that there needed to be more "may" references.

Mr. Coladarci asked if there is a way for them to know that what they are doing and if a hearing is going to require witnesses under oath as opposed to people giving commentary.

Mr. Cripe stated that is the kind of guidance that would be helpful to get from Mr. Friedman.

Chairperson Dalman stated that with regard to swearing people in, there was no enforcement in terms of keeping track of who raised their hand. She stated that the question in her mind is that they do not want to create a chilling effect and that there would be people who would be intimidated by the sheer number of people present. Chairperson Dalman stated that the question is how do you anticipate at the beginning of a hearing what is going to be fact as opposed to opinion.

Mr. Coladarci suggested that they make it part of the normal address to the crowd if you intend on giving evidence for or against the proposition to take an oath.

Mr. Thomas stated that a lay person would not know the difference.

Mr. Cripe stated that the practical side of all of this is that if someone gives information and is not sworn, you cannot use that as a basis for your decision. He stated that if there is some critical fact that the Commission turned on, they would take a break and get that on the record somehow. Mr. Cripe stated that the interested parties need to be sworn.

Chairperson Dalman stated that there would be Ms. Mabel who lives next door who provides information that would sway many people's decision and that if she is not sworn, they would not be able to rely on her opinion.

Mr. Cripe stated that would be if the statement is fact and referred to the comment that One Winnetka is too tall which he described as an opinion as opposed to the statement that the stone being used on the building is going to cause cancer which should be taken under oath. He stated that there is more flexibility here.

Chairperson Dalman stated that for any chair, it would be a nightmare to keep track of.

A Commission member stated that there is an expectation that when you come to the podium to speak that you are going to be honest.

Mr. Coladarci stated that to that point, he referred to the 711 people who were deposing each other with regard to what was going on between them. He stated that if you lie under oath, it is perjury. Mr. Coladarci stated that they do not want people to feel that their opinion is subject to a higher scrutiny.

Ms. Holland stated that this is not a courtroom.

Mr. Coladarci stated that they are putting a courtroom rule.

Mr. Cripe stated that it is quasi-judicial.

Ms. Holland stated that if you are not happy with a zoning decision, you go to the Village Council and that if you are not happy, then you got to the Circuit Court. She then questioned what happened when you are not happy with a Commission decision. Ms. Holland noted that they are making a recommendation and not a final decision.

Chairperson Dalman stated that the Commission is creating a public record of what the Village's decision is based on.

Ms. Morette stated that when people come to the Village Hall, she referred to the oath on the wall and them being a happy little family and the Winnetka way and that this represented an opportunity to express themselves, they think that their opinion is fact. She stated that people ask her if it is or if it is not and that she is not the judge and jury.

Mr. Cripe stated that they are and that the Village Council will adopt the Commission's findings.

Ms. Morette stated that if they overanalyze and over educate the public, it does not sit well.

Chairperson Dalman agreed that they want to create an easy process that is not too formal and that her goal is to protect the Village. She then stated that they are creating the public record so that if anybody appeals a decision, they are looking at this testimony to see if the standard that was adopted either approving or denying was consistent with the standard of review. Chairperson Dalman stated that although they are not the final decision maker, it does put a burden on them.

Ms. Morette stated that each of the Commission members come together from different organizations such as the Park District, the Environmental Board, etc. and she stated that she should be able to look beyond the trees and that she understood that and wanted everyone else to understand that as well.

Mr. Coladarci asked if it is possible to circulate the opinion and the Circuit Court's opinion that is driving this.

Ms. Holland then referred to the *Klaeren* case.

Chairperson Dalman stated that there have been many other cases since then.

Ms. Holland informed the Commission that it affected the Historical Society when they wanted to make that a museum and stated that it was 50/50 and that they had already been sued. She then stated that their chances of winning were 50/50 and that what they did in Lisle is much different than what they do here.

Chairperson Dalman agreed that *Klaeren* was first but that it has been almost 10 years since then. She reiterated that she is hearing that Mr. Coladarci is most concerned about the oath and the others not so much. Chairperson Dalman indicated that it might be helpful to get some information from Mr. Friedman and stated that it is a balancing act and that they do not want to chill people and inhibit people's participation while making sure that things are properly set up.

Mr. Thomas stated that early on, there was discussion with regard to the Open Meetings Act and the number of people who can gather to have a discussion.

Chairperson Dalman confirmed that the number of people is three.

Mr. Thomas then questioned that the number changed and that it used to be no more than one less than a majority of a quorum.

Chairperson Dalman stated that is no longer the rule. She also stated that is why they are not supposed to "reply all" to messages from the Village. She then suggested that with her notes and Mr. Norkus' notes, that they get it back to Mr. Friedman to get cleaned up and that they need some additional information with regard to the basis of the oath and whether it is truly necessary.

Mr. Thomas then asked if a five minute time limit is the standard.

Chairperson Dalman described it as generous than the three or two minute standards given by other villages. She also stated that they are given great discussion and that this was in the Attorney General's opinion and that this was not about the amount of time, but the consistency and certainty that people are going to have and the expectation. Chairperson Dalman also stated that they are never cutting off the ability of people to submit testimony, opinions or issues to be submitted in writing. She then stated that what helped them a lot was the Village setting up a lot of things electronically which helped show that they bent over backwards in trying to balance the process as much as they could. Chairperson Dalman stated that if anyone had more specific comments to submit those. She then referred to the generic nature of an application such as it being a special use. Chairperson Dalman also stated that anytime you are taking administrative action such as the adoption of rules, etc., those are all public hearings in addition to consideration on applications.

Mr. Coladarci stated that planning commissions are different than zoning boards in terms of the work that they do. He stated that they are more advisory in a lot of ways.

Chairperson Dalman noted that there are some instances where the ZBA is the final decision maker which is only in a few categories while in Chicago, the ZBA is the final decision maker.

Ms. Holland stated that the LPC makes decisions which affect a yes or no in terms of getting a demolition permit. She noted that they can issue a delay of up to 60 days and require an Historical Architectural Impact Study. Ms. Holland stated that there are actions that different bodies of the Village can make independent of [the Village Council]. She noted that all of their meetings are public meetings and that they do not require testimony under oath. Ms. Holland also informed the Commission that they receive recommendations from the Historical Society which helped them make decisions. She then stated that a request for a demolition permit has to go through the CDC and reiterated that the LPC can issue a delay which is rare but that it does occur.

Ms. Morette stated that she has an environmental issue and referred to the use of electronic communications and asked what she should do with the piles and piles of paper materials that they have received.

Chairperson Dalman stated that she would defer to Mr. Norkus on that issue.

Mr. Norkus informed the Commission that electronic packets would make their lives tremendously easier and that some of the Commission members prefer to get paper packets of the materials. He stated that he could take a poll as to who wanted one, the other or both.

Ms. McCarthy stated that she would prefer a paper copy since she took notes on them.

The Commission members suggested that the materials be recycled afterward.

Mr. Norkus stated that to confirm, for the benefit of those who are not here, he would send an email out asking for confirmation and that he appreciated the Commission's willingness to accept an electronic copy only.

Chairperson Dalman asked if there were any other matters that the Commission wanted to discuss or whether there were any other upcoming matters.

Mr. Norkus stated that there are no rumors of any major projects coming up and referred to issues at Hubbard Woods which may or may not come up as a special use or planned development.

Ms. Holland stated that on the issue of when the Commission makes a recommendation and referred to One Winnetka as an example, it would go on to the Village Council as a preliminary recommendation, she asked if it would come back to the Zoning Board in a different form after the Village Council reviewed it.

Mr. Norkus stated that with regard to final approval, if and when the Village Council does grant preliminary approval, the request would have to go back to the three bodies for review and final approval.

Chairperson Dalman stated that if they cross that bridge, it would not be a fresh look but that they would be looking at whether the final plans are consistent with the preliminary plans.

Mr. Norkus stated that the idea behind the final review is that in the preliminary stages, there were elements which were not feasible to require such as storm water detention plans. He stated that it would give them an opportunity if and when receiving preliminary approval.

Chairperson Dalman asked if it would be mostly DRB and the Commission's review since the zoning issues would have already been decided. She stated that the applicant has given them far more information than what is typically required and that it is basically a final application for the construction drawings it seemed like to her.

Mr. Norkus stated that the plan and the process have evolved and included documents which are more detailed.

Chairperson Dalman stated that it would be helpful for everyone to understand what their scope is.

Ms. Holland stated that it would be nice to know what the DRB comes back with before they make their decision which is advising the Village Council on the financial aspects.

Chairperson Dalman reiterated that she is not clear what the Commission's scope of review is and that there are different members on the Commission.

Mr. Coladarci stated that their scope of review would be limited and that there have been changes which were made after it left the Commission which was a question asked by Ms. Holland.

Chairperson Dalman asked if the Village Council does approve it, if anything changed incrementally after it left the Commission, their scope is tied to what they approved and not what the Commission approved. She stated that is a good point and that in many jurisdictions, it would not come back to the Commission or the ZBA after that it would go back to the Village Council after they have done their final approval. Chairperson Dalman described this as an unusual process. She stated that it would be helpful for the Commission to get guidance.

Public Comment

No public comment was made at this time.

The meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Antionette Johnson

To: Plan Commission
From: Brian Norkus, Assistant Director of Community Development
Date: August 16, 2016
Re: Consideration of Special Use Permit for dental office to locate within the Commercial Overlay District at 715 Elm Street

The attached application describes the proposed use of 715 Elm Street (formerly Neapolitan), as a dental office. The subject property is located within the Village's C-2 Commercial Overlay District, which requires certain non-retail uses, including dental and medical offices, to be evaluated under the Special Use Permit process.

Commercial Overlay District background - The Commercial Overlay District was established in 1987 out of concern about the viability of the business districts as a whole if non-retail occupancies were allowed to proliferate and occupy significant areas within retail shopping districts. At the time of adoption there was a concern about the possible proliferation of real estate offices and financial institutions.

The Village Zoning Ordinance describes the purpose of the Commercial Overlay District, and its restrictions on non-retail uses as being

“to encourage retailing of comparison shopping goods and personal services compatible with such retailing on ground floor in order to encourage a clustering of such uses, to provide for a wide variety of retail shops and expose such shops to maximum foot traffic, while keeping such traffic in concentrated (yet well distinguished) channels throughout the district.”

A map of the C-2 Commercial Overlay District is included as Figure 1 on the following page, with *gray* indicating the underlying Commercial zoning, and the *red* crosshatch area representing the extent of the overlay district. The subject property lies at the far eastern extent of the overlay district on Elm Street.

Since its adoption in 1987, the Commercial Overlay District has been revised on more than one occasion to alter district boundaries or other components. Most recently, the Plan Commission participated in an extensive study of the Overlay District's goals and objectives based in part on a 2013 review of the Village by Urban Land Institute, which suggested a review of the Overlay District.

Currently, the Village is conducting a downtown master plan which is intended to solicit additional public input and generate further analysis on the subject.

Current application - The applicant proposes to occupy a portion (1,650 s.f.) of an existing ground floor space previously occupied by an apparel store. The previous tenant occupied 4,400 s.f. of ground floor area. As described in the accompanying narrative, the applicant currently maintains an office across the street at 716 Elm St. The current location is at the rear of the building, outside of the Overlay District and therefore did not require a Special Use Permit.

On-site parking is not available at this location; however, the applicant cites the availability of on-street parking and the public parking lot across Elm Street currently utilized by the practices' patients. Due to the fact this is a relocation of an existing dental office from across the street, the customarily required traffic and parking study was waived by Village Engineer Steve Saunders (Attachment A).

In April 2015 the Village Council adopted Ordinance MC-3-2015, which amended the Village Zoning Code to streamline the zoning approval process for Special Use Permits within the C-2 Commercial Overlay District. Under revised procedures, such requests no longer require an appearance before both the ZBA and Plan Commission, with such requests resting solely with the Plan Commission.

Final approval remains subject to approval by the Village Council.

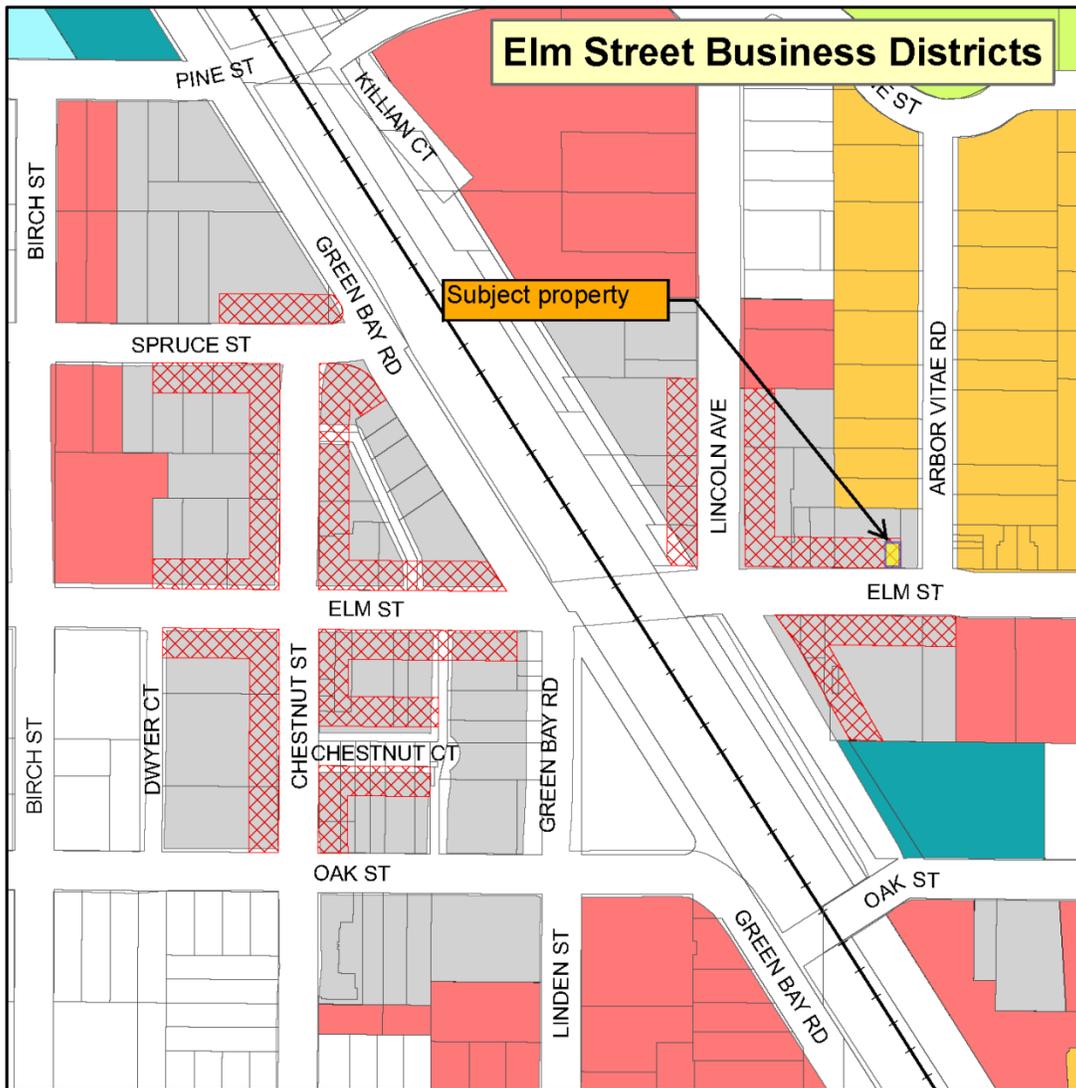


Figure 1. OVERLAY DISTRICT – East and West Elm Business District

Plan Commission standards for evaluation of non-retail occupancies in the C-2 Commercial Overlay District - Any application to establish a Special Use listed in Section 17.46.010 Table of Uses to be located on the ground floor in the C-2 Commercial Overlay District must establish in detail how the proposed occupancy and its operation will be in compliance with the following standards:

1. That the establishment, maintenance, and operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort, morals, or general welfare;
2. That the Special Use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the district or districts of concern, nor substantially diminish or impair property values in the immediate vicinity;
3. That the establishment of Special Use will not impede the normal and orderly development or improvement of other property in the immediate vicinity for uses permitted by right in the district or districts of concern;
4. That adequate measures have been or will be taken to provide ingress and egress in a manner which minimize pedestrian and vehicular traffic congestion in the public ways;
5. That adequate parking, utilities, access roads, drainage, and other facilities necessary to the operation of the Special Use exists or are to be provided;
6. That the Special Use in all other respects conforms to the applicable regulations of this and other village ordinances and codes;
7. The proposed special use at the proposed location will encourage, facilitate and enhance the continuity, concentration, and pedestrian nature of the area in a manner similar to that of retail uses of a comparison shopping nature;
8. Proposed street frontages providing access to or visibility for one or more special uses shall provide for a minimum interruption in the existing and potential continuity and concentration of retail uses of a comparison shopping nature;
9. The proposed special use at the proposed location will provide for display windows, facades, signage and lighting similar in nature and compatible with that provided by retail uses of a comparison shipping nature;
10. If a project or building has, proposes or contemplates a mix of retail, office and service-type uses, and the retail portions of the project or building shall be located adjacent to the sidewalk. The minimum frontage for each retail use adjacent to the sidewalk shall be twenty (20) feet with a minimum gross floor area of four hundred (400) square feet. In addition, such retail space shall be devoted to active retail merchandising which maintains typical and customary hours of operation;

11. The proposed location and operation of the proposed special use shall not significantly diminish the availability of parking for district clientele wishing to patronize existing retail businesses of a comparison shopping nature.

RESOLUTION

NOW THEREFORE BE IT RESOLVED that the Winnetka Plan Commission finds that the proposed Special Use Permit application for the property at 715 Elm Street **(is/is not)** consistent with the standards for Special Use Permits.

Passed by a vote of ____ in favor and ____ opposed.

Date: August 24, 2016

Attachments:

Attachment A: Village Engineer Steve Saunders' Memo

Attachment B: Application Materials

ATTACHMENT A

Memorandum

To: Winnetka Plan Commission
From: Steven M. Saunders, Director of Public Works/Village Engineer
Date: August 16, 2016
Re: Special Use Permit Request for 715 Elm – Waiver of Traffic/Parking Study

The Village of Winnetka has received an application for a special use permit for a dental office at 715 Elm Street. The applicant, Dr. Czarkowski, currently operates a dental practice across the street at 716 Elm Street, adjacent to the Village's parking lot. As a condition of approval, Special Uses must demonstrate that adequate measures have been or will be taken to provide ingress and egress in a manner which minimizes pedestrian and vehicular traffic congestion in the public ways, and that adequate parking, utilities, access roads, drainage, and other facilities necessary to the operation of the Special Use exist or are to be provided.

In this instance, the applicant is already operating a dental practice across the street from the proposed location, and the applicant does not intend to expand the scope of the existing practice. Because of these factors, relocating the current practice will not result in additional parking or traffic generation, and I have elected to waive the requirement for a parking and traffic study for this application.

ATTACHMENT B

CASE NO. 16-K-SU

APPLICATION FOR SPECIAL USE

Name of Applicant Winnetka Dental Group, LTD Michael A Czarkowski DDS

Property Address 716 Elm Street, Winnetka, IL 60093 715

Home and Work Telephone Number 847-441-5939

Fax and Email 847-441-7148 contactdrcz@gmailcom

Architect Information: Name, Address, Telephone, Fax & Email
LOG Enterprises, Inc 815-219-5508, 815-479-9037, mail@logenterprisescom

Attorney Information: Name, Address, Telephone, Fax & Email

Picone Advisory Group, LLC 17W601 14th Street, Suite 2, Oakbrook Terrace, IL 60181 630-519-5971 cpicone@piconeadvisorygroupcom

Date Property Acquired by Owner _____

Nature of Any Restrictions on Property _____

Explanation of Special Use Requested Relocation of dental practice from 716 Elm Street to 715 Elm Street

OFFICE USE ONLY

Special Use Requested under Ordinance Section(s) _____

Staff Contact: _____ Date: _____



Explain in detail how the proposed Special Use meets the following standard. Under the terms of the Zoning Ordinance, no Special Use Permit shall be granted unless it is found:

1. That the establishment, maintenance, and operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort, morals, or general welfare;
2. That the Special Use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the district or districts of concern, nor substantially diminish or impair property values in the immediate vicinity;
3. That the establishment of Special Use will not impede the normal and orderly development or improvement of other property in the immediate vicinity for uses permitted by right in the district or districts of concern;
4. That adequate measures have been or will be taken to provide ingress and egress in a manner which minimize pedestrian and vehicular traffic congestion in the public ways;
5. That adequate parking, utilities, access roads, drainage, and other facilities necessary to the operation of the Special Use exists or are to be provided; and
6. That the Special Use in all other respects conforms to the applicable regulations of this and other village ordinances and codes.

Respectfully Submitted,



Property Owner

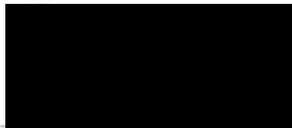
6/27/16
Date

716 ELM STREET
Address

Explain in detail how the proposed Special Use meets the following standard. Under the terms of the Zoning Ordinance, no Special Use Permit shall be granted unless it is found:

1. That the establishment, maintenance, and operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort, morals, or general welfare;
2. That the Special Use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the district or districts of concern, nor substantially diminish or impair property values in the immediate vicinity;
3. That the establishment of Special Use will not impede the normal and orderly development or improvement of other property in the immediate vicinity for uses permitted by right in the district or districts of concern;
4. That adequate measures have been or will be taken to provide ingress and egress in a manner which minimize pedestrian and vehicular traffic congestion in the public ways;
5. That adequate parking, utilities, access roads, drainage, and other facilities necessary to the operation of the Special Use exists or are to be provided; and
6. That the Special Use in all other respects conforms to the applicable regulations of this and other village ordinances and codes.

Respectfully Submitted, **Not Personally, but as
Authorized Signatory Only**



Authorized
Signatory
Only

6-30-16

Property Owner

Date

324 West Taly, Park Ridge, IL 60068

Address

Special use Permit requests for certain non-retail occupancies

1. That the establishment, maintenance, and operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort, morals or general welfare;

.....

The very nature of a dental practice promotes public health. We incorporate safety practices that meet and exceed OSHA standards. Our dental procedures are performed in a comfortable environment, exceeding usual and customary standards. We have served the Winnetka community with distinction since 1988.

2. That the Special Use will not be substantially injurious to the use and enjoyment of other property in the immediate vicinity which are permitted by right in the district or districts of concern, nor substantially diminish or impair property values in the immediate vicinity;

.....

Considering the fact we have practiced dentistry within 100 feet of the location requiring a special use permit, our presence provides a necessary service and amenity to the community. We only see this as adding value to the Winnetka community. My dental practice has received numerous awards of excellence and I have been selected as "Top Dentists" in Chicago Magazine on 4 separate occasions.

3. That the establishment of Special Use will not impede the normal and orderly development or improvement of other property in the immediate vicinity for uses permitted by right in the district or districts concern;

.....

Our plan to relocate across the street will not in any way impede the development or improvement of other properties and is similar to other

service businesses in the retail overlay. Our proposed relocation would be very comparable to the optician on Elm Street.

4. That adequate measures have been or will be taken to provide ingress and egress in a manner which minimize pedestrian and vehicular traffic congestion in the public ways;

.....
Currently, my patients park in front of the 716 Elm St. building and in the public parking lot immediately east of my current location. Moving across the street to 715 Elm Street would not increase any additional pedestrian or vehicular traffic nor create additional congestion.

5. That adequate parking, utilities, access roads, drainage, and other facilities necessary to the operation of the Special Use exists or are to be provided;

.....
We currently are not experiencing any issues requiring additional parking, utilities, access roads, drainage or other facilities in the operation of a dental practice.

6. That the Special Use in all other respects conforms to the applicable regulations of this and other village ordinances and codes.

.....
My practice at 716 Elm St. conforms to national, state, and local ordinances and codes; is HIPAA compliant, and will also be developed with these ordinances and codes in mind at the proposed new location.

7. The proposed special use at the proposed location will encourage, facilitate and enhance the continuity, concentration, and pedestrian nature of the area in a manner similar to that of retail uses of a comparison shopping nature.

On average, we experience approximately 60-100 patient visits per week totaling 4,650 dental visits a year. Due to the uniqueness of my practice, we are considered a destination dental practice that attracts patients from multiple municipalities in and around the Chicagoland area. My patients enjoy our current location, love to shop at Neopolitan, Londo Mondo, Frances Heffernan and have coffee/lunch at Little Rickys, Café Aroma, Miranis, Starbucks and Peets Coffee. Having to re-locate to an adjacent community may have an economic impact on Winnetka.

We have been investigating many locations in Winnetka and adjoining communities to relocate to. The Glencoe Village Manager is willing to waive a special use permit if I would choose to move to their downtown retail district.

8. Proposed street frontages providing access to or visibility for one or more special uses shall provide for a minimum interruption in the existing and potential continuity and concentration of retail uses of a comparison shopping nature;

We are not asking for major changes to street frontages, other than updating what is currently there.

9. The proposed special use at the proposed location will provide for display windows, facades, signage and lighting similar in nature and compatible with that provided by retail uses of a comparison shopping nature;

Signage, lighting, façade, and displays will be done in a professional and tasteful fashion. I have hired the renowned architectural firm of Booth and Associates to design my office. Mr. Larry Booth has been a long-time friend and patient and welcomes the opportunity to design a unique setting for my patients.

10. If a project or building has, proposes or contemplates a mix of retail, office and service type uses, and the retail portions of the project or building shall be located and adjacent to the sidewalk. The minimum frontage for each retail use adjacent to the sidewalk shall be twenty (20) feet with a minimum gross floor area of four hundred (400) square feet. In addition, such retail space shall be devoted to active retail merchandising which maintains typical and customary hours of operation;

.....
We will exceed the minimum frontage of 20 feet. We plan on approximately 1600 square feet gross floor area combining a primarily professional space, which will also display products available to our patients. We will maintain typical and customary hours of operation.

11. The proposed location and operation of the proposed special use shall not significantly diminish the availability of parking for district clientele wishing to patronize existing retail businesses of a comparison shopping nature.

.....
The proposed location and operation will not alter in any way parking availability for district clientele, any more than what currently exists with our current location approximately 100 feet away.

Mr. Steven Saunders, Director of Public Works and Mr. Brian Norkus, Assistant Director of Community Development have agreed to waive the traffic impact analysis due to this.

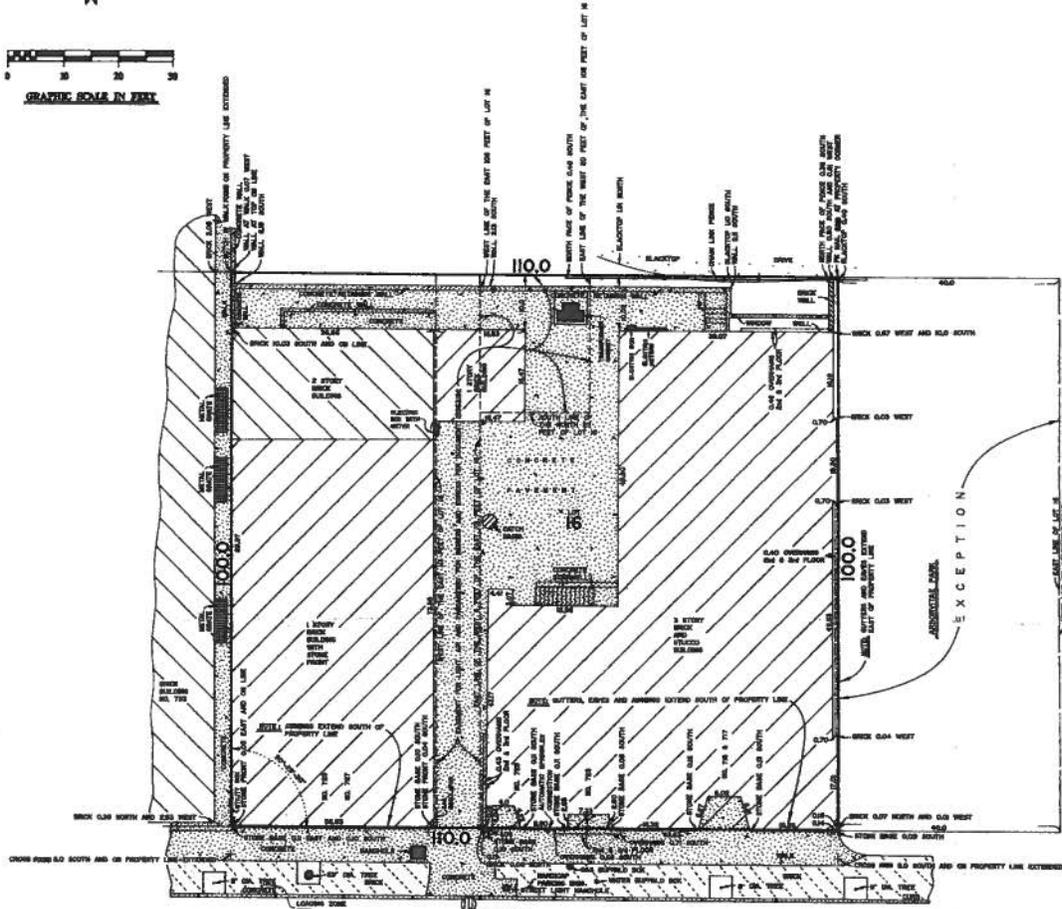
ALTA / ACSM LAND TITLE SURVEY

OF

LOT 16 (EXCEPT THE EAST 40 FEET THEREOF) IN BLOCKS AND ONE'S ADJACENT VILLAS ROAD SUBDIVISION OF BLOCK 4 AND WEST PART OF BLOCK 5 LYING EAST OF THE EAST-LINE OF LINCOLN AVENUE IN WILMUNA, A SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 20 AND THE NORTH FRACTIONAL 1/2 OF SECTION 21, TOWNSHIP 42 NORTH, RANGE 15 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.



GRAPHIC SCALE IN FEET



ELM

STREET

AREA: 10,999.6 SQ. FT.
0.2525 ACRES

STATE OF ILLINOIS
COUNTY OF COOK, S.S.

CERTIFY TO: CHICAGO TITLE & TRUST COMPANY
LAKELLE BARKER, A & WINSTON, L.L.C.

THIS IS TO CERTIFY THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH "MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA / ACSM LAND TITLE SURVEYS" FORMALLY ESTABLISHED AND ADOPTED BY ALTA, ACSM AND NSPS IN 1998, AND INCLUDES ITEMS 1.1, 4, 7(a), 8, 14 AND 14(a) OF TABLE "A" THEREOF. PURSUANT TO THE ACCURACY STANDARDS AS ADOPTED BY ALTA, ACSM AND NSPS AND IN EFFECT ON THE DATE OF THIS CERTIFICATE, UNDERSIGNED FURTHER CERTIFIES THAT THE SURVEY MEASUREMENTS WERE MADE IN ACCORDANCE WITH THE "MINIMUM AREA, DISTANCE AND ANGLE MEASUREMENTS FOR SURVEY MEASUREMENTS WITH CERTAIN LAND BOUNDARIES FOR ALTA / ACSM LAND TITLE SURVEYS."

DES: LARS NILSSON

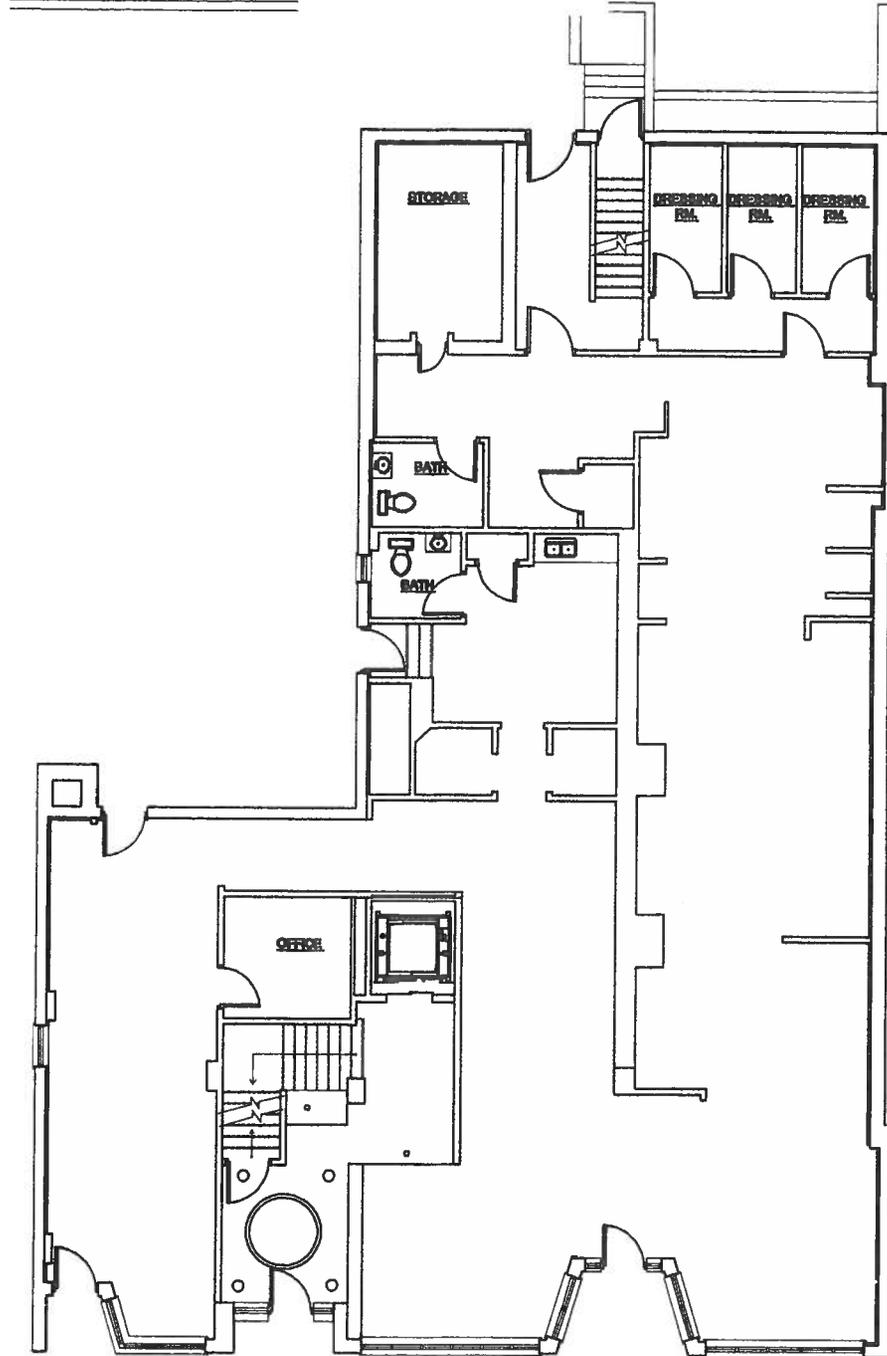
OCTOBER 27, 2004

ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 1068
LICENSE EXPIRES NOVEMBER 30, 2006



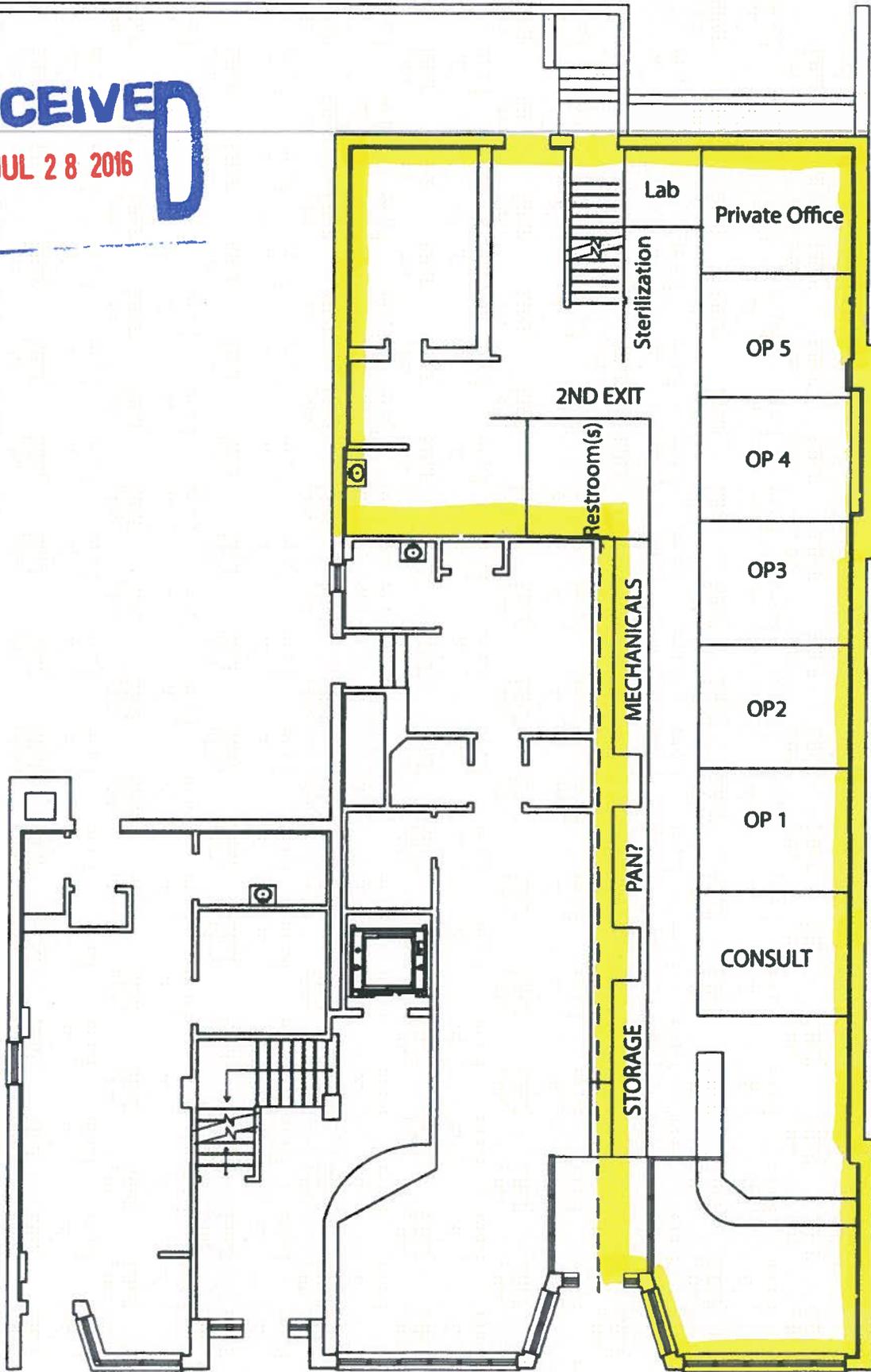
PREPARED BY: JOHN M. HENNINGEN LAND SURVEYOR 58 BROADWAY DES PLAINES, ILLINOIS 60014 847-796-4261	ORDER NUMBER: 931461 ORDERED BY: LARS NILSSON
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Existing Floor Plan



Proposed First Floor Plan (Dr. Czarkowski, 715 Elm)

RECEIVED
JUL 28 2016
BY: _____



FORD ★ ORTHODONTICS

John C. Ford, DMD, MS

585 Lincoln Avenue
Winnetka, Illinois 60093

Specialist in Orthodontics and Dentofacial Orthopedics
Diplomate, American Board of Orthodontics

847.446.2245
FordOrthodontics.com

Winnetka Plan Commission
510 Green Bay Road
Winnetka, IL 60093

Re: Case Number 16-14-SU

August 15, 2016

I am writing in support of Dr. Michael Czarkowski's case number 16-14-SU. The Winnetka Dental Group has been providing exceptional prosthodontic dental care for over thirty years with such a prestigious reputation that has contributed to the reputation of Winnetka's resources. The practice has attracted clients from Winnetka and neighboring communities offering such a valuable professional service and providing "foot traffic" for the vitality of the business community. The Village needs "magnets" of professionalism like Winnetka Dental Group.

During the course of my thirty plus years of doing business in Winnetka I have witnessed an exodus of dentists and other health care providers due to the inflexibility of zoning ordinances. I will readily attest to the names of dentists who have relocated out of Winnetka at a benefit to other communities and a loss for Winnetka.

As a resident and practitioner in Winnetka, I appeal to the planning commission to understand the direct and indirect benefits that Dr. Czarkowski provides and work with him in a synergistic way to avoid the loss Winnetka would sustain if he has to relocate out of Winnetka.

Winnetka is a proud community that needs consideration and concern for this request of continued loyalty and service.

Regards,



John C. Ford, DMD, MS