EVANSTON PLAN COMMISSION
Wednesday, December 12, 2012
7:00 P.M.
Lorraine H. Morton Civic Center, 2100 Ridge Avenue, City Council Chambers

AGENDA

1. CALL TO ORDER / DECLARATION OF QUORUM

2. APPROVAL OF NOVEMBER 14, 2012 MEETING MINUTES

3. ZONING MAP AND TEXT AMENDMENT 12PLND-0069
   Consideration of text and map amendments, pursuant to City Code Title 6, Zoning, for an Overlay District on Howard Street that follows the boundary of the Howard Ridge TIF District, bounded on the west by Ridge Avenue, on the east by the City limits, and including 5 parcels on Chicago Avenue, to a northernmost point of 132 Chicago Avenue.

4. ZONING TEXT AMENDMENT 12PLND-0071
   Consideration of the proposed text amendment, pursuant to City Code §6-6 of the Zoning Ordinance to discuss the zoning regulations for increasing the bulk of structures with one to four-family residential nonconforming uses.

5. COMMITTEE REPORTS

6. ADJOURNMENT

The next regular Plan Commission meeting is scheduled for WEDNESDAY, JANUARY 9, 2012 at 7:00PM in COUNCIL CHAMBERS of the Lorraine H. Morton Civic Center.

Order of agenda items are subject to change. Information about the Plan Commission is available online at: http://www.cityofevanston.org/plancommission. Questions can be directed to the Zoning Planner, Melissa Klotz, at 847-448-8153 or by e-mail at mklotz@cityofevanston.org.

The City of Evanston is committed to making all public meetings accessible to persons with disabilities. Any citizen needing mobility or communications access assistance should contact the Community and Economic Development Department 48 hours in advance of the scheduled meeting so that accommodations can be made at 847-448-8683 (Voice) or 847-448-8064 (TTY).
MEETING MINUTES
PLAN COMMISSION
Wednesday, November 14, 2012
7:00 P.M.
Evanston Civic Center, 2100 Ridge Avenue, Council Chambers

Members Present: Seth Freeman, Patricia Ledesma, Scott Peters (Chair), David Galloway, Jim Ford, Kwesi Steele, Stuart Opdycke (Associate)

Members Absent: Barbara Putta, Richard Shure, Lenny Asaro

Staff Present: Craig Sklenar, Melissa Klots, Ken Cox, Dennis Marino

Presiding Member: Scott Peters, Chairman

1. CALL TO ORDER / DECLARATION OF QUORUM

With a quorum present, Chairman Peters called the meeting to order at 7:15 P.M.

2. APPROVAL OF OCTOBER 10, 2012 MEETING MINUTES

Commissioner Freeman motioned for approval of the October 10, 2012 meeting minutes

Commissioner Ledesma seconded the motion.

A voice vote was taken and the minutes were approved.

3. ZONING TEXT AMENDMENT 12PLND-0070

Specifically consider text amendments, pursuant to City Code Title 6, Zoning, to discuss the zoning regulations of banquet halls as special uses.

Melissa Klots, Zoning Planner, provided a staff report concerning the proposed establishment of a definition for Banquet Halls as a Special Use.

Chairman Peters opened the discussion asking for a motion concerning the proposed text amendment.

Commissioner Galloway motioned to approve the proposed definition and provide a recommendation to City Council to approve this definition.

Commissioner Ford seconded the motion

A voice vote was taken, the motion passed 6-0.

4. ZONING MAP AND TEXT AMENDMENT 12PLND-0069
Specifically consider text and map amendments, pursuant to City Code Title 6, Zoning, for an Overlay District on Howard Street that follows the boundary of the Howard Ridge TIF District, bounded on the west by Ridge Avenue, on the east by the City limits, and including 5 parcels on Chicago Avenue, to a northernmost point of 132 Chicago Avenue.

Melissa Klotz, Zoning Planner, provided a staff report concerning the proposed establishment of an Overlay District on Howard Street that would define beauty salons and barbershops and make them a special use. This overlay proposes an amortization period that will require all existing businesses that meet this definition to apply for a special use for approval after two years time.

Chairman Peters opened the discussion asking for a motion concerning the proposed map and text amendment.

Commissioners concerned with the amortization proposed and the restriction of these uses

Commissioner Ford motioned to send the proposed text and map amendment back to City staff to refine and propose new regulations that look at non-amortization uses to help regulate beauty salons and barbershops, and continued the discussion to the December 12, 2012 Plan Commission meeting.

Commissioner Steele seconded the motion.

A voice vote was taken, the motion passed 6-0.

5. 2013 PLAN COMMISSION MEETING DATES

Commissioner Freeman motioned to approve the proposed Plan Commission meeting dates for 2013.

Commissioner Ledesma seconded the motion

A voice vote was taken, the motion passed 6-0.

6. PLAN COMMISSION 2013 ELECTIONS

Commissioner Ford motioned to keep the current slate of Plan Commission Chair (Scott Peters), Vice Chair (David Galloway) and Committee Liaisons to the Housing and Community Development Act Committee (Stuart Opdycke), Economic Development Committee (Seth Freeman), Citizens’ Advisory Committee on Public Place Names (Seth Freeman), and Transportation/Parking Committee (David Galloway) for the 2013 Calendar year.

Commissioner Freeman seconded the motion

A voice vote was taken, the motion passed 6-0.
7. COMITTEE REPORTS

Commissioner Peters proposed a resolution to commend Craig Sklenar, General Planner, for his work as staff member for the Plan Commission and to commend the quality of work.

Commissioner Ledesma seconded the motion.

8. ADJOURNMENT

Commissioner Freeman motioned for adjournment
Commissioner Ledesma seconded the motion.

The meeting adjourned at 8:30 P.M.

Respectfully Submitted,  
Craig Sklenar, AICP  
General Planner, Community and Economic Development Department  

The next regular Plan Commission meeting is scheduled for WEDNESDAY, DECEMBER 12, 2012 at 7:00PM in COUNCIL CHAMBERS of the Lorraine H. Morton Civic Center.
Howard Street Overlay

12PLND-0069
To: Chair and Members of the Plan Commission  
From: Dennis Marino, Manager, Planning & Zoning Division  
        Melissa Klotz, Zoning Planner  
Subject: Discussion of Draft Text Amendment 2-O-13 for the oHR Howard-Ridge Overlay District; Discussion of Draft Map Amendment 3-O-13 for the oHR Howard-Ridge Overlay District, 12PLND-0069  
Date: December 5, 2012

Proposal Overview
The proliferation of certain retail service uses throughout the Howard Street corridor is problematic for a multitude of reasons. With the proximity to Chicago zoning districts that are more restrictive to many uses, including certain retail service uses such as hair salons, nail salons, beauty shops, and barber shops, a growing concentration of such uses along the corridor impairs the City’s ability to achieve the goals of the Howard-Ridge TIF and deters private sector investment consistent with the economic and development goals of the TIF. An overlay district that follows the boundary of the Howard-Ridge TIF should be established that better regulates certain retail service uses. The proposed overlay district does not contain amortization of existing businesses. Such uses that currently exist within the overlay boundary will be granted legally nonconforming status. These uses will be allowed to continue as legally nonconforming uses, and transfer to new businesses of the same type(s) at those same locations so long as each legally nonconforming use is not terminated for a period of twelve consecutive months.

Recommendation
Following the October 1, 2012 and October 17, 2012 Zoning Committee meetings, and the November 14, 2012 Plan Commission meeting, staff now recommends a text and map amendment to establish the oHR Howard-Ridge Overlay District that requires special use approval for certain retail service uses with no amortization for existing businesses within the overlay boundary.

Proposed Overlay District Regulations
Special uses should be enacted for potential new uses that have a problematic cumulative effect in this specific area of the city. The implementation of an overlay district allows the City to draw distinct boundaries and establish specific regulations to address concerns raised. Certain uses that are service oriented rather than retail sales oriented should be restricted through the special use process, which provides City Council with the ability to deny uses that have negative cumulative effects.
The proposed oHR Howard-Ridge Overlay District follows the exact boundary of the Howard-Ridge TIF, and includes the following purpose statement:

The purpose of the oHR Howard-Ridge Overlay District is to ensure change in use of those sites occupied by certain types of Retail Service Establishments that have proliferated within the District, encourage development of tax revenue-generating Uses within the District in a manner that minimizes adverse effects on nearby properties, and promote redevelopment in accordance with the Tax Increment Redevelopment Plan and Project for the Hoard and Ridge Tax Increment Financing District, adopted by the City pursuant to Ordinance 1-O-04.

Certain uses that are currently classified as Retail Service Establishments and permitted in this corridor will be restricted to special use approval to give the City a means of stopping the proliferation of any negative cumulative effects. Such uses that will require special use approval in the overlay include:

- Personal Care Services, including hair salons, barbershops, hair braiding, nail salons, beauty parlors, spas, and other such businesses determined by the Zoning Administrator to be of the same or similar type and intensity.

- Divinatory Arts, including psychics, astrologers, Tarot card readers, fortune tellers, spiritualists and other such businesses determined by the Zoning Administrator to be of the same or similar type and intensity.

In an effort to reduce the existing negative cumulative effect that exists in the area, the aforementioned uses that will now be classified as nonconforming will be subject to the following:

Continuation: Every lawfully existing Use rendered nonconforming by this Section 6-15-17 may continue to operate pursuant to the provisions of Chapter 6 of the Zoning Ordinance as limited by Subsection 6-15-17-5-(B).

Uses that currently exist that will now be considered nonconforming will be allowed to legally continue operations at their existing sites, so long as operations do not cease for 12 consecutive months. Additionally, any new Personal Care Service or Divinatory Arts use may take over the site of any current similar use so long as said site does not have a lapse in operations of 12 consecutive months. Any site that has a legally nonconforming use aforementioned that ceases operations for 12 consecutive months will be required to obtain a special use permit for any previous or new business of such use to re-open at that site.

The proposed oHR Howard-Ridge Overlay District is a way for the City to encourage the revitalization and development of the Howard Street corridor and address issues that are prevalent in that area because of the proximity to Chicago’s strict zoning regulations. The proposed regulations will not prohibit new businesses from establishing in the area, but will instead provide a way for the City to ensure the goals of
the Howard-Ridge TIF are met by addressing the issue of negative cumulative effect of certain uses, encouraging development, and increasing the tax base.

**Attachments**
Draft Ordinance 2-O-13 Howard Ridge Overlay Text Amendment
Draft Ordinance 3-O-13 Howard Ridge Overlay Map Amendment
Zoning Committee of the Plan Commission Minutes – October 17, 2012
Zoning Committee of the Plan Commission Minutes – October 1, 2012
AN ORDINANCE

Amending the Text of the Zoning Ordinance by Enacting a New Section 6-15-17, “oHR Howard-Ridge Overlay District”

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule units be given the broadest powers possible” (Scadron v. City of Des Plaines, 153 Ill.2d 164); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, et seq.) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, (“the Zoning Ordinance”); and
WHEREAS, on October 17, November 14, and December 12, 2012, the Plan Commission held a public hearing, pursuant to proper notice, regarding case no. 12PLND-0069 to consider amendments to the text of the Zoning Ordinance, to create a new district known as the “oHR Howard-Ridge Overlay District;” and

WHEREAS, the Plan Commission received testimony and made written findings pursuant to Section 6-3-4-5 of the Zoning Ordinance that the proposed amendments met the standards for text amendments, and recommended City Council approval thereof; and

WHEREAS, at its meeting of January 14, 2012, the Planning and Development Committee of the City Council considered and adopted the findings and recommendation of the Plan Commission in case no. 12PLND-0069 and recommended City Council approval thereof; and

WHEREAS, at its meetings of January 14 and January 28, 2013, the City Council considered and adopted the records and recommendations of the Plan Commission and the Planning and Development Committee; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see Glenview State Bank v. Village of Deerfield, 213 Ill.App.3d 747) and is not subject to courtroom fact-finding (see National Paint & Coating Ass’n v. City of Chicago, 45 F.3d 1124),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.
SECTION 2: The Zoning Ordinance is hereby further amended by the enactment of a new Section 6-15-17 thereof, “oHR Howard-Ridge Overlay District,” to read as follows:

6-15-17: oHR HOWARD-RIDGE OVERLAY DISTRICT

6-15-17-1: PURPOSE STATEMENT:

The purpose of the oHR Howard-Ridge Overlay District is to ensure change in use of those sites occupied by certain types of Retail Services Establishments that have proliferated within the District, encourage development of tax revenue-generating Uses within the District in a manner that minimizes adverse effects on nearby properties, and promote redevelopment in accordance with the Tax Increment Redevelopment Plan and Project for the Howard and Ridge Tax Increment Financing District, adopted by the City pursuant to Ordinance 1-O-04.

6-15-17-2: DESIGNATION OF OVERLAY DISTRICT:

The oHR Howard-Ridge Overlay District shall be designated by the City Council and shown as an overlay to the underlying Zoning Districts with the designation “oHR” on the City Zoning Map cited in Section 6-7-2 of the Zoning Ordinance.

6-15-17-3: APPLICATION OF OVERLAY DISTRICT:

Any property located within the oHR District shall retain its original Zoning District designation and shall gain the additional designation of the oHR District. The provisions of this Section 6-15-17 shall serve as a supplement to the regulations of the underlying District and the entirety of the Zoning Ordinance. Where a conflict exists between the provisions of this Section 6-15-17 and those of the underlying Zoning District and/or the rest of the Zoning Ordinance, this Section shall control.

6-15-17-4: ADDITIONAL SPECIAL USES:

Those types of Retail Services Establishments listed in this Subsection 6-15-17-4 may be allowed in the oHR District only pursuant to the Special Use provisions set forth in Section 6-3-5 of the Zoning Ordinance:

Personal Care Services, including hair salons, barbershops, hair braiding, nail salons, beauty parlors, spas, and other such businesses determined by the Zoning Administrator to be of the same or similar type and intensity.

Divinatory Arts, including psychics, astrologers, Tarot card readers, fortune tellers, spiritualists and other such businesses determined by the Zoning Administrator to be of the same or similar type and intensity.
6-15-17-5: NONCONFORMING USES:

Every lawfully existing Use rendered nonconforming by this Section 6-15-17 may continue to operate pursuant to the provisions of Chapter 6 of the Zoning Ordinance.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced:_________________, 2013
Adopted:___________________, 2013

_______________________________
Elizabeth B. Tisdahl, Mayor

Attest: ________________________________
Rodney Greene, City Clerk

Approved as to form: ________________________________
W. Grant Farrar, Corporation Counsel
3-O-13

AN ORDINANCE

Amending the Zoning Map to Place Certain Properties Within the oHR Howard-Ridge Overlay District

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule units be given the broadest powers possible” (Scadron v. City of Des Plaines, 153 Ill.2d 164); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, et seq.) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 1979, as amended, (“the Zoning Ordinance”); and
WHEREAS, on October 17, November 14 and December 12, 2012, the Plan Commission held a public hearing, pursuant to proper notice, regarding case no. 12PLND-0069, to consider amendments to the Zoning Map, cited in Section 6-7-2 of the Zoning Ordinance, to place certain properties within the oHR Howard-Ridge Overlay District; and

WHEREAS, the Plan Commission received testimony and made written findings pursuant to Subsection 6-3-4-5 of the Zoning Ordinance that the proposed amendment met the standards for map amendments, and recommended City Council approval thereof; and

WHEREAS, at its meeting of January 14, 2012, the Planning and Development Committee of the City Council considered and adopted the findings and recommendation of the Plan Commission in case no. 12PLND-0071 and recommended City Council approval thereof; and

WHEREAS, at its meetings of January 14 and January 28, 2013, the City Council considered and adopted the records and recommendations of the Plan Commission and the Planning and Development Committee; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see Glenview State Bank v. Village of Deerfield, 213 Ill.App.3d 747) and is not subject to courtroom fact-finding (see National Paint & Coating Ass’n v. City of Chicago, 45 F.3d 1124),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:
SECTION 1: The foregoing recitals are found as fact and incorporated herein by reference.

SECTION 2: The City Council hereby amends the Zoning Map to place those properties with the addresses and PINs listed in Exhibit A and identified in Exhibit B, both attached hereto and incorporated herein by reference, within the oHR Howard-Ridge Overlay District.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.
Introduced:___________________, 2013

Adopted:___________________, 2013

Approved:______________________, 2013

_______________________________  
Elizabeth B. Tisdahl, Mayor

Attest:__________________________  
Rodney Greene, City Clerk

Approved as to form:__________________________  
W. Grant Farrar, Corporation Counsel
EXHIBIT A

Addresses and PINs of Properties Located Within the
oHR Howard-Ridge Overlay District

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EXHIBIT B

Map of Properties Re-Zoned to oHR Howard-Ridge Overlay District
MEETING MINUTES
ZONING COMMITTEE OF THE PLAN COMMISSION
Wednesday, October 17, 2012
7:00 P.M.
Evanston Civic Center, 2100 Ridge Avenue, Room 2403

Members Present: Jim Ford, Richard Shure (Chair), Patricia Ledesma Liebana, Stuart Opdycke, Dave Galloway, Scott Peters

Members Absent: Kwesi Steele

Staff Present: Melissa Klotz, Dennis Marino

Presiding Member: Richard Shure, Chairman

1. CALL TO ORDER / DECLARATION OF QUORUM

With a quorum present, Chairman Shure called the meeting to order at 7:00 P.M.

2. MINUTES

Approval of October 1, 2012 Zoning Committee of the Plan Commission Meeting Minutes:

Commissioner Ledesma motioned for approval of the October 1, 2012 meeting minutes with one correction. Commissioner Galloway seconded the motion. A voice vote was taken and the minutes were approved with one correction.

3. OLD BUSINESS

4. NEW BUSINESS

A) 12PLND-0070 Consideration of the proposed text amendment to the Zoning Ordinance to discuss the regulation of banquet halls as permitted and special uses.

Zoning Planner Melissa Klotz explained that banquet halls do not currently have a use category that they adequately fit into in the Zoning Ordinance.

Citizen Steven Schwartz explained that he would like to open a banquet hall in Evanston. He plans to have an indoor space, bring in food (but not have a kitchen on site), and accommodate approximately 150 people per event in a 3,000 square foot party space with an extra 1,000 square foot private area.

Commissioners discussed whether to add a specific time limit into the proposed definition but decided a time limit was unnecessary.
Commissioner Peters motioned to recommend approval of the proposed definition and districts, which would allow banquet halls by special use in all B, C, D, and M districts, as well as the O1 and RP districts. Commissioner Ford seconded the motion, and the motion was approved unanimously. The proposed text amendment will move forward to the Plan Commission on November 14, 2012.

B) 12PLND-0069 Consideration of an overlay district on Howard Street bounded on the west by Ashland Avenue and on the east by the City limits.

Zoning Planner Melissa Klotz explained the proposed overlay district, and referred to the documents and statistics provided in the 2010 Full Circle Report that discussed the impact of certain uses on Howard Street.

Commissioners discussed how the overlay district could address existing businesses and whether or not those sites would be granted legal nonconformity and allow a new business to continue an existing nonconforming use.

Alderman Rainey mentioned the possibility of instituting a distance requirement for certain uses.

Commissioners discussed what the overlay district boundary should be and felt it would be best to follow the Howard Ridge TIF boundary.

Alderman Rainey mentioned establishing a definition for personal care services. The Commissioners discussed such, and decided the personal care service use in the overlay district would be a subset of the existing retail service category. Other subsets may be included for tarot cards, psychics, etc.

Commissioners felt a distance requirement would not be necessary since the issue of negative cumulative effect could be addressed in the special use process.

Commissioner Peters motioned to recommend approval of the proposed overlay district with the boundary and special uses as discussed. Commissioner Ford seconded the motion, and the motion was approved unanimously.

C) 12PLND-0071 Consideration of the proposed text amendment to the Zoning Ordinance to discuss the zoning regulations for increasing the bulk of nonconforming structures with nonconforming uses.

Zoning Planner Melissa Klotz explained the limitations the Zoning Ordinance currently places on such uses and structures, and the implications that has for certain properties.

Commissioner Ford stated his concern with the proposal being just an administrative process. He felt it would be better served like minor variances, where there is a set of standards created to base approval upon.

Commissioners discussed if such a process should only be allowed for residential uses or residentially zoned lots. Commissioners felt it would be helpful to have an
inventory of the existing nonconforming uses to gain a better understanding of what nonconforming uses exist.

Commissioner Peters motioned to lay the item over to the next Zoning Committee of the Plan Commission meeting so that staff could provide more information as discussed. Commissioner Ford seconded the motion, and the motion was approved unanimously.

5. **DISCUSSION**

The next Zoning Committee of the Plan Commission meeting will be rescheduled from a previous date of November 21, 2012 to a new date of November 28, 2012 at 7 P.M.

6. **ADJOURNMENT**

Commissioner Ford motioned to adjourn. Commissioner Opdycke seconded the motion. The meeting adjourned at 8:34 P.M.

The next meeting of the Zoning Committee of the Plan Commission will be **Wednesday, November 28, 2012** at 7:00 P.M., in the Lorraine H. Morton Civic Center, 2100 Ridge Avenue.

Respectfully Submitted,
Melissa Klotz
Zoning Planner, Community and Economic Development Department
MEETING MINUTES

ZONING COMMITTEE OF THE PLAN COMMISSION
Monday, October 1, 2012
7:00 P.M.
Evanston Civic Center, 2100 Ridge Avenue, Room 2404

Members Present: Jim Ford, Richard Shure (Chair), Patricia Ledesma Liebana, Stuart Opdycke, Dave Galloway

Members Absent: Kwesi Steele, Scott Peters

Staff Present: Melissa Klotz

Presiding Member: Richard Shure, Chairman

1. CALL TO ORDER / DECLARATION OF QUORUM

With a quorum present, Chairman Shure called the meeting to order at 7:00 P.M.

2. MINUTES

Approval of August 15, 2012 Zoning Committee of the Plan Commission Meeting Minutes:

Commissioner Opdycke motioned for approval of the August 15, 2012 meeting minutes. Commissioner Ford seconded the motion. A voice vote was taken and the minutes were approved as written.

3. OLD BUSINESS

4. NEW BUSINESS

5. DISCUSSION

A) Consideration of an overlay district in the Howard Ridge TIF

Zoning Planner Melissa Klotz explained the imbalance of retail service uses in the Howard Street corridor, and the impact it presents on the economic development of the Howard Ridge TIF.

Alderman Rainey added that 7 or 8 of any specific use is too many within a small expanse such as the 400-800 blocks of Howard Street.

The commissioners discussed the current businesses on Howard Street, the current economic development issues, the role the TIF plays, and how to encourage the proper type of economic growth in the corridor.
Commissioner Opdycke suggested establishing an overlay district that follows the entire TIF boundary, and require certain non-retail uses to obtain special use permits.

Ms. Klotz suggested staff do an inventory of the businesses in the proposed area, to see if an overlay boundary should follow the TIF boundary or extend further, and to see what uses are most prevalent in the area.

Alderman Rainey noted that staff member Sue Guderley may have useful information from when the Howard Ridge TIF was established.

Ms. Klotz explained that this discussion would continue at the next Zoning Committee meeting, where it will be a New Business item that has been publicly noticed and motions could be made on.

6. **ADJOURNMENT**

Commissioner Opdycke motioned to adjourn. Commissioner Ford seconded the motion. The meeting adjourned at 8:19 P.M.

The next meeting of the Zoning Committee of the Plan Commission will be **Wednesday, November 21, 2012** at 7:00 P.M., in the Lorraine H. Morton Civic Center, 2100 Ridge Avenue.

Respectfully Submitted,
Melissa Klotz
Zoning Planner, Community and Economic Development Department
Nonconforming Uses

12PLND-0071
Memorandum

To: Chair and Members of the Plan Commission

From: Dennis Marino, Manager, Planning & Zoning Division
       Melissa Klotz, Zoning Planner

Subject: Discussion of Draft Text Amendment 4-O-13 for Nonconforming
         Residential Uses, 12PLND-0071

Date: December 5, 2012

Proposal Overview
The Zoning Ordinance currently prohibits any expansion of bulk to structures that have nonconforming uses. The intent of this regulation is to prohibit expansion of a structure or use that does not conform to a property’s zoning. Some nonconforming uses exist because of changes that have been implemented in the Zoning Ordinance or through zoning map amendments. While the intent seems logical, this regulation is now prohibiting multiple residential property owners from making improvements that increase their property value, the functionality of the structure, and improve the character of the neighborhood.

Recommendation
Following the October 17, 2012 and November 28, 2012 Zoning Committee meetings, the Zoning Committee of the Plan Commission and staff recommend a process similar to the minor variance process be implemented for one to four-family residential nonconforming uses that allows the Zoning Administrator to determine if such nonconforming uses can be expanded by increasing the structures’ bulk. The Zoning Administrator’s determination would be based on a set of Standards similar to those used for special uses, unique uses and variances to determine whether or not the expansion of the nonconformity would positively or negatively affect the surrounding neighborhood and city.

Current Regulations
While nonconforming uses are not the norm, there are properties throughout Evanston that face this issue. Northwest Evanston has a number of two-family structures that are located in the R1 Single Family Residential zoning district and are therefore nonconforming uses. The Lakeshore Historic District also has a number of two-family structures around Judson and Forest Avenues. Most of these residences are older, beautiful, and often historic assets to the community. Section 6 of the Zoning Ordinance states that ordinary repair and maintenance of such a nonconforming structure is allowed, but anything that would increase any part of the nonconformity or enlarge the structure is prohibited:
No such alteration shall create any new parking, loading, bulk, yard or space nonconformity or increase the degree of any existing parking, loading, bulk, yard or space requirement in such structure.

This prohibits property owners who have maintained properties with nonconforming uses for many years from altering the structure, which prohibits property owners from increasing the value and functionality of the property. Instead, the regulation discourages reinvestment and rehabilitation, which in some cases, could potentially encourage property owners with nonconforming uses to let their properties deteriorate.

Examples
The Zoning Office has received two recent residential building permit applications that cannot continue through the approval process because of the current zoning regulations regarding the expansion of nonconforming uses.

309 Davis Street is one half of a two-family residence that is located in the R1 Single Family Residential District. The two-family structure was originally constructed in 1923 and is considered legally nonconforming due to a 4.7 foot interior side yard setback where a 5 foot setback is required, an impervious surface area of 78.2% where 45% maximum is allowed, and 42% building lot coverage. The owner of one of the residences would like to construct a 1.5 car attached garage along the side of the structure that currently has a conforming setback. The current Zoning Ordinance prohibits this expansion because both the use and the structure are nonconforming/noncompliant. In this case, the proposed 1.5 car garage would require a variance that the Zoning Board of Appeals would have to approve of, but current regulations prohibit the property owner from applying for a variance because the proposal will add bulk to a nonconforming use.

1622 Darrow Avenue is a single family residence that is located in the B2 Business District. The property owner recently applied for a building permit to remodel the interior space of the home and add a small two-story addition on the rear of the house. Although the proposed two-story addition is compliant with regards to setbacks and floor area ratio (as opposed to building lot coverage since the B2 District utilizes the FAR calculation instead), the Zoning Ordinance prohibits the addition because it would increase the bulk of a nonconforming use. In this case, the property owner has a structure that looks like a house, and is used as a house, but cannot be added to because of the underlying zoning district.

Proposed Regulations
Section 6 of the Zoning Ordinance should include regulations to allow the Zoning Administrator to make determinations for one to four-family residential uses that are nonconforming and want to change bulk of a structure. The Zoning Administrator could determine, on a case by case basis, whether an increase in bulk would be appropriate to the use in question and based on the potential impact of the surrounding neighborhood and city.

The process would be handled similarly to the minor variance process, which also relies on the Zoning Administrator’s determination. A property owner would apply for the determination and pay an application and mailing fee. The Zoning Office would then
notify all property owners within a 250 foot radius of the property of what has been proposed and how the proposal fits with the existing nonconforming use. The notification would explain that all notified property owners have the opportunity to voice their concerns in written form to the Zoning Office, where such statements would be taken into account at the time of determination. As with minor variances, the Zoning Office would wait ten business days to provide ample time for any written concerns.

After the ten day waiting period, the Zoning Administrator could make a determination based on a set of Standards similar to the Standards used to determine special uses, unique uses, and variances. All of the Standards would have to be met in order for the Zoning Administrator to make a positive determination. The proposed Standards for this process include:

A) Evidence of special and extraordinary need, which would not just be a mere inconvenience, which shall include evidence of unique characteristics of the subject property and use given the existing location.
B) Evidence that authorization of the request would not be best served through a zoning map or text amendment.
C) Evidence that the project is designed to be reasonably compatible with the neighborhood and will not have an adverse impact on surrounding properties.
D) The proposal is consistent with the intent of the zoning ordinance and preservation policies set forth in the comprehensive general plan.

If the above four Standards are found to be met by the Zoning Administrator, the proposal may proceed to the next applicable preservation, variance, or building permit process. In cases where such process would occur because of a nonconforming use and a minor variance is also needed, the two processes could be combined into one so that the public notices and waiting periods are not duplicated.

The proposed regulations allow current property owners that utilize one to four-family residential uses that do not comply with their underlying zoning to have a process available to determine whether any such site, on a case by case basis, could benefit from an increase in bulk to a structure without negatively impacting the neighborhood or city.

Attachments
Draft Ordinance 4-O-13
Nonconforming Residential Uses Flowchart
Zoning Ordinance, Chapter 6 – Nonconforming Uses and Noncomplying Structures
Zoning Ordinance §6-3-5-10 – Standards for Special Uses
Zoning Ordinance §6-3-7-10 – Standards for Unique Uses
Zoning Ordinance §6-3-8-12 – Standards for Variations
Zoning Committee of the Plan Commission Minutes – October 17, 2012
AN ORDINANCE

Amending Portions of the Zoning Ordinance Related to Certain Non-Conforming Residential Uses

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the "powers and functions of home rule units shall be construed liberally," was written "with the intention that home rule units be given the broadest powers possible" (Scadron v. City of Des Plaines, 153 Ill.2d 164); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, et seq.) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, ("the Zoning Ordinance"); and
WHEREAS, on November 28 and December 12, 2012, the Plan Commission held a public hearing, pursuant to proper notice, regarding case no. 12PLND-0071 to consider amendments to the text of the Zoning Ordinance relating to certain non-conforming residential uses; and

WHEREAS, the Plan Commission received testimony and made written findings pursuant to Section 6-3-4-5 of the Zoning Ordinance that the proposed amendments met the standards for text amendments, and recommended City Council approval thereof; and

WHEREAS, at its meeting of January 14, 2012, the Planning and Development Committee of the City Council considered and adopted the findings and recommendation of the Plan Commission in case no. 12PLND-0071 and recommended City Council approval thereof; and

WHEREAS, at its meetings of January 14 and January 28, 2013, the City Council considered and adopted the records and recommendations of the Plan Commission and the Planning and Development Committee; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see Glenview State Bank v. Village of Deerfield, 213 Ill.App.3d 747) and is not subject to courtroom fact-finding (see National Paint & Coating Ass’n v. City of Chicago, 45 F.3d 1124),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as fact and incorporated herein by reference.
SECTION 2: Subsection 6-6-3-3 of the Zoning Ordinance is hereby amended to read as follows:

6-6-3-3: STRUCTURAL ALTERATION:

Except as permitted pursuant to Section 8 of this Chapter, no complying structure that is accessory to a nonconforming use of land, or that is devoted in whole or in part to a nonconforming use, shall be structurally altered unless the use thereof shall thereafter conform to the use regulations of the zoning district in which it is located. Except as permitted pursuant to Section 8 of this Chapter, no such alteration shall create any new parking, loading, bulk, yard or space noncompliance or increase the degree of noncompliance with any existing parking, loading, bulk, yard or space requirement for such structure.

SECTION 3: Subsection 6-6-3-4 of the Zoning Ordinance is hereby amended to read as follows:

6-6-3-4: ENLARGEMENT OF STRUCTURE:

Except as permitted pursuant to Section 8 of this Chapter, no complying structure that is accessory to a nonconforming use of land or a complying structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, including the interior addition of floor area, unless the use of such structure shall thereafter conform to the use regulations of the district in which it is located. Except as permitted pursuant to Section 8 of this Chapter, no such enlargement shall create any new parking, loading, bulk, yard or space noncompliance or increase the degree of noncompliance with any existing parking, loading, bulk, yard or space requirement for such structure.

SECTION 4: Subsection 6-6-3-5 of the Zoning Ordinance is hereby amended to read as follows:

6-6-3-5: EXPANSION OF USE:

Except as permitted pursuant to Section 8 of this Chapter, a nonconforming use of land that does not involve a structure, a complying structure that is accessory to a nonconforming use of land, or a nonconforming use in a complying structure, shall not be expanded, extended, enlarged or increased in intensity. Such prohibited activity shall include, without being limited to:

(A) An expansion of such use, including its accessory uses, to any structure or land area other than that occupied by such nonconforming use on the effective date of this Ordinance or any change thereto that causes such use to become nonconforming; and
(B) An expansion of such use, including its accessory uses, within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of this Ordinance or any change thereto that causes such use to become nonconforming.

SECTION 5: Subsection 6-6-4-3 of the Zoning Ordinance is hereby amended to read as follows:

6-6-4-3: STRUCTURAL ALTERATION:

Except as permitted pursuant to Section 8 of this Chapter, a noncomplying structure devoted in whole or in part to a nonconforming use shall not be structurally altered unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. Except as permitted pursuant to Section 8 of this Chapter, no such alteration shall create any new parking, loading, bulk, yard or space noncompliance or increase the degree of noncompliance with any existing parking, loading, bulk, yard or space requirement in such structure.

SECTION 6: Subsection 6-6-4-4 of the Zoning Ordinance is hereby amended to read as follows:

6-6-4-4: ENLARGEMENT OF STRUCTURE:

Except as permitted pursuant to Section 8 of this Chapter, a noncomplying structure devoted in whole or in part to a nonconforming use shall not be enlarged or added to in any manner, including the interior addition of floor area, unless the entire structure and the use thereof shall thereafter conform to all the regulations of the district in which it is located. Except as permitted pursuant to Section 8 of this Chapter, no such alteration shall create any new parking, loading, bulk, yard or space nonconformity or increase the degree of any existing parking, loading, bulk, yard or space requirement in such structure.

SECTION 7: Subsection 6-6-4-5 of the Zoning Ordinance is hereby amended to read as follows:

6-6-4-5: EXPANSION OF USE:

(A) Prohibited Expansions: Except as permitted pursuant to Section 8 of this Chapter, a nonconforming use in a noncomplying structure shall not be expanded, extended, enlarged or increased in intensity by an expansion of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of this Ordinance or any amendment thereto that cause such use to become nonconforming.
(B) Permitted Expansions:

1. A nonconforming use in a noncomplying structure may be extended within any part of such structure lawfully existing on the effective date of this Ordinance or any amendment thereto that causes such use to become nonconforming; provided, however, that such expansion shall not be allowed unless off-street parking and loading spaces required for such expansion can be, and are, provided in accordance with Chapter 16, "Off-Street Parking and Loading". The foregoing shall not apply to expansions permitted pursuant to Section 8 of this Chapter.

2. No such expansion shall be deemed to affect the duty to terminate such use pursuant to Section 6-6-4-9.

SECTION 8: Chapter 6 of the Zoning Ordinance is hereby amended by the enactment of a new Section 8 thereof, to read as follows:

6-6-8: ALTERATION, ENLARGEMENT OF NONCONFORMING RESIDENTIAL STRUCTURES; EXPANSION OF NONCONFORMING RESIDENTIAL USES:

6-6-8-1: PURPOSE:

The purpose of this Section is to allow owners of legal, nonconforming residential uses/structures, which contain no more than four (4) dwelling units, to request authority to expand such uses, alter/enlarge such structures, and/or construct uses/structures accessory to said residential uses/structures.

6-6-8-2: INITIATION:

An owner of a legal, nonconforming residential use/structure, which contains no more than four (4) dwelling units, may submit an application to the Zoning Administrator for relief pursuant to this Section.

6-6-8-3: SUBMISSION REQUIREMENTS:

An owner who submits an application to the Zoning Administrator pursuant to this Section shall include the items and information listed in Appendix D, Section D.6, “Submission Requirements for Variation Applications,” of this Title.

6-6-8-4: FEES:

An owner who submits an application to the Zoning Administrator pursuant to this Section shall pay fees in connection with the submittal of the application in accordance with fee schedules adopted, from time to time, by the City Council upon recommendation of the Zoning Administrator.
6-6-8-5: PROCEDURE:

Applications submitted pursuant to this Section shall be reviewed and decided in accordance with the following procedure:

(A) **Notice and Opportunity to Comment:** Upon receipt of a completed application, the Zoning Administrator shall issue written notice of the application to all owners, whose addresses appear on the current tax assessment list, of real property located within a radius of two hundred fifty feet (250') of the subject property, inclusive of public streets, alleys and other public ways. The notice shall indicate that the application shall be available for review and that the Zoning Administrator shall accept written comments thereon until the tenth (10th) working day after the date of the notice. The failure of delivery of any such notice shall not invalidate any subsequent determination by the Zoning Administrator.

(B) **Combined Application:** Whenever an application submitted pursuant to this Section would, in addition, require a Minor Variation, the Zoning Administrator may consider said application and the application for a Minor Variation simultaneously in accordance with the applicable procedures set forth in this Section and Section 6-3-8 of this Title.

(C) **Zoning Administrator's Decision:** No earlier than the eleventh (11th) working day after date of the notice sent pursuant to part (A) of this Subsection, the Zoning Administrator shall, by written order, approve, approve with conditions, or deny the application.

(D) **Notification of Decision:** The Zoning Administrator shall send his/her written order to the applicant and all other persons previously notified pursuant to part (A) of this Subsection.

(E) **Records:** The Zoning Administrator shall keep on file a record of all applications submitted pursuant to this Section. At least once a year, the Zoning Administrator shall make public a listing of his/her decisions, by address, regarding such applications.

(F) **Appeal:** The applicant or a person notified pursuant to part (A) of this Subsection may appeal the decision of the Zoning Administrator to the Zoning Board of Appeals no later than ten (10) working days immediately following the Zoning Administrator's mailing of notification. If the appealed application would require a Family Necessity and/or Major Variation, the Zoning Board of Appeals may consider the appeal and the application for a Family Necessity and/or Major Variation simultaneously in accordance with the applicable procedures set forth in this Section and Section 6-3-8 of this Title.
6-6-8-6: STANDARDS FOR APPLICATIONS:

In considering an application submitted pursuant to this Section, the Zoning Administrator may approve such application only upon finding that it complies with the standards set forth below:

(A) Evidence of special and extraordinary need, not mere inconvenience, which shall include evidence of unique characteristics of the subject property and Use given their existing location.

(B) Evidence that authorization of the request would not be best served through a Special Use, map amendment, and/or or text amendment.

(C) Evidence that the project is designed to be reasonably compatible with the neighborhood and will not have an adverse impact on surrounding properties.

(D) The proposal is consistent with the intent of the Zoning Ordinance and preservation policies set forth in the Comprehensive General Plan.

6-6-8-7: EFFECT OF APPROVAL OF APPLICATION:

The Zoning Administrator’s approval of an application submitted pursuant to this Section shall not authorize the construction, alteration, enlargement, or expansion of any structure or use, but shall authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulations of the City, including, but not limited to, building permits or Variations.

SECTION 9: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 10: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 11: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.
SECTION 12: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: ________________, 2013

Adopted: ________________, 2013

Approved: ____________________________, 2013

_______________________________
Elizabeth B. Tisdahl, Mayor

Attest:

Approved as to form:

_______________________________
Rodney Greene, City Clerk

_______________________________
W. Grant Farrar, Corporation Counsel
Bulk Increases to Structures with Nonconforming Uses
1-4 Family Residential

Applicant applies for Zoning Analysis for construction project

As-of-right construction – meets all zoning regulations except for nonconforming use

Nonconforming Use Process
1. Send notice to neighbors for request to expand nonconforming use
2. 10 business day waiting period
3. Zoning Administrator’s determination of whether bulk may be increased
4. Notify neighbors of decision

Minor variance required – construction breaks a zoning regulation by 35% or less

Nonconforming Use Process
1. Send notice to neighbors for request to expand nonconforming use AND minor variance request
2. 10 business day waiting period
3. Zoning Administrator’s determination of whether bulk may be increased AND whether minor variance is approved
4. Notify neighbors of decision

Major variance required – construction breaks a zoning regulation by more than 35%, or is for open parking or height over 50 feet

Nonconforming Use Process
1. Send notice to neighbors for request to expand nonconforming use
2. 10 business day waiting period
3. Zoning Administrator’s determination of whether bulk may be increased
4. Notify neighbors of decision

Approved: Apply for building permit

Denied

Approved: Apply for building permit

Denied

Denied

Variance heard by ZBA

Approved: Apply for building permit

Denied

Denied
CHAPTER 6 - NONCONFORMING USES AND NONCOMPLYING STRUCTURES

SECTION:
6-6-1: - STATEMENT OF PURPOSE:
6-6-2: - SCOPE OF REGULATIONS; GENERAL PROVISIONS:
6-6-3: - NONCONFORMING USES OF LAND AND NONCONFORMING USES IN COMPLYING STRUCTURES:
6-6-3-1: - AUTHORITY TO CONTINUE:
6-6-3-2: - ORDINARY REPAIR AND MAINTENANCE:
6-6-3-3: - STRUCTURAL ALTERATION:
6-6-3-4: - ENLARGEMENT OF STRUCTURE:
6-6-3-5: - EXPANSION OF USE:
6-6-3-6: - MOVING:
6-6-3-7: - CHANGE IN USE:
6-6-3-8: - DAMAGE OR DESTRUCTION:
6-6-3-9: - TERMINATION BY DISCONTINUANCE OR ABANDONMENT:
6-6-4: - NONCONFORMING USES IN NONCOMPLYING STRUCTURES:
6-6-4-1: - AUTHORITY TO CONTINUE:
6-6-4-2: - ORDINARY REPAIR AND MAINTENANCE:
6-6-4-3: - STRUCTURAL ALTERATION:
6-6-4-4: - ENLARGEMENT OF STRUCTURE:
6-6-4-5: - EXPANSION OF USE:
6-6-4-6: - MOVING:
6-6-4-7: - CHANGE IN USE:
6-6-4-8: - DAMAGE OR DESTRUCTION:
6-6-4-9: - TERMINATION BY DISCONTINUANCE OR ABANDONMENT:
6-6-5: - NONCOMPLYING STRUCTURES (AS TO BULK):
6-6-5-1: - AUTHORITY TO CONTINUE:
6-6-5-2: - REPAIR, MAINTENANCE, ALTERATIONS, AND ENLARGEMENT:
6-6-5-3: - MOVING:
6-6-5-4: - DAMAGE OR DESTRUCTION:
6-6-6: - VARIATIONS PREVIOUSLY GRANTED FOR USES AND STRUCTURES:
6-6-7: - SPECIAL USES PREVIOUSLY GRANTED FOR USES AND STRUCTURES:

6-6-1: - STATEMENT OF PURPOSE:

This Chapter 6 regulates the continued existence of:

(A) Uses established prior to the effective date of this Ordinance which do not conform to the use regulations of this Title in the zoning districts in which such uses are located. (Such uses are hereafter referred to as nonconforming uses.)

(B) Structures constructed prior to the effective date of this Ordinance that do not comply with the applicable bulk regulations of this Title in the zoning districts in which such structures are located. (Such structures are hereafter referred to as noncomplying structures.)
6-6-2: - SCOPE OF REGULATIONS; GENERAL PROVISIONS:

(A) These regulations apply to the following categories of nonconformities:
1. Nonconforming uses of land.
2. Nonconforming uses of complying structures.
3. Nonconforming uses of noncomplying structures.
4. Noncomplying structures (as to bulk).

(B) Nothing in this Chapter 6 is intended to prevent the strengthening or restoration to a safe condition of a noncomplying building or structure for purposes of the public health and safety. The burden of establishing the legality of a nonconformity that is lawfully existing under the provisions of this Ordinance is upon the property owner of the nonconformity and not upon the City.

6-6-3: - NONCONFORMING USES OF LAND AND NONCONFORMING USES IN COMPLYING STRUCTURES:

6-6-3-1: - AUTHORITY TO CONTINUE:

Except as provided in Section 6-6-3-9, any lawfully existing nonconforming use of a premises not involving the use of a structure, or involving only a complying structure that is accessory to a nonconforming use of land, or located in a complying structure, may be continued so long as it remains otherwise lawful, subject to the regulations contained in Sections 6-6-3-2 through 6-6-3-8.

6-6-3-2: - ORDINARY REPAIR AND MAINTENANCE:

Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any complying structure that is accessory to a nonconforming use of land or that is devoted in whole or in part to a nonconforming use; provided, however, that this Section 6-6-3-2 shall not be deemed to authorize any violation of Sections 6-6-3-3 through 6-6-3-9.

6-6-3-3: - STRUCTURAL ALTERATION:

No complying structure that is accessory to a nonconforming use of land, or that is devoted in whole or in part to a nonconforming use, shall be structurally altered unless the use thereof shall thereafter conform to the use regulations of the zoning district in which it is located. No such alteration shall create any new parking, loading, bulk, yard or space noncompliance or increase the degree of noncompliance with any existing parking, loading, bulk, yard or space requirement for such structure.

6-6-3-4: - ENLARGEMENT OF STRUCTURE:

No complying structure that is accessory to a nonconforming use of land or a complying structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, including the interior addition of floor area, unless the use of such structure shall thereafter conform to the use regulations of the district in which it is located. No such enlargement shall create any new parking, loading, bulk, yard or space noncompliance or increase the degree of noncompliance with any existing parking, loading, bulk, yard or space requirement for such structure.

6-6-3-5: - EXPANSION OF USE:

A nonconforming use of land that does not involve a structure, a complying structure that is accessory to a
nonconforming use of land, or a nonconforming use in a complying structure, shall not be expanded,
extended, enlarged or increased in intensity. Such prohibited activity shall include, without being limited to:

(A) An expansion of such use, including its accessory uses, to any structure or land area other
than that occupied by such nonconforming use on the effective date of this Ordinance or any
change thereto that causes such use to become nonconforming; and

(B) An expansion of such use, including its accessory uses, within a building or other structure to
any portion of the floor area that was not occupied by such nonconforming use on the effective
date of this Ordinance or any change thereto that causes such use to become nonconforming.

6-6-3-6: - MOVING:

No complying structure that is accessory to a nonconforming use of land or that is devoted in whole or in
part to a nonconforming use shall be moved in whole or in part, for any distance whatsoever, to any other
location on the same or any other lot, unless both the structure and the use thereof shall thereafter comply
and conform to all regulations of the zoning district in which it is located after being so moved. No
nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other
location on the same or any other lot, unless such use shall thereafter conform to all regulations of the
zoning district in which it is located after being so moved.

6-6-3-7: - CHANGE IN USE:

A nonconforming use of land that does not involve a structure, or involving only a complying structure that is
accessory to the nonconforming use of land, or a nonconforming use in a complying structure, shall not be
changed to any use other than a use permitted in the zoning district in which the use or structure is located.
When such a nonconforming use has been changed to a permitted use, it shall not thereafter be changed
back to any nonconforming use.

6-6-3-8: - DAMAGE OR DESTRUCTION:

Any complying structure that is accessory to a nonconforming use of land or that is devoted in whole or in
part to a nonconforming use and that is damaged or destroyed, by any means, to the extent of more than
forty percent (40%) of the cost of replacement of such structure new, shall not be restored unless its
restoration has been authorized, pursuant to the provisions of Section 6-3-9, "Administrative
Interpretations", by the Zoning Administrator by the granting of a certificate of zoning compliance. The
restored structure as authorized, pursuant to the provisions of Section 6-3-9, "Administrative
Interpretations", shall be accomplished without creating any new noncompliance with parking, loading, bulk,
yard or space requirements or increasing the degree of noncompliance with any parking, loading, bulk, yard
or space requirement existing prior to such damage or destruction.

6-6-3-9: - TERMINATION BY DISCONTINUANCE OR ABANDONMENT:

(A) When a nonconforming use of a site not involving a structure, or involving only a complying
structure that is accessory to the nonconforming use of land, or when a nonconforming use of
a part or all of a complying structure is discontinued or abandoned for a period of one year,
regardless of any intent to resume or not to abandon such use, such use shall not thereafter
be re-established or resumed. Any subsequent use or occupancy of such land or structure
shall comply with the use regulations of the zoning district in which such land or structure is
located.

(B) Any period of such discontinuance caused by government action, strikes, material shortages
or acts of God, and without any contributing fault by the nonconforming user, shall not be
considered in calculating the length of discontinuance for purposes of this Section 6-6-3.

6-6-4: - NONCONFORMING USES IN NONCOMPLYING STRUCTURES:

6-6-4-1: - AUTHORITY TO CONTINUE:

Except as provided in Section 6-6-4-9, any lawfully existing nonconforming use located in a noncomplying structure may be continued so long as it remains otherwise lawful, subject to the regulations contained in Sections 6-6-4-2 through 6-6-4-8.

6-6-4-2: - ORDINARY REPAIR AND MAINTENANCE:

Normal maintenance and incidental repair or replacement, and installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any noncomplying structure devoted in whole or in part to a nonconforming use provided; however, that this Section 6-6-4-2 shall not be deemed to authorize any violation of Sections 6-6-4-3 through 6-6-4-9.

6-6-4-3: - STRUCTURAL ALTERATION:

A noncomplying structure devoted in whole or in part to a nonconforming use shall not be structurally altered unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. No such alteration shall create any new parking, loading, bulk, yard or space noncompliance or increase the degree of noncompliance with any existing parking, loading, bulk, yard or space requirement in such structure.

6-6-4-4: - ENLARGEMENT OF STRUCTURE:

A noncomplying structure devoted in whole or in part to a nonconforming use shall not be enlarged or added to in any manner, including the interior addition of floor area, unless the entire structure and the use thereof shall thereafter conform to all the regulations of the district in which it is located. No such alteration shall create any new parking, loading, bulk, yard or space nonconformity or increase the degree of any existing parking, loading, bulk, yard or space requirement in such structure.

6-6-4-5: - EXPANSION OF USE:

(A) Prohibited Expansions: A nonconforming use in a noncomplying structure shall not be expanded, extended, enlarged or increased in intensity by an expansion of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of this Ordinance or any amendment thereto that cause such use to become nonconforming.

(B) Permitted Expansions:
1. A nonconforming use in a noncomplying structure may be extended within any part of such structure lawfully existing on the effective date of this Ordinance or any amendment thereto that causes such use to become nonconforming; provided, however, that such expansion shall not be allowed unless off-street parking and loading spaces required for such expansion can be, and are, provided in accordance with Chapter 16, "Off-Street Parking and Loading".
2. No such expansion shall be deemed to affect the duty to terminate such use pursuant to Section 6-6-4-9.
6-6-4-6: - MOVING:

A noncomplying structure devoted in whole or in part to a nonconforming use shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter comply and conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

6-6-4-7: - CHANGE IN USE:

A nonconforming use in a noncomplying structure may, upon application to the Zoning Administrator pursuant to Section 6-3-9, "Administrative Interpretations", be changed to another nonconforming use of the same or similar type or intensity or to another nonconforming use of same or similar type but of less intensity provided; however, that nothing in this Section 6-6-4-7 shall be deemed to authorize any violation of Section 6-6-4. Whenever any nonconforming use is changed to a less intensive nonconforming use, such use shall not thereafter be changed back to a more intensive nonconforming use. Whenever any nonconforming use is changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

6-6-4-8: - DAMAGE OR DESTRUCTION:

Any noncomplying structure devoted in whole or in part to a nonconforming use that is damaged or destroyed, by any means, to the extent of sixty percent (60%) of the cost of replacement of such structure new, shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located and unless its restoration has been authorized pursuant to the provisions of Section 6-3-9, "Administrative Interpretations", by the Zoning Administrator by the granting of a certificate of zoning compliance. The restored noncomplying structure as authorized pursuant to the provisions of Section 6-3-9, "Administrative Interpretation", shall be accomplished without creating any new noncompliance with parking, loading, bulk, yard or space requirements or increasing the degree of noncompliance any parking, loading, bulk, yard or space requirements existing prior to such damage or destruction.

6-6-4-9: - TERMINATION BY DISCONTINUANCE OR ABANDONMENT:

(A) When a nonconforming use of a part or all of a noncomplying structure that was not originally constructed or intended for any use permitted in the zoning district in which such structure is located is discontinued or abandoned for a period of one year, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be reestablished or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.

(B) Any period of such discontinuance caused by government action, strikes, material shortages or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of discontinuance for purposes of this Section 6-6-4.

6-6-5: - NONCOMPLYING STRUCTURES (AS TO BULK):

6-6-5-1: - AUTHORITY TO CONTINUE:

Any noncomplying structure that is devoted to a use that is permitted in the zoning district in which it is located may be continued so long as it remains otherwise lawful, subject to the restrictions in Sections 6-6-5-2 through 6-6-5-4.
6-6-5-2: - REPAIR, MAINTENANCE, ALTERATIONS, AND ENLARGEMENT:

Any noncomplying structure may be repaired, maintained, altered or enlarged; provided, however, that any such repair, maintenance, alteration or enlargement whether in the vertical or horizontal dimension, shall comply with all provisions of this Ordinance.

(Ord. 129-0-94)

6-6-5-3: - MOVING:

A noncomplying structure shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

6-6-5-4: - DAMAGE OR DESTRUCTION:

Any noncomplying structure that is damaged or destroyed, by any means not within the control of the owner thereof, to the extent of one hundred percent (100%) of the cost of replacement of such structure new, may be repaired or restored; provided, however, that no repair or restoration shall be made that would create any new noncompliance not existing prior to such damage or destruction, nor shall any repair or restoration except in compliance with the applicable district regulations be made unless it has been authorized, pursuant to the provisions of Section 6-3-9, "Administrative Interpretations", by the Zoning Administrator by the granting of a certificate of zoning compliance and restoration is actually begun within one year after the date of such damage or destruction and is diligently pursued to completion. In no event shall any damage or destruction to such a structure by means within the control of the owner be repaired or restored except in accordance with Section 6-6-5-2.

6-6-6: - VARIATIONS PREVIOUSLY GRANTED FOR USES AND STRUCTURES:

Any use that becomes nonconforming or any structure that becomes noncomplying upon the effective date of this Ordinance and for which a variation was previously granted, shall remain subject to any conditions that were imposed pursuant to the grant of such variation.

6-6-7: - SPECIAL USES PREVIOUSLY GRANTED FOR USES AND STRUCTURES:

Any use that becomes nonconforming or any structure that becomes noncomplying upon the effective date of this Ordinance and for which a special use was previously granted, shall remain subject to any conditions that were imposed pursuant to the grant of such special use.
6-3-5-10: - STANDARDS FOR SPECIAL USES:

The zoning board of appeals or the plan commission, as the case may be, shall only recommend approval, approval with conditions, or disapproval of a special use based upon written findings of fact with regard to each of the standards set forth below and, where applicable, any special standards for specific uses set forth in the provisions of a specific zoning district:

(A) It is one of the special uses specifically listed in the zoning ordinance;

(B) It is in keeping with purposes and policies of the adopted comprehensive general plan and the zoning ordinance as amended from time to time;

(C) It will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special uses of all types on the immediate neighborhood and the effect of the proposed type of special use upon the city as a whole;

(D) It does not interfere with or diminish the value of property in the neighborhood;

(E) It can be adequately served by public facilities and services;

(F) It does not cause undue traffic congestion;

(G) It preserves significant historical and architectural resources;

(H) It preserves significant natural and environmental features; and

(I) It complies with all other applicable regulations of the district in which it is located and other applicable ordinances, except to the extent such regulations have been modified through the planned development process or the grant of a variation.

(Ord. 43-0-93)

6-3-7-10: - STANDARDS FOR UNIQUE USES:

The plan commission may only recommend approval, approval with conditions, or disapproval of a unique use permit based upon written findings of fact with regard to each of the following standards:

(A) Evidence of special and extraordinary need for the unique use which shall include evidence of unique characteristics of the subject property, proposed use, and/or the neighborhood surrounding the subject property.

(B) Evidence that the unique use will be of some affirmative benefit, from a land use or economic standpoint, to the city and its residents.

(C) Evidence that authorization of the use would not be appropriate through a zoning amendment.
(D) Evidence that the project is designed to be reasonably compatible with surrounding properties and neighborhood.

(E) Evidence that the proposed use and the development are consistent with and implement the planning goals and objectives of the city, as contained in the adopted comprehensive general plan and other pertinent policy resolutions, particularly in terms of:
   1. Land use intensity.
   2. Housing goals.
   3. Preservation goals and policies.
   5. Traffic impact and parking.
   6. Environmental goals and policies.

(F) Each unique use application shall address the planned development standards of section 6-3-6-9 of this chapter, the public benefit standards of section 6-3-6-3 of this chapter, and the standards for special uses of section 6-3-5-10 of this chapter.

(G) For each R1 residential preservation unique use exception application evidence that these requirements are met:
   1. It is in an R1 residential district;
   2. It is in a designated Evanston preservation district;
   3. It is in a structure designated by ordinance as an Evanston landmark;
   4. The parcel for which application for the use is made is a minimum of two (2) acres;
   5. The parcel for which application for the use is made is improved with a structure with a minimum of fourteen thousand five hundred (14,500) square feet as defined in subsection (H) of this section;
   6. Any multi-family structure for which the use is approved must contain no more than four (4) dwelling units. A development plan for an R1 residential preservation unique use exception may provide for more than one principal use on a single zoning lot; and
   7. All resultant dwelling units created shall have a minimum floor area, as defined in section 6-18-3, "Definitions", of this title, of two thousand (2,000) square feet.

(H) For purposes of this subsection, gross floor area is the product of the footprint of the building times the number of floors plus any otherwise uncounted roofed areas, or other areas above the first floor that extend past the perimeter of the first floor.

(Ord. 49-0-04)
6-3-8-12: - STANDARDS FOR VARIATIONS:
In considering an application for a minor variation, fence variation, family necessity variation, or a major variation, or a combination thereof, the zoning administrator, the zoning board of appeals, or the city council, as the case may be, may approve such variation only upon finding that the application complies with the separate standards for each type of variation set forth below:

(Ord. 14-0-98)

(A) Minor Variations: Minor variations may be authorized by the zoning administrator upon making written findings that the proposed variation satisfies the following standards:
1. The practical difficulty is not self-created.
2. The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.
3. The requested variation is in keeping with the comprehensive general plan and the zoning ordinance.
4. The requested variation is consistent with the preservation policies set forth in the comprehensive general plan.
5. The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the zoning administrator issues his/her decision regarding said variation.

(Ord. 93-0-09)

(B) Variations From Fence Regulations: Variations from the requirements for fences set forth in section 6-4-6-7 of this title may be authorized by the zoning administrator upon making written findings that the proposed variation satisfies the following standards:
1. The requested variation will not be materially detrimental to the public welfare or injurious to the use, enjoyment or property values of adjoining neighbors.
2. The additional screening, additional height, or requested location achieved through the variation will assist in reducing noise, screening incompatible adjacent uses, or increase safety to the owners of the subject property or abutting properties.
3. In no event shall a variation be granted that would permit a fence taller than thirty inches (30") to be located within twenty feet (20') of the corner curb line of an intersection.

(Ord. 43-0-93)
(C) Variations From Fence Standards For Landmark Structures And Structures Located In Historic Districts: (Rep. by Ord. 15-0-99)

(D) Family Necessity Variations: Family necessity variations may be authorized by the zoning board of appeals upon making written findings that the proposed variation satisfies the following standards:

1. The requested variation will not have a substantial adverse impact on the use, enjoyment, or property values of the adjoining properties.
2. The requested variation is in keeping with the intent of the zoning ordinance.
3. The character of the residence for which the variation is requested will as a result be as or more consistent with the character of the residences of the surrounding neighborhood.
4. The purpose of the variation is not based exclusively upon a desire to extract additional income from the property.
5. The requested variation requires the least deviation from the relevant regulation among the feasible options identified before the zoning administrator issues his/her recommendation to the zoning board of appeals regarding said variation.

(Ord. 93-0-09)

(E) Major Variations: Major variations may be authorized by the zoning board of appeals, or by the city council in the case of an application for a major variation to off street parking, off street loading, height beyond fifty feet (50’), including within that measurement any height otherwise excluded because the story provides required parking, or townhouse orientation, or a combined application for a major variation pertaining to off street parking, off street loading, height beyond fifty feet (50’), including within that measurement any height otherwise excluded because the story provides required parking, or townhouse orientation, and any other variation, upon making written findings that the proposed variation satisfies the following standards:

(Ord. 95-0-09)

1. The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties.
2. The requested variation is in keeping with the intent of the zoning ordinance.
3. The alleged hardship or practical difficulty is peculiar to the property.
4. The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.
5. (a) The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or (b) While the granting of the variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the zoning board of appeals or the city council, depending on final jurisdiction under section 6-3-8-2 of this chapter, has found that public benefits to the surrounding neighborhood and the city as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of section 6-3-6-3 of this chapter.
6. The alleged difficulty or hardship has not been created by any person having an interest in the property.
7. The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the zoning board of appeals issues its decision or recommendation to the city council regarding said variation.

(Ord. 93-0-09)
MEETING MINUTES
ZONING COMMITTEE OF THE PLAN COMMISSION
Wednesday, November 28, 2012
7:00 P.M.
Evanston Civic Center, 2100 Ridge Avenue, Room 2404

Members Present: Jim Ford, Richard Shure (Chair), Patricia Ledesma Liebana, Stuart Opdycke, Scott Peters

Members Absent: Kwesi Steele

Staff Present: Melissa Klotz, Dennis Marino

Presiding Member: Richard Shure, Chairman

1. CALL TO ORDER / DECLARATION OF QUORUM

With a quorum present, Chairman Shure called the meeting to order at 7:02 P.M.

2. MINUTES

Approval of October 17, 2012 Zoning Committee of the Plan Commission Meeting Minutes:

Commissioner Peters motioned for approval of the October 17, 2012 meeting minutes with one correction. Commissioner Ford seconded the motion. A voice vote was taken and the minutes were approved with one correction.

3. OLD BUSINESS

A) 12PLND-0071 Consideration of the proposed text amendment to the Zoning Ordinance to discuss the zoning regulations for increasing the bulk of nonconforming structures and nonconforming uses.

Zoning Planner Melissa Klotz presented the proposed Standards that the Zoning Administrator would use to determine whether a nonconforming use could proceed to a building permit or variance process to make changes to a structure. The determination process would only be available to one to four-family residential uses, regardless of the underlying zoning district.

Commissioner Peters felt the Standards that address a hardship concern should be removed (Standard D and E) because hardship is interpreted difficultly in court. He felt the wording “mere inconvenience” should be added to Standard A.

The Commissioners discussed how the process would work for such cases, and determined the cases should be handled similarly to the minor variance process, including neighbor notification with a radius of 250 feet and a mailed decision notice.
so that neighbors would be aware of such cases and have the opportunity to appeal. A fee similar to the minor variance process should be required to cover costs associated with the process.

Commissioner Peters motioned to eliminate the hardship Standards and adjust the wording to include “mere inconvenience” as previously discussed, and to include a 250 foot noticed radius with fees and a process similar to the minor variance process. The motion was seconded by Commissioner Ford, and approved unanimously.

5. **DISCUSSION**

Commissioner Ford motioned to approve the proposed 2013 Zoning Committee of the Plan Commission meeting schedule. The motion was seconded by Commissioner Peters and approved unanimously.

6. **ADJOURNMENT**

Commissioner Peters motioned to adjourn. Commissioner Ford seconded the motion. The meeting adjourned at 7:23 P.M.

The next meeting of the Zoning Committee of the Plan Commission will be **Wednesday, January 16, 2012** at 7:00 P.M., in room 2403 of the Lorraine H. Morton Civic Center, 2100 Ridge Avenue.

Respectfully Submitted,
Melissa Klotz
Zoning Planner, Community and Economic Development Department
MEETING MINUTES

ZONING COMMITTEE OF THE PLAN COMMISSION

Wednesday, October 17, 2012
7:00 P.M.
Evanston Civic Center, 2100 Ridge Avenue, Room 2403

Members Present: Jim Ford, Richard Shure (Chair), Patricia Ledesma Liebana, Stuart Opdycke, Dave Galloway, Scott Peters

Members Absent: Kwesi Steele

Staff Present: Melissa Klotz, Dennis Marino

Presiding Member: Richard Shure, Chairman

1. CALL TO ORDER / DECLARATION OF QUORUM

With a quorum present, Chairman Shure called the meeting to order at 7:00 P.M.

2. MINUTES

Approval of October 1, 2012 Zoning Committee of the Plan Commission Meeting Minutes:

Commissioner Ledesma motioned for approval of the October 1, 2012 meeting minutes with one correction. Commissioner Galloway seconded the motion. A voice vote was taken and the minutes were approved with one correction.

3. OLD BUSINESS

4. NEW BUSINESS

A) 12PLND-0070 Consideration of the proposed text amendment to the Zoning Ordinance to discuss the regulation of banquet halls as permitted and special uses.

Zoning Planner Melissa Klotz explained that banquet halls do not currently have a use category that they adequately fit into in the Zoning Ordinance.

Citizen Steven Schwartz explained that he would like to open a banquet hall in Evanston. He plans to have an indoor space, bring in food (but not have a kitchen on site), and accommodate approximately 150 people per event in a 3,000 square foot party space with an extra 1,000 square foot private area.

Commissioners discussed whether to add a specific time limit into the proposed definition but decided a time limit was unnecessary.
Commissioner Peters motioned to recommend approval of the proposed definition and districts, which would allow banquet halls by special use in all B, C, D, and M districts, as well as the O1 and RP districts. Commissioner Ford seconded the motion, and the motion was approved unanimously. The proposed text amendment will move forward to the Plan Commission on November 14, 2012.

B) 12PLND-0069 Consideration of an overlay district on Howard Street bounded on the west by Ashland Avenue and on the east by the City limits.

Zoning Planner Melissa Klotz explained the proposed overlay district, and referred to the documents and statistics provided in the 2010 *Full Circle Report* that discussed the impact of certain uses on Howard Street.

Commissioners discussed how the overlay district could address existing businesses and whether or not those sites would be granted legal nonconformity and allow a new business to continue an existing nonconforming use.

Alderman Rainey mentioned the possibility of instituting a distance requirement for certain uses.

Commissioners discussed what the overlay district boundary should be and felt it would be best to follow the Howard Ridge TIF boundary.

Alderman Rainey mentioned establishing a definition for personal care services. The Commissioners discussed such, and decided the personal care service use in the overlay district would be a subset of the existing retail service category. Other subsets may be included for tarot cards, psychics, etc.

Commissioners felt a distance requirement would not be necessary since the issue of negative cumulative effect could be addressed in the special use process.

Commissioner Peters motioned to recommend approval of the proposed overlay district with the boundary and special uses as discussed. Commissioner Ford seconded the motion, and the motion was approved unanimously.

C) 12PLND-0071 Consideration of the proposed text amendment to the Zoning Ordinance to discuss the zoning regulations for increasing the bulk of nonconforming structures with nonconforming uses.

Zoning Planner Melissa Klotz explained the limitations the Zoning Ordinance currently places on such uses and structures, and the implications that has for certain properties.

Commissioner Ford stated his concern with the proposal being just an administrative process. He felt it would be better served like minor variances, where there is a set of standards created to base approval upon.

Commissioners discussed if such a process should only be allowed for residential uses or residentially zoned lots. Commissioners felt it would be helpful to have an
inventory of the existing nonconforming uses to gain a better understanding of what nonconforming uses exist.

Commissioner Peters motioned to lay the item over to the next Zoning Committee of the Plan Commission meeting so that staff could provide more information as discussed. Commissioner Ford seconded the motion, and the motion was approved unanimously.

5. **DISCUSSION**

The next Zoning Committee of the Plan Commission meeting will be rescheduled from a previous date of November 21, 2012 to a new date of November 28, 2012 at 7 P.M.

6. **ADJOURNMENT**

Commissioner Ford motioned to adjourn. Commissioner Opdycke seconded the motion. The meeting adjourned at 8:34 P.M.

The next meeting of the Zoning Committee of the Plan Commission will be **Wednesday, November 28, 2012** at 7:00 P.M., in the Lorraine H. Morton Civic Center, 2100 Ridge Avenue.

Respectfully Submitted,
Melissa Klotz
Zoning Planner, Community and Economic Development Department