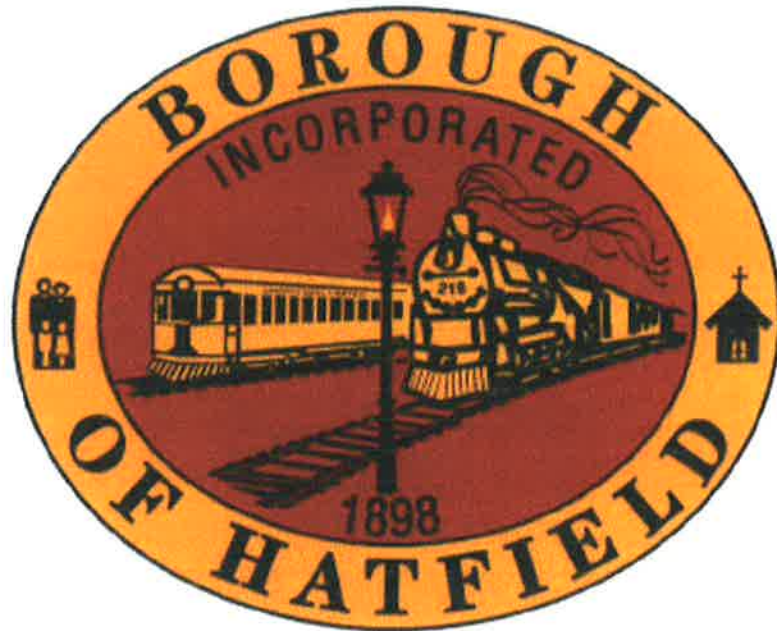


HATFIELD BOROUGH PLANNING COMMISSION

February 28, 2022



LARRY BURNS, MEMBER

KENNETH V. FARRALL, MEMBER

JOHN KROESSER, MEMBER

MICHELLE KROESSER, MEMBER

LAWRENCE G. STEVENS, MEMBER

JAIME E. SNYDER, BOROUGH MANAGER

NOMINATION AND ELECTION OF PLANNING COMMISSION CHAIR

**Do we have a Nomination for Planning Commission
Chair?**

**State the name of the person being nominated.
Any Other Nominations? If none, close the nominations.
All those in favor say "Aye" ___ all opposed say
"Nay" ___**

**NOMINATION AND ELECTION OF PLANNING
COMMISSION VICE-CHAIR**

**Do we have a Nomination for Planning Commission
Vice-Chair?**

**State the name of the person being nominated.
Any Other Nominations? If none, close the nominations.
All those in favor say "Aye" ___ all opposed say
"Nay" ___**

1. Motion to Approve the February 28, 2022 Agenda



Borough of Hatfield

Montgomery County, Pennsylvania

PLANNING COMMISSION February 28, 2022 7:00PM AGENDA

Call to Order / Roll Call

Larry Burns Kenneth Farrall John Kroesser
Michelle Kroesser Lawrence G. Stevens

NOMINATION AND ELECTION OF PLANNING COMMISSION CHAIR

Do we have a Nomination for Planning Commission Chair?

State the name of the person being nominated.

Any Other Nominations? If none, close the nominations.

All those in favor say "Aye" ___ all opposed say "Nay" ___

NOMINATION AND ELECTION OF PLANNING COMMISSION VICE-CHAIR

Do we have a Nomination for Planning Commission Vice-Chair?

State the name of the person being nominated.

Any Other Nominations? If none, close the nominations.

All those in favor say "Aye" ___ all opposed say "Nay" ___

1. Motion to Approve the February 28, 2022 Agenda
2. Motion to Approve the November 29, 2021 Meeting Minutes
3. Ordinance No. 545 Outdoor Dining Core Commercial District
4. Old Business:
 - A. Edinburgh Square Update
 - B. Bennetts Court Update
 - C. 43 Roosevelt Update
 - D. Codification

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P.O. Box 190
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215-855-0781

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admin@
hatfieldborough.com

Website:
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E. Ordinance No. 543 Amending Chapter 2 (Animals) in
the Code of Ordinances to Regulate the Keeping and
Feeding of Feral Cats

5. New Business:

A. 2022 Meeting Dates

6. Action Items:

A. Motion to Consider the 2022 Planning Commission Meeting
Dates

7. Next Meeting Monday, April 4, 2022, 7:00PM

8. Motion to Adjourn

**2. Motion to Approve the November 29, 2021 Meeting
Minutes**

PLANNING COMMISSION

November 29, 2021 7:00PM

Meeting Minutes

This Meeting was Recorded

ROLL CALL

- (X) Kenneth V. Farrall, Chair
- () Larry Burns, Vice Chair
- (X) John Kroesser
- (X) Michelle Kroesser
- (X) Lawrence G. Stevens

The record shows that four members of the Planning Commission were present along with Borough Manager Michael J. DeFinis, Assistant Manager Jaime E. Snyder, and Assistant to the Manager Kathryn Vlahos.

1. APPROVAL OF THE AGENDA:

Motion to Approve the November 29, 2021 Planning Commission Meeting Agenda

Motion: A motion was made by Kenneth Farrall to Approve the Agenda of November 29, 2021 Planning Commission Meeting Agenda. The motion was seconded by John Kroesser and unanimously approved with a vote of 4-0.

2. APPROVAL OF THE MINUTES:

Motion to Approve the Minutes of the October 4, 2021 Planning Commission Meeting.

Motion: A motion was made by John Kroesser to Approve the October 4, 2021 Meeting Minutes. The motion was seconded by Michelle Kroesser. The Motion was approved with a vote of 3-0-1. Kenneth Farrall abstained.

3. 52/60 N. Market Street Minor Subdivision Sketch Plan Preliminary Response Letter:

Manager DeFinis stated that in the packet there is a response letter from the Zoning and Code Officer, which states that the plans have to be submitted in accordance with the Borough's Chapter 22 Subdivision Land Development. No plan will be approved until this is completed, and no plan can be received for a preliminary or final subdivision.

4. Old Business:

A. Edinburgh Square Land Development Update

Manager DeFinis explained that Edinburgh Square is under construction and the engineer did review the as-builts for the first two properties that were built.

B. Bennett's Court Update

Manager DeFinis stated that he spoke with Bennett's Court and they should have a submission in early 2022. They know that they need to fund their escrow before anything happens.

C. 43 Roosevelt Update

Manager DeFinis explained that 43 Roosevelt has received final approval from Borough Council. They have to execute the developer's agreement with the Borough to provide all the cost analysis for public improvements and are also in rears with their escrow account.

D. Codification

Manager DeFinis stated that the Borough is in the process of updating the code. A draft should be completed in early 2022 and any comments can be made.

5. New Business:

A. Small Wireless Ordinance Update

Manager DeFinis updated the Planning Commission that there is a draft resolution on approving the Design Manual for Regulations on Small Wireless Facilities. The manual was put together by the Borough's Utility Engineer and legal team from PMEA. Under number 11 for Colors and Materials, it will read "included but not limited to shroud". This change will be included in the draft that Borough Council is going to discuss on Wednesday night and on for an Action Item.

B. Ordinance Chapter 2 (Animals)

Manager DeFinis reviewed the draft ordinance that Borough Council has reviewed and made comments on. Mr. Kroesser asked if there was a number that the ordinance referred to for the number of cats that a resident can feed. After some discussion, the Planning Commission decided that a resident should not be allowed to feed more than 6 stray cats.

C. Weimar ZHB Continued December 7, 2021 7:00 PM

Manager DeFinis stated that the Weimar Zoning Hearing was continued until December 7, 2021 to allow for more information to be obtained.

D. Meeting Dates

Manager DeFinis highlighted the 2022 Meeting Dates.

6. Action Items:

A. Wireless Design Manual

Ken Farrall made a motion to add wording to the Small Wireless Design Manual to include Shroud in number 11 which will read "Colors and materials included but not limited to shroud for Small Wireless Facilities, Antennas, and Accessory Equipment shall be chosen to minimize visibility and be compatible with the surrounding environment." The motion was seconded by John Kroesser and unanimously approved with a vote of 4-0.

7. Next Meeting Monday, December 20 2021 7:00PM

8. Motion to Adjourn

Motion:

A motion was made by John Kroesser to adjourn the November 29, 2021 Planning Commission Meeting. The Motion seconded by Larry Stevens and unanimously approved with a vote of 4-0.

Respectfully Submitted,

Kathryn Vlahos
Assistant to the Manager

**3. Ordinance No. 545 Outdoor Dining Core Commercial
District**

§ 27-2101. Statement of Intent. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. The Borough intends these regulations:
 - A. To strengthen the Borough's core as a center of commercial activity.
 - B. To provide for a mix of retail, service, office, institutional, commercial and residential uses that will be compatible with historic buildings and nearby homes.
 - C. To encourage the reuse of older buildings, as opposed to the conversion of the Core Commercial area into an auto-dependent, pedestrian-unfriendly commercial strip.
 - D. To prohibit more intense commercial uses (such as auto repair, gasoline sales and auto sales) that are most likely to cause demolition of historic buildings and to create conflicts with other uses.
 - E. To promote a pedestrian-friendly environment.
 - F. To discourage blight, and overcrowding.
 - G. To foster a sense of place and community.

§ 27-2102. Permitted by Right Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. The following shall be permitted by right uses in the CC District, provided they do not include activity that is specifically prohibited by § 27-2106:
 - A Multi-family dwellings, in combination with allowed commercial uses, provided such residential uses shall only be allowed in the CC District if located above an allowed principal commercial use that shall occupy the entire floor that is closest to the street level floor at the front of the lot. These dwellings may be leased, or be owned in a condominium form of ownership provided there is compliance with applicable state law.
 - (1) Efficiency units are not permitted. Each permitted multi-family dwelling unit shall have the following minimum leasable floor area:
 - (a) One or two bedroom unit: 750 square feet.
 - (b) Three or more bedroom unit: 900 square feet.
 - (2) If the multi-family dwellings will be within building space constructed after the enactment of this CC district zoning regulation, then a minimum lot area of 2,000 square feet shall be required for each new dwelling unit. This minimum lot area shall be reduced to 1,200 square feet per dwelling unit for senior housing units. Senior housing units shall be permanently restricted by deed and by lease to occupancy by persons age 55 and older

and their spouses, in accordance with federal law.

- (a) No specific minimum lot area per dwelling unit shall be required for dwelling units within building space that existed prior to the enactment of the CC district.
- B Offices.
 - C Public parks and playgrounds.
 - D Trade or hobby school.
 - E Community center building, library or municipal building.
 - F Business services, such as photocopy or custom print shop.
 - G Membership club which shall be limited to meeting facilities and associated recreational facilities.
 - H Governmental offices and municipal uses, but not including a correctional facility nor a facility housing persons classified as juvenile delinquents.
 - I Child or adult day care centers. See § 27-905.
 - J Fire, police or ambulance station.
 - K Retail store, which may include sales or rental, but not including drive-through facilities or adult uses.
 - L Barber shop, beauty shop, tailor, nail service, dry cleaning pickup and delivery (not involving on-site use of hazardous substances), ear-piercing, massage therapy by a massage therapist certified by a recognized professional organization, or similar personal service uses, other than specifically prohibited uses.
 - M Taverns and restaurants, (without drive-through facilities) which may include outdoor cafes as long as the outdoor cafe use is not located on a public sidewalk without conditional use approval under §2109 and so long as the outdoor cafe meets each of the following requirements:
 - (1) Low level recorded music will be permitted if the sound cannot be heard beyond the property line.
 - (2) Outdoor dining must be associated with and connected to a restaurant that prepares and serves food.
 - (3) Outdoor dining shall be permitted year round. Outdoor heating must be approved by the Borough Fire Marshal.
 - (4) Outdoor dining shall be limited to the regularly posted hours of operation not to exceed 11:00 p.m.
 - (5) Outdoor furnishings shall be limited to a maitre d' stand, tables, chairs

and umbrellas. Outdoor bars are not permitted without conditional use approval under § 2109. Outdoor furnishings shall be stored inside for seasonal closures.

- (6) Planters, posts with ropes, iron fencing, or other removable enclosures are encouraged and shall be used as a way of defining the area occupied as outdoor dining.
 - (7) Refuse facilities Trash cans shall be provided for in the outdoor dining area and trash shall be continually cleaned by restaurant staff.
 - (8) Signage shall comply with Part 11, "Signs."
 - (9) Outdoor dining shall not impede pedestrian safety and flow.
 - (10) The lighting and noise associated with the outdoor dining shall not disturb the right of quiet enjoyment of the neighboring properties. Lights such as flood lights and spot lights are not permitted to shine off the property into or onto neighboring properties.
 - (11) Except as specifically modified herein, the applicant shall comply with all other existing Borough zoning ordinances as applicable.
- N Exercise clubs or dance studios.
- O State licensed nursing home or personal care/assisted living facilities.
- P Financial institutions (such as banks), provided that any drive-through facilities shall be allowed only by conditional use and only if the applicant proves that the facilities are designed in a manner that will not conflict with pedestrian traffic along the sidewalks of Main Street, Broad Street and Lincoln Avenue.
- Q Funeral home, not including a crematorium.
- R Bed and breakfast facilities. See § 27-904, Subsection 4.
- S Repair of household appliances and similar items.
- T Movie theater or live entertainment theater, not including an adult live entertainment use. See "Adult Uses," § 27-1806, Subsection 1A.
- U Places of worship (such as churches), which may include accessory child day care, Sunday school rooms and one dwelling unit for a religious leader and his/her family.
- V Microbrewery and associated tavern.
- W Art gallery, museum or custom crafts studio.
- X Indoor or outdoor farmer's markets of agricultural products.
- Y Liquor store or winery.

- Z Dwelling conversions are permitted. However, the existing first floor principal commercial use in the CC District shall not be converted into a residential dwelling use. One existing dwelling unit in the CC District shall not be converted into two or more dwelling units.
- AA An off-site catering business, either as a principal use or as an accessory to another use permitted in the district, provided that space is designated for loading and unloading on site (inside or outside) in addition to any parking required under Part 10, Off-Street Parking Standards. **[Added by Ord. 506, 3/20/2013]**
- BB Medical marijuana dispensary in accordance with the requirements of § 27-910. **[Added by Ord. No. 528, 6/21/2017]**

§ 27-2103. Accessory Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. Uses that are customarily incidental to an allowed use. See § 27-903.
2. Private garages and parking areas.
3. Home occupation. See § 27-904.
4. Communications antenna extending a maximum of 25 feet from an existing nonresidential building or structure, but not including a freestanding telecommunications tower.
5. Storage as accessory to an allowed principal use.
6. As an accessory to a permitted use in the Core Commercial District, special outdoor events utilizing public rights of way by permit of Borough Council; Council may attach such reasonable conditions to the permit as needed for the public health, safety and welfare as a result of the event.

§ 27-2104. Conditional Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

Drive through facilities for banks in accordance with § 27-2102, Subsection 1P, and outdoor cafes that utilize any portion of a public sidewalk may be permitted as a conditional use as long as the outdoor cafes meet the requirements under § 27-2102, Subsection 1M, and can be accomplished without impeding pedestrian traffic or negatively affecting public safety, and subject to such other reasonable conditions as may be imposed by Borough Council, after a hearing.

§ 27-2105. Special Exception Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

Parking structures of two or more levels may be permitted by special exception. The structure shall meet applicable building dimensional requirements. The ground floor of the structure on the street of maximum frontage shall be an allowed commercial or

services type use such as retail, personal services, office, permitted under § 27-2102, as well as the entrance to the parking structure. An architectural sketch and a description of the exterior building materials shall be submitted to the Zoning Hearing Board with the special exception application.

§ 27-2106. Specifically Prohibited Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. If a use is not listed as allowed in the zoning district, that use shall be considered to be prohibited, unless specifically stated otherwise. In any case, the following uses shall be specifically prohibited in the CC District:
 - A. Motor vehicle sales, sales of gasoline, repair of motor vehicles, car wash, sale of manufactured/mobile homes for off site placement.
 - B. Adult bookstore, adult movie theater, massage parlor or adult live entertainment use.
 - C. Restaurant with drive-through facilities.
 - D. Uses open to the public, customers, members or patrons between the hours of 2:00 a.m. and 5:00 a.m.
 - E. Warehousing, distribution or truck terminal uses as the principal use of the lot.
 - F. Wholesale sales uses that are not open to the public.
 - G. Crematorium.
 - H. Outdoor storage or display or parking of trucks or construction equipment as the principal use of the lot.
 - I. Self-storage units.
 - J. Mobile/manufactured home parks.
 - K. Treatment center.
 - L. Prison or correctional facility.
 - M. Junkyard.
 - N. Tattoo or body piercing establishment (other than ear-piercing).
 - O. Pawn shop.
 - P. Boarding or rooming house.
 - Q. Outdoor flea markets, which shall not prohibit accessory sidewalk sales by permanent businesses and which shall not prohibit farmers markets.

§ 27-2107. Multiple Uses on a Lot. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

A lot in the CC District may include multiple allowed uses, provided that the requirements for each use are met.

§ 27-2108. Dimensional and Design Requirements Within the CC District. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. The following requirements shall apply:
 - A. Minimum lot area: 5,000 square feet.
 - B. Minimum lot width: 30 feet.
 - C. Maximum building coverage of lot: 75%.
 - D. Maximum impervious coverage of lot: 90%.
 - E. Maximum building height: four stories or 40 feet, whichever is more restrictive. A maximum height of four stories or 60 feet, whichever is more restrictive, shall be permitted if the applicant provides evidence acceptable to the Borough Fire Marshall that there will be adequate provisions for outside access and adequate fire protection measures to allow the taller height. Any new principal building shall have the appearance of a pitched, peaked, gable or mansard roof or a decorative cornice when viewed from Main or Broad Streets, utilizing features as shown in the Central Business District Design Guidelines.
 - F. Minimum side yard setback. An aggregate of 12 feet, but no less than two feet per side, except three feet along an abutting lot that is primarily occupied by a business use. No side yard is required for a building that existed prior to the adoption of this chapter without a conforming side yard.
 - G. Minimum rear yard setback: 15 feet.
 - H. Front yard depth, calculated in accordance with § 27-805: five feet minimum, 10 feet maximum and no new off-street parking spaces on the lot shall be placed between the principal building and the street.
 - I. Parking setback. If an off-street parking area of four or more new parking spaces is proposed adjacent to Main or Broad Streets or Lincoln Avenue, it shall be separated from the street cartway, right-of-way or existing sidewalk (whichever places the parking further away from the street) by a planting area with a minimum width of five feet. There shall be a minimum of one tree per 30 linear feet of frontage. Such planting area shall include a mix of low level plantings and deciduous shade trees, with sufficient clearance vertical between them to allow views into the parking area for security purposes.
 - J. Outdoor storage and fencing. No commercial items shall be stored outdoors

between the hours of 9:00 p.m. and 6:00 a.m. within 25 feet from the rights-of-way of Main or Broad Streets or Lincoln Avenue, except as part of approved outdoor dining facilities. No chain link fencing shall be allowed within 25 feet from the rights-of-way of Main or Broad Streets or Lincoln Avenue. No fencing located within 15 feet from the rights-of-way of Main or Broad Streets or Lincoln Avenue shall have a height greater than four feet.

- K. Any principal commercial building shall have a primary pedestrian entrance and windows along Main, Broad, Lincoln or Market Streets if the building is adjacent to such streets. If desired for security purposes, the windows may be display windows or have curtains in front of an interior wall, without the windows opening directly to the inside of the building.
 - L. If a new principal building is constructed adjacent to Broad Street, Market Street or Lincoln Avenue, it shall have two or more above ground stories. If this height is not feasible, then the building shall be constructed with an appearance of having two or more above ground stories, utilizing features as shown in the Central Business Design Guidelines.
 - M. If a new principal building is constructed that has sides visible on [to] Broad, Main or Market Streets and/or Lincoln Avenue, then all such sides shall have an exterior finish that resembles a front facade finish. For example, the building facade visible from each such street shall utilize features shown in the Central Business Design Guidelines.
- 2. Pedestrian and/or bicycle connections between public streets, sidewalks, businesses and the Liberty Bell Trail are required where feasible as determined by Borough Council.
 - 3. Off-Street Parking in the Core Commercial District.
 - A. Optional Fee-in-lieu of Parking.
 - (1) As a conditional use, provided other sufficient parking facilities are available, the Borough Council may permit the reduction of required on-site off street parking requirements in the CC District if the land development applicant commits to pay a fee-in-lieu of providing a certain number of required off-street parking spaces. This provision shall only be available if the applicant proves they cannot meet the parking requirements on their lot.
 - (2) For each required off-street parking space that is waived, a fee shall be required of \$5,000, or such amount as modified by later resolution of Borough Council.
 - (3) All such fees shall be paid to the Borough or an Authority authorized by the Borough to receive such fees. All such fees shall be accounted for separately. All such fees shall only be used for the creation of additional on-street or off street public parking and for streetscape improvements to serve the surrounding area. Such fees may also be used for the payment

of debt for improvements to increase the amount of public parking or for the acquisition of land for public parking. Such fees may also be used to lease privately owned parking for public use.

- (4) The fee shall be a one-time payment for each use on a property in lieu of providing parking for that use. The reduction of the required number of parking spaces shall continue with the land over time, regardless of ownership of the property, provided the use does not change.
 - (5) An application for a fee in lieu of parking shall be reviewed by the Borough Planning Commission prior to an approval by the Borough Council.
 - (6) No more than 50% of the required off-street parking spaces shall be waived under this section. See also § 27-1004, which allows off-site parking.
4. Hatfield Borough Central Business District Design Guidelines shall be used in the Central Business District. The Central Business District is generally defined as the areas fronting on: Main Street; Market Street; Lincoln Avenue East of Main Street and Broad Street, and situated in the following zoning districts: CC Core Commercial; C Commercial; and R-3 Residential.
 5. Business and property owners undertaking exterior renovations to existing properties which require a building permit, and other applicants who make a land development or subdivision application for a new building, addition to an existing building, or renovations to an existing building, shall comply with the design guidelines contained in Part 24, "Design Guidelines in the Central Business District."

§ 27-2109. Outdoor Dining Options by Conditional Use. [Ord. 474, 10/21/2009, § 2; as amended by Ord. 495, 12/15/2010]

1. Outdoor dining at restaurants and cafes with outdoor table service is permitted only by conditional use and only in the Core Commercial District; **if the use includes an outdoor bar, live entertainment or live music, or encroaches on a public right of way or sidewalk.**
2. In considering an application for conditional use, the Borough Council shall consider and generally implement the following guidelines:
 - A. The level of noise associated with the outdoor dining shall not disturb the right of quiet enjoyment of the neighboring properties, therefore, sound amplified by speakers or other electric means will not be permitted **after 11:00 p.m.. Low level music from stereo will be permitted if it does not disturb neighboring properties.**
 - B. Outdoor dining **or an outdoor bar** must be associated with and adjoining/connected to a restaurant **or tavern** that already prepares and serves food.
 - C. Outdoor dining shall be permitted year round **providing the outdoor temperature is 55° F. or above.**

- D. Outdoor dining with an outdoor bar or live entertainment or live music shall be limited to the regularly posted hours of operation not to exceed 11:00 p.m.
- E. Outdoor furnishings shall be limited to tables, chairs and umbrellas. The furnishings shall be weather resistant and stored inside at the end of the day, during bad weather and when not in use for seasonal closures.
- F. Planters, posts with ropes, iron fencing, or other removable enclosures are encouraged and shall be used as a way of defining the area occupied as outdoor seating.
- G. Refuse facilities shall be provided in the outdoor dining area and trash shall be continually cleaned by restaurant staff.
- H. Advertising and promotional features shall be limited to umbrellas and canopies except for signage permitted by Borough Code.
- I. Outdoor dining shall not impede pedestrian safety and flow.
- J. The lighting associated with the outdoor dining shall not disturb the right of quiet enjoyment of the neighboring properties. Lights such as flood lights and spot lights are not be permitted to shine off the property into or onto neighboring properties.
- K. Open flames or external heating devices are prohibited.
- L. The applicant shall comply with all other existing Borough zoning ordinances as applicable.

§ 27-2101. Statement of Intent. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. The Borough intends these regulations:
 - A. To strengthen the Borough's core as a center of commercial activity.
 - B. To provide for a mix of retail, service, office, institutional, commercial and residential uses that will be compatible with historic buildings and nearby homes.
 - C. To encourage the reuse of older buildings, as opposed to the conversion of the Core Commercial area into an auto-dependent, pedestrian-unfriendly commercial strip.
 - D. To prohibit more intense commercial uses (such as auto repair, gasoline sales and auto sales) that are most likely to cause demolition of historic buildings and to create conflicts with other uses.
 - E. To promote a pedestrian-friendly environment.
 - F. To discourage blight, and overcrowding.
 - G. To foster a sense of place and community.

§ 27-2102. Permitted by Right Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. The following shall be permitted by right uses in the CC District, provided they do not include activity that is specifically prohibited by § 27-2106:
 - A Multi-family dwellings, in combination with allowed commercial uses, provided such residential uses shall only be allowed in the CC District if located above an allowed principal commercial use that shall occupy the entire floor that is closest to the street level floor at the front of the lot. These dwellings may be leased, or be owned in a condominium form of ownership provided there is compliance with applicable state law.
 - (1) Efficiency units are not permitted. Each permitted multi-family dwelling unit shall have the following minimum leasable floor area:
 - (a) One or two bedroom unit: 750 square feet.
 - (b) Three or more bedroom unit: 900 square feet.
 - (2) If the multi-family dwellings will be within building space constructed after the enactment of this CC district zoning regulation, then a minimum lot area of 2,000 square feet shall be required for each new dwelling unit. This minimum lot area shall be reduced to 1,200 square feet per dwelling unit for senior housing units. Senior housing units shall be permanently restricted by deed and by lease to occupancy by persons age 55 and older

and their spouses, in accordance with federal law.

(a) No specific minimum lot area per dwelling unit shall be required for dwelling units within building space that existed prior to the enactment of the CC district.

- B Offices.
- C Public parks and playgrounds.
- D Trade or hobby school.
- E Community center building, library or municipal building.
- F Business services, such as photocopy or custom print shop.
- G Membership club which shall be limited to meeting facilities and associated recreational facilities.
- H Governmental offices and municipal uses, but not including a correctional facility nor a facility housing persons classified as juvenile delinquents.
- I Child or adult day care centers. See § 27-905.
- J Fire, police or ambulance station.
- K Retail store, which may include sales or rental, but not including drive-through facilities or adult uses.
- L Barber shop, beauty shop, tailor, nail service, dry cleaning pickup and delivery (not involving on-site use of hazardous substances), ear-piercing, massage therapy by a massage therapist certified by a recognized professional organization, or similar personal service uses, other than specifically prohibited uses.
- M Taverns and restaurants, (without drive-through facilities) which may include outdoor cafes as long as the outdoor cafe use is not located on a public sidewalk **without conditional use approval under §2109** and so long as the outdoor cafe meets each of the following requirements:
 - (1) Low level recorded music will be permitted if the sound cannot be heard beyond the property line **unless conditional use approval for live entertainment is obtained under §2109.**
 - (2) Outdoor dining must be associated with and connected to a **tavern or** restaurant that prepares and serves food.
 - (3) Outdoor dining shall be permitted year round. Outdoor heating must be approved by the Borough Fire Marshal.
 - (4) Outdoor dining shall be limited to the regularly posted hours of operation not to exceed 11:00 p.m.
 - (5) Outdoor furnishings shall be limited to a maitre d' stand, tables, chairs

and umbrellas. Outdoor bars are not permitted **without conditional use approval under § 2109**. Outdoor furnishings shall be stored inside for seasonal closures.

- (6) Planters, posts with ropes, iron fencing, or other removable enclosures are encouraged and shall be used as a way of defining the area occupied as outdoor dining.
- (7) **Refuse facilities Trash cans** shall be provided **for** in the outdoor dining area and trash shall be continually cleaned by restaurant staff.
- (8) Signage shall comply with Part 11, "Signs."
- (9) Outdoor dining shall not impede pedestrian safety and flow.
- (10) The lighting **and noise** associated with the outdoor dining shall not disturb the right of quiet enjoyment of the neighboring properties. Lights such as flood lights and spot lights are not permitted to shine off the property into or onto neighboring properties.
- (11) Except as specifically modified herein, **or allowed by conditional use under §2109**, the applicant shall comply with all other existing Borough zoning ordinances as applicable.

- N Exercise clubs or dance studios.
- O State licensed nursing home or personal care/assisted living facilities.
- P Financial institutions (such as banks), provided that any drive-through facilities shall be allowed only by conditional use and only if the applicant proves that the facilities are designed in a manner that will not conflict with pedestrian traffic along the sidewalks of Main Street, Broad Street and Lincoln Avenue.
- Q Funeral home, not including a crematorium.
- R Bed and breakfast facilities. See § 27-904, Subsection 4.
- S Repair of household appliances and similar items.
- T Movie theater or live entertainment theater, not including an adult live entertainment use. See "Adult Uses," § 27-1806, Subsection 1A.
- U Places of worship (such as churches), which may include accessory child day care, Sunday school rooms and one dwelling unit for a religious leader and his/her family.
- V Microbrewery and associated tavern.
- W Art gallery, museum or custom crafts studio.
- X Indoor or outdoor farmer's markets of agricultural products.
- Y Liquor store or winery.

Z Dwelling conversions are permitted. However, the existing first floor principal commercial use in the CC District shall not be converted into a residential dwelling use. One existing dwelling unit in the CC District shall not be converted into two or more dwelling units.

AA An off-site catering business, either as a principal use or as an accessory to another use permitted in the district, provided that space is designated for loading and unloading on site (inside or outside) in addition to any parking required under Part 10, Off-Street Parking Standards. **[Added by Ord. 506, 3/20/2013]**

BB Medical marijuana dispensary in accordance with the requirements of § 27-910. **[Added by Ord. No. 528, 6/21/2017]**

§ 27-2103. Accessory Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. Uses that are customarily incidental to an allowed use. See § 27-903.
2. Private garages and parking areas.
3. Home occupation. See § 27-904.
4. Communications antenna extending a maximum of 25 feet from an existing nonresidential building or structure, but not including a freestanding telecommunications tower.
5. Storage as accessory to an allowed principal use.
6. As an accessory to a permitted use in the Core Commercial District, special outdoor events utilizing public rights of way by permit of Borough Council; Council may attach such reasonable conditions to the permit as needed for the public health, safety and welfare as a result of the event.

§ 27-2104. Conditional Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

Drive through facilities for banks in accordance with § 27-2102, Subsection 1P, and outdoor cafes that utilize any portion of a public sidewalk may be permitted as a conditional use as long as the outdoor cafes meet the requirements under § 27-2102, Subsection 1M, and can be accomplished without impeding pedestrian traffic or negatively affecting public safety, and subject to such other reasonable conditions as may be imposed by Borough Council, after a hearing.

§ 27-2105. Special Exception Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

Parking structures of two or more levels may be permitted by special exception. The structure shall meet applicable building dimensional requirements. The ground floor of the structure on the street of maximum frontage shall be an allowed commercial or services type use such as retail, personal services, office, permitted under § 27-2102, as well as the entrance to the parking structure. An architectural sketch and a description of the exterior building materials shall be submitted to the Zoning Hearing Board with the special exception application.

§ 27-2106. Specifically Prohibited Uses. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. If a use is not listed as allowed in the zoning district, that use shall be considered to be prohibited, unless specifically stated otherwise. In any case, the following uses shall be specifically prohibited in the CC District:
 - A. Motor vehicle sales, sales of gasoline, repair of motor vehicles, car wash, sale of manufactured/mobile homes for off site placement.
 - B. Adult bookstore, adult movie theater, massage parlor or adult live entertainment use.
 - C. Restaurant with drive-through facilities.
 - D. Uses open to the public, customers, members or patrons between the hours of 2:00 a.m. and 5:00 a.m.
 - E. Warehousing, distribution or truck terminal uses as the principal use of the lot.
 - F. Wholesale sales uses that are not open to the public.
 - G. Crematorium.
 - H. Outdoor storage or display or parking of trucks or construction equipment as the principal use of the lot.
 - I. Self-storage units.
 - J. Mobile/manufactured home parks.
 - K. Treatment center.
 - L. Prison or correctional facility.
 - M. Junkyard.
 - N. Tattoo or body piercing establishment (other than ear-piercing).
 - O. Pawn shop.
 - P. Boarding or rooming house.
 - Q. Outdoor flea markets, which shall not prohibit accessory sidewalk sales by permanent businesses and which shall not prohibit farmers markets.

§ 27-2107. Multiple Uses on a Lot. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

A lot in the CC District may include multiple allowed uses, provided that the requirements for each use are met.

§ 27-2108. Dimensional and Design Requirements Within the CC District. [Ord. 353, 6/19/1991; as added by Ord. 430, 7/17/2002, § XI; and as revised by Ord. 495, 12/15/2010, § 1]

1. The following requirements shall apply:
 - A. Minimum lot area: 5,000 square feet.
 - B. Minimum lot width: 30 feet.
 - C. Maximum building coverage of lot: 75%.
 - D. Maximum impervious coverage of lot: 90%.
 - E. Maximum building height: four stories or 40 feet, whichever is more restrictive. A maximum height of four stories or 60 feet, whichever is more restrictive, shall be permitted if the applicant provides evidence acceptable to the Borough Fire Marshall that there will be adequate provisions for outside access and adequate fire protection measures to allow the taller height. Any new principal building shall have the appearance of a pitched, peaked, gable or mansard roof or a decorative cornice when viewed from Main or Broad Streets, utilizing features as shown in the Central Business District Design Guidelines.
 - F. Minimum side yard setback. An aggregate of 12 feet, but no less than two feet per side, except three feet along an abutting lot that is primarily occupied by a business use. No side yard is required for a building that existed prior to the adoption of this chapter without a conforming side yard.
 - G. Minimum rear yard setback: 15 feet.
 - H. Front yard depth, calculated in accordance with § 27-805: five feet minimum, 10 feet maximum and no new off-street parking spaces on the lot shall be placed between the principal building and the street.
 - I. Parking setback. If an off-street parking area of four or more new parking spaces is proposed adjacent to Main or Broad Streets or Lincoln Avenue, it shall be separated from the street cartway, right-of-way or existing sidewalk (whichever places the parking further away from the street) by a planting area with a minimum width of five feet. There shall be a minimum of one tree per 30 linear feet of frontage. Such planting area shall include a mix of low level plantings and deciduous shade trees, with sufficient clearance vertical between them to allow views into the parking area for security purposes.
 - J. Outdoor storage and fencing. No commercial items shall be stored outdoors

between the hours of 9:00 p.m. and 6:00 a.m. within 25 feet from the rights-of-way of Main or Broad Streets or Lincoln Avenue, except as part of approved outdoor dining facilities. No chain link fencing shall be allowed within 25 feet from the rights-of-way of Main or Broad Streets or Lincoln Avenue. No fencing located within 15 feet from the rights-of-way of Main or Broad Streets or Lincoln Avenue shall have a height greater than four feet.

- K. Any principal commercial building shall have a primary pedestrian entrance and windows along Main, Broad, Lincoln or Market Streets if the building is adjacent to such streets. If desired for security purposes, the windows may be display windows or have curtains in front of an interior wall, without the windows opening directly to the inside of the building.
 - L. If a new principal building is constructed adjacent to Broad Street, Market Street or Lincoln Avenue, it shall have two or more above ground stories. If this height is not feasible, then the building shall be constructed with an appearance of having two or more above ground stories, utilizing features as shown in the Central Business Design Guidelines.
 - M. If a new principal building is constructed that has sides visible on [to] Broad, Main or Market Streets and/or Lincoln Avenue, then all such sides shall have an exterior finish that resembles a front facade finish. For example, the building facade visible from each such street shall utilize features shown in the Central Business Design Guidelines.
- 2. Pedestrian and/or bicycle connections between public streets, sidewalks, businesses and the Liberty Bell Trail are required where feasible as determined by Borough Council.
 - 3. Off-Street Parking in the Core Commercial District.
 - A. Optional Fee-in-lieu of Parking.
 - (1) As a conditional use, provided other sufficient parking facilities are available, the Borough Council may permit the reduction of required on-site off street parking requirements in the CC District if the land development applicant commits to pay a fee-in-lieu of providing a certain number of required off-street parking spaces. This provision shall only be available if the applicant proves they cannot meet the parking requirements on their lot.
 - (2) For each required off-street parking space that is waived, a fee shall be required of \$5,000, or such amount as modified by later resolution of Borough Council.
 - (3) All such fees shall be paid to the Borough or an Authority authorized by the Borough to receive such fees. All such fees shall be accounted for separately. All such fees shall only be used for the creation of additional on-street or off street public parking and for streetscape improvements to serve the surrounding area. Such fees may also be used for the payment

of debt for improvements to increase the amount of public parking or for the acquisition of land for public parking. Such fees may also be used to lease privately owned parking for public use.

- (4) The fee shall be a one-time payment for each use on a property in lieu of providing parking for that use. The reduction of the required number of parking spaces shall continue with the land over time, regardless of ownership of the property, provided the use does not change.
 - (5) An application for a fee in lieu of parking shall be reviewed by the Borough Planning Commission prior to an approval by the Borough Council.
 - (6) No more than 50% of the required off-street parking spaces shall be waived under this section. See also § 27-1004, which allows off-site parking.
4. Hatfield Borough Central Business District Design Guidelines shall be used in the Central Business District. The Central Business District is generally defined as the areas fronting on: Main Street; Market Street; Lincoln Avenue East of Main Street and Broad Street, and situated in the following zoning districts: CC Core Commercial; C Commercial; and R-3 Residential.
 5. Business and property owners undertaking exterior renovations to existing properties which require a building permit, and other applicants who make a land development or subdivision application for a new building, addition to an existing building, or renovations to an existing building, shall comply with the design guidelines contained in Part 24, "Design Guidelines in the Central Business District."

§ 27-2109. Outdoor Dining Options by Conditional Use. [Ord. 474, 10/21/2009, § 2; as amended by Ord. 495, 12/15/2010]

1. Outdoor dining at restaurants and cafes with outdoor table service is permitted only by conditional use and only in the Core Commercial District **if the use includes an outdoor bar, live entertainment or live music, or encroaches on a public right of way or sidewalk.**
2. In considering an application for conditional use, the Borough Council shall consider and generally implement the following guidelines:
 - A. The level of noise associated with the outdoor dining shall not disturb the right of quiet enjoyment of the neighboring properties, therefore, sound amplified by speakers or other electric means will not be permitted **after 11:00 p.m. Low level music from stereo will be permitted if it does not disturb neighboring properties.**
 - B. Outdoor dining **or an outdoor bar** must be associated with and adjoining/connected to a restaurant **or tavern** that already prepares and serves food.
 - C. Outdoor dining shall be permitted year round **providing the outdoor temperature is 55° F. or above.**

- D. Outdoor dining with an outdoor bar or live entertainment or live music shall be limited to the regularly posted hours of operation not to exceed 11:00 p.m. Under no circumstances may the sound at the nearest residential property exceed 70 decibals.
- E. Outdoor furnishings shall be limited to tables, chairs and umbrellas. The furnishings shall be weather resistant and stored inside at the end of the day, during bad weather and when not in use for seasonal closures.
- F. Planters, posts with ropes, iron fencing, or other removable enclosures are encouraged and shall be used as a way of defining the area occupied as outdoor seating.
- G. Refuse facilities shall be provided in the outdoor dining area and trash shall be continually cleaned by restaurant staff.
- H. Advertising and promotional features shall be limited to umbrellas and canopies except for signage permitted by Borough Code.
- I. Outdoor dining shall not impede pedestrian safety and flow.
- J. The lighting associated with the outdoor dining shall not disturb the right of quiet enjoyment of the neighboring properties. Lights such as flood lights and spot lights are not be permitted to shine off the property into or onto neighboring properties.
- K. Open flames or external heating devices are prohibited permitted if approved by the Fire Marshall.
- L. The applicant shall comply with all other existing Borough zoning ordinances as applicable.

DISCHELL BARTLE DOOLEY

law offices

Date of Mailing: January 4, 2022

Mark B. Dischell
John T. Dooley
Jonathan B. Young
Eric C. Frey
Robert J. Iannozzi Jr.
Elizabeth J. Billies
Eric F. Wert
Inna G. Materese

Bob Weimer/Weimar Real Estate, LLC
64 Lincoln Avenue
Hatfield, PA 19440

Frank R. Bartle
(1977 - 2020)

**RE: Hatfield Borough Zoning Hearing Board
Application of Bob Weimer
Our File No. 21-12222-MU**

Of Counsel:

Joseph E. Bresnan
Sean E. Cullen
Robert G. Rosen
George E. Saba Jr.

Dear Mr. Weimer:

Enclosed you will find the Decision and Order of the Hatfield Borough Zoning Hearing Board.

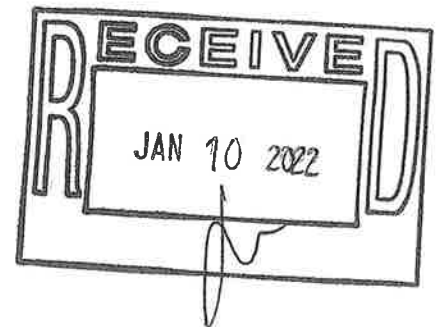
Very truly yours,



ERIC C. FREY

ECF:mh
Enclosure

cc: Jaime E. Snyder, Borough Manager (w/enclosure) ✓
Matthew J. Traynor, Code & Zoning Enforcement (w/enclosure)



A Professional Corporation

224 KING STREET | POTTSTOWN, PA 19464 | P: 610.323.3306 | F: 610.970.9578 | WWW.DBDLAW.COM

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**BEFORE THE ZONING HEARING BOARD
OF HATFIELD BOROUGH**

**IN RE: THE APPLICATION OF BOB WEIMER/WEIMAR
REAL ESTATE, LLC**

DECISION AND ORDER

FINDINGS OF FACT

1. Bob Weimer and Weimar Real Estate, LLC (collectively, the “Applicant”) submitted an appeal application (the “Application”) to the Hatfield Borough Zoning Hearing Board (the “Board”) requesting relief to both: (1) appeal the denial of a building permit; and (2) request a Variance from Section 27-2108.1.F of the Hatfield Borough Zoning Ordinance (“Zoning Ordinance”), to permit the construction of a new roof structure with columns located 2 feet from the property line and a roof overhang located 6 inches from the property line when a 12 feet aggregate side yard and a 2 feet minimum side yard setback per side is required

2. The real property which is the subject of the Application (the “Subject Property”) is owned by Weimar Real Estate, LLC, and is located at 64 East Lincoln Avenue, further identified as Parcel No. 09-00-01336-00-5, and is within the CC-Core Commercial Zoning District of the Borough.

3. The Subject Property consists of approximately 1.2 acres and is currently improved and used as a restaurant and bar. In addition to the restaurant building, an open air patio exists to the rear of the restaurant building.

4. Hearings on the Application (collectively, the “Hearing”) occurred before the Board on October 27, 2021 and December 7, 2021. At the Hearing, Board members James Rudolph, Chairman, John Pedrazzani and Daniel Ruch, were present. The Board was represented by its Solicitor, Eric C. Frey, Esquire of the law firm of Dischell, Bartle & Dooley, P.C.

5. No member of the public requested party status in favor of or in opposition to the Application.

6. The following documents were entered into the record as Board Exhibits:

Exhibit B-1 - Application and Plans

- Exhibit B-2 - Legal Notice
- Exhibit B-3 - Proof of Publication
- Exhibit B-4 - Proof of Posting

7. The following documents were entered into the record as Applicant Exhibits:

- Exhibit A-1 - plan set consisting of 8 sheets
- Exhibit A-2 - Plan entitled "Proposed Pavilion Zoning Exhibit" dated December 6, 2021

8. In support of the variance relief, the Applicant presented the following:

- a. The open air patio exists at current location to property lines;
- b. The proposed pavilion roof is just to cover the existing patio;
- c. Location of the pavilion roof and support columns are dictated by existing patio, building, bar area and handicap ramps; and
- d. Patio structure will be designed and built as shown on Exhibits A-1 and A-2;
- e. The existing building/patio setbacks to the property line create a hardship for the Applicant;
- f. Applicant did not create the hardships;
- g. Because of these hardships, the pavilion roof cannot be built in strict conformity with the Zoning Ordinance;
- h. The proposed pavilion will not negatively impact the surrounding properties or alter the essential character of the neighborhood; and
- i. The proposed pavilion represents the minimum relief necessary.

9. Applicant presented Exhibit A-2 which showed the location of the existing 100 year floodplain. In an abundance of caution, the Applicant amended its Application to also request a special exception Zoning Ordinance Section 27-2004.A(2)(9) to allow the pavilion structure within a floodplain.

DISCUSSION

In order to grant a variance, Applicant is required to show that they have met the criteria set forth in Section 910.2 of the Pennsylvania Municipalities Planning Code (“MPC”), as follows:

(1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;

(2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;

(3) That such unnecessary hardship has not been created by Applicant;

(4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

Applicant has established that the Subject Property possesses certain unique physical characteristics. Because of the hardships, presented, the Zoning Hearing Board determined that the pavilion structure for the Subject Property could not be developed in strict conformity with the Zoning Ordinance.

The Board is satisfied that the unnecessary hardship facing the installation of pavilion structure on the Subject Property, as set forth above, was not created by Applicant.

So long as the conditions set forth in the Order below are met, the Board is satisfied that the grant of the Variance relief requested will not be detrimental to the public health, safety, and welfare. The impacts of the proposed relief are mitigated by the conditions set forth in the Order. Further, Applicant has requested the minimum relief from the Ordinance necessary to effectuate a reasonable use of the Subject Property.

During the Hearing, Exhibit A-2 was submitted which shows a portion of the proposed pavilion within the 100 year Floodplain. The Applicant, therefore, amended its Application to request a Special Exception pursuant to Zoning Ordinance Section 27-2004.A(2)(9) to allow the

pavilion structure within a Floodplain. The Board allowed the amendment. At the outset, any applicant for a special exception must show that the permission it seeks is one allowed by special exception and that the application meets the requirements of the Zoning Ordinance. Lower Merion Township v. Enokay, Inc., 427 Pa. 128, 233 A.2d 883 (1967); Bray v. Zoning Board of Adjustment, 48 Pa. Cmwlth. 523, 410 A.2d 909 (1980). See § 5.2.5. The Applicant's exhibits and the testimony of the Applicant's witnesses as set forth in the above findings of facts establish the Applicant's satisfaction of the requirements of the Zoning Ordinance. The Board, therefore, determined that the proposed pavilion is allowed by Special Exception and that the Applicant met its burden.

Once the determination is made by the Board that the proposed use falls within the Special Exception provision, the Board must decide whether the permission to allow such use, if granted, will prove injurious to the public interest under the standards established in the Zoning Ordinance. No one testified or presented any testimony adverse to the Applicant's case. So long as the conditions set forth in the Order below are met, the Board is satisfied that the grant of the Special Exception relief requested will not be detrimental to the public health, safety, and welfare.

{ THIS SPACE LEFT BLANK INTENTIONALLY }

CONCLUSIONS OF LAW

1. Pursuant to Section 909.1 of the Pennsylvania Municipalities Planning Code (“MPC”), this Board has exclusive jurisdiction to hear and render a final adjudication relative to this Appeal.
2. Applicant has standing to request the variance and special exception relief related to the Subject Property.
3. The requirements for a variance in Pennsylvania are clear and are specifically stated in Section 910.2 of the MPC. Given the testimony presented at the Hearing, a careful review of the record evidence offered in support of the requested variance relief, and with no substantive proof offered to the contrary, this Board finds that Applicant has established an entitlement to its requested variance relief so long as the conditions set forth in the Order below are met.
4. The application was amended to request special exception relief pursuant to Zoning Ordinance Section 27-2004.A(2)(9) to allow the pavilion structure within a Floodplain. This amendment was proper.
5. Given the testimony presented at the Hearing, a careful review of the record evidence offered in support of the requested variance relief, and with no substantive proof offered to the contrary, this Board finds that Applicant has established an entitlement to its requested special exception relief so long as the conditions set forth in the Order below are met.
6. Particularly noteworthy, this Board concludes that Applicant's requested relief is consistent with and will not be adverse to the public health, safety, and welfare and is the minimum relief necessary so long as the conditions set forth in the Order below are met.

{ ORDER ON NEXT PAGE }

ORDER

AND NOW, this 7th day of December, 2021, the application of Bob Weimer/Weimar Real Estate, LLC, is hereby **GRANTED** subject to conditions. The Board **GRANTS** a Variance from Section 27-2108.1.F of the Hatfield Borough Zoning Ordinance of 1991, as amended, to permit the construction of a new roof structure over an existing outside patio with columns located 2 feet from the property line and a roof overhang located 6 inches from the property line and a Special Exception from Section 27-2004.A(2)(a) of said Zoning Ordinance to allow the covered patio within the Floodplain District.


The relief is granted in accordance with the application and plans submitted and subject to the following conditions:

1. The proposed development of the Subject property shall be consistent with the plans and testimony presented at the Hearing; and
2. Applicant shall obtain any necessary conditional use approval from Hatfield Borough for the outside dining use prior to the issuance of a building permit (see Zoning Ordinance Section 27-2019.1).

ORDER

The Foregoing Findings of Facts, Discussion, Conclusion of Law and Order, are hereby approved as the Decision and Order of the Board.

**ZONING HEARING BOARD OF
HATFIELD BOROUGH**


James Rudolph, Chairman


John Pedrazzani, Secretary


Daniel Ruch, Member

Paul Mullin, Esquire, Alternate Member

Written Decision mailed: January 4, 2022

NOTE TO APPLICANT

There is a thirty (30) day period after the date of a decision for an aggrieved person to file an appeal in the Court of Common Pleas of Montgomery County to contest an approval or denial by the Zoning Hearing Board. If the Application has been granted by the Zoning Hearing Board, the Applicant may take action on said approval during this thirty (30) day appeal period; however, Applicant will do so at his/her own risk. If Applicant received Zoning Hearing Board approval, Applicant must still secure all necessary and applicable permits from Hatfield Borough within twelve (12) months of the date of the approval of the Zoning Hearing Board.

HATFIELD BOROUGH COUNCIL
RESOLUTION NO. 2009-24
REGARDING THE APPLICATION OF HAT TRICKS SPORTS BAR & GRILLE
64 E. LINCOLN AVENUE FOR A WAIVER OF LAND DEVELOPMENT

AND NOW, as of the 20th day of May, 2009, Borough Council of Hatfield at a public meeting and after discussion with the Applicant concerning the conditions detailed below approved the Applicant's request for a waiver of land development for the construction of an outdoor deck and the use of the area for outdoor dining as stated below:

1. The Applicant must comply with any conditions of the Borough Engineer, Bursich Engineering, and specifically the letter attached hereto of August 17, 2009 as Exhibit "A".
2. The Applicant must comply with the requirements of the Code Enforcement Officer, and specifically those indicated in the letter dated August 18, 2009 and attached hereto as Exhibit "B".
3. The outdoor dining may not operate later than 11:00 p.m.
4. The outdoor dining is permitted between when the outdoor temperature is 55 degrees Fahrenheit or above.
5. The Applicant is required to reimburse the Borough for engineering, legal and other fees associated with the land development and shall post an escrow with the Borough for future fees in the amount of \$1,500.00 which is refundable if not used.
6. The Applicant is required to install a fence between the outdoor dining patio and the Liberty Bell Trail to separate the trail users and adjacent property owners in the style as shown on the revised plans submitted August 20, 2009.
7. The Applicant is required to show appropriate landscaping on the plans for the area surrounding the 4-1/2 foot tall grease trap.
8. Nothing in this Waiver of Land Development Resolution is intended to waive compliance with any other Borough Code not specifically mentioned herein or in the Bursich Engineers' letter.

9. The Applicant is specifically reminded that the Borough retains the right to review the sewage capacity for the proposed use and require the Applicant to purchase additional capacity should that be necessary beyond the current allocation of nine EDUs.

10. The final as-built plans must list the waivers granted separately as specified in Exhibit "A".

Approved at a public meeting of the Borough Council by a vote of 5-0.

HATFIELD BOROUGH COUNCIL

By: John H. Weierman
John H. Weierman, President

Attest:


Michael J. DeFinis
Michael J. DeFinis, Secretary

Approved by Mayor Kaler

Robert L. Kaler, III
Robert L. Kaler, III

August 26, 2009
Date

BURSICH

Sharing your Vision 

Engineers | Planners | Surveyors | Landscape Architects

August 17, 2009

Hatfield Borough
P.O. Box 190
Hatfield, PA 19440

Attention: Mr. Michael DeFinis, Manager

RE: Hat Trick Land Development
Hatfield Borough
Bursich Project No.: HAT-01/096443

Dear Mike:

In accordance with the Borough's Request, we have reviewed the land development plan for the above referenced project. The review consisted of one (1) sheet, Reference No. M6708, dated May 20, 2009, last revised August 4, 2009, as prepared by Metz Engineers. The following comments are offered for your consideration.

General:

1. The site is located on the northeast corner of the intersection of East Lincoln Avenue and Poplar Street. The site is located within the Core Commercial Zoning District.
2. The plan shows a proposed patio on the rear of the existing building. We defer comments regarding the type of construction to the Hatfield Borough Building and Code Enforcement Officer.
3. The property contains a 3,857 square foot bar and grill, a 2,514 square feet, 1 story, corrugated metal building, and associates parking acres.

Subdivision and Land Development:

1. Section 305. A and B
This section outlines the information required to be shown on a Preliminary Plan Submission, including existing contours, proposed parking spaces, etc. The applicant has requested a Waiver of this item.

www.bursich.com

Pottstown Corporate Office: 2129 East High Street • Pottstown, PA 19464 • 610.323.4040 • 610.323.8240 (f)

Southampton: 706 Lakeside Drive • Southampton, PA 18966 • 215.364.2520 • 215.364.1047 (f)

Leesport: Schoolside Plaza, Suite A8 • 5 South Centre Avenue, P.O. Box 779 • Leesport, PA 19533 • 610.916.7175 • 610.916.7188 (f)

2. Section 305. D
This section requires basic information be shown within the tract boundary and extending to two hundred feet (200') beyond the tract boundary. The applicant has requested a Waiver of the two hundred feet (200') requirement.
3. Section 305. D (6)
This section requires existing natural features be shown on the plan, including trees. The applicant has requested a Waiver of this item.
4. Section 305. D (7)
This section requires soil types be shown on the plan. The applicant has requested a Waiver of this item.
5. Section 305. D (8)
This section requires existing slope information be provided, including two feet (2') contours. The applicant has requested a Waiver of this item.
6. Section 305. E. 1 (i)
This section requires proposed landscaping be shown on the plan, including street trees, buffer trees, and planting screens. The applicant has requested a Waiver of this item with the exception of the grease trap buffer plantings. Note No. 8 states buffer plantings acceptable to Hatfield Borough will be provided for the grease trap.
7. Section 305. E (2)
This section requires proposed features be shown on the plan, including slopes, stormwater management, and sanitary facilities. The applicant has requested a Waiver of this item.
8. Section 305. E (3)
This section requires proposed grading be shown on the plan, including sanitary sewer profiles and runaway profiles. The applicant has requested a Waiver of this item.
9. Section 306
This section outlines the review procedure for a preliminary plan submission, including application and agency reviews. The applicant has requested a Waiver of this item.
10. Section 307
This section outlines the review procedure for a final plan submission, including approvals and plan recording. The applicant has requested a Waiver of this item.
11. Section 413
This section requires the construction of sidewalks, curbs, and storm sewers where appropriate. The applicant has requested a Waiver of this item.
12. Section 414
This section outlines the requirements for parking areas and internal driveway design. The applicant has requested a Waiver of this item.
13. Section 415
This section outlines the requirements for driveway design. The applicant has requested a Waiver of this item.

14. Section 420

This section outlines the general planting requirements for land development. The applicant has requested a Waiver of this item with the exception of the proposed grease trap buffer plantings.

Permits and Approvals:

1. A review of Borough records indicates the maximum usage for the facility, over the previous five (5) years, was nine (9 EDU) [205,000 gallons]. A note should be added to the plan stating the applicant is responsible to purchase additional capacity, should sanitary flow increase beyond the allocated nine (9) EDU.
2. Borough Fire Marshal approval is required for this project.
3. Borough Code Enforcement approval is required for this project.

Based on the minor nature of the proposed development and the minimal impact of the proposed construction, the Borough may want to consider granting of the Waiver requests listed above.

The above comments are made with the understanding that all existing features and topography are accurately represented on the plans, and that all designs, calculations and surveys are accurate and have been prepared in accordance with the current laws, regulations and currently accepted Professional Land Surveying and Engineering practices.

Should you have any questions or need further information, please feel free to contact me at (484) 941-0451.

Very truly yours,



Mark Mattucci
Project Engineer
Bursich Associates, Inc., Pottstown Office

pc: Mr. Robert Weimer, Applicant
Metz Engineers, Applicant's Engineer
Catherine M. Harper, Esq. Hatfield Borough Solicitor
Randy V. Yardumian, Code Official / Fire Prevention Officer



Borough of Hatfield

Montgomery County, Pennsylvania

Borough Council
President
John H. Weierman

Vice-President
Kenneth V. Farrall

John Kroesser
Bryan A. Moyer
Lawrence G. Stevens

Mayor
Robert L. Kaler, III

Borough Manager
Michael J. DeFinis

August 18, 2009

Mr. Robert Weimar
Hatricks Bar and Grill
64 E. Lincoln Avenue
Hatfield, Pa. 19440

RE: Permit submittal application, enclosed patio installation

Dear Mr. Weimar,

Hatfield Borough Code Enforcement has conducted a preliminary review of site plan and construction details for the above-referenced project. Submitted were a site plan prepared by Metz Engineers, Inc; as well as other accompanying documents. The site plan, which did contain some limited construction details, was prepared as amended on August 4, 2009, and was signed and sealed by Kenneth M. Fretz, Sr. Professional Surveyor. Dan Jenkins, MCO, Keystone Municipal Services, Inc reviewed the plan for Hatfield Borough Code Enforcement on August 17, 2009.

Approval cannot be granted at this time, as the submitted plans do not reflect enough information regarding construction details as they pertain to the requirements set by ICC/ANSI A117.1-2003 (Americans with Disabilities Act requirements.) Please provide a detail on the proposed ramp improvements, signed and sealed by a professional engineer, licensed in the Commonwealth of Pennsylvania, showing the following details:

1. ADA clear-span widths when entering the patio area from the outside. The plans indicate a gate with a six-foot width, however it is unknown if the required landing (and the required edge protection/railings) will interfere with the access to the patio area.
2. ADA required clear span widths in regards to the bilco door and the adjacent (unknown) obstruction on the ramp.
3. ADA required handrails meeting the requirements of section 505.
4. ADA required edge protection complying with section 405.9.1 or 405.9.2
5. An approved wiring diagram shall be submitted for any proposed electrical wiring. Approval shall come from a third-party electrical underwriter as outlined on the enclosed attachment. If solar powered lighting devices are utilized, submit a factory cut sheet showing UL approval.
6. The insurance certificate provided does not show **Hatfield Borough as an additional insured and as a certificate holder.**

401 S. Main Street
P.O. Box 190
Hatfield, PA 19440

Phone:
215-855-0781

Fax:
215-855-2075

Email:
admin@
hatfieldborough.com

Website:
www.hatfieldborough.com



Borough of Hatfield

Montgomery County, Pennsylvania

Borough Council
President
John H. Weierman

Vice-President
Kenneth V. Farrall

John Kroesser
Bryan A. Moyer
Lawrence G. Stevens


Mayor
Robert L. Kaler, III

Borough Manager
Michael J. DeFinis

August 18, 2009

Once we have the above information in hand, we will continue with the plan review process. All information received must be legible. Copies of copies or copies of faxes will be rejected. Hatfield Borough Code Enforcement uses the 2006 ICC Code Series as amended by Act 45 (the Pennsylvania Uniform Construction Code as amended by Act 45. Should you have any questions, please contact me at 215-855-0781, extension 8.

Sincerely,


Randy V. Yardumian
Hatfield Borough Code Enforcement
Keystone Municipal Services, Inc.

CC: Property File

Mike DeFinis, Hatfield Borough Manager
Catherine Harper, Hatfield Borough Solicitor
Mark Mattucci, Hatfield Borough Engineer
Dan Jenkins, KMS, MCO
Rich O'Brien, KMS
Metz Engineers

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**HATFIELD BOROUGH COUNCIL
RESOLUTION NO. 2016-09
REGARDING THE APPLICATION OF HAT TRICKS SPORTS BAR & GRILLE
64 E. LINCOLN AVENUE FOR A TEMPORARY WAIVER OF LAND DEVELOPMENT**

AND NOW, as of the 20th day of April, 2016, Borough Council of Hatfield at a public meeting approved the Applicant's request for a temporary waiver of land development for the addition of live entertainment outside during the summer months on the existing outdoor deck currently used for outdoor dining pursuant to Resolution 2009-24, as stated below:

1. The Applicant may have live entertainment and a temporary bar for serving drinks outside on Fridays and Saturdays between 6:00 PM and 11:00 PM from the date of this Resolution until September 5, 2016 on the existing outdoor deck along with outdoor dining.
2. The outdoor dining and live entertainment may not operate later than 11:00 p.m.
3. The Applicant is required to reimburse the Borough for engineering, legal and other fees associated with the waiver of land development not to exceed \$1,500.
4. The Applicant is required to ensure that the live entertainment does not create a public nuisance beyond the property lines, and the owner or a designated representative shall be on site at all times when live entertainment outdoors occurs.
5. This Resolution Waiving Land Development shall expire without further action from Council on September 5, 2016, unless sooner revoked by Council and the Applicant agrees that the Resolution, once it expires, gives the Applicant no vested rights to continue the live entertainment outdoors.

Adopted and Approved by the Borough Council of the Borough of Hatfield, at a duly advertised public meeting held this 20th Day of April, 2016 with 5 Council Members voting "Aye" and 0 Council Members voting "Nay."

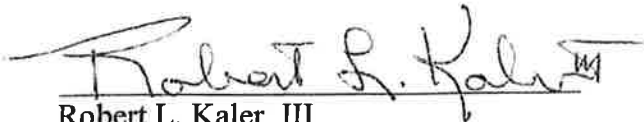
ATTEST:

HATFIELD BOROUGH COUNCIL


Michael J. DeFinis, Secretary

By: 
John H. Weierman, President

Approved by Mayor Kaler


Robert L. Kaler, III

Date 4/20/2016

4. Old Business:
A. Edinburgh Square Update

4. Old Business:

B. Bennetts Court Update

4. Old Business:

C. 43 Roosevelt Update

4. Old Business:

D. Codification

4. Old Business:

**E. Ordinance No. 543 Amending Chapter 2
(Animals) in the Code of Ordinances to
Regulate the Keeping and Feeding of Feral Cats**

**HATFIELD BOROUGH
MONTGOMERY COUNTY, PENNSYLVANIA
ORDINANCE NO. 543**

**AN ORDINANCE OF THE BOROUGH OF HATFIELD, MONTGOMERY COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 2 (ANIMALS) OF THE CODE OF
ORDINANCES OF THE BOROUGH OF HATFIELD, MONTGOMERY COUNTY,
PENNSYLVANIA PROVIDING DEFINITIONS AND CONDITIONS TO REGULATE THE
KEEPING AND FEEDING OF FERAL CATS IN THE BOROUGH**

WHEREAS, the Borough of Hatfield, Montgomery County, Pennsylvania (hereinafter "Borough") is a municipality organized and existing under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Borough has enacted a Code of Ordinances pursuant to its statutory authority in the Pennsylvania Borough Code; and

WHEREAS, it is the intent of this ordinance to provide further regulations to regulate the keeping and feeding of feral cats, in the Borough in accordance with state law, while simultaneously advancing the substantial government interest of public safety, health and protection; and

WHEREAS, the Borough has recognized the need to amend the Code of Ordinances to add a section in Chapter 2, dealing with feral cats, to better address feral cats in the Borough as reflected herein.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Borough Council of Hatfield Borough, Montgomery County, Pennsylvania, to add a new Part 5, "FERAL CATS" to Chapter 2, "Animals," as follows:

CHAPTER 2 ANIMALS, PART 5,

GENERALLY

SECTION 1. Chapter 2 of the Borough Code of Ordinances, "Animals," shall be revised and amended to read as follows:

§ 5-501. Purpose.

The purpose of this chapter is to prohibit and to regulate the keeping and feeding of feral cats within the Borough in order to promote the health, safety and general welfare of its inhabitants.

§ 5-502. Definitions.

For the purpose of this chapter, the following terms shall have the meanings ascribed to them in this section, except where the context in which the word is used clearly indicates otherwise:

BOROUGH — The Borough of Hatfield.

BOROUGH COUNCIL — The Borough Council of the Borough of Hatfield.

FERAL CAT — Any homeless, wild, or untamed cat.

NUISANCE — Any use of property within the Borough of Hatfield or any condition upon any property within the said Borough that, other than infrequently or occasionally, shall cause or result in annoyance or disturbance to persons beyond the boundaries of such property; interference to the health and/or safety of persons beyond the boundaries of such property; and/or disturbance to or interference with the peaceful use of the property of others in the Borough, in any case taking into consideration the location of the use or condition, and the nature and condition of the surrounding neighborhood.

OWNER — Any person having a right of property in, having custody of or who harbors a cat to remain on or around his or her property.

PERSON — A natural person, firm, partnership, association or corporation.

§ 5-503. Responsibilities of cat owners.

It shall be unlawful for any owner of any cat to permit such cat to run free outside the residence of its owner or keeper unless such cat has been:

- A. Neutered or spayed to prevent procreating;
- B. Immunized against rabies in compliance with Pennsylvania law; and
- C. Identified by means of a collar with a tag or a microchip. The identification must provide the owner's name and contact information.

§ 5-504. Feeding of feral cats and other prohibited acts.

- A. It shall be unlawful and deemed a nuisance subject to penalties under this act for any person to feed six (6) or more feral cats at one time or in one location.
- B. If the feeding of feral cats results in the gathering of six (6) or more cats in one location, it shall be automatically deemed a nuisance subject to penalties under this act.
- C. It shall be unlawful and deemed a nuisance subject to penalties under this act for any person to cause feral cat(s) to habitually trespasses upon or damage either private or public property, or annoy, disturb the peace and quiet of the surrounding neighbors between the hours of 10:00 p.m. to 7:00 a.m., or harm lawful users or occupants thereof, or violate the provisions of §2-202 Noise Disturbance.

§ 5-505. Violations and penalties.

Any person, organization, firm or corporation who shall violate any provision of this chapter or is found to be causing a nuisance as described in this chapter, upon conviction thereof in an action brought before a Magisterial District Judge in the manner provided for the enforcement of

summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than \$100 and not more than \$1000, plus costs, and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 90 days. A separate offense shall be deemed committed on each day or part of each day during which a violation occurs or continues. Each day that a violation of this chapter continues or each section of this chapter which shall be found to have been violated shall constitute a separate offense.

§ 5-506. Continuation of prior provisions.

The provisions of this chapter, as far as they are the same as those of ordinances in force immediately prior to the enactment of this chapter, are intended as a continuation of such ordinances and not as new enactments. The provisions of this chapter shall not affect any such suit or prosecuting pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any ordinance repealed by this chapter.

SECTION 2. Severability. In the event that any section, sentence, clause, phrase or word of this Ordinance shall be declared illegal, invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not prevent, preclude, or otherwise foreclose enforcement of any of the remaining portions of this Ordinance.

SECTION 3. Repealer. All ordinances or parts of ordinances inconsistent herewith are in conflict with any of the specific terms enacted hereby to the extent of said inconsistencies or conflicts, are hereby repealed.

SECTION 4. This Ordinance shall take effect as provided by law.

ORDAINED AND ENACTED by the Borough Council of HATFIELD BOROUGH on this

10th day of February, 2022 with 4 Council Members

Girard, Fagan, Kroesser, Stevens voting "aye" and Ø voting "nay."

Attest:

Jaime E. Snyder, Secretary

HATFIELD BOROUGH

By: Jason Ferguson, Council President

Approved by the Mayor:

Mary Anne Girard
Mary Anne Girard

Date: 2/21/2022

5. New Business:

A. 2022 Meeting Dates

PUBLIC NOTICE

**The Borough of Hatfield Council will hold its meetings for the year 2022 on the following dates:
WORKSHOP / REGULAR MEETING. Meetings begin at 7:30 PM**

Borough Council Dates:

January 3, 2022 (Monday)
January 19, 2022
February 2, 2022
February 16, 2022
March 2, 2022
March 16, 2022
April 6, 2022
April 20, 2022
May 4, 2022
May 18, 2022
June 15, 2022
July 20, 2022
August 17, 2022
August 31, 2022
September 21, 2021 at 5:30 PM Strategic Planning Meeting
September 21, 2022 at 7:30 PM Regular Meeting
October 5, 2022
October 19, 2022
November 2, 2022
November 16, 2022
December 7, 2022
December 21, 2022

The Borough of Hatfield Planning Commission will hold its meetings for the year 2022 on the following dates. Meetings begin at 7:00 PM

Planning Commission Dates:

December 20, 2021
January 31, 2022
February 28, 2022
April 4, 2022
May 2, 2022
June 6, 2022
July 11, 2022
August 1, 2022
August 29, 2022
October 3, 2022
October 24, 2022
December 5, 2022

The Borough of Hatfield HERC Committee will hold its meetings for the year 2022 on the following dates. Meetings begin at 8:00 AM

The Borough of Hatfield Zoning Hearing Board convenes on a case-by-case basis. Sufficient public notice will be provided when applications for a hearing are submitted. **All meetings will be held at the Hatfield Borough Municipal Complex 401 South Main Street Hatfield, PA 19440.** The public is invited and encouraged to attend. The Municipal Complex is wheel chair accessible. Any person that requires a special accommodation should contact the Borough offices at 215-855-0781 at least three days in advance of the meeting.

Michael J. DeFinis
Borough Manager/Secretary

6.Action Items:

A. Motion to Consider the 2022 Planning Commission Meeting Dates

7. Next Meeting Monday, April 4, 2022, 7:00PM

8. Motion to Adjourn