



TO: The Honorable Mayor and the City Council

FROM: Ty Livingston, Director of Planning & Community Development

DATE: October 14, 2020

SUBJECT: Petition of the City of East Peoria to amend Title 5, Chapter 11, Section 10(e) of the East Peoria City Code addressing the timing for Special Uses to proceed to the City Council if the application is recommended for denial by the ZBA.

BACKGROUND:

The petition here is to provide official guidance to ZBA petitioners whose cases are recommended for denial. Past practice has been not to move these cases forward unless the petitioner requested it. This code changes provides a specific process to follow when that situation occurs.

At their meeting, the ZBA voted 5-0 to recommend approval of the code change as presented.

RECOMMENDATION: Approval, as presented.

ORDINANCE NO. 4524

**AN ORDINANCE AMENDING THE ZONING REGULATIONS
IN TITLE 5 OF THE EAST PEORIA CITY CODE FOR
REVIEW OF SPECIAL USE APPLICATIONS**

WHEREAS, the City of East Peoria has proposed amendments to certain zoning regulations related to the review process for special use applications found at Title 5 of the East Peoria City Code, which proposed amendments are hereinafter set forth; and

WHEREAS, the City Council has further determined that clarification of the special use approval process is appropriate and necessary to ensure that all applications for special uses receive proper consideration by the City, the East Peoria Zoning Board of Appeals, and the City Council; and

WHEREAS, after holding a public hearing on October 12, 2020, pursuant to duly published notice, the East Peoria Zoning Board of Appeals has recommended approval of the proposed amendment; and

WHEREAS, the City Council finds that adoption of the proposed amendment to the City's zoning regulations would serve the best interests and the public good of the City of East Peoria and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. Title 5, Chapter 11, Section 10(e) is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

5-11-10. Special uses.

- (e) *Authorization.* After conducting a public hearing on a special use application, the board shall make a recommendation as to whether the special use application should be approved or denied. For each application for a special use permit that receives a recommendation of approval from the board, the board ~~may shall~~ report to the city council such the stipulations or additional conditions and guarantees, ~~that such conditions will be complied with when they are for the proposed special use that the board has deemed necessary for the protection of the public interest.~~ Upon receiving a recommendation of approval from the board, the city council may grant or deny any application for a special use by a majority vote; provided, however, that in the event of written protest against any proposed special use, signed and acknowledged by the owners of twenty (20) percent of the

frontage immediately adjoining the property proposed for a special use, or by owners of twenty (20) percent of the frontage across the alley or directly opposite therefrom, such special use shall not be granted except by a favorable vote of three-fourths of the city council. The city council may adopt any stipulations or additional conditions and guarantees that are recommended by the board upon approving an application for a special use and may adopt further stipulations or additional conditions and guarantees the city council deems necessary for the protection of the public interest.

If a special use application does not receive four (4) votes from the board as required under Section 5-11-3(e) of this Zoning Code, the board's recommendation will be considered a denial of the application. When the board's recommendation is the denial of the special use application, the applicant may appeal the denial to the city council by providing written notice to the Zoning Administrator within fifteen (15) days of receiving written notice of denial that the applicant seeks to appeal the denial of the special use application to the city council. If the applicant fails to provide notice to the Zoning Administrator as provided herein, the decision to deny the application will become final and shall be considered the final administrative decision of the City subject to judicial review as provided by law. Upon presentation of the denial appeal to the city council, such special use shall not be granted except by a favorable vote of three-fourths of the city council.

Section 2. This Ordinance is hereby ordered to be published in pamphlet form by the East Peoria City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 3. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 4. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND PUBLIC SESSION THIS _____ DAY OF _____, 2020.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel