

**MINUTES
ZONING BOARD OF APPEALS
OCTOBER 12, 2016**

CALL TO ORDER:

Chairperson Rosenthal called the regular meeting of the Zoning Board of Appeals to order at 6:30 PM on Wednesday October 12, 2016 at City Hall, 101 Green Street, Galena, IL.

ROLL CALL AND DECLARATION OF QUORUM:

As Roll Call was:

Baranski	Present
Bochniak	Present
Cook	Present
Holman	Present
Jansen	Present
Nybo	Absent
Rosenthal	Present

A quorum was declared.

Zoning Administrator Matt Oldenburg, City Attorney Joe Nack and Zoning Secretary Deb Price were also present.

APPROVAL OF MINUTES

Bochniak moved, seconded by Cook to approve the September 14, 2016 minutes.

Motion carried on voice vote.

OLD BUSINESS

Cal. No. 16S-04, Applicant and Owner: Brian & Michelle Heurung – 113 S. Prospect Street, Galena, IL 61036. Location: Parcel: 22-100-567-00, Part of Lot 18 in Block 3 of the Original City of Galena, Jo Daviess County, Illinois. Common Address is 113 S. Prospect Street, Galena, IL 61036. Request for Special Use Permit to allow a 4-room Bed & Breakfast. The property currently has a permit for a 3-room Bed & Breakfast. Ratification of Findings of Fact for approval.

MOTION: Baranski moved, seconded by Cook to ratify the Findings of Fact for the Special Use Permit, Cal. No. 16S-04.

As Roll Call was:

Bochniak	Yes
Cook	Yes
Holman	Yes
Jansen	Yes
Nybo	Absent
Baranski	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 16A-04, Applicant: City of Galena – 101 Green Street Galena, IL 61036. Request for Text Amendment to §154.015 Definitions, Table 154.403.1 Permitted Land Uses Table, §154.406(D) Principal Commercial Land Uses, §154.406(H) Accessory Residential Land Uses, Table 154.601.3 Minimum Required Parking Spaces, to allow Guest Accommodations, Vacation Rentals.

MOTION: Bochniak moved, seconded by Baranski to open the Public Hearing on Cal. No. 16A-04.

Motion carried on voice vote.

City Attorney Nack swore in all those persons who wished to testify at this public hearing.

Matt Oldenburg presented for the City who initiated the request. This past spring the City Council discussed whether it was worth looking into a land use that would allow short term vacation rentals. City staff researched this and held several input meetings discussing short term rentals, the advances in technology and booking mechanisms such as Air B and B and the impact this type of use has on communities. The request proposes a principal commercial land use which would allow rental of an entire dwelling unit or an accessory residential land use which would allow a single room rental either in the home or in an accessory building on the property.

Oldenburg pointed out the sections and tables that would be amended.

Section 154.015 – Definitions: **Accommodations, Vacation Rental:** Any building, or portion thereof, containing a single dwelling unit or multiple dwelling units which are available to the public for accommodating guests on a basis of less than 30 days for a charge, donation, or any other form of remuneration. Each dwelling unit constitutes a vacation rental unit. In residential districts, only one vacation rental unit may be owned; in commercial districts, multiple vacation rental units may be owned as defined by common ownership. In cases where a single guest room on a single family dwelling property is requested, it shall be considered an accessory residential land use. See section §154.406(D)(18) or §154.406(H)(9).

Table 154.403.1. Permitted Land Uses

LA	CSR	LDR	MDR	HDR	NO	PO	NC	PC	GC	DC	PI	LI	HI	Type of Land Use Principal Commercial Land Uses (154.406 (D))
					P	P	P	P	P	P	P	P	P	(1) Office
					S	S	P	P	P	P	S			(2) Personal or Professional Service
S	S				S		P	P	P	P	P	P	P	(3) Artisan Studio
						S	P	P	P	P	S			(4) Sales and Service, Indoor
									P				P	(5) Sales and Service, Outdoor Display
									P					(6) Sales and Service, In-Vehicle
	S	S	S	S	S									(7) Accommodations, Bed & Breakfast
		S			S		S	S	S	S				(8) Accommodations, Small Inn
						S		S	P	S	S			(9) Accommodations, Hotel/Motel
						S	S	P	P	P	S			(10) Entertainment, Indoor Commercial
S									S			S		(11) Entertainment, Outdoor Commercial
												S	S	(12) Entertainment, Adult
								S	P	S	P	P	P	(13) Maintenance Service, Indoor
									S				P	(14) Maintenance Service, Outdoor
S									S				S	(15) Commercial Animal Boarding
									P			P	P	(16) Vehicle Repair and Maintenance
					<u>P</u>		<u>P</u>		<u>P</u>	<u>P</u>				(17) House Tour
<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>				<u>S</u>		<u>S</u>	<u>S</u>				<u>(18) Accommodations, Vacation Rental</u>

P = Permitted by Right (See section 154.402(A)) **S** = Permitted by a Special Use (See section 154.402 (B))

LA Limited Agricultural
LI Light Industrial
CSR Countryside Residential
HI Heavy Industrial
LDR Low Density Residential
MDR Medium Density Residential

HDR High Density Residential
NO Neighborhood Office
PO Planned Office
NC Neighborhood Commercial

PC Planned Commercial
GC General Commercial
DC Downtown Commercial
PI Planned Industrial

Table 154.403.1. Permitted Land Uses

LA	CSR	LDR	MDR	HDR	NO	PO	NC	PC	GC	DC	PI	LI	HI	Type of Land Use
P	P	P	P	P	P	P	P	P	P	P				(1) Day Care Home, Serving 3 to 12 Children
P	P	P	P	P	P	P	P	P	P	P				(2) Home Occupation, Minor
S	S	S	S	S	S	S	S	S	S	S				(3) Home Occupation, Major
P	P	P	P	P	P	P	P	P	P	P				(4) Private Kennel
P	P	P	P	P	P	P	P	P	P	P				(5) Outbuildings and Recreation Facilities
P	P	P	P	P	P	P	P	P	P	P				(6) Recreational Vehicle Storage
P	S													(7) Private Stable
S	S	S	S	S										(8) House Tour
S	S	S	S				S			S				(9) Accommodations, Vacation Rental – Single Room
														Accessory Agricultural Land Uses (See 154.406(I))
														Accessory Recreational & Institutional Land Uses (See 154.406(J))
														Accessory Commercial Land Uses (154.406(K))
						P		P	P	P	P	P	P	(1) Company-Provided Cafeteria
					S	S	S	S	S	S	S	S	S	(2) Company-Provided Day Care
						S		S	P		S	P	P	(3) Company-Provided On-Site Recreation
					P	S	P	S	S	P				(4) Dwelling Units Above Ground Floor
						S		S	P		P	P	P	(5) Fleet Vehicle Storage
								S	S	S				(6) Light Industrial Incident to Indoor Sales
							S	P	P	S	S			(7) Outdoor Dining
							S	S	P	S				(8) Outdoor Display, Removable
									P					(9) Outdoor Display and Storage, Permanent
								S	P					(10) Outdoor Entertainment
P = Permitted by Right (See section 154.402(A)) S = Permitted by a Special Use (See section 154.402 (B))														

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GC General Commercial
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A Special Use Permit has to be obtained in order to operate a short term vacation rental regardless of the land use. This allows a case by case approval based on the merits of each application. This will not be allowed in High Density Residential which will protect renters in apartment complexes. We don't want these rentals to be abandoned. This has become an issue in some communities where control measures are not in place. The Downtown Commercial District would allow these vacation rentals.

SECTION III: Section §154.406 (D) – Principal Commercial Land Uses of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined)*

(D) Principal Commercial Land Uses.

(18) Accommodations, Vacation Rental. Any building, or portion thereof, containing a single dwelling unit or multiple dwelling units which are available to the public for accommodating guests on a basis of less than 30 days for a charge, donation, or any other form of remuneration. Each dwelling unit constitutes a vacation rental unit. It is the intention of the City to restrict the number of vacation rentals and to encourage the use of single-family dwellings for residential purposes in order to maintain the integrity of residential neighborhoods. Therefore, no one owner, under the rules of common ownership, may own more than one vacation rental unit in residential districts; however, owners may own more than one vacation rental unit within commercially zoned districts. Vacation rentals are limited to properties within the Historic District, those deemed as Historic Landmark properties outside of the district or anomalous properties immediately adjacent to the Historic District that are non-contributing.

(a) Regulations:

1. Number of guests. In the case of structures originally constructed as a residence or to provide public accommodations, the number of original bedrooms indigenous to a particular structure will be considered. In the case of other nonresidential structures, the number of allowed guests will be determined by the size of the building and the regulations for such use found in the city's adopted Building Codes, Life Safety and Fire Codes, Electrical Code, the Americans with Disabilities Act and any other codes of the city. Off-street parking capacity, in required districts, will also be considered for the number of allowed guests.

2. Lot capacity. The capacity of a particular lot to absorb the impact of a vacation rental use shall be considered and consideration shall be given to usable lot size, topography, existing vegetation, parking requirements, the location of the rental unit(s) on the lot and the proximity of the rental unit(s) to neighboring properties in determining the number of guests to be permitted.

3. Availability and impact of parking. Parking off-street shall be required in all districts, except Downtown Commercial, and based on the capacity of allowed guests. The physical and aesthetic impact of off-street parking located on the lot shall not be detrimental to the existing character of the lot and the surrounding neighborhood. It shall be a priority to preserve green space. Generally, the capacity of a lot to accommodate off-street parking shall be related to the size and nature of the lot, as stated in (D)(18)(a)(2) above. Rental of parking spaces on property other than the lot of the vacation rental shall not be allowed.

4. Requirements For Emergencies.

a. Emergency Lighting: All vacation rentals shall provide adequate emergency lighting, as determined by the Fire Inspector, of the interior of the facility so as to provide any guest with sufficient light to find an appropriate exit during a fire or other emergency.

b. Exit Requirements: All interior and exterior exits shall open from the inside without the use of a key or special knowledge. All such exits shall be of a width of thirty inches (30") or greater and shall not be blocked or obstructed at any time.

c. Floor Plan: A floor plan of the building shall be maintained and displayed in prominent location in each vacation rental unit. The plan shall show the location of each guestroom and the exit locations to be used for such guestrooms in the event of fire. The licensee shall furnish a copy of the floor plan to the Zoning Department.

d. Emergency Telephone: Each guest house or home shall provide a landline telephone for emergency purposes. Such phone shall be available twenty-four (24) hours a day. A list of all emergency numbers shall be posted next to the telephone.

5. Additional information or requirements to be designated in special use permit. (Refer to §154.924 - Special Uses.)

a. No vacation rental shall commence doing business until a guest accommodation license has been issued by the city;

b. Proof of registration with the Illinois Department of Revenue and the City of Galena for hotel/motel taxes shall be given to the Zoning Administrator within 90 days after issuance of the guest accommodation license;

c. No signs advertising the vacation rental shall be displayed on the site.

d. Each vacation rental owner shall maintain a guest register; and

e. Single-room vacation rentals shall be considered an accessory residential land use. See §154.406 (H)(9).

6. Application: contents. An application for a vacation rental special use permit shall include such information as the Zoning Administrator or the Zoning Board of Appeals may require, but, at a minimum, shall include the following:

a. A site plan depicting all existing conditions of and proposed modifications to buildings, walks, drives, parking, berming, planting, fencing and lighting. Pertinent elevations or perspective drawings may be requested for more accurate review of various details;

b. Photographs of the proposed vacation rental, accessory buildings and zoning lot;

c. Floor plan of the proposed vacation rental showing all rooms and designation of room usage.

SECTION IV: Section §154.406 (H) – Accessory Residential Land Uses of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined)*

(H) Accessory Residential Land Uses.

(9) Accommodations, Vacation Rental – Single Room. A single guest room which is available to the public for accommodating guests on a basis of less than 30 days for a charge, donation, or any other form of remuneration. A single-room vacation rental may have no more than two sleeping guests and may be within or detached from the main dwelling unit. Vacation rentals are limited to only properties with Single Family Dwellings and are within the Historic District, those deemed as Historic Landmark properties outside of the district or anomalous properties immediately adjacent to the Historic District that are non-contributing.

(a) Regulations:

1. Number of guests. Single-room vacation rentals are limited to two sleeping guests.
2. Lot capacity. The capacity of a particular lot to absorb the impact of a single-room vacation rental use shall be considered and consideration shall be given to usable lot size, topography, existing vegetation, parking requirements, the location of the rental unit on the lot and the proximity of the rental unit to neighboring properties.
3. Availability and impact of parking. One off-street parking space for the guest room and one additional off-street parking space for the owner shall be required in all districts. The physical and aesthetic impact of off-street parking located on the lot shall not be detrimental to the existing character of the lot and the surrounding neighborhood. It shall be a priority to preserve green space. Generally, the capacity of a lot to accommodate off-street parking shall be related to the size and nature of the lot, as stated in (H)(9)(a)(2) above. Rental of parking spaces on property other than the lot of the vacation rental shall not be allowed.
4. Owner occupancy. The property shall be owner-occupied when guests are present.
5. Additional information or requirements to be designated in special use permit. (Refer to §154.924 - Special Uses.)
 - a. No vacation rental shall commence doing business until a guest accommodation license has been issued by the city;
 - b. Proof of registration with the Illinois Department of Revenue and the City of Galena for hotel/motel taxes shall be given to the Zoning Administrator within 90 days after issuance of the guest accommodation license;
 - c. No signs advertising the vacation rental shall be displayed on the site.
 - d. Each vacation rental owner shall maintain a guest register; and
 - e. A floor plan of the building shall be maintained and displayed in prominent location in the guest room. The plan shall show the location of each room and the exit locations to be used for the guest room

in the event of fire. The licensee shall furnish a copy of the floor plan to the Zoning Department.

6. Application: contents. An application for a vacation rental special use permit shall include such information as the Zoning Administrator or the Zoning Board of Appeals may require, but, at a minimum, shall include the following:

- a. A site plan depicting all existing conditions of and proposed modifications to buildings, walks, drives, parking, berming, planting, fencing and lighting. Pertinent elevations or perspective drawings may be requested for more accurate review of various details;
- b. Photographs of the proposed vacation rental, accessory buildings and zoning lot;
- c. Floor plan of the proposed vacation rental showing all rooms and designation of room usage.

Oldenburg said you could own multiple vacation rentals in the Downtown Commercial District but only one in a Residential District. This is similar to Bed and Breakfast/Guest House regulations. The idea was to be sensitive to the density of the neighborhood. When determining the number of allowed guests staff would look at the number of original bedrooms, overall square footage, lot capacity and the fire safety regulations. Off street parking would be required except in the downtown district. The impact of parking would be looked at on a case by case basis. When renting the entire dwelling unit, it does not have to be owner occupied. In lieu of this there are emergency requirements – such as emergency lighting, exit floor plan, land line phone - measures that would be needed in case of an emergency. Applicants and operators would have to go through the annual inspection/licensing process just like guest home owners do. Insurance, inspections, tax registration, health and fire code compliance are all standards that would have to be met. An accessory land use – single family residence - would allow a one room rental either in the main dwelling or in an accessory building, must be owner occupied and would need to comply with all previously mentioned regulations. Outside of the DCD the short term rentals must be in the historic district or be a landmarked historic property recognized by the HPC or be directly adjacent to the historic district. It seems most appropriate that people looking to visit Galena and stay in these rentals are looking for historic type homes not ranch homes in newer developments. One parking space per every four guests is required except in the Downtown Commercial District. A single room rental allows a maximum of two guests and would require a parking space for the owner and the guest.

Rosenthal asked why the Downtown Commercial District is exempt from parking requirements.

Oldenburg said there is a mass of parking available downtown. This proposed use could potentially reduce parking needs.

Rosenthal asked if a downtown building could have more than one rental unit.

Oldenburg said they could. The number would be determined by looking at the land use requirements and each application on a case by case basis.

Baranski said if a downtown property converts upper floor space to apartments we do not require any off street parking.

Oldenburg said only small inns in the DCD have off street parking requirements. There is a myriad of commercial uses for the upper floors of any downtown building. A land use change is really up to a building

owner and the tenants. There may be some residents who are displaced but this could mean a potential development opportunity for long term rentals.

Baranski asked if there were any multifamily units in low or medium density.

Oldenburg said Victoria Heights – USDA funded; Jo Daviess County Housing Authority – HUD funded; both would not qualify. When someone makes a decision to go this route there is a lot of work and finances involved. There are some multiplexes in residential zoning districts but they would only be allowed to have one short term vacation rental.

Baranski asked about public input.

Oldenburg said the input meetings were important and staff tried to look at every angle. Guest house owners, realtors, general public, business owners – lots of people came forward and expressed their ideas and concerns.

Jansen asked about the impact overnight parking would have on the downtown district.

Oldenburg said there had not been a study relating to this. Generally, people who visit Galena come in, go shopping or dining and then leave. You have the bar crowds or the residents who are parked later at night. There are some zones that have parking restrictions.

Jansen said when you drive Main Street in the morning things are pretty empty.

Rosenthal agreed that overnight parking on Main Street is really not an issue.

Oldenburg said if allowed, people could come to the downtown area and shop, dine, visit the sites, take in the entertainment and then stay overnight.

Rosenthal asked those in favor of the request to come forward and testify.

Ryan Dies, 226 S Bench Street said he runs a business at 112 N Main Street and would like to operate a short term rental on the upper floors there. He has already sought feedback from city staff. He was recently approached by someone looking to rent the space for as traditional housing rental for six people - which would have a greater impact on the parking than a short term rental. This type of land use would be a tremendous asset for him. Thank you to the City for looking to allow this type of use.

Catherine Kouzmanoff, 219 S Prospect Street said she operates a business at 242 N Main Street and is closing soon on a building directly behind this space. She fully supports the short term rental and if approved it could allow some options on bringing her recent acquisition into the modern era. This could mean a lot to downtown Galena - allowing for last minute visitors which means more exposure.

Jody McGill, 336 Spring Street wanted to express her support to the short term rental concept. This would bring a younger different demographic to our progressive community and be a long term benefit for Galena.

Dana Meadows, 103 N Main Street, is President of the Downtown Business Owners Association. He and many others are in favor of this proposal. Most upper floors are vacant in the downtown buildings and in need of refurbishing. This use would help in preserving the historic nature of the buildings.

Rosenthal asked those opposed to the request to come forward and testify.

No one did.

MOTION: Jansen moved, seconded by Bochniak to close the Public Hearing on Cal. No. 16A-04.

Motion carried on voice vote.

MOTION: Baranski moved, seconded by Jansen to draft a positive Finding of Fact to approve the text amendment language as presented for Cal. No. 16A-04.

Discussion: Baranski said this is an excellent idea and City staff did a great job crafting the proposal. This reflects changing trends and Galena needs to continue its appeal to the tourism market. There certainly is a great deal of vacant space on Main Street that could benefit from this.

Rosenthal said this income would afford current or new owners to upgrade or better maintain these properties.

Baranski reviewed the approval criteria:

Approval Criteria & Recommendation:

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein.

In determining whether the proposed amendment shall be approved, the following factors shall be considered: *Comments are italicized.*

- (1) Whether the existing text or zoning designation was in error at the time of adoption; *No text or designations were in error at time of adoption. The advent of technology and the travel / tourism needs of the market are creating need for change in allowable uses for their accommodations.*

- (2) Whether there has been a change of character in the area or throughout the city due to installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc.; *New trends in travelers' wants combined with technology and the shared economy have generated the need for a proactive approach to controlling and providing for vacation rental land uses.*

- (3) Whether the proposed rezoning is compatible with the surrounding area and defining characteristics of the proposed zoning district or whether there may be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new zone may generate such as excessive storm water runoff, water, air

or noise pollution, excessive nighttime lighting, or other nuisances; *Each zoning district indicated has properties that may be suitable for the proposed uses. The detailed regulations will reduce the potential for nuisances and provide for a compatible use. Additional control measures, already within the code, will further ensure that nuisance properties can be dealt with and permissions revoked.*

(4) Whether the proposal is in conformance with and in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this code, and other city regulations and guidelines; *The proposed amendment supports the Comprehensive Plan and tourism, identified as the community's main industry.*

(5) Whether adequate public facilities and services are available or will be made available concurrent with the projected impacts of development in the proposed zone; *Not applicable*

(6) Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs; or *There is an adequate supply of land as the dwellings are already in existence.*

(7) Whether there is a need in the community for the proposal and whether there will be benefits derived by the community or area by the proposed rezoning. *The growth of tourism and visitors to Galena, combined with the interest of vacation rental properties has indicated a need for the land use. If a provision is made, then it can be controlled. The benefits to the community is allowing a demographic that wishes to stay in vacation rentals to stay within the City and spend more time and money here, supporting the local economy.*

As Roll Call was:

Cook	Yes
Holman	Yes
Jansen	Yes
Nybo	Absent
Baranski	Yes
Bochniak	Yes
Rosenthal	Yes

Motion carried.

Cal. No. 16A-05, Applicant: City of Galena – 101 Green Street, Galena, IL 61036. Request for Text Amendment to §154.804 Prohibited Signs and §154.805 Signs Exempt from Permitting, to allow flag signs on commercial use properties except for businesses with a Main Street façade.

MOTION: Cook moved, seconded by Jansen to open the Public Hearing on Cal. No. 16A-05.

Motion carried on voice vote.

City Attorney Nack swore in all those persons who wished to testify at this public hearing.

Oldenburg again presented for the City. He said last year the Zoning Board had a work session on flag signs. Generally, they are prohibited yet some existed. The Board at that time decided that the City should enforce the ordinance as it was written. Oldenburg has spent the last year doing just that. A letter was sent to business owners explaining the ordinance. Some business owners responded asking that the ordinance be changed so they would be allowed to use a flag at their business. Oldenburg reported this to the City Council and they directed him to draft language for a text amendment that would allow flag signs in certain areas. The sections and proposed changes are:

SECTION I: Section §154.804 – Prohibited Signs of the City of Galena Zoning Code, is hereby amended as follows

- *(Additions are shown as underlined)*

Section §154.804 – Prohibited Signs

(B) *Strictly prohibited signs.* The following signs are strictly prohibited within the jurisdiction of this chapter.

- (2) Mobile and portable signs except as permitted in §154.805(N).
- (6) Signs which rotate, revolve, or have any movable part, including signs which give the appearance of movement except as permitted in §154.805(B).
- (7) Signs which produce movements achieved by normal wind currents, other than weather vanes unrelated to business or commerce except as permitted in §154.805(B).

SECTION II: Section §154.805 – Signs Exempt from Permitting of the City of Galena Zoning Code, is hereby amended as follows:

- *(Additions are shown as underlined)*

Section §154.805 – Signs Exempt from Permitting.

(B) Flags, as defined in §154.015; or flag signs, used to indicate whether a business is open, on commercial use properties except for businesses with a Main Street façade. Commercially used flags, other than those defined in §154.015, shall be limited to 15 square feet in area and shall not have garish colors. Such flags shall be placed so that they do not block, or interfere with, any sidewalk or public spaces.

Oldenburg said last year when this was discussed it was determined that we didn't want every business on Main Street to be displaying a flag. As this is written flags would be allowed in areas without a Main Street facade. The main areas where Oldenburg has had enforcement issues over the past year are Commerce Street, Highway 20 and Bench Street.

Baranski commented on the phrase garish colors.

Oldenburg said that was taken from the guidelines for signs within the historic district. Bright or garish colors, neonlike, on signs or flags would not be allowed.

Bochniak asked if we were going to specify where the flag was located on the building.

Oldenburg said the flag should not block the sidewalk and it cannot inhibit pedestrian traffic.

Rosenthal asked all those in support of the request to come forward and testify.

Janet Komistra, 414 Washington Street said she sells from Tin Pan Alley on Commerce Street. Since they have had to remove the antiques flag traffic has been slow and sales reduced. She is requesting the Board approve the ordinance change that would allow businesses off of Main Street to fly a flag making them more visible.

John Slimp, 100 Bouthillier Street is the owner of Otto's and in favor of the change. They are 100% destination – their patrons are looking for an open flag. Since they had to remove it their sales have taken a hit. Customers have complained that they weren't sure if they were open or not when the other type of allowed flag was displayed.

Bruce Dean, 303 S Commerce Street said everyone seems to agree that businesses off of Main Street are at a disadvantage and should be allowed to have a flag.

Bill Karberg, 408 S Main Street said in the past he has flown a flag and he has Main Street frontage. He has not been able to do this of late. He does support those that will be allowed and understands that they need this. Location is everything and even if you are on Main Street all areas are not equal. The difference in his two locations is huge. He realizes how difficult it is to attract shoppers in low traffic areas.

Jody McGill, 336 Spring Street said antique or open flags allow a provision to recognize those businesses off the beaten path. This is crucial to those stores.

Bruce Dean wanted to remind everyone that antiques are what brought Galena back.

Janet Komistra said as it is written now it is confusing – you can fly an American or State flag but you can't have an open or antique flag. What was the intent of the original ordinance?

Rosenthal asked all those opposed to the request to come forward and testify.

Kenn Robb, 525 S Hickory Street said he really isn't opposed. Open flags are a way to show that you are open. He is opposed to the number of flags one might be able to display. He doesn't want these in high exposure areas. How many flags can a business display and how many ways of saying 'open' do you need. One sign or flag should be enough – choose what works best for your situation. Too many flags or signs lead to clutter. He has seen this firsthand – not from those speaking tonight but from other business people in Galena. The request doesn't seem to place a limit on how many flags you could display.

MOTION: Holman moved, seconded by Jansen to close the Public Hearing on Cal. No. 16A-05.

Motion carried on voice vote.

MOTION: Jansen moved, seconded by Bochniak to send a positive recommendation to the City Council to allow flag signs on commercial use properties except for businesses with a Main Street facade for Cal. No. 16A-05.

Discussion: Jansen said laws are often repealed or changed. If someone is using this inappropriately the City would hear complains and we would address the offender or maybe another change would be needed.

Rosenthal asked Oldenburg if the 15 square foot limit would address how many flags one could have.

Oldenburg said he probably should have included a limit.

Baranski said he would feel comfortable just including a number limit.

Nack said you could amend the original motion and add a limit of one flag per structure.

MOTION: Jansen moved, seconded by Bochniak to amend the original motion to include one flag per structure.

Oldenburg asked if the Board wanted one flag per structure, property or business.

Rosenthal said he looks at the structure.

Jansen agreed.

Baranski said there are structures that have multiple businesses, such as the strip mall at Galena Square. Maybe it should be one per business.

Rosenthal said he looked at that as separate structures.

Oldenburg said a structure would be the whole mass – one structure. Oldenburg said maybe one per business. That's how it is looked at downtown.

Nack suggested the motion to amend be pulled and a new motion be made.

MOTION: Jansen moved, seconded by Bochniak to withdraw the amendment to the original motion.

MOTION: Jansen moved, seconded by Bochniak to amend the original motion to include one flag per business.

Rosenthal said this will go to the City Council and if they have concerns they can amend it or send it back to us.

Baranski asked if the flag had to be an open flag.

Oldenburg said he did not limit the language on the flag. Typically, the flag will indicate the business is open but it does not have to be an open flag.

Approval Criteria & Recommendation:

In order to maintain internal consistency within this code and on the zoning map, proposed amendments to the text and zoning map must be consistent with the purposes stated herein. In determining whether the proposed amendment shall be approved, the following factors shall be considered:

- (1) Whether the existing text or zoning designation was in error at the time of adoption - *no*
- (2) Whether there has been a change of character in the area or throughout the city due to installation of public facilities, other zone changes, new growth trends, deterioration, development transitions, etc. – *not applicable*
- (3) Whether the proposed rezoning is compatible with the surrounding area and defining characteristics of the proposed zoning district or whether there may be adverse impacts on the capacity or safety of the portion of street network influenced by the rezoning, parking problems, or environmental impacts that the new zone may generate such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances – *it does*
- (4) Whether the proposal is in conformance with and in furtherance of the implementation of the goals and policies of the Comprehensive Plan, other adopted plans, and the policies, intents and requirements of this code, and other city regulations and guidelines – *it does*
- (5) Whether adequate public facilities and services are available or will be made available concurrent with the projected impacts of development in the proposed zone – *not applicable*
- (6) Whether there is an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs – *not applicable*
- (7) Whether there is a need in the community for the proposal and whether there will be benefits derived by the community or area by the proposed rezoning – *yes there are*

Rosenthal called for roll on the amendment.

As Roll Call was:

Holman	Yes
Jansen	Yes
Nybo	Absent
Baranski	Yes
Bochniak	Yes
Cook	Yes
Rosenthal	Yes

Motion carried.

Rosenthal called for roll on the original motion.

As Roll Call was:

Jansen	Yes
Nybo	Absent
Baranski	Yes
Bochniak	Yes
Cook	Yes
Holman	Yes
Rosenthal	Yes

Motion carried.

COUNTY ZONING

None

WORKSESSION/OTHER

Discussion regarding the relationship of “attention-getting devices” as defined in §154.804(B)(3) and the display of merchandise in the Downtown Commercial District.

Oldenburg said this work session came on the heels of the last agenda item and was in response to other things he is seeing on Main Street. When reviewing Main Street and addressing the display of flags he also noticed things that could be interpreted as attention getting devices which are not allowed. We have allowed merchandise displays in an alcove or recess of a store as long as it did not interfere with the pedestrian walkway. The semantics between merchandise and attention getting devices is in question. Sometimes these attention getting devices are actually merchandise that the store sells. Oldenburg said he wants to be fair to all merchants. There are so many dynamics with the way the code is written - you could be downtown nitpicking all the time. There is a charm to displaying your wares – and this is something that has been done for years. Generally, downtown looks really good. If possible, he would like to de-conflict the code. How does the Board think downtown looks? Should the ordinance be left alone or is there room to look at what is allowed and perhaps change the ordinance making it easier for business owners to know how to proceed.

Rosenthal said no matter how it is written people will push the envelope. We don't want Galena to look like Wisconsin Dells - all kinds of stuff everywhere.

Baranski asked what if you sell the type of attention getting devices listed as prohibited from displaying.

Oldenburg said it is discretionary and there is no explicit limit to how much can be displayed. When things start to look cluttered he does a walk through and then everyone gets upset – it is unpleasant all around.

Rosenthal said signs have to be approved so they comply and are historically appropriate but allowing all kinds of stuff to hang off a building looks bad.

Oldenburg asked if he should limit what is displayed.

Rosenthal said it looks nice to have some merchandise displayed in an alcove, but not hanging off the building. You need to have an area off the sidewalk.

Baranski asked if that was where Oldenburg was seeing things.

Oldenburg said yes, but there are things – clothes – that are hung off the front window. It's technically not sticking out into the sidewalk but it is hanging off the building.

Bochniak said every storefront has windows and usually lots of display area. While you can't show everything this gives a good idea of what it is you sell.

Baranski asked what other historic communities do. He agrees with Rosenthal that we don't want all kinds of stuff hanging everywhere. He does think there is a benefit to showing a couple things – but not on the sidewalk – in the alcove.

Oldenburg said if you don't have an alcove you aren't equal to those who can display. He doesn't mind enforcing the code but there are questions about what can or can't be displayed. He really does want to be fair.

Baranski said we can't be the first community to experience this.

Oldenburg said there are probably communities that simply don't allow anything other than a sandwich board. He wanted to see how the Board felt before he went any further. He can put together something a little more comprehensive for the Board to review or he can enforce what is in the ordinance.

Baranski said if it is an enforcement issue and there is no real consistency or logical way to enforce it then it should be looked at.

Jansen and Cook said defining alcove and stoop where a display can be located is important.

Oldenburg said he believed the Board had provided enough direction for him and he will gather information, examples and ideas for the Board to review sometime in the next few months.

PUBLIC COMMENTS

Dana Meadows asked if any changes to the attention getting devices would apply to the twice yearly sidewalk sales.

Catherine Kouzmanoff said some of the hardware fasteners holding signs in the downtown area look bad or are maybe not appropriate. She also mentioned that having merchandise displayed makes the downtown area

appear vibrant especially during slower times of the year when it may seem as though everything is closed. Maybe displays could be utilized or there could be more flexibility during certain times of the week or year.

MOTION: Jansen moved, seconded by Bochniak to adjourn the meeting at 8:55pm.

Motion carried on voice vote.

Respectfully submitted by

Deb Price
Zoning Board Secretary