



AGENDA

Downtown Advisory Commission
Thursday, November 10, 2011
Municipal Center – MEETING ROOM B&C
400 S. Eagle Street
3:30 – 5:00 PM

I. Call to Order / Roll Call

III. Approval of Meeting Summary from September 21, 2011 Meeting (pgs. 1-5)

V. Discussion Topics

1) Liquor Advisory Subcommittee Recommendations and Next Steps (pgs. 6-26)

On November 1, 2011, recommendations from the Liquor Advisory Subcommittee were presented to City Council. City Council has requested feedback on the recommendations from a number of organizations, including DAC. A copy of the recommendations, as presented to City Council is attached. Through this agenda item, next steps relative to the downtown use mix will also be discussed.

2) 2011 DAC Work Plan Accomplishments/Status Updates

Staff will provide updates and answer questions about the wide variety of top Downtown2030 implementation items pursued by DAC in 2011, including:

- B4/B5 Amendments
- Wayfinding Pilot Initiative
- Mobile Vending
- Historic Preservation
- Design Guidelines

3) Proposed 2012 DAC Meeting Schedule (pg. 27)

The 2012 DAC meeting calendar is attached for review and approval. The calendar includes monthly meeting dates, but staff anticipates DAC will only convene quarterly. In the months between meetings, staff will provide monthly e-update and subcommittees will meet to work on priority implementation items. This approach will also offer opportunity for additional coordination with representatives from the Planning and Zoning Commission on subcommittees.

II. Correspondence /Updates

None

V. Adjournment

Next Meeting: January 19, 2012

AGENDA ITEM: North Downtown Special Planning Area Policies

UNAPPROVED

**NAPERVILLE DOWNTOWN ADVISORY
 COMMISSION MEETING SUMMARY
 September 21, 2011 - 3:30 P.M. – Municipal Center Lunchroom**

Call to Order	<u>Time:</u> 3:44 pm																																				
A. Roll Call Commissioners:	<p style="text-align: right;"><u>Present:</u></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; text-align: center;"><u>Yes</u></th> <th style="width: 10%; text-align: center;"><u>No</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: right;">Steven Rubin, Chairman</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Judy Brodhead, City Councilman</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Joe McElroy, City Councilman</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Mary Ellen Barry</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Steve Grosskopf</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Richard Hitchcock</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Christine Jeffries, Departed 5:23pm</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Mary Ann Junkroski, Arrived 3:47pm</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Bob Marshall</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">John Schmitt, Depart at 5:11pm</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td style="text-align: right;">Dwight Yackley</td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		<u>Yes</u>	<u>No</u>	Steven Rubin, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Judy Brodhead, City Councilman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Joe McElroy, City Councilman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mary Ellen Barry	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Steve Grosskopf	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Richard Hitchcock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Christine Jeffries, Departed 5:23pm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Mary Ann Junkroski, Arrived 3:47pm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bob Marshall	<input type="checkbox"/>	<input checked="" type="checkbox"/>	John Schmitt, Depart at 5:11pm	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Dwight Yackley	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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Staff Present:	TED - Amy Emery, Marcie Schatz																																				
Public:	Patty Gustin – Resident and Plan Commission member Georgeann Baldino - Naperville Women’s Club Representative																																				
B. Approval of Meeting Minutes	<p><u>April 21, 2011 Minutes</u> Motion By: Hitchcock Second By: Jeffries Approved: 7:0; Rubin Abstained</p> <p><u>July 21, 2011 Minutes</u> Motion By: Schmitt Second By: Yackley Approved: 5:0; McElroy, Junkroski and Brodhead Abstained</p>																																				
C. Discussion Topics																																					
<i>DAC Coordination with Planning and Zoning Commission</i>	<p>Jeffries recommended a Planning and Zoning Commission (PC) liaison member be added to DAC to improve communication between DAC and PC, particularly as it relates to implementation of the Downtown2030 Plan and supporting Downtown Design Guidelines.</p> <p>Plan Commissioner Gustin was in attendance. She shared her perspective that the Plan Commissioners are concerned about their communication with DAC. Items forwarded to the Planning and Zoning Commission from DAC seem very complete and are perceived more as information items than items requiring Planning and Zoning Commission review and input. Accordingly, she believes it would be beneficial to have a Planning and Zoning Commission liaison to understand the entire DAC process.</p> <p>Brodhead expressed hesitation with the idea of permanently adding a Plan</p>																																				

***B4/B5 Zoning
Amendments***

Commission Member to DAC. She supports the idea of additional conversation and communication; However, DAC doesn't meet on a regular basis and DAC agenda topics extend beyond land use matters that are within the purview of the Planning and Zoning Commission.

McElroy echoed Councilman Brodhead's disappointment with Plan Commission attendance at the joint workshop with DAC this summer. He would encourage better participation at future joint meetings. He would support a PZC member (or alternate) attending DAC meetings on the occasion when topics warrant to share information.

Emery noted that additional coordination with the Planning and Zoning Commission through joint meetings, letters and e-news is planned in 2012 as additional land use implementation items are initiated by DAC, including TU zoning district amendments.

Rubin suggested that the topic of improved communication with the Planning and Zoning Commission be added to a future agenda.

Emery provided an overview of the zoning amendments. She noted that the proposed changes are a direct translation of the language included on pages 29-32 of the *Naperville Downtown2030 Plan*. Two open houses were hosted by DAC on August 31, 2011. Approximately 25 property owners attended. No one expressed concerns with the changes proposed. Eight (8) property owners are working with the city to rezone their properties in accordance with the recommendations of the *Naperville Downtown2030 Plan*.

DAC recessed for 10 minutes to review the zoning changes in detail and the displays from the August 31, 2011 workshop.

McElroy asked why no first floor retail will be allowed in the B5. He expressed an opinion that a corner grocery store might be a nice land use option. Emery responded that the B5 areas identified on the *Downtown2030 Future Land Use Map* are extremely limited. Intensity of use associated with first floor retail is of concern.

Hitchcock asked staff for clarification about the limits of the *5th Avenue Study* and recommendation for the property at the northwest corner of Benton and Washington. Emery indicated this area is part of the North Downtown Special Planning Area of the *Naperville Downtown2030 Plan*. The property is currently zoned B5. If redevelopment involving more than one parcel is proposed, a Planned Unit Development is required.

Yackley asked for clarification about zoning changes related to spa/massage establishment. The proposed language would indicate that these uses could

locate on this first floor. This is inconsistent with current code and he does not support.

Jeffries requested clarification on the difference between a conditional use and variance. In response, Plan Commissioner Gustin shared that a land related hardship is required for a variance. Conditional uses are permitted subject to certain conditions being applied. Variances may not be granted for uses, only for height, setback, and the like. In order to allow a use that is not permitted in a zoning district, the zoning district has to be amended.

Rubin said the intent of the B4/B5 zoning changes are to promote ground floor retail and restaurant uses. Spa/massage establishments typically seek a more relaxed, quiet environment, so a second story use would be more appropriate.

Emery suggested modifying the draft definition examples to move massage establishments/spas from a 'commercial service' category to a 'general service' category. This change would restrict these uses to the second story and above. She also agreed to provide DAC with follow-up zoning code information comparing the way massage establishments are currently regulated as compared to what is proposed. [Follow-up correspondence demonstrated that with the change discussed there will be no change in the way massage establishments are currently permitted – second story and above.]

Hitchcock cautioned that DAC should be careful not to finesse the proposed zoning language too much. DAC's role at this point is to ensure that the intent has been respected. He felt the change to general service will achieve the desired outcome – an active first floor tenant mix of retailers selling products.

Brodhead suggested removing slashes in future code language and listing massage establishment first to elimination confusion.

McElroy expressed support for the proposed changes, noting that they are being suggested by building owners and elected officials.

By a show of hands, DAC unanimously agreed to move massage establishment/spa uses to the general service category, thereby directing their location to the second floor and above in the B4 (Downtown Core) zoning district.

Schmitt and Jefferies indicated that they would seek to contact the property owner of 43 E. Jefferson to encourage them to consider participating in the rezoning initiative with other downtown property owners.

Recommendation to approve the B4 and B5 zoning code amendments and send them to the Planning and Zoning Commission for Public Hearing.

<p><i>Wayfinding Pilot Initiative</i></p>	<p>Motion By: Hitchcock Second By: Jeffries Approved: 6 to 0; Rubin and Yackley Abstained</p> <p>Jeffries provided an update about communications between the Naper Settlement, North Central College, Nichols Library, DuPage Children’s Museum and others interested in changes to downtown wayfinding. She shared her observations of two distinct approaches to wayfinding signage in communities she has visited. On one hand, wayfinding signage can direct you to landmarks and key destinations or signage can be very specific and direct you to specific stores.</p> <p>Rubin expressed his support for the pilot effort, but wanted the signage to focus on cultural destinations – helping to serve as a connective tissue – between these destinations and the downtown. He shared concern about too much signage, such as signage detailing individual stores down particular streets. He believes the existing downtown directory displays are good and feels there is a sense of excitement and curiosity that will be lost if there is too much detail in signage. Downtown should be a place to explore and discover according to Rubin.</p> <p>Junkroski, Yackley and Hitchcock agreed that too much signage can create clutter.</p> <p>Jefferies thanked DAC for this input and indicated she will work to keep the pilot initiative focused on limited signage to cultural destinations.</p>
<p><i>Downtown Liquor</i></p>	<p>Schatz provided a brief overview of the meeting history and recommendations from the Downtown Liquor Subcommittee (DLS). She acknowledged the contributions made by Yackley and Hitchcock as DAC Liaisons. She noted that with respect to the mix of uses downtown, a majority of DLS did not support the establishments of caps. However, DLS has recommended the establishment of a late night license to provide additional control over the operations of these businesses during the hours when most concerns have been raised. She noted that the group has reconvened based on City Council direction to consider possible changes to Class B Licenses. She expects this group will meet 2-3 more times before reporting back to city Council in November.</p> <p>Rubin talked about balance and culture. In his view, he would like to see the DLS come up with indicators to better understand when we have a problem with the downtown mix and focus on managing the mix. What does that mean? More pressure on current operators? Not renew licenses? Schatz explained that the DLS has had a lot to discussion surrounding enforcement, process, permit issuance and the like. One point of clarification is that if someone meets all requirements and background check, the Mayor is obligated to issue a license. As a whole, DLS doesn’t take broad drastic actions across</p>

	<p>everyone to address the problems of a few outliers.</p> <p>Rubin appreciates the DLS perspective, but asked if there is a process like the continuous improvement model to give some continuous function of our review, to avoid issues and to stay head of problems. Schatz noted that one outcome of DLS is a recognition that historically staff has worked a bit too independently to address downtown issues. Moving forward, better cross-departmental communication will be done.</p> <p>Yackley added that he still feels that the conversation about the late night license is unresolved. The majority of DLS voted was not to cap this license, but that vote was not unanimous and he is one he feels a cap is necessary. As proposed, everyone will apply for a late night license. As such, he doesn't see how having a late night license with no caps will accomplish addressing the issue of establishing a balance between restaurants and bars and shopping. He would like to see the committee spending more time on that issue.</p> <p>Brodhead asked clarifying question about the hours of "late night" and how kitchen hours were relayed into the DLS conversations. Schatz indicated that the exact "late night" license hours will be determined if City Council agrees such a license should exist. Moreover, kitchen hours discussed only under enforcement.</p> <p>McElroy suggested that instead of a cap maybe there is an incentive for getting desired downtown uses.</p> <p>Hitchcock commented that his perception is that DLS doesn't want to talk about mix. Their focus is the users we have now. He acknowledge the m ix discussion is difficult. He would like to see it back on the DAC agenda to have the broad conversation - what is the outcome we seek and how do we get there? Once DAC has the conversation it will be up to others (e.g. property owners, DNA to react).</p>	
C. Correspondence	Request that DNA be provided a staff contact from the Department of Public Works for communication about scheduled maintenance and special events.	
D. Motion to Adjourn	Motion By: Junkroski Second By: Yackley Approved : 6:0	
E. Adjournment		5:44 p.m.



Naperville

CITY COUNCIL AGENDA ITEM

SUBJECT: Liquor Subcommittee Recommendation

TYPE OF VOTE: Simple Majority

ACTION REQUESTED:

Receive and provide feedback on the recommendations from the Liquor Subcommittee. Table the item until December 6, 2011 to allow for public comment on the recommendations.

BOARD/COMMISSION REVIEW:

N/A

COUNCIL ACTION PREVIOUSLY TAKEN:

Date	Item No.	Action
1/18/11	L3.	Directed discussion of potential liquor code amendments to a Downtown Liquor Subcommittee.
3/2/10	I6.	Adopted the FY11 Strategic Plan Initiatives including #17 to analyze the restaurant and bar mix in the downtown and consider corresponding amendments to the Liquor code.
8/16/11	L1.	Tabled the report from the Downtown Liquor Subcommittee to September 20, 2011.
9/6/11	Public Forum	Directed reconvening Downtown Liquor Subcommittee with additional non-downtown members to discuss ability to remove barriers from Class B Liquor License operations.

DEPARTMENT: TED/Legal

SUBMITTED BY: Marcie Schatz and Jill Pelka-Wilger

FISCAL IMPACT:

NA

BACKGROUND:

In 2010, City Council established a Strategic Plan Initiative to “analyze the restaurant and bar mix in the downtown and consider corresponding amendments to the Naperville Liquor Code.” The implementation of this initiative included City Council, DAC and Liquor Commission members completing a survey to provide direction on whether there should be future discussions on liquor and the downtown and the focus of the discussions. Consensus items included that there are differences between Class B License holders, there are not too many restaurants today, caps should be considered, impacts on city services and that a subcommittee should be formed. The City Council directed staff to form the Downtown Liquor Subcommittee (DLS) on January 18, 2011 and the recommendations from the DLS were presented to the City Council on August 16, 2011. The DLS recommended the implementation of a consolidated enforcement approach, creation of a Late Night Permit and consideration of opening times for Class B Licenses.

After the raising of the Class C License cap in August, public forum speakers at the September 6, 2011 City Council meeting requested consideration of relief from Class B License requirements. City Council directed the DLS to reconvene with additional input from non-downtown restaurant representatives and report back in 60 days. Rick Sweeney from Your Neighbors was added to the committee as a non-downtown restaurant representative.

DISCUSSION:

The Liquor Subcommittee met three times between September and October 20th. The committee worked under a dual mission of the previous DLS “*recommend code modification(s) to maintain a healthy, balanced environment in downtown*” and the more recent direction to “*remove barriers for Class B Licenses.*”

All of the Liquor Committee meeting summaries are attached for reference. Over the course of the three meetings, the committee discussed several issues including:

- Impacts of Class C Licenses in the marketplace with no requirements to construct or maintain a kitchen.
- Ability to reduce kitchen hours to more efficiently manage an establishment. Discussions ranged from complete owner discretion (no required kitchen hours) to modification of kitchen hours during weekdays in winter months when business is slower to requiring kitchens be open a percentage of the time an establishment is open. Discussions also included potential changes in kitchen hours based on years of service and removal of kitchen requirements on major holidays when no patrons order food.
- The concept of Class B Licenses acting as Class C Licenses if all restrictions are removed.
- The Late Night Permit, previously recommended by DLS, and the potential of capping this permit.
- Public safety resources during the late night hours.
- Retail mix in the downtown and whether all liquor licenses should be capped.
- Ability to enforce any regulations enacted.
- The review process by the Liquor Commission and prospective operators who masquerade a bar as a restaurant concept.

Liquor Subcommittee Recommendations

At their October 20, 2011 meeting, the Liquor Subcommittee made the following recommendations:

1. Establish a new Late Night Permit with the caveat that it is a revenue neutral permit (5-2)

Consistent with the recommendation from the Downtown Liquor Subcommittee, this recommendation creates a Late Night Permits for establishments wanting to stay open past 11:00 p.m. In conjunction with a new permit to allow late night operations, the Class B License definition will be revised to establish a closing time of 11:00 p.m. nightly.

The impacts of an establishment serving liquor until 1:00 a.m. Sunday through Thursday and until 2:00 a.m. on Friday and Saturday has a different impact than a restaurant on surrounding land uses, public safety and overall mix in the downtown or designated commercial area. As requests for liquor licenses are submitted to the city, the pursuit of a Late Night Permit will be an indicator to the Liquor Commission to seek greater clarification on the business plan and operations of the establishment. In addition, the focus of the DLS discussion was specifically on challenges and impacts of late night operations. This separate permit segregates these establishments from the remaining Class B's which function more as restaurants than restaurant/taverns. In the provision of city services, this information provides clarity to the scope of late night operations on any given weekend.

The committee recommended that the Late Night Permits fee is not viewed as a revenue stream, but instead implemented only to cover city administration costs.

2. Modify kitchen hours to 9:00 p.m. Sunday-Thursday and 10:00 p.m. on Friday and Saturday, and eliminate reduced menu requirements, and eliminate kitchen hours on Thanksgiving and Christmas (7-0)

The definition of the Class B License will be modified that the primary purpose of the establishment is the service of food and a full menu is required *when the kitchen is open*. This directly addresses the identity of the establishment that while the kitchen is open, the establishment primarily functions as a restaurant. When the kitchen is closed, the establishment essentially functions like a tavern.

Currently, a Class B establishment is required to have a full menu until 10:00 p.m. Sunday-Thursday and 11:00 p.m. on Friday and Saturday. A reduced menu is also required and the kitchen must remain open until one hour before closing.

The Liquor Subcommittee recommends the elimination of the requirement of a reduced menu and the revision of required kitchen hours to 9:00 p.m. Sunday-Thursday and 10:00 p.m. on Friday and Saturday night. The operator always has the discretion to keep the kitchen open later than the required time. It should be recognized that although the kitchen is currently required to stay open longer, there is no guarantee or requirement that the patrons are ordering food.

	Current	Recommended
Full menu (Sunday-Thursday)	10:00 p.m	9:00 p.m.
Full menu (Friday & Saturday)	11:00 p.m.	10:00 p.m.
Reduced menu	Until 1 hour before closing	None

The revised kitchen hours provide relief and remove barriers for owners and operators of Class B establishments. These recommendations allow Class B establishments to close their kitchens three hours earlier every evening with the modification of full menu hours and elimination of the reduced menu requirement. This change saves the restaurant operator up to twenty-one hours in kitchen labor costs every week. This recommendation is in direct response to the comments raised by operators about the lack of food sales in the late night hours. In addition, the operators consistently raised concerns about the costs of having to keep a kitchen open late into the evening when there are limited numbers of patrons in the establishment and they do not order food.

The recommended revised kitchen hours do not provide the complete removal of all kitchen hour requirements and complete management discretion as discussed by some members of the committee. Although many establishments would not modify their operations with those changes, we believe some would. The complete removal of all kitchen hour requirements would allow for a restaurant to essentially become a tavern. Without any measurable regulations that could be equitably enforced across the city, the license could essentially act as a tavern license. Having even a handful of restaurants migrate into establishments whose primary identity is a tavern, would impact surrounding land uses and the delivery of city services especially public safety.

In addition, the Liquor Subcommittee recommends no kitchen hour requirements on Thanksgiving and Christmas. Restaurant operators are currently required to open and staff their kitchen according to code requirements. However, patrons have typically just eaten a large meal and when they come out, do not order food.

3. Establish a Citywide Cap on Late Night Permits (5-2)

The Liquor Subcommittee recommends that proposed Late Night Permits be capped. This recommendation differs from the previous Downtown Liquor Subcommittee recommendations of no caps on the Late Night Permits. However, the conversation has changed since the Downtown Liquor Subcommittee discussions given the recommendation to lessen the kitchen hours by three hours each evening. In addition, the Police Department has continued to provide input that the current staffing in the downtown is right sized for the number of establishments we currently have functioning with late night operations. In addition, it is important to remember that if an operator applies for a liquor license of a certain classification, meets all of the requirements for the license, and a license is available, the Liquor Commissioner does not have the discretion to say no to the license.

A cap on Late Night Permits does not prohibit new late night establishments from coming into the City of Naperville. It does require additional approval through the City Council to raise the

cap on Late Night Permits similar to the caps raised this year for the Class C and Class D Licenses.

4. Establish a Downtown Cap for Late Night Permits (4-2)

The Liquor Subcommittee recommends that a separate Late Night Permits cap be established for the downtown. The phrases “tipping point” and “balance” are consistently used when discussing the mix of uses in the downtown. The establishment of caps, for Late Night Permits only, will allow the greater evaluation needed to ensure that the downtown and commercial corridors in the city retain that balance. The impacts of an incoming establishment requesting to serve liquor until 1:00 a.m. Sunday through Thursday and until 2:00 a.m. on Friday and Saturday requires greater analysis of planned operations, impacts on surrounding land uses, overall mix in the downtown or designated commercial area and public safety. In addition, this Late Night Permits will incorporate the modified kitchen hours discussed above.

This is not only a downtown issue, especially in the context of public safety. Currently, the police department brings in officers from multiple beats around the city to manage the crowds and late night impacts on weekends in downtown Naperville. If additional late night establishments are developed in non-downtown areas in the city, we must acknowledge that these establishments may pull from the resources currently used in the downtown. Similarly, if additional late night establishments are developed in the downtown, we will see impacts on the ability to deliver public safety services. The decision making process must consider impacts on public safety and potential mitigation of these impacts.

5. No Further Issuance of Class C Licenses (5-1)

The Liquor Subcommittee discussed the fact that the issuance of the Class C License was the action which led them to reconvene. The committee is aware that the current City Council could not remove the legislative authority of a future Council, however they thought it was important to vote on this issue. The discussion centered on the fact that the Class C Licenses have a competitive advantage over the Class B establishments and that there has been the expectation in the community that no further Class C's would be issued.

6. Direct the discussion on the Establishment of Caps on Class B Licenses (non-late night) in the Downtown to NDP, DAC and DNA as a Broader Discussion on Retail Mix (7-0)

The Liquor Subcommittee recommended that a group including members of Naperville Development Partnership (NDP), Downtown Advisory Commission (DAC) and Downtown Naperville Alliance (DNA) meet to discuss the overall retail mix in the downtown and especially restaurant vs. retail space. The Subcommittee acknowledged that they were not the experts in this discussion, but that retail mix was a critical issue in maintaining a healthy downtown. The Subcommittee discussed the potential of capping Class B Licenses (non-late night), but believed the issue is better discussed by NDP, DAC and DNA. NDP, as the economic development engine of the City, would be the most appropriate to lead this discussion. DAC will discuss this issue at their November meeting.

Upcoming Process

Because the Liquor Subcommittee just completed their recommendations on October 20, 2011, staff recommends that the City Council provide feedback on the recommendations and table the

Liquor Subcommittee Recommendations
November 1, 2011
Page 6 of 6

item until December 6, 2011 to allow for public comment. The City Clerk's office will be sending a notification to all current Class B License holders advising them of the recommendations from the Liquor Subcommittee.

RECOMMENDATION:

The Liquor Subcommittee and before them, the Downtown Liquor Subcommittee has been very thoughtful in their deliberations of liquor and liquor licenses. The Liquor Subcommittee has presented recommendations which:

- Consider the needs of the current and future Class B License holder and their challenges in operating a business.
- Incorporate concerns about mix of uses in the downtown and commercial corridors and ensuring the proper controls are in place to maintain a balance between the daytime and nighttime user, the retail and the entertainment.
- Respect the obligation of the city to maintain and effectively enforce the laws in an effort to protect the health, safety and welfare of the community.
- Rewrite code to more clearly reflect what is occurring in the establishments.

The Liquor Subcommittee recommends the following:

1. Establish a new Late Night Permits with the caveat that it is a revenue neutral permit (5-2)
2. Modify kitchen hours to 9:00 p.m. Sunday-Thursday and 10:00 p.m. on Friday and Saturday, and eliminate reduced menu requirements, and eliminate kitchen hours on Thanksgiving and Christmas (7-0)
3. Establish a citywide cap on Late Night Permits (5-2)
4. Establish a downtown cap for Late Night Permits (4-2)
5. No further issuance of Class C Licenses (5-1)
6. Direct the discussion on the establishment of caps on Class B Licenses (non-late night) in the downtown to NDP, DAC and DNA as a broader discussion on retail mix (7-0)

ATTACHMENTS:

1. Liquor Subcommittee meeting summaries
2. Downtown Liquor Subcommittee 8/16/11 City Council agenda item

LIQUOR SUBCOMMITTEE MEETING SUMMARY
September 20, 2011 – Meeting Rooms B&C Naperville Municipal Center

I. Call to Order		<u>Time:</u> 3:40 pm	
II. Roll Call <i>Commissioners:</i>	<u>Present:</u> <i>Jack Barry, Liquor Commission</i> <i>Jimmy Bergeron, Downtown Restaurant Owner (Jimmy's Grill)</i> <i>Dr. Bob Buckman, Resident</i> <i>Kris Hartner, Downtown Property Owner</i> <i>Rick Hitchcock, Downtown Advisory Commission</i> <i>Doug Krause, City Councilman, Arrived 3:42pm</i> <i>Riff Menza, Downtown Restaurant Owner (Feature's)</i> <i>Allen Panek, Resident</i> <i>Rick Sweeney, City Restaurant Owner (Your Neighbors)</i> <i>Grant Wehrli, City Councilman</i> <i>Scott Wehrli, Liquor Commission</i> <i>Dwight Yackley, Downtown Property Owner , Arrived 3:45pm</i>	<u>Yes</u>	<u>No</u>
Staff Present:	TED – Marcie Schatz, Amy Emery Naperville Police Department – John Gustin Legal Department – Jill Pelka-Wilger Clerk's Office – Nancy Bright		
Public:	None		
III. Discussion Topics			
Review of Downtown Liquor Subcommittee (DLS) Recommendations and Class C Cap Increase	<p>Marcie Schatz provide an overview of the DLS mission and recommendations pertaining to:</p> <ul style="list-style-type: none"> • Enforcement (e.g. Modified FireWatch) • Training and coordination between Police, Fire and Code Enforcement • Creation of a "late night" license with supporting modifications to Class B license closing times and investigation into opening times <p>She then summarized events surrounding City Council approval of an increase in the Class C Cap on August 16, 2011 based on a request by World of Beer. At the next meeting, City Council directed that the DLS reconvene (with the addition of two non-downtown members) to evaluate kitchen hours and other potential barriers for Class B License holders and report back by November 1, 2011.</p>		

<p>Review Current Class A, B and C Liquor License Regulations</p>	<p>Marcie Schatz provided a brief overview of the differences between Class A, B and C licenses related to food sales, hours of operation, and caps.</p>
<p>Discuss Existing Barriers and Challenges with Current Class B License Regulations</p>	<p>Jack Barry expressed his opinion that through the late night license provisions recommended by DLS, he felt concerns about kitchen hours and similar conditions could be addressed as the details surrounding the new late night license were finalized.</p> <p>Jimmy Bergeron explained that the City Council's decision to add an additional Class C License completely changed his perspective about opportunities to change the Class B License. Previously, he assumed that the mission of the DLS was to consider additional regulations and requirements. Based on the Class C License Cap increase, he feels that some relaxing of current standards, particularly as they relate to kitchen hours should be considered. The issue in his opinion is an economic one. Construction of a certified kitchen will cost between \$250,000-\$500,000. Staffing of a full-service kitchen constitutes between 50 and 60% of a Class B operator cost. On the other hand, a Class C establishment, has no upfront kitchen cost and does not incur the same staff requirements. As a result, he feels Class C establishments have an unfair competitive advantage. He went on to suggest that he would either like to pursue a Class C License himself or have the flexibility to determine his own kitchen hours and no longer be required to provide lunch service each day.</p> <p>Jill Pelka-Wilger clarified that there is no opening time requirement for Class B or Class C Licenses. As such, lunch service is not required.</p> <p>Riff Menza suggested that Class C Licenses should cost significantly more than Class B Licenses given their more lucrative business model. He believes this approach could help to level the playing field.</p> <p>Councilman Wehrli expressed his desire to achieve a balance between keeping the streets safe but also not obstruct business. He would like to hear proposals that will give Class B establishments' added flexibility, but will not completely eliminate kitchen requirements. He was open to suggested frameworks for kitchen hour restrictions. He expressed concern that if all kitchen hour restrictions were lifted then the Class B License would really end up being no different than a Class C.</p> <p>Jimmy Bergeron responded by noting that given the expense of constructing the kitchen, eliminating strict kitchen hours would not eliminate use of the kitchen. The investment and maintenance required for a certified kitchen is so great it cannot be left completely idle.</p> <p>Rick Sweeney indicated that he would be supportive of changes in the kitchen hour requirements. He would like to be able to open his bar without kitchen service on holidays and have the same flexibility during weekdays in the slower winter season.</p> <p>Marcie Schatz asked Mr. Bergeron, Mr. Sweeney and Mr. Menza if they could share</p>

some data about their food sales at the next meeting to demonstrate when food sales are strong and weak at certain times of the day, days of the week, or seasons of the year which would help to support possible changes in kitchen hours.

Kris Hartner expressed his surprise that an additional Class C license was approved. He felt it went against the direction of the downtown.

Riff Menza expressed his opinion that proven businesses should have the right to decide how to use their own kitchen. He suggested a grace period wherein kitchen hours would be required for a certain number of years, then after a certain point (10 year window) the owner would have the right to determine their own kitchen hours.

Jill Pelka-Wilger expressed some concern about Mr. Menza's suggestion as it would be difficult to enforce. She indicated she would be more supportive of unilateral changes to kitchen hours on certain days or seasons. Specific parameters for enforce would be best.

Allen Panek stated that he feels we need more flexibility for Class B operators, but fears that too much flexibility will result in irresponsible owners having people drinking on empty stomachs. While he acknowledges this may be possible today in Class C establishments, there are only 6 licenses of this type, there are many, many more Class B establishments.

Councilman Krause asked for a breakdown of the tenure of the existing Class B establishments to better appreciate Mr. Menza's suggestion.

Kris Hartner suggested that the Class B License could be modified to have some days identified in each calendar year when food service is not required.

Riff Menza expressed concern with Mr. Hartner's suggested approach as it would be difficult to predict days in advance given volatile market conditions. Mr. Bergeron agreed with Mr. Menza.

Jimmy Bergeron acknowledged that the conversation has focused a lot on hours of operation. He indicated he doesn't support any other changes to the Class B License at this time.

Dwight Yackley expressed his desire to see additional conversation around the mix of land uses in the Downtown as this is his primary reason for participation on the committee. He indicated he has no strong opinions on liquor licensing, though he was surprised by the 10 year suggestion made by Mr. Menza. He agreed with the previous recommendation of the committee to establish a late night license. Similarly, he agreed with Mr. Barry's opening remarks that through the late night license special requirements could be placed to address operations that desire to be open after 11pm, including kitchen hours.

Marcie Schatz expressed her appreciation for Mr. Yackley's perspective and participation in the committee thus far. She indicated that the discussion of caps and Class B operations feeds directly into the Downtown mix discussion. Changes in kitchen hours will have a magnified effect downtown due to the density of

	establishments. Inversely, if the City is open to more Class C Licenses, that will also have an impact on the Downtown mix.
Information Items:	The next meeting date will be October 11, 2011. Staff will contact committee members to confirm quorum and officially post meeting date, time and location.
V. Adjournment	4:50 pm

**LIQUOR SUBCOMMITTEE MEETING SUMMARY
 October 11, 2011 – Naperville Municipal Center Lunchroom**

I. Call to Order		<u>Time:</u> 3:48 pm	
II. Roll Call <i>Commissioners:</i>	<p><u>Present:</u></p> <p><i>Jack Barry, Liquor Commission</i></p> <p><i>Jimmy Bergeron, Downtown Restaurant Owner (Jimmy's Grill)</i></p> <p><i>Dr. Bob Buckman, Resident</i></p> <p><i>Kris Hartner, Downtown Property Owner</i></p> <p><i>Rick Hitchcock, Downtown Advisory Commission</i></p> <p><i>Doug Krause, City Councilman, Arrived 3:42pm</i></p> <p><i>Riff Menza, Downtown Restaurant Owner (Feature's)</i></p> <p><i>Allen Panek, Resident</i></p> <p><i>Rick Sweeney, City Restaurant Owner (Your Neighbors)</i></p> <p><i>Grant Wehrli, City Councilman (Departed at 4:47pm)</i></p> <p><i>Scott Wehrli, Liquor Commission</i></p> <p><i>Dwight Yackley, Downtown Property Owner, Arrived 3:45pm</i></p>	<u>Yes</u>	<u>No</u>
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Staff Present:	<p>Clerk's Office – Pam LaFeber, Ph. D. Legal Department – Jill Pelka-Wilger Mayor's Office – Emy Trotz Police Department – John Gustin TED – Marcie Schatz, Amy Emery</p>		
Public:	Nancy Quigley		
III. Approval of September 20, 2011 Meeting Summary			
Motion:	<p>Motion to approve the summary as printed by Councilman Wehrli. Second by Jack Barry. Approved 8-0</p>		
III. Discussion Topics			
	<p>Marcie Schatz reviewed the mission of the Liquor Subcommittee (LSC). The LSC quickly recapped the discussion from the September 20, 2011 meeting to appreciate how the mission has changed from that of the original Downtown Liquor Subcommittee (DLS).</p>		

<p>Kitchen Hours</p>	<p>Marcie Schatz presented three options for kitchen hours based on the previous discussions.</p> <ul style="list-style-type: none">• Option 1: Remove All Kitchen Hour Requirements• Option 2/3: Change Kitchen Hours by 1 Hour each day, no requirements for select holidays and seasonal variation.• Option 4: kitchen hours may be determined by establishments that have been in business for 10 years. <p>Jimmy Bergeron – Opened the discussion by disagreeing with the staff interpretation that removing all specific kitchen hour requirements will automatically change Class B establishments to Class C. He explained that because Class B establishments would still be required to have a certified commercial kitchen it would not make financial sense to not use the kitchen at all. Also, he noted the definition of a Class B license [<i>the primary business licensed as a restaurant/tavern shall be the serving of meals</i>] would prohibit operation without any kitchen hours. Moreover, he expressed concern that with Options 2 and 3, it is not possible to know on a day to day basis if it will make sense for the operator to close at specific times. He proposed a percentage option (e.g. to require that the kitchen be open a certain percentage of time an establishment is open).</p> <ul style="list-style-type: none">• Marcie Schatz expressed concern about the percentage idea because it would be very difficult to consistently enforce as it essentially establishes 86 standards for the 86 Class B establishments.• Deputy Chief Gustin noted that any establishment has the latitude to close their business at any time. He added no matter how long you may have been in business everyone should have to meet certain requirements. <p>Riff Menza clarified that at earlier meetings he had proposed tenure as a means to determine who should have kitchen hour flexibility. However, he said, the 10-year period is arbitrary. An establishment could be open for 6 months and run a great business. What he is pushing for is having businesses that are well run rewarded with the opportunity to have flexibility in establishing their own kitchen hours.</p> <p>Councilman Krause proposed a one year trial to give establishments flexibility on kitchen hours to see if there is an impact on downtown and DUI arrests. He proposed that businesses would document when they close their kitchen each day and provide that information to staff when the year expires.</p> <ul style="list-style-type: none">• Jimmy Bergeron commented that it is a great burden on a business to document kitchen hours that way. Additionally, he disagreed with the assertion that there is a correlation between kitchen hours and downtown patron behavior. <p>Jack Barry suggested that the Late Night License previously proposed by the Downtown Liquor Subcommittee could be used as a tool to resolve these issues. He also noted that interested establishment owners can request a Class C License if that is what they really desire.</p> <ul style="list-style-type: none">• Jill Pelka-Wilger noted that while anyone can apply and receive an application, under the current code there is a specific prohibition from an existing Class B License changing to anything other than Class A. The code is written this way in an effort to prevent someone from presenting one
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business model/case to the city for approval and then moving on quickly to something else.

Councilman Wehrli proposed that for the next year establishments which have been around for at least 10 years may deviate from their posted kitchen hours. Any change should be noted and presented to the City at the end of the year so actual changes can be understood. He acknowledged that his 10-year timeframe was intentionally conservative and, furthermore, this arrangement would require the city to put trust in businesses for accurate reporting.

- Marcie Schatz expressed concern about how the city could ensure accurate reporting. She also asked for some clarification on why 10 years? Would other criteria be appropriate (different timeframe, number of violations, etc.).
- Jimmy Bergeron suggested a 5 year period as that is the timeframe used most often by the Restaurant Association and noted that 90% of restaurants don't make it that long.
- Dr. Bob Buckman added that if 5 years were the standard, it would be possible to get better data because there are more establishments could participate.

Rick Sweeney said that he does not want to see the Class C License cap raised because it will really create an unfair advantage if people can move in without having to construct a commercial kitchen. He reiterated his point from the previous meeting that all the existing Class B establishments are looking for is flexibility for kitchen hours. He estimated for his business that would mean reducing hours by approximately 8 hours a week. Even that small figure would make a significant difference to the bottom line.

- Marcie Schatz noted that based on Mr. Sweeney's suggestion it sounds like operators have a good idea of when during the year they would close the kitchen so a regulation could be developed that would provide some added flexibility over the current requirements.
- Jimmy Bergeron restated his concern with kitchen hour requirements tied to any specific season or hour. He repeated his preference for a percentage-based regulation.

Councilman Krause suggested seasonal kitchen hour flexibility with set hours the remainder of the year.

- Councilman Wehrli suggested that any proposed change should be incremental. He acknowledged that it will not be possible for everyone to get what they want.
- Marcie Schatz asked for clarification of 'seasonal' and what that flexibility would look like.
- Jimmy Bergeron replied that for his business that would mean the end of October to end of April. However, he noted that the "slow" season really depends on the type of business and may be different for different establishments. Also, he said based on his experience the national chains really don't have flexibility with kitchen hours.
- Deputy Gustin said that having 86 licenses for 86 types of businesses with respect to kitchen hours will not work from an enforcement perspective. While he understands the desire to modify the kitchen hours, he believes

	<p>that regulations need to have some consistency. What has to be understood is that change to kitchen operation hours can change the landscape for which the Police Department has to provide staff. He cautioned that what seems like an administrative change may become a change in public service needs. He appreciates that the LSC participants appreciate the spirit of such a change, but thinks there may be others who simply decide they can open and close whenever they see fit.</p> <ul style="list-style-type: none"> • Councilman Krause suggested that perhaps some additional criteria could be added (e.g. no calls, no DUI) • Jimmy Bergeron didn't feel that calls and DUI arrests are fair standards because downtown establishments have additional police presence and protection, which by its nature, leads to more calls. • Councilman Wehrli noted that any such license flexibility trial period could end at any point in time; He surmised at some point it is a leap of faith. • Jack Barry restated that he feels what is really being discussed here is the Late Night License concept previously discussed. <p>Scott Werhli suggested that the best thing to do may be to leave the Class A and Class B Licenses alone. He proposed creating a new license, letter "Z," that will:</p> <ul style="list-style-type: none"> • Be for late night operations (midnight – close) • Be capped • Require the establishment to be a restaurant/tavern • Require the City to modify the definition in the Class B License, so the "Primary business of food" would be changed for this type of license • Have reduced kitchen hours coinciding with ideas on chart [referring to slide from staff – 8 or 9pm close, plus closed on Easter, Thanksgiving and Christmas] • Still require a full-service menu • Management would have the ability to modify kitchen hours (e.g. seasonally, poor weather days, etc.) • Have eligibility requirements that in order to receive a License Z you need to be in business for so many years <p>He went on to say, that when a business owner applies for a License Z, the business would be required to offer a snapshot of the current business as it relates to kitchen hours and overall food sales. In a year, when the permit is set to expire they would need to provide the same information so it could be confirmed that they are operating in accordance with the permit and haven't transformed into Class C establishment.</p> <p>Several members of LSC expressed their opinion that Mr. Wehrli's suggestion had merit. Marcie Schatz said that staff will write –up the recommendation for LSC review at a meeting next week. Staff will work with LSC to secure and post a meeting time.</p>
<p>Information Items:</p>	<p>None</p>
<p>V. Adjournment</p>	<p>4:53 pm</p>

**LIQUOR SUBCOMMITTEE MEETING SUMMARY
 October 20, 2011 – Naperville Municipal Center B&C**

I. Call to Order		<u>Time:</u>	3:06 pm	
II. Roll Call	<p><i><u>Present:</u></i></p> <p><i>Commissioners:</i> <i>Jack Barry, Liquor Commission</i></p> <p><i>Jimmy Bergeron, Downtown Restaurant Owner</i></p> <p><i>Dr. Bob Buckman, Resident</i></p> <p><i>Kris Hartner, Downtown Property Owner</i></p> <p><i>Rick Hitchcock, Downtown Advisory Commission</i></p> <p><i>Doug Krause, City Councilman</i></p> <p><i>Riff Menza, Downtown Restaurant Owner</i></p> <p><i>Allen Panek, Resident</i></p> <p><i>Rick Sweeney, City Restaurant Owner</i></p> <p><i>Grant Wehrli, City Councilman</i></p> <p><i>Scott Wehrli, Liquor Commission</i></p> <p><i>Dwight Yackley, Downtown Property Owner</i></p>	<i><u>Yes</u></i>	<i><u>No</u></i>	
Staff Present:	Clerk's Office – Nancy Bright Legal Department – Jill Pelka-Wilger Police Department – John Gustin TED – Marcie Schatz, Amy Emery			
Public:	Nancy Quigley			
III. Approval of September 20, 2011 Meeting Summary				
Motion:	Motion to approve the summary as printed by Councilman Wehrli. Second by Dwight Yackley. Approved 8-0			
III. Discussion Topics				
	Marcie Schatz reviewed the mission of the Liquor Subcommittee (LSC) and objective to formulate recommendation to City Council for November 1, 2011 City Council Meeting.			

<p>Staff Recommendation</p>	<p>Schatz presented the draft staff recommendation to the LSC:</p> <ol style="list-style-type: none">1. A capped late night permit to allow an establishment to serve until 1am Sunday-Thursday and 2am on Friday and Saturday. Class B Licenses will require modification to require closing at 11pm. Staff believes this option provides greater awareness for the Liquor Commission as to the nature of business and clarifies scope of late night operations to allow for public safety management.2. Kitchen hour modification to change full menu required times to 9pm Sunday – Thursday and 10pm on Friday and Saturday. Staff is also recommending eliminating the reduced menu since it is not used by patrons. This will allow kitchens to be closed up to 21 more hours than current requirements each week. It was noted that operator always have the right to have the kitchen open longer. <p>Staff is not recommending removal of all kitchen hours or years of service as a condition of enforcement – options discussed at previous LSC meetings. To conclude, Schatz noted that staff believes these recommendations:</p> <ul style="list-style-type: none">• Offer flexibility for Class B operators• Maintain the primary purpose of Class B License,• Considers impacts on balance within the community• Consider impacts on city services• Are enforceable
<p>LSC Discussion</p>	<p><u>PERMIT COSTS</u></p> <p>Yackley asked if the late night permit cost has been considered. Staff confirmed it had not yet been discussed in detail. He also confirmed with staff that the recommended cap would be citywide, not just downtown.</p> <p>Bergeron expressed concern about added cost for a late night permit. He feels any more cost is troublesome. Councilman Wehrli said that his goal is to allow business to be successful. From a policy standpoint, the permit fee isn't viewed as a revenue stream. It doesn't solve budget problems. It should just be what is necessary to cover city paperwork costs.</p> <p><u>KITCHEN HOUR MODIFICATION</u></p> <p>Bergeron suggested the LSC recommend a kitchen operation exemption for holidays. In particular, he mentioned Christmas Eve, Christmas Day, Thanksgiving Day, and traditional “cookout” days like Labor Day and Memorial Day.</p> <p>Menza agreed, but said for his business he wouldn't need that many days.</p> <p>Pelka-Wilger explained that she understands the operator's desire for greater flexibility and that the particular day will depend greatly on the type and location of the establishment. However, from an enforcement standpoint a consistent set of established calendar days is necessary. Moreover, she expressed concerns about having establishments open for extended periods without kitchen service available.</p> <p>Sweeny recommended Christmas and Thanksgiving only as days when kitchen operations would not be required. Bergeron and Menza agreed.</p>

CAPS FOR LATE NIGHT PERMITS

Panek expressed support for the cap on late night permits as it will provide a higher level of scrutiny on establishments that have a greater potential to create more significant public safety service demands.

Yackley asked the questions, “Why won’t everyone just apply for a late night permit? What’s the incentive not to apply? What does it accomplish?”

Bergeron agreed with Yackley that there seems to be little reason not to apply for a late night license. He expressed his opinion that traditional ‘restaurants’ will apply for the permit to accommodate late night parties. It was suggested that the hours of Class B Licenses could be extended to specifically accommodate private parties in accordance with definitions (e.g. when individual invitations go out, for a purpose other than increasing establishment revenue (e.g., family party, wedding shower, etc.), in an area where the general public cannot filter into the event).

Gustin asked, “If a Class B licensed establishment, with a late night permit, were to have a violation in the late night permit hours what would be in violation? The permit? License? Both?” Pelka-Wilger answered that the code can be drafted such that the permit can be suspended or revoked independently of the license. However, if the violation is great enough, the license could also be revoked.

Yackley noted that based on his understanding, if an applicant meets all requirements today, there is no reason to deny. In fact, the Liquor Commissioner will have a hard time saying no at all from a legal standpoint. However, with a cap, the ability to say no remains intact, particularly if the cap has to be raised to accommodate an establishment.

Pelka-Wilger noted that Naperville is very much an outlier in the fact that the vast majority of other communities in the region have caps on all their liquor license types.

Menza stated that he believed the LSC was reconvened to see if something can be changed to help to the Class B License operators compete. As such, he was a little surprised to see late night permits recommended by staff. With respect to caps, given City Council action to increase caps, he asked, “What do they really mean? Where is the strength in a cap?”

DOWNTOWN MIX

Yackley indicated his concern does not lie with modified kitchen hours or holiday requirements. His primary concern is how these changes impact Downtown Naperville. He supports a cap to support a balanced mix of downtown uses, but feels a two-tiered system is necessary. There should be one cap for the downtown and another for the rest of the city. He pointed out how if a single system were used, too many establishments could concentrate in the downtown or the downtown could be prevented for expanding if permits were held in the far reaches of the city.

Yackley continued by sharing his opinion that caps help to achieve a balanced

downtown by providing a means to keep retail viable by limiting the opportunity for restaurant/bar conversions that can lease at a much higher rate per square foot. He shared his perspective as a property owner with recent vacancies and noted that his requests for restaurant/bar establishments far outnumber his requests for retailers. In fact, he said he has to recruit retailers. He understands that this recommendation will limit his opportunity to find tenants. He went on to express his support for a cap on all downtown Class B Licenses, not just late night permits. He thinks this is critical in the downtown because the other primary means for limitation -parking restriction - does not exist. In a shopping center, the number of bar/restaurants is limited by available parking supply. With shared parking the same limitations do not exist downtown.

Bergeron said he doesn't agree with Yackley's comments. He indicated that downtown restaurant sales are down and only one more license exists downtown today than was there in 2005.

Councilman Wehrli said he is not willing to take risk with the downtown. He would rather take a cautious approach.

Yackley clarified that he has no problem with restaurants or late night establishment downtown. In fact, he is glad they are here, but he doesn't want to see that become the prevalent tenant on all blocks in the downtown. If that happens, he feels that downtown will lose some of its charm and character. Having a cap is a way to regulate the mix.

Schatz asked the question of where the restaurant vs. retail discussion should be held. She suggested it should remain with the Downtown Advisory Commission (DAC).

Hitchcock agreed with Schatz.

Pelka-Wilger did clarify that a cap on either the permit or the license can be based on geography (e.g. downtown specific).

Yackley agreed that a cap is not likely to be a complete solution. He agreed that there may be other ways as this topic is discussed more by DAC and others.

PUBLIC SAFETY

Gustin expressed his concern that while he appreciates that much of the LSC conversation has focused on the downtown, it is important to remember that there is a limit on city services. Additional licenses and additional permits will face a finite response time from public safety.

S. Wehrli suggested LSC should recommend to City Council that as license caps are increased throughout the City (or downtown or any other area) that public safety resources be allocated to those areas accordingly. He agreed with Gustin's point that one cannot happen without the other.

Schatz explained that most municipalities will cap all of their licenses to get a

<p>LSC Recommendations</p>	<p>greater level of review. In particular, as recommended by staff, a late night license cap will accomplish a greater level of scrutiny for late night operations. She noted the City is appropriately staffed now, but if we have more late night operations we might have an issue. She acknowledged that a cap doesn't mean we won't see more late night permits, but it provides a higher level of scrutiny to make sure we have staff in place to maintain public safety.</p> <p>S. Wehrli noted that it is an increase in tavern license that brought the LSC together. He suggested LSC should recommend to City Council that no further Class C licenses be issued beyond the current cap based on comments from other license holders and public safety allocations.</p> <p>Bergeron commented that restricting businesses because of safety concerns is counterintuitive in his opinion. Addition of business adds money for taxes and, in turn, public safety personnel. That money can be used to pay for staff resources needed.</p> <p>Councilman Wehrli said caps have a good purpose to allow for additional review of certain proposals. Without caps anyone can go in by right. He noted though that it shouldn't be impossible to lift cap.</p> <p>Hitchcock made a motion to recommend <u>modified kitchen hours</u> as outlined in memo with the addition of eliminating any kitchen hour requirements on Thanksgiving and Christmas Day. Motion Seconded By: Sweeney Ayes: Bergeron, Hitchcock, Menza, Panek, Sweeney, S. Wehrli, Yackley Nay: None Abstained: Councilman Wehrli Approved 7:0</p> <p>Bergeron made a motion to recommend establishment of a <u>late night permit</u> for Class B Licenses, with the caveat that it is a revenue neutral permit addition (e.g. it will not cost more to obtain this permit than the amount currently paid by Class B License holders), as recommended by staff. Motion Seconded By: Hitchcock Ayes: Bergeron, Hitchcock, Menza, S. Wehrli, Yackley Nays: Panek and Sweeney Abstained – Councilman Wehrli Approved 5:2</p> <p>Bergeron made a motion to recommend establishing a <u>citywide Cap</u> on the late night permits. Motion Seconded By: Panek Ayes: Hitchcock, Menza, Panek, S. Wehrli, Yackely Nays: Bergeron and Sweeney Abstain: Councilman Wehrli Approved: 5:2</p>
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Scott Wehrli made a motion to recommend only having a downtown Cap (within the limits of the SSA) for late night permits.

Motion Seconded By: Bergeron

Ayes: Hitchcock, Panek, S. Wehrli, Yackley

Nays: Bergeron, Sweeney

Abstain: Councilman Wehrli, Menza

Approved 4:2

CLASS C LICENSES

Councilman Wehrli noted that over the last 20 years Naperville's population has increased significantly. Therefore, from a strictly population and geographical standpoint, he believes an argument can be made for increasing the Class C Cap from 5 to 6 licenses. He sees the cap as an opportunity to review specific proposals and circumstances on a case-by-case basis.

S. Wehrli noted at this point in time, without a cap, anyone can get a permit. The Liquor Commission has no mechanism to deny a permit. The Liquor Commission needs something in their toolbox to have the right to say no. As it pertains to the downtown, he believes that there is a concentration of liquor licenses, especially when it comes to late night operations, and it must be regulated beyond current requirements. As such, he favors late night permit and caps. So far the market has regulated the situation well, but it all comes down to a tipping point. We have people asking for taverns. Liquor Commission tries to push away on criteria of code. He noted that there has been a cap on Class C for the last 20 years. In his opinion, this cap has resulted in higher quality establishments in the City. While there may be exceptions from time to time, he would support a cap on Class C Licenses. He doesn't think it is fair to those who have done build outs and run operations as Class B Licenses with the understanding that it was the city's expectation.

Bergeron said he would not support such a motion as he doesn't want to vote in favor of any motion that would limit his opportunity to apply for a different license type.

Councilman Wehrli noted that he understands Bergeron's concerns about the impact caps can have on business, but believes developers should plead their case during additional review.

Motion by S. Wehrli to recommend City Council issue no additional Class C Licenses.

Motion Second By: Hitchcock

Ayes: Hitchcock, Panek, Sweeney, S. Wehrli, Yackley

Nays: Bergeron

Abstain: Councilman Wehrli, Menza

Approved: 5:1

	<p><u>DOWNTOWN VS. CITYWIDE CAPS</u> LSC conversation continued on the topic of separate caps for the downtown or citywide. The LSC agreed that much additional input was needed from groups like DAC, DNA, NDP and the Liquor Commission.</p> <p>Motion by Bergeron to recommend the issue of Class B License Caps in the downtown be sent to DNA, NDP and DAC as part of a broader discussion on retail mix. Motion Seconded By: Hitchcock Ayes: Bergeron, Hitchcock, Menza, Panek, Sweeney, S. Wehrli, Yackley Nays: None Abstain: Councilman Wherli Approved: 7-0</p> <p>Next Steps Schatz indicated that the recommendations of DLS with respect to modifications to the Class B licenses will be presented to the City Council in November. Additional discussion and possible action on Class B License Caps will follow a separate track to allow for additional input.</p> <p>Additional Suggestions Bergeron asked staff, as part of its recommendations to City Council, to look into the Sunday bar dining requirement rules for Class B Licenses. Under the current regulations it is not possible to eat at the bar on Sundays until noon. This creates an issue with football games. He suggested the current restriction be moved to 11am.</p> <p>Bergeron also requested that changes recommended for Class B establishments take effect as soon as possible so owners can benefit from these changes over the winter season. Similarly, he requested that the paperwork for late night permits be streamlined and coincide with annual renewals.</p>
Information Items:	None
V. Adjournment	4:55 pm

2012 Downtown Advisory Commission Meeting Schedule

All Meetings in Municipal Center Rooms B&C. All Meetings Coincide with City Council Meeting Weeks.

Meeting Date	Topic
January 19 3:30–5:00pm	<u>Quarterly Meeting 1</u> : Discussion on North Downtown Special Planning Area: Status, Principals in Plan, Supporting Code Updates
	Open*
February 16 3:30–5:00pm	
March 15 3:30–5:00pm	Open*
April 19 3:30–5:00pm	<u>Quarterly Meeting 2</u> : North Downtown Special Planning Area Policy Guide Recommendation Review. Establish Special Tools/Rooftop Subcommittee
May 17 3:30–5:00pm	Open*
June 21 3:30–5:00pm	Open*
July 19 3:30–5:00pm	Open*
August 16 3:30–5:00pm	<u>Quarterly Meeting 3</u> : Special Planning Tools / Rooftop Zoning Recommendations. Establish Sign Sub-Committee.
Sept. 20 3:30–5:00pm	Open*
October 18 3:30–5:00pm	Open*
November 15 3:30–5:00pm	<u>Quarterly Meeting 4</u> : Sign Code Amendments
Dec. 20 3:30–5:00pm	Open*

Transportation
Wayfinding
Initiative



*Full DAC Meetings will only be scheduled in these months if agenda items arise. Otherwise, DAC will receive monthly e-update related to downtown activities. Subcommittees will meet during these times.

Evening meetings sponsored by DAC will include open houses to present/solicit input on Special Planning Tools/Rooftop Zoning Recommendations/ Sign Amendments