



Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Failed

**File created:** 5/4/2023      **In control:** City Council

**On agenda:** 5/16/2023      **Final action:** 5/16/2023

**Title:** Option A: Concur with the petitioner and direct staff to prepare an ordinance approving a variance to Section 6-7D-4 to allow a general service use below the second floor for the property located at 131-33 S. Washington Street (Skinovatio); or Option B: Concur with staff and the Planning and Zoning Commission and deny the variance - PZC 23-1-025

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Variance Petition, 2. Legal Description, 3. Request Letter, 4. Response to Standards, 5. Skin Image 1, 6. Skin Image 2, 7. Retail Display, 8. Retail Display 2, 9. Skinovatio Bookletmenu, 10. Floor Plan with Retail Space Mark Up, 11. Plat of Survey, 12. NDP and DNA Letter, 13. Public Comment, 14. PZC Meeting Minutes 5-3-23 DRAFT

Date	Ver.	Action By	Action	Result
5/16/2023	1	City Council	denied	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

**Option A:** Concur with the petitioner and direct staff to prepare an ordinance approving a variance to Section 6-7D-4 to allow a general service use below the second floor for the property located at 131-33 S. Washington Street (Skinovatio); or **Option B:** Concur with staff and the Planning and Zoning Commission and deny the variance - PZC 23-1-025

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly, AICP, Community Planner

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission (PZC) considered PZC 23-1-025 on May 3, 2023. The PZC made a motion to deny the variance request (approved 7,0). Staff concurs.

**BACKGROUND:**

The property is located on the west side of Washington Street, just north of Jefferson Avenue with a common street address of 131-133 S. Washington Street. The property is zoned B4 (Downtown Core District) and has been improved with a two-story commercial building.

The Petitioner, Skinovatio, seeks to operate a medical spa in the first floor tenant space. Per Municipal Code Section 6-7D-4 (B4: Required Conditions), a variance is required to permit a health spa, which is classified as a general service, on the first floor in the B4 District. The B4 District permits retail, eating and drinking establishments and commercial services (which includes banks,

beauty shops/salons, and dry cleaning) on any floor of a building. It also allows general services, such as a health spa, but restricts their location to the second floor.

In January 2023, Skinovatio Medical Spa was issued a permit for demolition only of the interior of the tenant space. This permit was specific to the demolition of the space and did not include the review or approval of any future use of the space. Following issuance of the permit, the Petitioner contacted the City in early February 2023 to inquire about sign regulations. During the discussion, staff notified the Petitioner of the B4 (Downtown Core District) regulations which restrict health spas to the second floor. Staff then met with the Petitioner and notified them of the variance process. Following receipt of this information, the Petitioner submitted a commercial alteration permit on February 23, 2023 which has been put on hold by staff (pending the outcome of the variance application). The Petitioner submitted a variance application for staff review on March 7, 2023.

### **DISCUSSION:**

Skinovatio Medical Spa offers services which include but are not limited to: injectables - neurotoxins, dermal fillers, botox, PDO lifting threads, platelet-rich plasma (PRP) injections, microneedling, hydrafacials, forma innovative facial contouring, dermaplaning, chemical peels, laser hair removal, and i-lipo laser. The Petitioner has indicated that patients are encouraged to walk-in to receive services, but they are able to schedule appointments in advance for most services. Additionally, the Petitioner has indicated that approximately 450 square feet of retail will be dedicated at the front of the tenant space and throughout the treatment rooms. The Petitioner has also noted that 25-35% of sales are retail sales.

The objective of the B4 District is to provide opportunities for retail type businesses on the street level that create a shopping destination for pedestrian traffic within a concentrated commercial area. The Downtown 2030 plan provides guidance on pedestrian flow and storefront gaps which create "pedestrian dead zones." Pedestrian dead zones typically lack the appropriate land uses, as well as safe and interesting pedestrian walking routes that connect them to the rest of the downtown and create attractive destinations for pedestrians (pg. 53 of the *Downtown Naperville 2030* plan). Pedestrian dead zones can form as a result of storefront gaps which may include physical spaces (such as parking lots or alleys), inappropriate storefront conversions, or uses which do not generate walk-by customer interest.

While staff is supportive of a health spa tenant within the downtown, staff does not find the use is appropriate on the first floor as it does not contribute to a retail environment and may lead to the creation of a pedestrian dead zone. Due to the medical component of the health spa use, staff believes most customers will schedule appointments in advance and may not linger downtown after receiving the medical procedures offered. Furthermore, health spa uses are defined as a general service use which is largely a destination use. Destination uses are distinguished as uses which patrons do not "happen upon," rather they plan their visit (pg. 31 of the *Downtown Naperville 2030* plan).

The Petitioner's responses to the Standards for Granting a Variance are included in the attachments. The proposed use has been reviewed by the Naperville Development Partnership (NDP) and the Downtown Naperville Alliance (DNA). Neither are not in support of the requested variance to allow the medical spa to be located on the first floor (see letter included within the attachments). The NDP and the DNA note that approval of this request may set a precedent for allowing future similar uses on the first floor. While staff does evaluate all variances on a case-by-case basis for appropriateness within the downtown, staff does not find this use to be distinguishable from other health spa

businesses and does not believe there is a hardship necessitating the proposed tenant to be on the first floor.

### ***Planning and Zoning Commission***

On May 3, 2023, the Planning and Zoning Commission held a public hearing on PZC 23-1-025. Saad Zuberi, Petitioner for Skinovatio and Kumail Hussain presented providing details on the percentage of retail sales, the target clientele, and the services provided noting they can accommodate walk-ins. Aleksandra Waibel and Kat Sallam, founders of Skinovatio spoke about the business providing details on how it was founded and the services which are offered.

The PZC inquired about the amount of retail sales, the demolition permit which was issued, and for clarification of staff's concern. The Petitioner stated approximately 25-35% of sales are retail sales and confirmed the permit was issued was for demolition of the space. Staff noted that the concern of this use is the medical component finding it will not contribute to a retail environment and that the demolition permit did not review the proposed use of the space. The Commissioners also discussed Skinovatio staff credentials and the Petitioner noted they are nurse practitioners and estheticians.

Two members of the public spoke on the request. One member spoke on behalf of the property owner, Claremont One Holdings, noting support for the request. Another member of the public spoke in opposition to the request stating that they were involved in the creation of the Naperville Downtown 2030 plan and does not find this use should be approved on the first floor based on the guidance provided in the plan.

Staff concurs with the concerns raised by the NDP, the DNA, and the Planning and Zoning Commission and recommends the City Council deny the variance request.

If the City Council concurs with the Petitioner's request, it would be appropriate to direct staff to prepare an ordinance approving the variance. This ordinance would then be reviewed by City Council for a formal vote in June 2023.

### ***Key Takeaways***

- The Petitioner requests a variance in the B4 district to operate a health spa on the 1<sup>st</sup> floor at 133 S. Washington Street.
- Staff, the Naperville Development Partnership, Downtown Naperville Alliance, and the Planning and Zoning Commission are not supportive of the variance request to allow the health spa to operate on the first-floor tenant space within the B4 zoning district.

### **FISCAL IMPACT:**

N/A