



Legislation Details (With Text)

**File #:** 21-1121B      **Version:** 1

**Type:** Petitioner Request      **Status:** Passed

**File created:** 9/7/2021      **In control:** City Council

**On agenda:** 9/21/2021      **Final action:** 9/21/2021

**Title:** Option A: Concur with the Petitioner and overturn the decision of the Zoning Administrator and Planning and Zoning Commission to permit the façade of the property located at 8 West Jefferson Avenue (Kerwell) to be painted a neutral color; or

Option B: Concur with the Zoning Administrator and the Planning and Zoning Commission and require the existing paint to be removed from the façade of the property located at 8 West Jefferson Avenue (Kerwell)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Appeal Letter, 2. Building Permit Plan Submittal, 3. Page from Downtown Design Standards, 4. 8 W Jefferson Avenue Prior Facade Street View, 5. Public Comment 1, 6. Location Map, 7. PZC Meeting Minutes 9-1-2021 DRAFT

Date	Ver.	Action By	Action	Result
9/21/2021	1	City Council	approved	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

Option A: Concur with the Petitioner and overturn the decision of the Zoning Administrator and Planning and Zoning Commission to permit the façade of the property located at 8 West Jefferson Avenue (Kerwell) to be painted a neutral color; or

Option B: Concur with the Zoning Administrator and the Planning and Zoning Commission and require the existing paint to be removed from the façade of the property located at 8 West Jefferson Avenue (Kerwell)

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Kathleen Russell, AICP

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission (PZC) considered this matter on September 1, 2021, and voted to uphold the Zoning Administrator’s decision and deny the appeal regarding 8 West Jefferson Avenue (8-0). Staff concurs.

**BACKGROUND:**

The subject property is located west of the intersection of Jefferson Avenue and Washington Street and has a common address of 8 West Jefferson Avenue. It is improved with an approximately 760 square-foot tenant space currently occupied by Kerwell. The Petitioner, Kerry E. Aiyash, Founder and

President of Kerwell, requests approval to allow the masonry façade to remain painted. As described in their appeal letter, the Petitioner was not aware of the Downtown Design Standards and painted the façade without approval.

Per the Naperville Municipal Code, appeals to the Downtown Design Standards are reviewed by the Planning and Zoning Commission. The PZC voted to uphold the Zoning Administrator's decision and not allow the Petitioner to keep the masonry painted (more information below in the Planning and Zoning Commission Action section). PZC determinations are considered final, unless appealed to the City Council. The Petitioner is appealing the PZC's determination at this time.

## **DISCUSSION:**

### ***Permit Drawings***

The Petitioner submitted a permit regarding proposed changes to the façade located at 8 W. Jefferson Avenue, which included changes to the existing door and glass storefront. As detailed in the attached drawings, the existing masonry façade was to remain unchanged and no portion of the masonry façade was proposed for painting. As shown in the attached street view image, the masonry façade was previously unpainted when occupied by the former jewelry tenant.

### ***Complaint Received***

On July 29, 2021, City staff received a question about whether Kerwell had received approval to paint the façade green. City staff again reviewed the permit drawings and confirmed that the City had not authorized any painting of the façade. The City's Code Enforcement Team then contacted the Petitioner requesting that the violation be corrected. In response, on August 22, 2021, the Petitioner submitted a letter requesting an appeal to the Downtown Design Standards in order to permit the façade to remain painted green.

### ***Downtown Design Standards***

The Downtown Design Standards were developed in 2011 as a companion document to the Naperville Downtown 2030 Plan and are intended to serve as the single controlling design reference for the City's downtown. The document establishes standards for building placement, scale, and style for both new and remodeled buildings in the downtown.

The Design Standards state that paint should not be applied to a masonry surface that was not previously painted. Painting natural masonry is discouraged due to durability concerns with the paint, such as peeling and chipping. If painting is permitted, the Design Standards do not allow more than 25% of the façade, excluding windows and doors, to be a bright or dark hue as an accent color. Staff considers the green color applied to a majority of the façade to be an accent color.

### ***Staff Recommendation to PZC***

In accordance with the Downtown Design Standards, had approval been sought, staff would not have permitted the façade of this building to be painted. Given this property's central location in the downtown, the long-term maintenance concerns resulting from painted brick, and the non-neutral color of the painted façade, staff recommended that the Petitioner's request to maintain the existing green paint be denied.

To rectify the current non-conforming condition, staff recommended that the Petitioner take the necessary steps, such as sandblasting or power washing, to remove the existing paint and return

the façade to its prior natural masonry condition. If after attempting to remove the paint, the Petitioner was unsuccessful (as confirmed by the Chief Building Official), staff recommended that the Petitioner first attempt to stain and then potentially paint, if staining is not successful, the façade a neutral color consistent with the Downtown Design Guidelines. The proposed neutral color would be subject to review and approval by the Zoning Administrator prior to its application.

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

The PZC considered this matter on September 1, 2021. Rocky Aiyash spoke on behalf of Kerwell. No members of the public provided testimony. Points highlighted during the deliberation included concerns with how to remove the paint, maintenance of the masonry, staining the masonry, and non-compliance between the current painted masonry and the Downtown Design Standards.

After the discussion, the PZC made a motion to deny the Petitioner's request to overrule the Zoning Administrator's decision with respect to 8 West Jefferson Avenue (vote 8-0). Staff concurs with the PZC's approval to uphold the Zoning Administrators decision.

### ***Appeal to the City Council***

Following the PZC's denial of the Petitioner's request, the Petitioner indicated desire to appeal the Zoning Administrator and PZC's decision to the City Council. The Petitioner is agreeable to paint the façade a neutral color and does not believe the existing green paint can be removed without damaging the masonry.

### ***Staff Recommendation***

As stated above, staff does not agree with the Petitioner's request to keep the masonry painted because it is not compatible with the Downtown Design Standards and the adjacent buildings. If the paint cannot be taken off after a good faith effort to remove it, staff recommends first staining the masonry and then potentially painting the masonry a neutral color that aligns with the Downtown Design Standards. Staff recommends that the City Council uphold the decision of the Zoning Administrator and the PZC with respect to the Downtown Design Standards to not allow the Petitioner to keep the masonry painted unless attempts to remove the paint and/or stain the façade fail.

### **Key Takeaways**

- The Petitioner is appealing the Downtown Design Standards (2011) in order to permit the building located at 8 West Jefferson Avenue to remain painted. The Petitioner commits to maintaining the building.
- Staff does not support the appeal and finds the proposal is not compatible with the Downtown Design Standards and the adjacent buildings.
- Staff requests the City Council uphold the decision of the Zoning Administrator and the Planning and Zoning Commission to not permit the Petitioner to keep the masonry painted for the building at 8 West Jefferson Avenue, as the request does not comply with the City's Downtown Design Standards.

### **FISCAL IMPACT:**

N/A