Planning & Development Committee Meeting  
Minutes of November 26, 2012  
City Council Chambers – 7:15 p.m.  
Lorraine H. Morton Civic Center

MEMBERS PRESENT: J. Fiske, D. Holmes, A. Rainey, D. Wilson, M. Wynne

STAFF PRESENT: G. Chen, G. Farrar, S. Griffin, D. Marino, B. Newman

PRESIDING OFFICIAL: Ald. Fiske

I. DECLARATION OF QUORUM  
A quorum being present, Chair Fiske called the meeting to order at 7:18 p.m.

II. APPROVAL OF THE NOVEMBER 12, 2012 MEETING MINUTES

Ald. Rainey moved approval of the minutes, seconded by Ald. Holmes.

The minutes of the November 12, 2012 meeting were approved unanimously 5-0.

III. ITEMS FOR CONSIDERATION

(P1) Ordinance 138-O-12, Granting a Special Use for an Automobile Service Station and a Variance for 19’ Accessory Structure Canopy Height at 2400 Main St.

Zoning Board of Appeals and City staff recommend adoption of Ordinance 138-O-12 granting a special use permit for the operation of an Automobile Service Station and a variance for 19’ accessory structure canopy height at 2400 Main Street.

For Introduction

Ald. Rainey moved to introduce Ordinance 138-O-12, seconded by Ald. Holmes.

Dennis Marino, Manager of the Planning & Zoning Division explained that staff and the Zoning Board of Appeals (ZBA) recommend the special use and variance allowing a 19’ height where the as-of-right height is 14.5’, because it is necessary for fuel trucks to clear the canopy and the ground is uneven on the site. The site is on the north side of the Food 4 Less parcel.

Ald. Peter Braithwaite, 2nd Ward Alderman, said he shares the support of staff and the ZBA and met with members of his ward on October 18, 2012. Of the 40 members present, the majority of whom live close to the site, most are favor of the special use. He said the only concern was about pedestrian safety, which has been addressed.

Stephen Engelman, Attorney for Food 4 Less introduced David Koppenhafer, Real Estate Manager for Food 4 Less’s local operations, who presented slides of the plans for the proposed fuel station. He explained that the fuel station is to be on the undeveloped out-parcel of the existing shopping center at Main Street Market Place.
and presented a rendering of the property with the fuel station on the north end of the property.

Ald. Rainey expressed concern that view of the small businesses facing Main Street would be blocked by the fuel station structure. Mr. Koppenhafer replied that this structure blocks their view less than a bank drive through or other business that could have been placed there and that it will give gas customers a view of the shops on the north side that they might not otherwise see.

Ald. Holmes clarified that there is to be an employee only kiosk and not a full size store at the fuel station.

Mr. Koppenhafer said the following is proposed:

- A total of 10 pumps providing regular, mid grade, high octane and diesel fuel
- Pumping station to be open 5 a.m. (one hour before food 4 Less opens) to midnight (when store closes)
- Food 4 Less will petition the state to operate unmanned from midnight to 5 a.m.
- Mr. Griffin clarified that City Council would control whether the fueling station may remain open unmanned.
- Parking is to be increased by 2 spaces
- 2 unlocked restrooms with exterior entrances per the usual Food 4 Less code; Ald. Wynne expressed concern if entrances to restrooms are unlocked and Mr. Koppenhafer responded they will be locked if the need arises
- 120 sq. ft. employee-only kiosk
- Upkeep and management to be performed by Food 4 Less management team

Ald. Rainey said there are 8 gas stations in her ward which are the cause of big problems and asked whether Food 4 Less was going to hire someone with experience at dealing with the types of issues that occur at fuel centers or whether they would put one of their cashiers from inside the store at the kiosk. Mr. Koppenhafer said he expected that there would not be a specific requirement for experience in the fuel station business. He further explained that the fuel station:

- Will provide property and sales tax revenue to the City of Evanston
- Is an approximate $1 million proposed project & Food 4 Less is not asking for incentives
- Is an important part of the Food 4 Less business
- Will provide an opportunity for discounted gas for all consumers; not just Food 4 Less customers with up to 10 cents off per gallon if customer shops at Food 4 Less and buys a minimum of $100 in groceries per month; 3% off gas for any other consumer who swipes Food 4 Less card
- They will match the lower competitor in the area and take pride in being the low price operator in the area

Mr. Koppenhafer presented the landscaping package on slides.

Mr. Engelman added that there is a request for a height variation because the property slopes 2’ from one part of the site to another and the canopy height variation accounts for the lowest point of ground to the top of the canopy.
At Ald. Rainey’s inquiry as to what else they would sell at the kiosk, Mr. Kopenhafer replied that they would sell cold non-alcoholic drinks, tobacco, snacks and automotive products. Ald. Holmes mentioned that there is a park in close proximity. Mr. Engelman replied that all properties abutting and adjacent to the station are zoned CI. Mr. Koppenhafer added that Food 4 Less will adhere to any code that states they cannot sell tobacco, etc.

The Committee voted unanimously 5-0 to introduce Ordinance 138-O-12.

IV. ITEMS FOR DISCUSSION

(PD1) Proposed Amendments to Planned Developments for 1881 Oak and 1890 Maple
Staff requests discussion and direction from the Planning and Development Committee regarding the request by Robert King, property owner, concerning the appropriate procedure for consideration of a proposed amendment(s) to the approved planned developments for 1881 Oak and 1890 Maple.

For Discussion

Chair Fiske announced that there would be a 3 minute limit for each public speaker and called the public who wished to speak to the podium.

Stamata Blanas of 1720 Maple Ave. and business owner in downtown Evanston for 21 years, stated that the changes to the Planned Development avoid high density traffic. She said much of the City is landlocked. She said a research facility was originally planned for the site but the City looked at condo options as a planned development. Then a Trader Joe’s was planned for the site, which she was not in favor of, but at least it would bring jobs. She said the current proposal is strictly rental, which changes the commercial to residential rental when Evanston has a need for commercial real estate. She cited examples of businesses that have moved headquarters out of Evanston such as Schneider Trucking, which started in Evanston with 5 people and left with 120 because office space was unavailable. She said their generator went down 3-5 times a month. She said someone from Aon, who moved their corporate headquarters to London, told her if there was office space in Evanston, they would be here. She said Kellogg had over 2,000 employees and had headquarters here. She said the community should decide whether Evanston is ready to change commercial to residential space.

Mike McLaughlin, President of the Optima Views Condominium Association, who has been in commercial real estate for several years, said he echoes what Stamata said in that the research park would have kept bright, innovative people in the area and given them the opportunity for startup jobs and that base level long term jobs of this type make more sense than short term jobs while the building is being built. He said there are four types of commercial property: industrial, office, retail and apartments. Apartments are the hottest product today but he asked why the City would subsidize apartments. He suggested the City subsidize office space. He said rent for office space in the Rotary Building is as high as rent in the John Hancock building and there are not enough institutional buildings with indoor parking in
Evanston. He suggested that Evanston could be a ready market for people living on the North Shore who would rather not drive to downtown Chicago for work.

Ald. Rainey clarified that the City is not subsidizing the project.

Ken Brown of 1889 Maple and president of the Ivy Court Home Owners Association directly across from 1890 Maple, said the residents of their 30 townhouses have been concerned since the project was first proposed, about changes made to the plans for the site. He said his understanding is that there will be more rental properties, fewer owned condos, smaller apartments, no townhouses and less retail which will have a negative impact on the community and create traffic problems.

Tina Paden of 1122 Emerson said she is opposed to the proposed development because of traffic, which she said is already horrendous, especially during rush hour. She said 5 years ago there were supposed to be new traffic lights installed at Ridge and Emerson and it has not been done.

Betty Ester of 2130 Church asked whether, since more units are proposed for the site, the inclusionary ordinance would apply.

Chair Fiske clarified that the issue at hand is whether the item should be introduced or returned to the Plan Commission.

Ald. Holmes clarified that the traffic lights will be put in when the project is constructed.

Mr. Marino replied to Betty Ester’s inquiry that rental developments are not subject to the affordable housing allowance however the developer has paid a voluntary contribution of $165,000 to the Mayor’s Special Housing Fund and $35,000 to the Youth Employment Training Program. He said regarding traffic, the developer has committed to pay $150,000 for traffic improvements, which has not yet been received.

At Ald. Rainey’s inquiry, Mr. Marino said some developers have opted for a fee in lieu of payment to the Affordable Housing Fund (formerly called the Mayor’s Special Housing Fund), such as the 1700 Central project which is obligated to pay $65,000 and 1700 Ridge which is providing some affordable housing units on site. He summarized that the proposed changes to the planned development raise the total combined number of rental units from 342 to 368 and eliminate the combined retail space that would have housed Trader Joe’s, for a reduction from 21,000 sq. ft. to 4,000 sq. ft. and changes the combined parking from 541 to 371 spaces. The other changes proposed are that the units will be changed from condo to rental for 1881 Oak. This has occurred in other amended planned developments.

Grant Farrar, Corporate Counsel, said that the item does not need to go back to Plan Commission because it substantially conforms to code, and that City Council has the final word. He explained that there is no mandatory requirement that it goes back to Plan Commission, adding that of course it is up to the Committee. At Ald. Wynne's inquiry, neither Mr. Marino nor Mr. Farrar remembered any planned
developments being sent back to the Plan Commission and confirmed that no application had been submitted at this point. Mr. Farrar explained that the code does not specify what determines whether a planned development should be sent back to the Plan Commission and given the code and past practice, it has been the City Council that would decide this issue. Ald. Wynne said her issue is that it was approved in 2006 and amended in 2009 and now they are combining the two buildings and it is something entirely new and the Plan Commission are the experts on this and at Plan Commission the public would have more input. She said she values this process and this is a dramatically different project than originally proposed. She concluded that she respects Mr. Farrar's opinion, but she believes the project merits going back to the Plan Commission for a thorough review.

Chair Fiske said the Zoning Ordinance seems clear that the proposed amendment is a major adjustment because “anything other than a change made during construction is considered major.”

Ald. Braithwaite of the 2nd Ward said he acknowledges the residents and appreciates their appearance. He said he has met with the Optima residents and received their emails and he believes they need to have a public discussion. He requested that the item be placed on the next available Planning & Development Committee meeting agenda and that he would like the opportunity for the public to address their questions to the developer at that meeting.

David Reifman of DLA Piper, representing owners, Mr. King and partner, Mr. Fifield, said Fifield is well-known in Chicago and California. He identified several projects that had changes that were not sent back to the Plan Commission: 1717 Ridge increased the number of units by 12%, 1700 Central increased the number of units by over 50%, whereas the proposed change in the number of units is only 7%. He noted that the parking space reduction brings the ratio to 1:1 which is consistent with the requirements of the Downtown Plan, and with approved parking at 1717 Ridge and approved parking at 1700 Central. At 1717 Ridge, the 4 proposed buildings were combined into 2, and amended to be combined into 1. He noted that 1890 Maple was originally proposed as rental, so that is not a change. He also noted that the amendment will result in a reduction in traffic. He requested that the item be heard at the January 14, 2013 City Council meeting at which time they will submit a revised zoning analysis and supporting materials. He introduced the architect, Pat Fitzgerald.

Mr. Fitzgerald presented photos of Mr. Fifield’s and Mr. King’s projects. He showed the proposed pedestrian ingress and egress with the changes to the planned development including the elimination of the curb cuts along Emerson which were a concern to the residents, and the townhomes along Emerson which are to be increased to 12, and will be set back from the sidewalk, in response to the community’s input. He pointed out the locations of the two lobbies and the shared garage and amenity space, with the garage entrance at the west end of the property, explaining that the one-story spaces join the 2 separate buildings. He noted that floor area has been reduced. Mr. Reifman concluded that there are no subsidies being provided by the City and that this will be an extremely high end rental
development that will generate $1,000,000 per year in real estate taxes. He requested that the item be placed on the next P&D meeting for public hearing.

Ald. Rainey said, in support of the project, that the public needs to get over the fact that the Research Park was a failure and that there is nothing anyone can do to make Trader Joe’s open a store in a location they do not want. But, she said, Trader Joe’s is on Chicago Avenue. She said she hopes the 4,000 sq. ft. of retail space will get occupied. She said there are floors of vacant office space in downtown Evanston. She said it could take months for the Plan Commission to review the project. She said more units does not mean more traffic if there are less parking spaces and pointed out that this plan requires the developer to provide traffic control. She said to deny this amendment to the planned development would be anti-economic development in every sense and that it is beautiful and it can work. She said there is a new office building being built at Main and Chicago that the City is subsidizing.

Ald. Holmes agreed with Ald. Rainey, adding that she would like to get the income on the tax roles.

Ald. Wynne requested that staff send the Plan Commission reports of 2006 and 2009 to Council in order to understand the project from the beginning.

Ald. Wilson agreed that it is important to have time for public input and said it is better to send it to City Council with its history.

Chair Fiske said the item should be returned to the Plan Commission though realizing there will not be enough votes to send it back, she is encouraged that there will be a public forum at the P&D Committee level. She said it seemed clear to her before she was on the City Council, that some projects should have gone back to the Plan Commission that were not, and that it has caused public mistrust. She believes the public could have much more input at Plan Commission than can be allowed at P&D.

**Ald. Rainey moved to introduce the proposed amendments at the January 14th, 2013 P&D meeting for a public hearing, as opposed to sending it back to the Plan Commission, seconded by Ald. Holmes.**

The Committee discussed whether staff would have time to complete the zoning analysis and review by the Site Plan & Appearance Review Committee.

Ald. Wynne emphasized that in 2009 there were notice problems in the community and asked that staff makes sure that does not happen again. Mr. Griffin assured Ald. Wynne that it will not happen again, that the application and staff report will be available by January 14th and that the Plan Commission reports will also be available to the public, per Ald. Wynne’s request.

**The Committee voted by majority 3-2 with Ald. Wynne and Ald. Fiske opposed, to introduce the amendments to the Planned Development.**
(PD2) Regulation of Vacation Rentals
Staff requests discussion and direction from the Planning and Development Committee regarding regulation of vacation rentals.

For Discussion

Chair Fiske called the public who wished to speak to the podium.

Julie Koehler of 2525 Ashland said it has been 5 months since her neighbors requested that she call the Zoning Division regarding their neighbor’s advertisements on countless internet websites to rent out bedrooms within their homes, operating an illegal transient hotel. She said there were 12 people lodged in her neighbor's home and she complained to the Building Division, Law Department, Ald. Grover and the P&D Committee at a previous meeting but on football weekend her pleas for help were ignored. She said that Mr. Cox explained to her that Chapter 5 deals in home occupations, which excludes lodging that provides rooms to 3 or less family members, so this is not a home occupation. She said this is an illegal rooming house according to Chapter 2 because they are lodging far beyond 3 non-family members in the house. She said if the City has still not been able to write a restrictive ordinance, so be it, but asked that the City enforce the existing laws. She asked that the City start writing ordinance violations against her neighbors who are renting out their homes on this illegal rooming house basis.

Mark Rosati of 2509 Ashland said 2 houses immediately north of his are being rented as rooming houses and one is doing extensive advertising and he believes this is a growing problem that is having a negative impact on the quality of life for the neighbors and will result in lower property values and lower property taxes. He said there is an elementary school with 370 students and at least 15 minor children on their block and the neighbors do not know from night to night who is living there. This commercial activity is causing the neighborhood to become less stable and affecting their safety and security and the quality of their lives.

Greg Richards of 2529 Ashland said he has spoken to the P&D Committee on 2 prior occasions and he is opposed to the allowance of transient rental operations, licensed or unlicensed, in residential neighborhoods. He believes it is a safety issue for his children and it is not in character with a residential neighborhood. His neighbors have put in a memorandum that these rentals are not legal under the existing zoning laws, which was delivered to the P&D Committee on October 22, 2012 and no official response has been received. Mr. Farrar was requested to provide a legal opinion regarding the issue and asked, if it had been provided, that it be made available to the public. He believes if it has been deemed illegal, it is up to the P&D Committee to chart a course of action to enforce the ordinance. This is the 3rd meeting he has attended and he and his neighbors have been waiting months for resolution of this issue.

Judith Koehler of 2425 Central said she is opposed to transient rentals because they will reduce the already reduced property values and will destroy their neighborhood congeniality and integrity. She is the president of her condo association and said the first question they get from prospective buyers, banks and realtors is, “Do you allow rentals?” She said if they do allow them, it reduces the value of the property...
and the ability to get a loan. In a condo, to have strangers running in and out of the building would cause a breach in security. She said absentee landlords would cause a big problem with rental condos. They had a rental tenant in their condo who was threatening other residents and it was very hard to get rid of him. She said transient rentals will cause chaos in the community.

Maureen O'Donnell who lives next door to the overnight rooming house at 2515 Ashland, said the owner has advertised overnight room rentals in her home on Craigslist, AirB&B.com and other websites across the globe. She has even found ads for rooms in her home in Italian. They have offered renters plenty of ice-filled coolers and barbeque grills for parties. There are frequent strangers next door. She knocked on the door one day and a man answered who said he did not know where the owners were or how to reach them and that he had just rented from them off the internet. She said there are dozens of children under age 18 on their block and about 370 children at the school across the street and she believes a revolving door of inadequately screened renters is a tragedy waiting to happen. She said in New York, AirB&B renters have stolen landlords’ identities. In San Francisco, an AirB&B renter sustained $50,000 in damages to an apartment. 2 months ago and about 2 miles from Evanston, 2 Chicago men were stabbed to death in their apartment, allegedly by a roommate who found them via Craigslist. One of the victims, 64 year old Gary Brown, was a prosecutor and an attorney for Kankakee, exactly the type of individual one might think could have sussed out a dangerous tenant but there was no protection. She said ads for these hotsheet rooming houses are proliferating all over the internet. Since the neighbors at Central and Ashland asked for the City’s help 2 months ago, the Corporate Counsel’s office has continued to indicate to them as recently as 2 weeks ago, that its hands are tied on the matter because no current law prohibits this. This opinion is not shared by several attorneys on the block who have studied this and offered legal briefs to the City. She said it is her understanding that the City Council has asked the Corporate Counsel and staff for guidance on the matter and she asked that the Corporate Counsel share with them any action that is being taken to prevent a hotsheet rooming house tragedy from happening there. She said she hopes they will get some answers soon.

Chair Fiske thanked the public for their comments and opened the issue for discussion.

Ald. Rainey said there is a response memo from the Corporation Counsel which was published online on the previous Thursday, starting on page 399 of the packet. She said she believes it is clear that the City does not currently have legislation that controls this kind of activity and that her neighborhood has been plagued with it also and she is also very concerned about it. She said the Corporation Counsel concluded that the City may exercise its home rule authority to ban or otherwise regulate vacation rentals. She said staff has requested direction from the Council whether they should be prohibited or regulated, so it is the City Council's job to make the policy. She said she can see where there are times to rent during the summer along the lake front for a month or more, but the behavior and the actual practice is so negative and destructive to those living around it that she believes that those who have taken it upon themselves to rent have ruined it for everyone. She wondered how they would enforce regulations for vacation rentals if they were to develop them.
How would they know unless someone complained that they are mis-behaving. Chair Fiske suggested that licensing would help. Ald. Rainey said they are not talking about multi-family landlords, but single family homes and wondered how they would know who is renting out their homes unless their neighbors complain. There are rented condos and rented single family homes and rental registration but the City still does not know how many are being rented. She does not believe licensing will remedy the problem. Chair Fiske argued that it is a tool. Ald. Rainey said once there is a license, the City is authorizing vacation rentals. Ald. Holmes said the City must depend upon the neighbors to let them know what is going on in their neighborhood. There is no way you could know beforehand because many people will not apply.

Ald. Wynne said vacation rentals should be banned rather than regulated. She said she agrees with Ald. Rainey but it is easy to catch them. She found someone during the last meeting who lives a block from her. Trying to regulate it is going to be problematic and the arguments of these neighbors reveal that it is a commercial enterprise in a residential district. It is dramatically different than renting to a tenant for a year who would obviously be screened. She said she does not see anything positive in this except for the property owner and the renter and unless they are banned the City will end up with a swiss cheese for an ordinance.

Ald. Wilson said there is a gap in what can be enforced because it is a spectrum with fine variations in what people can do, for example, a college student could sublet his apartment for 2 months to study overseas but renting out for parties on football weekends is a problem for the neighborhood. There are room rentals where the owner is present, which would not be as much of a risk as the owner not being there. He said there is clearly a problem that needs to be addressed and agrees that a licensing tool will not be sufficient in addressing it; there needs to be a set of parameters that are prohibitive, such as weekend parties. He concluded that it will require in-depth and careful consideration and not just a blanket ban.

Ald. Holmes said she does not believe licensing is a remedy for everything but she thinks it is a tool that the City does not use enough and when looking at businesses, they do need to be licensed in order for the City to have some kind of input because when there are problems, they always come back to the City. She said she understands that people are anxious to get it done but it cannot be quickly resolved. The owners will argue that they need to make money by renting out rooms in their homes and that they are keeping it safe, etc. Ald. Wynne agreed but said she believes they can come up with something that says any rental for less than a month or a week is prohibited. Mr Ferrar said a proposal for a ban is a preferred outcome. He said it sounds like the Committee wants to do a ban and to do one they will need to create a stand-alone category and he advised that the City research other jurisdictions’ statutes that have banned these uses.

**Ald. Holmes moved that staff prepare a ban ordinance with certain accepted uses that can be subject to further Committee and Council deliberation, seconded by Ald. Wynne.**

Ald. Holmes said she does not think the current definitions are comprehensive and
do not give the City the ability to enforce on a consistent bases. Mr. Ferrar said he is concerned about the equal protection argument which was raised with him in federal court and he also believes was an ancillary part of the consideration on ZBA regarding the appeal of the citation issued in the summer. Creating a new category, taking the best tools and language from other jurisdictions such as Palm Beach and New York, could work. Ald. Wynne said the Committee should have staff prepare a ban with the types of exceptions that Ald. Wilson and Holmes were discussing that have a reasonable relationship to time. Ald. Wilson agreed and suggested that members of the public and stakeholders who are interested, submit suggestions on what should be banned and why, and suggest what they think should be accepted also. He would like to get the input on the front end, rather than after the draft ordinance is presented.

Chair Fiske said she absolutely supports a ban and argued that licensing provides insurance that safety regulations are in place.

The Committee voted unanimously 5-0 to request that staff prepare a ban ordinance with certain accepted uses that can be subject to further Committee and Council deliberation.

V. COMMUNICATIONS
There were no communications.

VI. ADJOURNMENT
The meeting was adjourned at 9:05 p.m. Chair Fiske announced that the next P&D meeting will occur on December 10, 2012.

Respectfully submitted,
Bobbie Newman