

**Planning & Development Committee
Minutes of January 26, 2009
Council Chambers – 6:30 – 8:20 p.m.
Evanston Civic Center**

Aldermen Present: S. Bernstein, A. Hansen, D. Holmes, L. Jean-Baptiste, E. Moran,
R. Rainey, E. Tisdahl, C. Wollin, M. Wynne

Staff Present: J. Chambers, K. Cox, B. Dunkley, S. Guderley, S. Jackson, D. Marino, J.
McCrae, B. Newman, D. Spicuzza

Presiding Official: Alderman Moran

DECLARATION OF QUORUM

Chair Moran called the meeting to order at 6:45 p.m., a quorum being present.

APPROVAL OF JANUARY 12th, 2009 MEETING MINUTES

The Committee voted unanimously 8-0 to approve the January 12th 2009 meeting minutes.

APPROVAL OF JANUARY 14th, 2009 SPECIAL MEETING MINUTES

The Committee voted unanimously 8-0 to approve the January 14th 2009 special meeting minutes.

ITEMS FOR CONSIDERATION

(P1) Consideration of Draft Downtown Plan - Recommendation for Approval from Plan Commission

Chair Moran commended Bobbie Newman on the meeting minutes of the January 14th special meeting.

He continued the review of the Plan, saying that following the outline of the Plan that was used at the January 14th meeting, they would be discussing New and Expanded Parks, clarifying that the Committee is not approving final zoning changes within the framework of the Plan. He said the remaining items they need to approve are Public Art, Wayfinding, a Downtown Circulator and a Bicycle System. He suggested, given the clarifications that were made at the last meeting that this is a conceptual document for the downtown, absent objections or complications that they sign off on the Downtown Plan. He asked that if anyone has any problems with any of the items, they should make them known.

Ald. Jean-Baptiste moved to adopt the Public Art, Wayfinding, Downtown Circulator and Bicycle System as proposed concepts.

Ald. Rainey seconded the motion.

Ald. Rainey asked whether the Chicago Avenue Park concept had been adopted.

Chair Moran replied that the Committee had not discussed the question of whether the Chicago Avenue Park concept should be established and that a new park there had been proposed by the

Plan, adding that they had also not discussed whether the new Civic Center should be built in or near the downtown, as a conceptual framework.

Ald. Jean-Baptiste added that a discussion had begun at the January 14th meeting about Raymond Park and that a significant piece of public art had been donated, and to be sure to incorporate that into any future plans. Chair Moran agreed, adding that the record is clear on it.

Ald. Rainey asked regarding the New and Expanded Parks items such as Oldberg and Maple Grove, whether they would just agree to look at them in the future. Chair Moran replied that they would and that there are interesting concepts included in the report that can be discussed if and when specific proposals are made.

Ald. Jean-Baptiste asked for clarification of what they were voting upon regarding the issue of having the Civic Center in the downtown, to which Chair Moran replied that the downtown location could be an aggregator of various attractive, beneficial uses, but the idea is subject to additional review. He said he does not think voting in favor of this concept is mandating or suggesting it is a definite plan given the discussions the Civic Center Committee has had. He added that to him it is an interesting general concept and they are voting on whether they would think about it as a subject of potential future discussion.

Ald. Wynne suggested separating the two issues and first voting on the New and Expanded Parks concept.

She moved to accept the concept of New and Expanded Parks as potential places where there may be alterations in the future but at this point is purely conceptual, recognizing that Raymond Park does have a significant sculpture already planned for it.

Ald. Wollin seconded the motion.

The Committee voted unanimously 8-0 to approve the concept of New and Expanded Parks.

Ald. Wynne said the Civic Center issue is so complex and conceptual that at this point she did not want to spend a great deal of time on it and they could even leave it out of the Downtown Plan, to which Ald. Jean-Baptiste added that after 2 years of discussion on it, they have not made any decisions and he does not want to send a message to future Council members that could constrain them.

Ald. Jean-Baptiste moved to remove the possibility of having the Civic Center in the downtown, from the Plan.

Ald. Rainey seconded the motion.

Ald. Bernstein said it is conceptual in nature and he has always believed that the downtown should accommodate a Civic Center so he does not want to preclude it, explaining that adding it will not mandate any subsequent Councils because everything is subject to land availability and other things. He said it is generic in its form, it should be considered as a concept and by excluding it, asked what they are gaining, unless everyone on the Committee is confident they never want a downtown Civic Center.

Chair Moran agreed that an affirmative vote would not suggest that the Committee is fully in support of it, but that it is worthy of further discussion, and he believes it would be.

Ald. Tisdahl said she thinks rehabbing the current Civic Center is also a subject worthy of discussion and she does not want to preclude that.

Ald. Rainey said regarding all of these items that they need to add a statement to the Plan including and clarifying their commentary, especially since there is no money currently for renovation of parks, and she wants it to be clear that they are going to support all possibilities because she is concerned that a person from another state who might apply for the job of City Manager, may not realize that these are just conceptual ideas and the City is open to others.

Ald. Jean-Baptiste said he supports Ald. Rainey's statement but that not everyone shares the opinion that the Civic Center should be near or in downtown. Some believe it should be in an area they want to regenerate so he believes that leaving it out will leave open the option to explore many possibilities

Ald. Wynne suggested making the language state that the downtown could be considered as a location for the Civic Center as well as other suitable locations should be considered in Evanston. Ald. Rainey agreed. Ald. Hansen also agreed and quoted the Downtown Plan qualification: "consider locating Evanston's Civic Center in downtown based on consideration of feasibility given building and site cost, tax base impacts and accessibility." She said that expresses it without adding that they are going to look elsewhere also.

Ald. Wynne said she believes the Committee is doing a good job of developing consensus, and she asked that they have the opportunity to see the revised Plan with their commentary incorporated into it so no one has to search through legislative history to find their intent. Chair Moran agreed.

Ald. Holmes suggested that, given the quote from the Plan that Ald. Hansen read, taking "E" out because it already says what they are saying. Ald. Wynne agreed.

The Committee voted unanimously 8-0 to approve the concepts of New and Expanded Parks as potential places where there may be alterations in the future but at this point purely conceptual, recognizing that Raymond Park has a significant sculpture and other changes already planned, and the possibility of locating the Civic Center downtown, subject to the factors as stated in the recommended Plan.

Chair Moran asked whether the Committee wished to discuss the concepts of Public Art, Wayfinding, a Downtown Circulator and a Bicycle System.

Ald. Jean-Baptiste moved to adopt the Plan's concepts of Public Art, Wayfinding, a Downtown Circulator and a Bicycle System.

Ald. Rainey seconded the motion.

The Committee voted unanimously 8-0 to adopt the Plan's concepts of Public Art, Wayfinding, a Downtown Circulator and a Bicycle System.

Chair Moran asked the Committee for further discussion keeping in mind that they will receive a consolidated document integrating their commentary. Ald. Wynne asked that he confirm that they will have a consolidated document to review and vote on before they vote to adopt the Plan.

Ald. Jean-Baptiste clarified that they will ratify what they have voted on and that what they voted on has been adopted, and they will not be deliberating on the items again after they review the revised document, other than any of the revisions that need to be clarified. Chair Moran agreed

that they will get back a Downtown Plan document that will have integrated within it all the concepts that they have not commented on as well as the ones they have commented on, as stated by their motions and the votes on those motions.

Mr. Marino clarified further that staff and the consultant team will modify the Plan per the Committee's direction and present it to the Committee for review.

Ald. Rainey moved approval of the Downtown Plan as amended.

Ald. Wollin seconded the motion.

Ald. Rainey explained that they need to move forward and that the changes made to the document are minimal and asked for confirmation of the consultants of this fact. Mr. LaMotte agreed that the Committee has confirmed many of the policies and directions in the Plan and that they will change the numbers and the ripple effect based on the last meeting, and cleaning and getting the final plan ready for the public to view on the website and to have a Plan for the City for the future. Ald. Rainey asked that the consultants redline the changes, to which Mr. LaMotte agreed, saying they will use the softer language that assures that these are concepts as directed by the Committee.

Ald. Bernstein said he does not see any sense in voting on a document that they are going to clean up. To his knowledge there is no urgency. Ald. Rainey said she does not want to pay the consultants to rewrite the document if they have not made changes to it that were confirmed through votes, saying they have records of their votes, and they need to see the amended document. Ald. Bernstein argued that he understands that there were votes on every aspect of the document but he wants to see it because he wants to make sure the height limitations are consistent with what they voted on. Ald. Rainey assured him that they will see it all explaining that the motion is to move approval of the Plan as amended for the purpose of having the consultants redline a revised copy for the Committee and for the public, so they can make a final vote at City Council.

Ald. Wynne said she shares Ald. Bernstein's reluctance to vote on the Plan without having seen the final document. She asked that they direct the consultants to prepare a final Plan for the Committee to vote on February 9th. Ald. Rainey said she does not mind if it goes back to the P&D committee as long as it is a special order of business of the City Council on February 9th.

Ald. Wynne moved that they direct the consultants to prepare the Plan as they have discussed for final vote on February 9th.

Ald. Rainey said that Ald. Wynne knows that they did more than discuss. They voted and amended the Downtown Plan. Ald. Wynne argued that she does not feel comfortable voting on something before she has read the final draft. Ald. Hansen agreed with Ald. Wynne saying she does not feel comfortable voting approval of the plan without seeing it because very often, in planned development ordinances or special uses, the Committee has made amendments that were not put in as directed.

Ald. Jean-Baptiste said his concern is that they do not go back on what they have done. He said the Committee has voted on all of the aspects of the Plan and he is willing to wait for a final ratification of what they have already agreed to, as opposed to reconsideration and reopening of components they have already voted on. That is why he believes they need to frame now what they are going to do at the next meeting on February 9th so they are clear that all they are doing is ratifying, subject to a reading of the language. Ald. Bernstein agreed and said he just wants to make sure the language is consistent with what they have decided.

Ald. Tisdahl said having missed the last meeting, she would very much like to read the Plan before she votes on it. She said she has read all the minutes of the meeting but needs to read the actual Plan. Ald. Wynne repeated that she wants to see a document before she votes on anything. Ald. Rainey said she does not have a problem with waiting until the February 9th meeting when they see the amended document but she said the P&D Committee only recommends to City Council and final decisions are not made in the P&D Committee, so she wants the Plan to be voted upon at the February 9th City Council meeting because they did good work with 99% collaboration and the votes were overwhelming majority.

Ald. Rainey amended the motion to refer the document as amended to the consultants for a redline copy reflecting all of the discussion and changes, to be brought back to the Planning & Development Committee for a final recommendation to City Council, at which time on February 9th 2009 it will be a special order of business.

Ald. Wollin seconded the motion.

The Committee voted unanimously 8-0 to approve the motion.

Chair Moran said he had been advised that a goodly number of the people present were there because they wish to speak to Item P5 so he suggested reviewing that item next.

(P5) Ordinance 4-O-09, Granting a Special Use for a Convenience Store at 812 Davis Street in the D3 Downtown Core Development District

Consideration of a Zoning Board of Appeals (ZBA) recommendation of Approval with Conditions for a Convenience Store at 812 Davis St. in the D3 Downtown Core Development District.

Chair Moran opened the floor for citizen comment.

Mr. Fred Tanenbaum of 807 Davis St. said he is a pharmacist and aware of alcohol and drug addiction. He said his three concerns about a liquor store at 812 Davis are: 1)With the alcohol and drug addiction he does not know why we would consider a store to sell alcohol less than a quarter of a block away from a registered methadone clinic. He said they have drug addicts coming to that facility on a regular basis after which they can turn right, walk a quarter of a block and get a fix with alcohol, so he thinks it is a bad choice for the village to make. 2)There is a liquor store a half block away so he asked why we would want to put another one there, and 3)We have a beautiful, renovated Fountain Square that is used by many people, some of which are homeless, who tend to stay there all day and sometimes sleep there all night, so, he asked why we are going to give them a liquor store across the street to go to for a bottle. He recommended the village consider putting a "No Loitering" sign in the Fountain Square area with the benches. He said he has spoken to the Police Department and they cannot do anything the way it is currently set up. Anyone can sit there as long as they want like they can in a park. But, he said, if anyone comes by there on a nice summer day they will find people with their bags and their blankets lying on the benches, some of them staying all night. He concluded that for these reasons he does not feel a liquor store is appropriate in the center of the downtown. Mr. Tanenbaum thanked the Committee. Chair Moran thanked Mr. Tanenbaum.

Mr. Merle Monroe of 1580 Sherman, Unit 305, who is the President of the Optima Towers Evanston Condominium Association said she is there with many of her neighbors at 1580 Sherman and 807 Davis and she asked those present to raise their hands. She thanked the Committee for addressing their issues. She distributed to the Committee members, petitions with over 100 signatures from each of the two buildings. She said they are there to ask the Committee

to deny the special use application for the convenience store with 75% liquor sales due to the negative cumulative effect of the proposed operation. She said as Mr. Tanenbaum mentioned, the proposed business duplicates other established businesses in the immediate area including 2 convenience stores existing within 1½ blocks of 812 Davis, one of which is directly across the street and is open 24 hours. She said also within 1.5 blocks is a full service liquor store, World Market, Whole Foods and Wine Styles also close by which provide similar merchandise, and many restaurants with liquor licenses are in the immediate 3 block radius. She said traffic on Davis is already congested during the day and had stated that she presented photos of the only garage exit to the ZBA when they heard this matter. She presented 2 photos taken on Jan 15, 2009 at 3:00 p.m. of the garage entrance with 3 garbage trucks and 1 food delivery truck with an extra extension that were totally blocking the driveway, explaining that you could not get in and out of the garage. She said early in the morning the street is clearer but as the day goes on, every day, there are trucks parked on the east and west of their garage entrance/exit, making it almost impossible to see when they are pulling out. They feel that the addition of this type of store will add to the double and triple parking between their exit and Sherman Avenue, which makes it very dangerous if not impossibly dangerous to exit the garage. She said parking for the business is inadequate explaining that the business does have 2 assigned parking spaces in the commercial part of the parking garage in the 1580 Sherman building, which the ZBA recommended not be used by employees, and that they are used by the employees of the other businesses. She said she and her neighbors like that recommendation but they are concerned about how it might be enforced and that in any case, 2 cars coming in and out of the already congested area is a problem in and of itself. She said they are also concerned that the business as described originally will erode from the proposed high end wine store to merchandise more typical of a convenience store and lesser quality liquor store and the type of patron being targeted in the application may not be the type that emerges. She said also, that packaged liquor sales, mentioned twice in the application, does not mesh with the proposed description of a store selling fine wines, spirits and liquors.

Ms. Monroe continued, regarding the credibility of the applicant, that the City had a lot of difficulty getting compliance for a potable water connection test explaining that there are 8 such connections in their building but the 9th is separately installed and managed by 812 Davis and from July to September 25th the owner did not respond to City requests so that the entire building's water was going to be shut off until the Property Manager ordered it on her own volition, demonstrating why she thinks there might be a problem with the owner. She said the Site Plan and Appearance Review Committee (SPAARC) of Evanston recognized similar concerns and voted against the application with only one dissenting vote. The ZBA did recommend approval of the special use application but with several considerations which they hope the Committee will tend to, regarding hours of operation, signs and similar items. She concluded saying that with approximately 18 permitted uses for this property it seems unfair to them that a special use be approved, especially one so complicated that further restrictions are needed right from the start. She said they are asking for a balance between commercial development and residential development and that they be protected by existing zoning codes. She thanked the Committee. Chair Moran thanked her.

Ms. Ellen Browne of 1580 Sherman Ave. said she has lived in Evanston since 1974 and is delighted with the changes in downtown Evanston which is why they moved to their condo on Sherman and Davis. She said they understood that there would be commercial establishments on the street level of the building and so far these establishments have been a benefit rather than a problem to the residents, but she has concern about this proposal. She said many residents were disturbed when they saw a sign on the door of 812 Davis stating that all work must stop because no permits were obtained for the work and believes anyone who has been in Evanston as long as the applicant must know he must obtain permits to do this type of work. She said they were doing more than removing the Quizno's equipment and that shelves were being installed. She

said when many of them asked the workers what was going in the space they replied that they did not know which they found strange. She said SPAARC and ZBA have put many restrictions on the use such as operating hours, parking and signage which they feel will not be followed or enforced. She said if the special use is permitted they will be watching closely and any violations of the imposed rules will be documented and reported to the City but she wondered whether the City would have the staff to follow up. She said as more and more stores close in the downtown area, it is risky to start a new business featuring high end wines and spirits as she for one, who is a targeted customer, is buying a less expensive wine than she did a year ago, such as those sold at World Market. She said Evanston residents know that safety and security are issues in downtown Evanston as recently there was a shooting on Davis just outside their garage entrance. She said stores that sell liquor attract all kinds of people, good and bad, and she believes having this type of store right next to their garage will be asking for trouble and when she comes home from the train at night she will no longer feel safe walking into the back entrance of her building if there are people loitering by the store. She said the President of the Church Street Condominium Association has called the Police because people are loitering behind the liquor store on Davis Street and it makes their residents feel unsafe and it has been said at previous hearings that they can call the Police but she asked why she has to live in a place that will require her to frequently call the Police. She asked the Committee to please, if they are concerned for their constituents and the health and safety of Evanston, to vote no on this request. She thanked the Committee. Chair Moran thanked her.

Mr. Leonard Evens of 1580 Sherman, said he lives directly over 812 Davis Street, adding that his unit and those of the two previous speakers are very close to the front door of 812 Davis so they will be impacted greatly by such an establishment. He said he endorses the opinions of the previous speakers and urged the Committee to make the owner adhere very firmly to the restrictions imposed, especially those regarding operating hours if they approve the special use. He said the owner originally wanted to be open until 11:00, so he asked that the 8:00 closing time never be changed. He thanked the Committee. Chair Moran thanked him.

Mr. John Pikarski, attorney for the applicant, said he has been practicing zoning law for 35 years. He said the property at 812 Davis on the south side of Davis, on the 1st floor of a 13 story building, has been subject to the scrutiny of the City under the terms of the Downtown Plan as well as the planned development under which it was constructed. He said the Committee has indicated that the 1st floor at the subject site should be commercial and that they have indicated that it, as well as the surrounding area, is applicable to the City's liquor ordinance and cause liquor licenses to be available in this area, so they have legislatively acted on this site in the past. He continued that the only reason they were there is that the Zoning Department has issued an opinion that a fine wine and liquor store is, under the terms of the City's ordinance, to be termed food store and a food store is not a permitted use under the terms of the ordinance unless it is under 3,200 square feet, in which case it then must become a special use and unfortunately they have 1,500 square feet. He said if they had 3,200 square feet they would be permitted and said he respectfully suggests that this is form without real substance. He added that unfortunately, the ordinance calls what they are doing a convenience store, a term which is a pejorative and raises questions about what it is. They are, intend to be and will be, granted their approval, a fine wine and liquor establishment meaning high end wines, liquors and sundry items of a nature that you would find in a fine wine store: 90% wine and fine liquors, 10% compatible items such as patés and perhaps crackers and nuts. He said they are not a classic convenience store, such as a 7-Eleven and they are not interested in that approach, but unfortunately, under the terms of the ordinance, they are called a convenience store. He thinks that is a significant cause of prejudice to their position and perhaps a discomfort to their neighbors. They have appeared before the ZBA, where the same pleas by the objectors were heard and elaborated on, and they have recommended the passage of this special use: there are 9 criteria, 3 of the members voted affirmatively on all 9 criteria, the one dissident member voted affirmatively on 5 of the 9 criteria,

so he would feel very comfortable in indicating that the people the Committee delegates this duty to, based upon the same evidence, have voted that a fine wine and liquor establishment should be at this location. He requested that the opinions of the ZBA, whose hearing lasted from 7:30 to about 12:30, be held in high esteem by this Committee. He continued that the client owns the property which he purchased for \$580,000, the repair and remodeling will cost about \$95,000, stocking the store will cost about \$50,000, the overhead is about \$6,000 a month and the real estate taxes are \$13,000 a year. He suggested respectfully that the mark up on the low end products that the neighbors fear will be sold there is too low to allow the business to pay for its expenses. He said they are marketing to a particular client that is already present, walking past every day. He said the property is zoned D3, Downtown Core District and retail liquor is approved for this zone, as is a food store approved for this zone. He defended the concern about parking saying that this body voted that the parking is sufficient for the purpose of this PD, in fact, the parking that was presented was sufficient for the commercial and the residential above. They have assigned to them 2 parking spaces immediately adjacent to the store entrance, which they have agreed to be used only for customers and not by employees under any circumstances and that the parking lot directly across the street is a City parking lot which provides one hour of parking free, so parking should not be a question. He said they have agreed to the limitation on hours of Monday through Thursday, 10:00am to 8:00pm, Friday and Saturday, 10:00am to 9:00pm, for which Mr. Evans campaigned, and on Sunday from 11:00am to 8:00pm. He said deliveries, because they are a boutique, come in a panel truck, twice a week, are unloaded quickly and the van can park in the assigned parking and does not need to park on the street. He said the president of the condo association's example of difficulties was extreme, given to inflame and incite and that he has been there several times and parking and congestion were not a problem. They anticipate about 150 people per day to be coming to their business and the people who will come are typically walkers who are going to the train.

Mr. Pikarski introduced Mr. Joseph Able, who has been a land planning, zoning and economic development consultant for almost five decades and who will speak to the 9 criteria. Mr. Pikarski reiterated that 3 members of the ZBA voted consistently to approve all 9 criteria and the dissident member voted with the majority on 5 of the 9 criteria.

Ald. Wollin reminded Mr. Pikarski, in the interest of saving time, that the Committee has read the 180 page transcript of the ZBA meeting.

Ald. Rainey said she would like Mr. Pikarski to address his assumptions regarding a liquor license, explaining that they were here tonight on a special use for a convenience store but all of his commentary is about a liquor store for which he will need a liquor license, to which he replied the ability to apply for a liquor license is conditioned upon having the appropriate zoning, so this is the first step. She asked whether he assumed that they will be guaranteed a liquor license, to which he answered that he did not assume they would get one. He explained that he is addressing the criteria for the zoning aspect. The zoning is a conditioned precedent to even applying for the liquor license and he would not have the temerity to proceed in that venue until this is done.

Ald. Tisdahl asked what the problem was with the water and why the water for the building was almost turned off, to which he replied that he assumed it was a communication difficulty.

Mr. Joseph Able stated that the applicant is a responsible member of society in Evanston and he assumes it was a matter of communication that he neglected to comply with the water problem, adding that there is a Commercial Condominium Association as well as the Residential Condominium Association.

Ald Wollin said the applicant did apply for a liquor license at 812 Davis, paid the application fee of \$25,000 and the license was not granted and the application fee was refunded.

Mr. Able said that before retaining Mr. Pikarski, the applicant had applied for a liquor license but no action can be taken on it until the zoning is achieved. Once he was retained, he set him on the right path and applied for the special use. He added that a special use had been applied for previously, inaccurately and inarticulately, which was withdrawn.

Ald. Wynne asked what work was done without a City permit, what period of time the work stoppage lasted and what the fine was. Mr. Pikarski said his client was removing the Quizno's equipment and the moment the City asked him to stop, he stopped, to which Ald. Wynne replied that someone who owns a business in Evanston who begins work without an appropriate permit has lost credibility with her.

Ms. Jill Chambers, Assistant Director for the Building Division said the permit was not applied for and the work was stopped, but it was after the demolition was done and work was started for interior displays. She said once work was stopped the applicant applied only for an electrical permit and the City's inspector found that their electrical was not being installed to code and after investigating further realized this was part of a much larger scope of work, for which the City typically would not have issued permits piecemeal. At that point the work was stopped, and a full permit was applied for, at which time Zoning reviewed it and it was determined that it was a convenience store and it would require a special use. No fine was levied because the applicant did cease the work when asked.

Ald. Bernstein explained that Evanston was historically dry and liquor, which has been Evanston's salvation, is taken very seriously. He said he can only judge a person's potential actions on their historical actions and he will inform the Liquor Commissioner of the prior and continuous abuses of the City's ordinance. He continued that the City requires 4 affirmative votes of the Zoning Committee but the Zoning Administrator says if there are fewer than 4, a quorum of votes present. He said he is not moved by a vote of 3 of the ZBA when 4 affirmative votes have customarily been required, and the applicant was not able to get 4 affirmative votes from the 4 people who were there. Adding that Mr. Pikarski is an accomplished zoning lawyer by his own admission, he said he is looking at a convenience store immediately across the street from another convenience store. He asked why Mr. Pikarski, if he doesn't like the City's designation, did not seek an amendment of the zoning text, a method by which perhaps Ald. Bernstein could have made a different analysis. He continued that the fact that the applicant went forward without benefit of counsel is regrettable. He should have done his due diligence and he should not have paid his \$585,000 in advance of finding out what he could and could not do, so he is not moved by his difficulties. He also said he is concerned about the pedestrians who he perceives to be his clients because most of them have said they do not want him there and he believes they will not shop there. He concluded that he does not think they have proven their case to the Zoning Board and he maintained that it would have been a more effective approach if he would have tried to change the zoning ordinance. Mr. Pikarski replied in his defense that a text amendment in any municipality, introduced by a member of the public, requires a gargantuan amount of effort and is not easily accomplished. In response to Ald. Bernstein's comment about the pedestrians, he said there are some 19,000 employees and 8,000 residents within walking distance of the site and as an expert in economic development, he is sure Mr. Able will illustrate this.

Mr. Joseph Able said he has been a planner for about 50 years, he has written at least 100 zoning ordinances, prepared numerous comprehensive plans, done many downtown plans and has worked closely with the City's consultant, John LaMotte, who will verify his credentials. When he was asked to testify on this he wondered why he was needed, as it is a very straightforward business opportunity. There is a commercial condominium association with this building, the City Council and Plan Commission approved a 13 story building with commercial on the first

floor, so the Committee knew at the time they approved it that there would be commercial uses on the first floor and there are numerous permitted and special uses in the zoning ordinance. He said he finds it hard to believe that the neighbors feel a Quizno's would be a better neighbor than an establishment with fine wines and spirits. He feels confident of this because, as a personal example, he did the economic development for the Village of Glen Ellyn and one of the first stores he was able to fill was a fine wine and spirits store in 1992 and that store is still there and since then a dozen businesses have come and gone. It does not create crime, there is nothing going on in the back of the store and things of that nature. He said he has witnessed every kind of use in downtown areas. He said he looked very carefully at Evanston's Comprehensive Plan and it contains quotes saying that Evanston wants to have a mixture of national and local stores in the downtown. In carefully reviewing Evanston's studies for the downtown, he found a quote from the Goodman Williams group saying "a mix of local merchants and national retail tenants is important to the distinctive character and ongoing vitality of the downtown," which he said fits right into the #1 criterion for granting a special use. He also looked at the opportunities analysis in the report which says there are some other establishments in the area: he has never been a believer that zoning should be used to eliminate competition, in fact one of the reasons zoning was found constitutional was because there is a permitted use list, and if you wanted, you could have many stores all with the same permitted use, but under groceries, beer wine and liquor has one of the largest opportunity gaps, showing an opportunity for almost \$12 million worth of sales and the City is only capturing \$1.6, leaving a gap of \$10 million. He said he is familiar with Evanston because his daughter attended Northwestern and his wife was a teacher at Evanston High School, they lived in Evanston and he has followed Evanston for the last 25 years. He said the traffic is there. He does not have to do new statistical studies in terms of the employment opportunities and the people who work and live in the downtown and it is his professional opinion that there is more than enough traffic in the downtown area to support this facility and it will not take away from Whole Foods or others and it is one of the few that will have a complete line of wine, beer and spirits, so there is an opportunity to have a store that will go beyond and meet that traffic. He said there are many commuters who will find this location convenient and he believes this store will make it and it has all the attributes that are necessary. He reiterated that the presence of this store does implement the Comprehensive Plan.

Regarding traffic, he said he was amazed at the illustration by the resident and that it is to be expected in an urban area of high activity. He said this particular use has very limited deliveries, so it would not be a great source of traffic and if he were living in the building he would rather have a clean operation that is not apt to attract rodents and much more traffic and deliveries, as a restaurant such as Quizno's would. He also said he was amazed that the client agreed to the 8:00 closing time, which he sees as an intrusion to the business, yet Lulu's is open until 11:00 in the summer and 10:00 in the winter and Argo Tea is open until 10:00 every night, bringing in traffic and noise and there will be no more noise associated with someone buying a bottle of wine than there would be by someone who is drinking at Lulu's. He concluded that in his professional opinion, the applicant does meet every one of the standards in the report, which is why he believes that 3 of the 4 Zoning Board members voted affirmatively, albeit with the time limit and signage requirement. He added that an architect has been hired to meet the standards the downtown area should have.

Mr. Pikarski stated that he is certain that Mr. Joseph Ryan, the President of LaSalle Appraisal who was present and who had written the appraisal, would testify that there would be no negative impact on property values. Mr. Pikarski said regarding the 4 members who voted affirmatively at the Zoning Board of Appeals meeting would represent a 57% approval. With 4 members, it would be 75%. He commended the Zoning Board, saying it is a very sophisticated board.

Mr. Able concluded that he has listened carefully to what the Committee said about people understanding about what they can and cannot do, and whether they own commercial property he

is not always convinced is the key to that. He was Director of Planning for DuPage County for 17 years where he was in charge of all developments in the county development department including building and zoning during the period when they were the fastest growing county in the state of Illinois and he said whether they own property or what their educational background is, whether they have master's degrees, he has found that people have a difficult time always understanding what the rules and regulations are. You just cannot say that because someone owned commercial property he knew that he could not do something. He has talked to the applicant and is convinced that what they were doing was primarily getting rid of the old equipment and they had some shelving that they brought in. The minute that was found to be a problem, Evanston's staff did exactly what they are supposed to do, and stopped them. He added that he finds it hard to believe that anyone would jeopardize a major investment at this corner and think they could sneak something past the City. It is illogical in a highly visible place like this and he is convinced that it was an honest mistake. He said at DuPage County they had to take people to court many times where he had to testify and he can sense when someone thinks they are getting away with something and when they are not, but based on that experience he said he has dealt with the smartest people in the world and he has had to help them and get them out of situations like this. He asked for the understanding of the Committee.

Ald. Rainey asked Mr. Dunkley, Zoning Administrator, to speak to the impression that liquor stores are a listed permitted use in D3 and she does not believe they are.

Mr. Dunkley said liquor stores are not mentioned in the zoning ordinance. There is no definition of liquor stores as permitted use or special use in any district. The question that was brought up was whether the use was more correctly termed a retail food store establishment and they have traditionally and consistently held that stores selling wine and liquor are more food stores than the alternative, hence the interpretation of the use which was defined in a letter as a result of the administrative interpretation, which then brings in the convenience store aspect, which is very clearly defined as a food store establishment that is under 3,200 square feet. But as far as liquor goes, there is no defined use of a liquor store. Ald. Rainey asked what existing license would be applicable to a convenience store in a D3 under 3,200 square feet.

Mr. Joseph McCrae, Assistant to the City Manager, said it is classified as Class **N**, which would be the same classification as a Jewel or Osco, to which Ald. Rainey objected because they are over 20,000 square feet. Ald. Rainey clarified that what they are looking at is an application for a special use for a convenience store that intends to be a fine wine and liquor store, but in reality we don't have an applicable liquor license for them to apply for. Mr. McCrae confirmed that is the case. Ald. Rainey wondered whether the applicant has given any thought to that, as she would be worried if she were the applicant. Ms. Shanee Jackson said an applicant can come in and describe what he wants, what the intent of the store is, and at that point they can work with him. Ald. Rainey emphasized to Ms. Jackson that she would then need to talk to the Administration and Public Works Committee (A&PW) because the Liquor Commissioner does not create liquor ordinances, A&PW does. She advised them to refer applicants for liquor licenses to A&PW.

Mr. Pikarski said at 1741 Sherman there is a duplicate business that is fully licensed and fully operational as a fine wine establishment, so there is obviously a license available.

Ald. Wollin asked whether liquor was delivered to this location, saying she saw a Southern Comfort truck at the location, to which the applicant's counsel replied no, there had not been liquor delivered there. She addressed Mr. Ryan's appraisal saying he compared this location with Schaefer's and other stores which are stand alone stores and not within a residential condo building. Mr. Ryan said he has found that liquor stores are usually stand alone establishments. The one that was not was at 1741 Sherman and the criteria he found in his analysis, in which he looked at a use, not an appraisal of property and the use is the same at the 6 buildings he

employed in his report. Ald. Wollin said she thought he was comparing the property values. He said yes, he was and the way to measure whether property values have diminished from the use is to find out whether it affected sale price or the ratio between the listing price and the sale price and marketing time. She said she understands that but is concerned that the properties are not comparable. Ald. Wollin asked the ratio between beer in the cooler and fine wines, to which Mr. Pikarski replied that they will only be selling the finest of imported and micro brewed beers, and he said he suspects it would be less than 20% beer.

Ald. Bernstein moved that the Committee overrule the ZBA and deny the application for special use, emphasizing the standards which are not met for a convenience store: 1) Negative cumulative effect when taking into consideration all of the special uses in the area and 2) Traffic congestion, which he has experienced personally.

Ald. Bernstein continued that with respect to diminution of property, he agreed with Ald. Wollin that the comps are not comparable, he concurred that Quizno's would probably have a greater negative impact on the condo building, he reiterated that the applicant did not get 4 affirmative votes, and it has come before them as a convenience store and the applicant owns other liquor stores.

Ald. Wollin seconded the motion.

The Committee voted unanimously 8-0 to deny the special use at 812 Davis Street.

(P2) Consideration of Recommendation to Provide Marketing Assistance and Sales Incentives for Three Affordable Housing Providers (Reba Place Development Corporation, Evanston Community Development Association, and Citizens' Lighthouse Community Land Trust), Using Federal HOME Funds Supplied by HUD

Request approval of \$30,517 in HOME funds for marketing activities and sales incentives to help three affordable ownership developments complete sales by June 30, 2009. The funding consists of \$5,517 for marketing and up to \$25,000 for broker incentives.

Mr. Eric Beauchamp announced that he is the new Chair of the Housing Commission. He said there has not been much change in the marketing plan the Housing Commission presented to the Committee at the last meeting they attended, but they have worked with staff and the 3 CHDOs to put together a comprehensive plan for the Committee, which is in the packet materials.

Ald. Rainey asked to be refreshed on the vote at the December City Council meeting, at which Mr. Beauchamp confirmed that they voted to approve, using HOME funds, interest subsidy only for the 3 CHDOs for 6 months of \$30,000. Ald. Rainey said if she were listing her house with a broker she would expect the broker to market her property, so she asked why they are doing both advertising and paying broker fees, to which Mr. Beauchamp said if you were to list your house and he charged 5% to sell the house, he, as the listing broker would split it 2.5% for the buyer's agent and 2.5% for marketing, advertising and for his business product: he has donated the advertising service so the other 1% would be for the buyers' agents.

Ald. Rainey moved to approve the funds, to be paid after each submission of invoices for advertising and commissions.

Ald. Wynne seconded the motion.

She added that if this does not work out then foreclosure is on the horizon, to which Mr. Beauchamp replied that the ramification of this failure is that the City will have to return these funds to HUD, not from HUD money, but from the general fund, and that the City Council will

have to determine where the funds will come from. Right now they are able to use money from the federal HOME funds, but if they fail, it will come from the general fund. Ald. Rainey responded that she takes that as a direct threat and that the taxpayers listening should also and perhaps this will be a lesson for the next time a CHDO comes to the City with a grand plan which she knew would fail. Mr. Beauchamp said he has done what he has to help these groups and not to make money, and he has no issue with providing receipts. Ald. Rainey commended him.

Ald. Jean-Baptiste said he would like to consider the prognosis when the time comes, rather than predict it, as some of them want to see this succeed.

The Committee voted unanimously 8-0 to approve the HOME fund allocations as requested.

(P3) Consideration of a Request for a 2 Year Retroactive Extension for the 1560 Oak Street Approved Special Use of the Museum of Time and Glass Ordinance 36-O-07

Mr. Adam Wilmot, the project architect of Wallin Gomez Architects and representative of the owner of the property, Mr. Halim, said he is requesting the 2 year retroactive time extension for the special use that was granted in May of 2007, which expired in May of 2008 because they had some unexpected delays and they were unaware that the special use expired after one year. He said they are already submitted for permit and have in fact received comments from the Building Division and are re-submitting at the end of this week and that this is the only obstacle in their way.

Ald. Wynne moved approval of the request for the extension.

Ald. Rainey seconded the motion.

Ald. Rainey asked when the museum would be ready, to which Mr. Wilmot replied within the year. They plan to start construction in the Spring and the project should not take more than 6-9 months to finish. Ald. Rainey said the glass and time pieces are unbelievably magnificent and offered to share her photos.

The Committee voted unanimously to approve the request for extension of the special use.

(P4) Consideration of a request for 1813-1819 Hovland Court Plat of Subdivision.

Mr. Dunkley introduced the applicant, Mr. Robert James. Mr. Dunkley said a major variance had been required because of the lot size of the two resulting lots. It was a consolidation and resubdivision from the existing 3 lots into two, and both would be just shy of the 5,000 square feet required for a lot to be buildable. One of the lots contains the existing improvement which is a single family home and the intention is to erect another single family home on the other resulting lot. The variance is required because of the inadequate lot size but the record shows the ZBA voted in favor because the surrounding area and environment has many such substandard lots.

Ald. Wollin moved approval.

Ald. Rainey seconded the motion.

The Committee voted unanimously 8-0 to approve the request for Plat of Subdivision.

ADJOURNMENT

The meeting was adjourned at 8:41 p.m.

Respectfully submitted,

Bobbie Newman