Planning & Development Committee  
Minutes of May 23, 2005  
Room 2200 – 6:30 p.m.  
Evanston Civic Center

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

Staff Present:  J. Wolinski, J. Aiello, A. Alterson, J. Carroll, V. Jones, G. Morgan,  
D. Marino, D. Spicuzza, E. Szymanski, J. Brownlee

Others Present:  J. Siegel

Presiding Official:  Alderman Bernstein

DECLARATION OF QUORUM

Chairman Bernstein called the meeting to order at 6:43 p.m. He welcomed everyone to the first Planning & Development Committee meeting as a Committee of the Whole with all nine aldermen as members.

APPROVAL OF THE MAY 9, 2005 MEETING MINUTES

The May 9, 2005 minutes were approved unanimously.

ITEMS FOR CONSIDERATION

Chairman Bernstein changed the order of the agenda because it was noted that item (P3) was requested by the applicant to be held in Committee.

(P3) Planned Development Kendall College, 2408 Orrington Avenue – Plan Commission Recommendation

Chairman Bernstein noted that previous communication was received from the attorney for the applicant who is still in conversation with the Alderman of the Ward with respect to proposed modifications. He said that the applicant has asked that these issues all be continued until the next regularly scheduled P&D Committee meeting. He said the Council now has three new members that are going to be called upon to cast a vote on this issue which has been ongoing over the past year and a half. Those new members have expressed some concern with being up-to-date on the whole issue. Chairman Bernstein stated that it has been their history to accommodate developers who are trying to accommodate the community and the Council, therefore he does not have a problem with holding this matter. This was the majority consensus of the Committee.

Ald. Moran moved to hold this item in Committee, seconded by Ald. Jean-Baptiste.  
Ald. Tisdahl let it be known that she is only in favor of holding this item over to
accommodate the new Council members. Otherwise she would be willing to vote on this matter this evening. Chairman Bernstein acknowledged those signed up to speak on this matter, however he asked to defer their comments until the end of this meeting or wait until the next meeting when this item is back on the agenda and he assured that he would consider this item first. The vote was 9-0 in favor of the motion.

(P1) Request for Building Permit Fee, City Tax Stamps, Interest Charges Waiver

Mr. Neil Davidson, President of Econ Development, introduced himself to the Committee and stated in actuality he is asking for more than the $20,206 as noted in the agenda information forwarded to the Committee. He drew attention to his letter dated April 14, 2005 included in the packet materials that states the actual amount he is requesting for refund from the City for cost overruns for this project. He informed the Committee of his development of affordable housing in the City of Evanston for the last two years and that he is here today to ask the Committee for their consideration of some of the cost he incurred for the project over and beyond the anticipated cost. He came up with a total amount of approximately $50,000+ of cost overruns and noted that at the time when he discussed this with Mr. Wolinski, it was misunderstood the actual amount of what he was asking for in his letter. Mr. Davidson explained further that his letter states that he had to take funds out of his personal bank account in the amount of $35,269 and he had to borrow an additional amount of $15,088 to finish this project. He said that the City gave CDBG funds of $292,500 that went directly to the buyers benefit to purchase these units and subsequently reduced the price of those units down to $185,000 to make them affordable. As a result of this, he incurred all the cost overruns of those units. He stated as a private developer it is getting very difficult to develop such housing because of the cost of material and labor to keep these prices down at affordable housing prices. Therefore, he is asking for the City Council to consider a reimbursement for his personal cost overruns in light of his development and provision of affordable housing for the City of Evanston.

The Committee members were somewhat confused by the additional amount being requested for reimbursement as stated by Mr. Davidson, due to the correspondence they received in their packets, however it was determined and Chairman Bernstein clarified that the amended amount is actually for $50,397 as stated in Mr. Davidson’s letter dated April 14, 2005. Ald. Holmes asked for clarification on the interest fees for CDBG funds of 3%. Mr. Wolinski responded that is correct on the 3% interest fee for construction funds from CDBG dollars and this was part of the contract the City signed with Mr. Davidson subsequent to the approval of the $292,000 approved by the City Council for use of those CDBG funds. Ms. Spicuzza, City Housing Planner, further clarified that HOME funds were used for this project, which entail the requirement of the interest fees charged. Ald. Rainey asked if the $292,000 are loans. It was clarified that those funds are not a loan but a subsidy for the buyer to keep the purchase amount affordable in the form of a grant per unit. Mr. Davidson added that even though he has paid interest on the $292,500 grant money, as part of the whole total package as far as the construction cost, he has also paid City fees on those funds. Ald. Tisdahl asked about the size of the units and the occupancy at this point. Mr. Wolinski responded that $292,500 was the amount of the subsidy in HOME funds divided equally amongst the three townhouses built,
which are all occupied at this time. The units consist of three bedrooms, two and a half baths with full basements.

Ald. Wynne recalled that Mr. Davidson has had several projects where he has received HOME funds from the City and she asked staff to elaborate on the issue of waiving any fees for cost overruns on any of those previous projects. Mr. Wolinski responded that on Mr. Davidson’s last project of a duplex townhouse for affordable housing, he came back to the Council and asked for reimbursement for some of the cost overruns, which Council did approve at that time for approximately $20,000.

Ald. Rainey said that she finds it interesting that there is also an item on P&D’s agenda regarding discussion of inclusionary housing for the purpose of providing affordable housing in Evanston. She noted that this project cost over $785,000 to build for 3-units and she believes that this is a reality check for the Council because it proves the difficulty for private developers to provide affordable housing due to the cost of standard customary construction fees. She noted that this is not an Evanston Housing Coalition or a Reba Place Fellowship type development proposing affordable housing, but on the contrary is a small scale private developer that makes a living from their construction developments. She stated that the City is fortunate, in her opinion, to have somebody who is willing to make a living building affordable housing. In view of this, she strongly feels that the City should support this developer and his efforts. Ald. Rainey noted that the CDBG funds of $292,500, in reality, are not benefited by Mr. Davidson, however he has incurred the cost of construction to provide this type of affordable housing beyond comparison to the affordable housing proposed by the not-for-profit organizations. Therefore, she assured her support for this applicant’s request for reimbursement of cost overruns for this project and that the City should feel very fortunate and grateful for the provisions he has provided in the way of affordable housing. She reminded the Committee that a few weeks ago, Council approved over $600,000 in CDBG funds to Reba Place Fellowship to rehab and multi-unit building to affordable housing condominium conversion for small two bedroom, one bath units. Ald. Rainey feels that the opportunity to purchase affordable housing of the size and capacity of new construction that Mr. Davidson has constructed and provided is a tremendous investment to the fortunate qualifying buyer and to the community.

Chairman Bernstein questioned the actual reasons for the cost overruns and why it came to such a high amount. He acknowledged the benefits of providing this type of affordable housing, as stated by Ald. Rainey, however as a private developer such unexpected extra cost incursments for construction are ineradicable and beyond control that are normally projected and anticipated by the developer. He asked the applicant if he could elaborate further on some of the construction overruns incurred. Mr. Davidson explained that there were several different unexpected situations that caused costs to exceed beyond expectation. He noted that one of the most expensive construction related cost was the requirement by NICOR resulting in redesigning the gas lines below the townhouses that was uncontrollable and had to be done that was very costly. He further went into other unexpected cost overtures that were unexpected and over and beyond the cost of his
expected construction fees. Mr. Davidson concluded that in the end, he suffered a tremendous loss in profitability, which was expected to be in the proximity of $90,000.

Ald. Moran asked for input from staff on the balance of CDBG funds and the derivation of those funds expected for the current CDBG budgetary period. Mr. Wolinski responded that the HOME funds, which is the source of funding for projects such as this, has a balance in excess of $1 million dollars at this time. Ald. Moran asked for an approximate dollar amount on any projects at this time that the City has pending for usage of those funds? Mr. Wolinski responded that they do not have anything concrete at this time that he could provide an estimated dollar amount other than the project by Reba Place that Ald. Rainey mentioned previously of approximately $600,000+. He informed the Committee that they can not use HOME funds to pay for City fees, therefore such refund would have to come from the General Fund if allocated.

Ald. Jean-Baptiste stated that because the City does not have a structure or process in place to actually base this case or such a request on, he is inclined to support the applicant’s request this time. He believes developers who come into the City and ask for a certain amount of money to create affordable housing, then the City allocates that money and in conclusion such housing is developed and provided, then the City is obligated to fulfill wholeheartedly. He said this obligation includes the terms of expected profits. In his opinion, the City needs to set a process of making it clear to developers of the perimeters that they are dealing with, regardless of the size of the project. Ald. Jean-Baptiste acknowledged Chairman Bernstein’s points on expectations of private developers with construction cost overtures and burdens, however this is a unique case with a smaller private developer who is providing such housing that is a benefit to the community and should be given consideration on that behalf, as Ald. Rainey has brought attention to. He stated that any incentives to private developers to provide affordable housing is very difficult with the cost of construction in Evanston. Ald. Jean-Baptiste noted, however, that it is quite difficult to determine the request for the additional $30,000+ over what is listed on the agenda item data and included in Council’s packet materials, which makes it unclearly justified. Ald. Rainey agreed and stated that she also feels the letter from the applicant included in Council’s packet is poorly written, however she does believe the $50,357 is the original amount requested.

Ald. Wynne stated that she feels both Ald. Rainey and Ald. Jean-Baptiste have a very good argument in regards to the overall scenario. However, as being a member of the P&D Committee for the last 4-years and having experienced dealing with Mr. Davidson’s previous projects brought before the P&D Committee for approval and his subsequent previous request for reimbursement of City fees and over-cost incursments, she is inclined to differ in opinion. She informed her fellow Committee members that were not previously on the P&D Committee, that Mr. Davidson was approved for reimbursement of City fees and certain cost overruns on his last project and was specifically told at that time that it would be a one-time reimbursement approval and that it was not expected to happen again. Ald. Wynne reiterated her understanding of the previous arguments made in support of this request, but it is important that what was clarified to Mr. Davidson
should be noted and sustained, even as a Committee of the Whole as it now exists. She said that the unexpected overrun cost incurred by any private developer has always been any contractors probability unfortunately. Ald. Tisdahl echoed everything Ald. Wynne just commented on. If anything, she could only support the $20,206 as stated on the agenda item sheet. Chairman Bernstein agreed with Ald. Wynne’s comments and recalled the P&D Committee’s unanimously agreement at that time to Mr. Davidson that the previous reimbursement approved would be a one time deal. He finds it very coincidental that Mr. Davidson has asked for this matter to be held over twice from the last two meetings to this meeting with the new Council to proceed with his request.

Ald. Holmes asked staff if this is the only not-for-profit developer in Evanston building affordable housing. Mr. Wolinski responded yes. Ald. Rainey followed that in view of the need for efficient subsidy to the buyer and assistance to the developer providing affordable housing, the entire issue of inclusionary housing needs to be assessed. She stated that it is a shame but a reality, to advise Mr. Davidson to stop building affordable housing as a single private developer because the profit reliability is very unreliable.

Ald. Moran pointed out that the HOME funds for the City of Evanston has traditionally been under-utilized. He noted the large amounts allocated to not-for-profit organizations to rehabilitate buildings for affordable housing in comparison to this for-profit private developer and the comparison of the type of affordable housing projects that he has provided. He does not feel the amount that Mr. Davidson is requesting for in reimbursement of cost overruns is unreasonable in light of what he has contributed to for affordable housing. He recognized the item for discussion on their agenda for inclusionary housing this evening and the importance of providing such housing. With that in mind, he especially would not want to hold back on reimbursing this individual private developer in his efforts on providing affordable housing. Ald. Moran feels the amount being requested here by Mr. Davidson is in no comparison to the amount allocated to the not-for-profit organizations to provide affordable housing also. He also feels that there is no competition to Mr. Davidson’s work as far as providing exceptional affordable housing in comparison to the larger scale not-for-profit developers.

In conclusion of further discussion amongst the Committee members, it was determined that the fair amount for requisition was as total of $30,131. Ald. Moran motioned to approve the amount of $30,131 from the City’s HOME fund, in addition of another $5,000, for the total amount of $35,131 out of the General Fund. Ald. Holmes seconded the motion.

Mr. Wolinski informed the Committee that when Mr. Davidson took on this project he was required to hire a general contractor. Mr. Davidson had difficulties with the general contractor he hired and subsequently fired him. The general contractor came into Mr. Wolinski’s office and threatened to sue and place mechanics liens against the property for lack of payment. He talked with Mr. Davidson at that point and told him that he would not stand for this project to be stopped by any type of a lien placed by the general contractor. Therefore, Mr. Wolinski assumed that a major amount of the reimbursement request amount is the incurment of the funds that Mr. Davidson had to pay to the fired
general contractor. Mr. Wolinski noted that his understanding is that Mr. Davidson may or may not be pursuing legal action to recuperate those funds. Therefore he would suggest that somehow if the Committee is going to fashion a motion to grant the reimbursement of any funds to Mr. Davidson, that they take into consideration the situation he just communicated to them.

**The vote was 8 in favor of the motion and 1 voting nay (Chairman Bernstein).**

(P2) Sidewalk Cafes for Type 1 and Type 2 Restaurants at Various Locations

Ald. Wynne moved approval of the sidewalk café’s for Whole Food Market, JK Sweets, Pick-A-Coffee Club, Café Ambrosia, Jacky’s Bistro, and Davis Street Fish Market. Ald. Jean-Baptiste seconded the motion and the vote was 9-0 in approval. Ald. Wynne reminded the representatives of the restaurant establishments of the trash and litter removal requirements. She asked Mr. Wolinski if there are any pending property standards issued with the establishments listed above, which he responded negatively.

The ongoing held over case regarding Chipotle Mexican Grill was given approval by staff. Mr. Wolinski informed that management was advised to order additional garbage pickups, which they have obliged to a 5-day pickup schedule. **Ald. Wynne moved approval, seconded by Ald. Tisdahl. The vote was 9-0 in favor of the motion.**

**ITEMS FOR DISCUSSION**

(PD1) Discussion with Corporation Counsel Jack Siegel

Ms. Julia Carroll addressed the Committee. She stated that her invitation to Jack Siegel to speak to the P&D Committee this evening is with regards to his opinion on the legal aspects of Inclusionary Housing. She referred to the copy of his letter included in Council’s packet material on the proposed Inclusionary Housing Ordinances. She said that because there were several concerns expressed in the opinion, she felt it was important to get some direction from the City Council on Mr. Siegel’s concerns, particularly as it relates to granting height and density bonuses, before staff brings back any kind of an ordinance for introduction. Ms. Carroll believes there are many ways they can address Inclusionary housing, however she did not want to spend a lot of staff time developing a set of density or other bonuses if Council is not interested in considering them. Therefore, she has asked Mr. Siegel to speak to the Committee on his concerns expressed in his opinion so that she can receive some direction on how to proceed further with the Inclusionary housing ordinance.

Mr. Siegel stated that the opinion he wrote dated March 15, 2005 was directed to a critique of an ordinance which had been worked on for a couple of years with the Inclusionary Housing Task Force and the Housing Commission. The ordinance was developed primarily through BPI (Business and Professional People in the Public Interest). He noted that in his opinion, he has two basic problems with the ordinance as proposed. First, his brief understanding of what Inclusionary zoning goes back to the mid-1970’s, where there has been efforts throughout the Country to promote affordable housing. He said largely through legislative acts, either by a State enabling the act or by
local ordinances. Mr. Siegel said essentially the pattern is that developers of a certain number or type of housing are required to set aside a percentage of units for affordable housing; affordable being defined in each jurisdiction generally in accordance with either their median or average income within the area. He said in order to avoid the problem of “taking”, that is exacting private property without compensation, which is prohibited not only by the United States Constitution but by every State Constitution in the Union. The device generally has been to offer incentives to the developer to offset the costs which are inherent in producing units which are either sold or rented at lower than market values. He pointed out that those incentives which he has indicated are either density bonuses, additional units beyond what the Zoning Ordinance would normally provide, expedited permitting processes and frequently cash payments in order to make it economically feasible for the developer to proceed with affordable housing. Mr. Siegel said that under the ordinance that is proposed by the Task Force and the Housing Commission, it is suggested that a number of potential offsets or benefits be given. These benefits include, as the City Manager has just indicated, such things as density bonuses, setback requirement, height variations and other incentives which make it possible for a developer to provide the additional units that are contemplated. Again, he stated that a percentage of the total number of units is normally provided and there is a sliding scale in the ordinance presented.

Mr. Siegel said that in his opinion he has two basic problems. First, he has a constitutional problem because the State Supreme Court in a number of decisions, which he sited in his opinion, has applied what they call directly and uniquely attributable to any burdens which are placed upon a developer beyond what the normal regulatory divisions require. For example, in the last Supreme Court case in Illinois that dealt with this problem, the court threw out a statute involving transportation impact fees because the original statute did not require that the contribution be directly and uniquely attributable to the project itself. He said the legislature amended that statute which was also the subject matter the same Supreme Court specifically used the language distinctively and directly attributable and the Supreme Court of Illinois said that it meets their criteria. He explained that criteria was developed in the Rosen case in the Mt. Prospect case, which he discussed in his opinion. Mr. Siegel stated the leading U.S. Supreme Court decision on the subject is Dolen, and interestingly enough, in that case, pointed to the State of Illinois as being one of the most restrictive States in the Union in applying the uniquely and attributable test. Therefore, conclusively the first constitutional problem they have is to demonstrate that a burden which is placed upon a developer is specifically and uniquely attributable to the project to which the burden is placed. He said in the face of this, there are some countering facts which he feels they have to take into consideration. First of all, the State legislature in the affordable housing statute has set 10%. He said the last housing census that he is familiar with states that as many as 25% of the units in Evanston fall within the affordable perimeters that the State statute has set. Therefore, although the preamble to the ordinance speaks directly to need which is based upon an assessment that was made, if you apply the State statute, they not only meet but exceed what the State has determined to be appropriate for affordable housing. Mr. Siegel summed up that this is a possible problem which could be raised but nevertheless can be done.
Mr. Siegel said that his opinion points out the constitutional problems which he feels exist because of directly and uniquely attributable. However the way this ordinance is drafted, he finds many problems that he again has tried to indicate in his opinion. He said many of those problems in his mind gives what seems almost unbridled discretion to an administrative officer without standards. He noted that one of the principle requirements is an affordable housing plan and that plan does not go to the City Council into this ordinance; that plan goes to the Director of Community Development. He said that one of the alternatives is if you can’t produce the units on site, then you can find another site in the City and produce the affordable units. He said that decision is again made by the Director of Community Development. Although he has great confidence in Mr. Wolinski, he is not sure that he would want that particular job. Mr. Siegel said the problem with this is that in neither instance is there any kind of public hearing or any input on the part of the City Council or the public with respect to the affordable housing plan with the alternative off-site designation. He said aside from the basic problem, this is not a limit to the Zoning Ordinance in fact by substantially changing the requirements for setbacks, side yards, density and height without recourse to public hearings as normally would be the case in a zoning proceeding. He pointed out that there are other problems of setting the affordable standard which again lies primarily with the administrative officer, although it is ultimately subject to approval by the City Council, but there are no standards to determine that realistically. Mr. Siegel stated that its fundamental in a matter of law in Illinois that you can not delegate what amounts to legislative authority to an administrative officer without standards. Unfortunately, he feels that there are no standards in the proposed ordinance to guide the administrative officer in many areas which he believes more properly belong to at least oversight by the City Council and probably public hearings. He said that there is in another connection with the question of clarin, that he is not going to address in full detail. However the thrust of that case is heavy emphasis on the right of neighbors to be heard and to court due process in the course of these land use decisions. Mr. Siegel believes that this draft ordinance is very deficient in giving due process particularly to the neighbors and really taking the City Council out of what has historically been fundamentally legislative decision.

Chairman Bernstein summed up the two different areas of concern by Mr. Siegel, one being the constitutional ability to implement Inclusionary housing, but he did not say it was impossible to do. Secondly, is the method by which the City chooses if they decided to proceed with this ordinance. He called on the citizen sign up sheet.

Ms. Sue Carlson, representing the Evanston’s Affordable Housing Future, which is a group that has been advocating for affordable housing, particularly Inclusionary housing. She presented to the P&D Committee a petition signed by 136 individuals who feel very strongly about passing an Inclusionary Housing plan. In addition to this petition, Ms. Carlson has submitted another petition to the City Clerk’s Office signed by an additional 374 individuals consisting of Evanstonians and those who worship in Evanston who also are very supportive of affordable housing. The combination of both petitions has over 500 signatures. She expressed her strong support along with all the others who are
behind the Council in working towards the best Inclusionary Housing Ordinances possible for the community. She stated that Inclusionary housing is especially needed at a time when condominium conversions are abundant and rental housing is decreasing and the cost of housing is rising. Ms. Carlson noted that on April 29th there was an Affordable Housing Forum in Los Angeles sponsored by Freddie Mac, Century Housing and the National Housing Conference. She said it was at that meeting that experts discussed the significance of the findings of a new study that indicates that the number of working families spending more than half of their income when it is ideal for people to be spending one-third, has grown 76% in the six year period from 1997 to 2003. She said that this calls attention to the fact that it is both the private sector that was heard previous with Econ Development and the private sector of the bigger developers that should be involved in issues of affordable housing in the community.

Ms. Robin Snyderman-Pratt, Chair of the Housing Commission and the former Chair of the Inclusionary Housing Task Force. She pointed out how opportune it was to have such a precursor to the discussion of Inclusionary Housing than the previous agenda item regarding the affordable housing development on Darrow. She hoped that the issues on both sides of the table are considered in helping to form good public policy in the future. In order to update the new Council members, she gave a brief overview of the work done so far on the Inclusionary housing issue. Ms. Pratt informed that the Housing Commission came before the Committee in 2002, just after the conclusion of the 2000 census looking for the Council to embrace a task force process that included some Alderman, a member from the Planning Commission, Housing Commission, and Human Relations Commission, a private developer and non-profit developers. The task force would look at how to tack private-sector activity to advance the City’s affordable housing goals. She agrees that Evanston has a real distinguished history advancing affordable housing goals with many stated commitments from several groups regarding preserving diversity and the City has spent a lot of CDBG and HOME dollars and Mayor’s Special Housing Fund dollars over the years. However, as Ald. Moran has pointed out, the City has had trouble spending the dollars recently because of the escalating land costs. Ms. Pratt noted that the 2000 census indicated that half of Evanston households are less than 80% of area median income and that 40% of our rental households were paying more than 30% of their income on rent and that there are increasing numbers of homeowners also burdened by the cost of their mortgage payment. She said that new construction was really not affordable to people that earned less than $150,000 per year.

Ms. Pratt said that since the Task Force has finished its work the State has really stepped up its leadership on housing while the Federal Government has been decreasing its commitment. She said the precious resources they valued in the pass are vulnerable at this time. She said with regards to the Affordable Housing and Planning Appeals Act, that in January, 2005 the Governor released a comprehensive housing plan talking about his theories and how he wants all municipalities to advance with incentives that he would like to make available. Ms. Pratt stated that the Affordable Housing and Planning Appeals Act only applies to the most aggrieved areas, in other words only 49 of the States 1300+ municipalities were affected. She stated that in our region alone there were over 700,000 households earning up to 80% of area median income that are paying more
than one-third of their income on housing. She said that if all 49 municipalities in this region developed up to the capacity of 10% per the plan, that would help about 7000 households.

Ms. Pratt stated that she was dis-heartened when she read Corporation Counsel’s letter, however she is not totally discouraged. She believes there are several windows of opportunity. She commended BPI on their work on the proposed ordinances on a pro-bono basis. She noted that many loopholes were left intentionally for further discussion and decisions. Therefore, she stated that the Task Force is also looking for further comments and directions from this Committee as well.

Ald. Moran thanks Mr. Siegel for his extensive opinion, which was very informative. He wished to make comments on some of Mr. Siegel’s points he highlighted in his letter and to comment on Ms. Carroll’s request for further input in terms of bonuses. First, he agreed that there are some gaps in the ordinances as written related to discretion on the part of staff and perhaps the constitutional requirement that the City Council speak to some of these situations. He would suspect that ultimately if they do have an Inclusionary Ordinance to consider, which he is in support of, that those gaps and a poise between staff and City Council will be ironed out hopefully to everybody’s satisfaction including exacting standards. He said as far as State statute which talks about a 10% commitment, in his opinion, he does not believe that their home rule powers would be impinged to the point where if such an ordinance were challenged legally that the challenger could come in and point out that the General Assembly said that the municipalities need to have a 10% criterion, which a municipality would be benchmarked at and could not go any further. Ald. Moran said this strikes him as a political and governmental issue of where they would want to set that standard. He is skeptical that a legal challenge would be successful on the basis because State legislation has set the 10%. He reiterated Mr. Siegel’s reference about specifically and uniquely attributable to the proposed development criterion set forth in the Supreme Court precedence, both U.S. and Illinois. However, he can also see a potentially successful rebuttal to that argument on the fact that every bit of real estate is unique in the eyes of the law. He said that when you talk about specifically and uniquely attributable to the proposed development, if the City has an Inclusionary housing ordinance that requires that a percentage of affordable units will be incorporated within that development, he sees this as a fairly powerful rebuttal.

Ald. Moran stated that one of the reasons all the City Councilman wanted to be a member of the Planning & Development Committee is because land use issues are a coin of the realm at this time in Evanston. These land use issues are critical to where Evanston is right now.

Ald. Tisdahl stated that one of the main problems that drives people out of the community are the high taxes. She does not support any type of fee waiver as a bonus because of this.
Ald. Wynne stated that one of the main problems in the 3rd Ward are density concerns. She said that Evanston is becoming denser and taller and that many feel the current Zoning Ordinance does not protect the citizens. She also does not support any zoning or fee waiver bonuses. She said this leaves the alternative of payment-in-lieu-of, which is the only option that she could support. She feels there is no clear solution right now to this issues.

Chairman Bernstein said that he is a strong proponent for Inclusionary housing and believes that it can be accomplished. He said it is hard to support building waiver bonuses because there are already too many request for variations and special use relief as it is.

Ms. Susan Cooney, representing the Barrington/North Shore Caldwell Banker, said that she does not believe the ordinance as presented is effective enough and clear on standards that need to be applied. She questions why HOME funds can not be used for rent subsidies when it has been stated that in the past recent years the funds have been underutilized.

Mr. Siegel noted that Arlington Heights just passed an ordinance supporting density with 20% set aside for affordable housing. Chairman Bernstein said that he would be interested to see similar ordinances from other municipalities that have any type of Inclusionary housing ordinance in place.

Ald. Rainey asked Mr. Siegel about the obligation were we to have an Inclusionary housing policy requiring new developments to set aside. She questioned how they justify that when they have huge developments in this community that were able to bypass those regulations. In other words, this ordinance would only be binding to any new development and there would be no obligation on the part of any large 100+ unit building that is already up and occupied. Mr. Siegel responded that the law didn’t require those buildings to fulfill any Inclusionary housing requirements at the time they were under the building approval process. Ald. Rainey said that if they don’t have a provision where new construction has to set aside units in their buildings or they require financial commitments in-lieu of set-aside units, where are those units going to be built or would the financial incentives only be used to subsidize the cost of new properties. Mr. Siegel responded that is one of issues that still needs to be addressed. Ald. Rainey explained that the reason she asks this is because those in this community who feel that they need more affordable rental housing are of concern to her. She stated that certain neighborhoods in this community is where all of the affordable rental units are for the most part, the 8th Ward in particular. She feels that the vast majority of all Section 8 vouchers are being used in the 8th Ward as well. She said her concern is that if the City starts building affordable housing, it needs to be disbursed throughout the community. Ald. Rainey said that when she asked that source of income be included in their Human Relations Commission Discrimination Ordinance, there was a huge cry in this community as to how unfair and discriminatory this would be. It was also accused to be very discriminatory for any landlord to have to bear that burden of having of being accused of discrimination if they did not want to rent to a Section 8 voucher holder. Therefore, her
concerns are always the same and very consistent. She supports affordable housing and Inclusionary housing new laws for home ownership, however, she does not support any regulations currently for rental housing under any circumstance.

(PD2) Items for Future Consideration
Chairman Bernstein directed that this item be held over for discussion at the meeting on June 13th. The Committee members all agreed.

Citizen Comment for Kendall College Property

All those signed up to speak on this issue, Mr. Tom Gemmell, Ms. Laura Nerenberg, Mr. Nick Agnew, and Ms. Barbara Janes, agreed to give the floor to Mr. Bill McClure to speak on their behalf. Mr. McClure gave an overview of their “Summary of Fiscal Impact Analysis” presented to the Committee. He handed out a copy of this report to the P&D Committee members and staff.

COMMUNICATIONS

(PD3) Proposed Planned Development – Kendall College Rezoning
The Committee accepted this communication without comment or discussion.

ADJOURNMENT

The meeting was adjourned at 8:28 p.m.

Respectfully submitted,

Jacqueline E. Brownlee