Planning & Development Committee
Minutes of July 23, 2007
Room 2200 – 7:00 p.m.
Evanston Civic Center


Alderman Absent: A. Hansen, L. Jean-Baptiste


Presiding Official: Alderman Tisdahl

DECLARATION OF QUORUM

Chair Tisdahl called the meeting to order at 7:10 p.m.

APPROVAL OF THE JULY 9, 2007 MEETING MINUTES

Ald. Wynne moved approval of the July 9, 2007 meeting minutes, seconded by Ald. Rainey. The minutes were approved unanimously with a vote of 7-0.

ITEMS FOR CONSIDERATION

Mr. Wolinski informed the Committee that Ordinance 28-O-07 under (P2) in their packets is wrong. A copy of the newly amended ordinance was handed out this evening that reflects was the discussion from the last meeting.

(P1) Ordinance 27-O-07 – Text Amendment to Create a Mixed Use Zoning District

Ald. Rainey referred to the memo sent to staff and said that it is obvious that the language in this ordinance is very important and when she looks at this district; she does not see it as a district that should provide social services. She looks at this as a district to be much more dynamic and active however it seems like a majority of the uses are social services. She strongly feels the social services should be listed under special uses rather than permitted uses. Her opinion is that the social services listed under permitted uses are not compatible with the activity and businesses that this district should promote. Ald. Rainey proposed that educational institutions, religious institutions, community centers, and cultural facilities all go under special uses. Her reasoning being that if these uses were under the special use category it would allow the Committee an opportunity to regulate and be able to make specific conditions to modify their business and use to fit within this district or not be approved to operate. If these uses are permitted the Committee would not be allowed that opportunity. Chairman Tisdahl said that she has not problem with such an amendment.

Ald. Rainey moved to amend the ordinance to list the following uses currently under Permitted Uses to go under Special Uses: Community Center, Cultural Facility, Education Institutions (both private and public), Recreation Center, Religious Institution. Ald. Wynne seconded the motion. Chair Tisdahl questioned if it was legal to move public schools or separate private and public school uses within the same district. Ms. Jackson informed the Committee that public schools are listed as a permitted use under residential districts and private schools as special uses under this same district. With this information in mind, the consensus
of the committee was to leave public schools under permitted uses and private schools under special uses. The vote was 7-0 in favor of the motion for the recommended amendments.

Ald. Rainey questioned Vehicle Storage Establishments being listed under permitted uses and commercial parking uses are under special uses. She feels Vehicle Storage should be under special uses as well because she considers this as a subsidiary use; what is the reasoning here. Ms. Jackson responded that Vehicle Storage Establishments was a permitted use originally in one of the two districts and the Plan Commission took the most liberal approach with this use and decided to keep it under permitted uses. Mr. Wolinski added that the important issue here is creating a new district and the Committee has the authority to make changes as long as they are not violating the constitution on making existing businesses non-conforming.

Ald. Rainey questioned the definition of Recreation Center versus Commercial indoor & outdoor Facility, which is already listed under special uses; what is the distinction. Ms. Jackson read the definition for Recreation Facility to the committee and the businesses listed under commercial indoor/outdoor recreation which distinguishes are clarified by the activity level such as ice & roller skating rinks, tennis courts, basketball courts and games versus recreational class uses and lesser activity level functions that recreation centers are used for. The Committee was satisfied to keep recreation centers to be moved under special use category.

The vote was 7-0 to approve Ordinance 27-O-07 with the recommended amendments to the permitted and special use categories.

(P2) Ordinance 28-O-07 – Plan Commission Recommendation for a Zoning Map Amendment
Ald. Bernstein pointed out that the map has been changed however on page 5 of the ordinance the PIN numbers still include those parcels that were supposed to be excluded from this new district as discussed at the last meeting. He directed staff to remove all the PIN numbers that refer to the area of Greenleaf/Sherman/Custer business area. Ms. Jackson also pointed out that in the title where it states MUE should be changed to MXE. Mr. Cox stated that the changes noted do not have to be made in an amended motion since they are only typographical errors. The ordinance stands as amended from discussion at the last meeting.

Ald. Wynne moved approval of the revised Zoning Map, seconded by Ald. Bernstein. The vote was 7-0 in favor of the motion.

(P3) Request for Additional $126,865 in HOME Funds for ECDA’s Condo Conversion at 736-38 Dobson
Mr. Wolinski explained this request is from ECDA; whereas council previously approved funding in the amount of $360,000 for the acquisition and rehabilitation of this property some months ago. He noted one of the issues that changed from the time the pro forma was put together and submitted for actual passage of the appropriation was the fact that the City code changed to require all condominium conversions to be sprinklered. This cost was not included in the original pro forma that was submitted to the City and ECDA is asking to be reimbursed in the amount of $126,865 primarily to pay for the fire suppression system. He acknowledged members from ECDA being present to address the issue for further questions.

Ald. Moran moved approval, seconded by Ald. Holmes.
Ald. Rainey said that she asked for an accounting of the cost of this project. She noted that this is a classic example of why there is no such think as affordable housing in Evanston based on the cost and numbers proving that it is impossible to build within an affordable cost range. At this point, it is still unsure whether any additional cost will come up before the completion of this project. She pointed out that the units are very nice, however even with the amount of subsidy provided, the basement area has no real updates or changes, the washer and dryers are substantial and the hallways have not bee updated either. Ald. Rainey said it is obvious that in the regular market these units are not worth the value to be considered in the upper $200,000 price range. Nevertheless, she expressed her support this project and additional funding request and commended ECDA for doing the best job they could do. She noted that they currently have over 30 applications to purchase these units.

Ald. Bernstein questioned exactly who is included in ECDA and how their operation is listed out of Fisher Church. Mr. Keith Banks clarified that ECDA is a faith based organization made up of several African-American churches located on the west side of Evanston and Fisher Memorial Church is one of the member churches and they use this location as their official meeting place and physical address under their incorporation. He stated that the organization also have meetings at various other churches, however Fisher is their official location. Ald. Bernstein questioned the zoning legality of operating their business out of Fisher Church. Mr. Banks responded that ECDA is a not-for-profit faith based organization and Fisher is just their physical address; their operation is not considered on the level of operating an official business from this location.

Ald. Rainey informed the Committee that one of the issues that ECDA also ran into was lead point in the back stair case and in order to rectify this problem they had to tear down the porch staircase and totally replace. She pointed this out as another issue that makes these affordable housing projects not affordable. She asked for clarification if this was a Property Standards issue and if the porch was beyond repair. Mr. Wolinski verified that to be true and it was an issue of the better of two options to either scrape all the lad paint or completely replacing; the latter was more feasible considering the work involved and assurance that no lead was still present. Ald. Rainey questioned staffs opinion in consideration of such requirements and the cost of the affordability in continuing such funding for these affordable housing projects and the feasibility; especially looking at the item under discussion this evening regarding the proposed Vacant Building Program. Mr. Wolinski agreed that staff is recognizing the extreme cost involved with these projects and are learning from each project as well. He assured that better and more affordable methods are being considered for future projects.

Ald. Rainey noted the her disapproval of the aesthetics of the fire suppressant system requirements with the connection hose being located an literally hanging in the front of the building and the piping works located outside of each unit. This design is very aesthetically displeasing and effects the value of the property and units. She questioned if there was any other way to do this and if anything can be done at this point to modify the results of this retrofit requirements. The architect for the project explained the problems with the retrofitting of the fire suppressant system and the options that were available. He assured that the retrofitting provided was to code and that the connection was required to be located in the front of the property since the Fire Department would be unable to get to the building from the rear. Ald. Rainey requested a memo from the Fire Department regarding this fire suppression installation required for this building be provided at the next Planning & Development Committee meeting.

The vote was 7-0 in favor of the motion.
Ald. Bernstein questioned why this restaurant had to request a special use for Type 2 operations when it is already operating as a type 1 establishment. He noted that it has always been historically acceptable to do carry out business from a type 1 restaurant; why is this restaurant considered different? Ms. Jackson responded that the applicant requested this special use application on their own accord because of the majority business that they anticipate at this location. Mr. Wolinski added that the applicant/restaurant owner wanted the flexibility to do 60% of their business as carry out without a problem, therefore requesting to have the approval of operating as a type 2 restaurant. Ald. Bernstein accepted this explanation but requested assurance that the main operation of this restaurant remain as a type 1 establishment and as originally approved along with and adjacent to the office use and that this special use only apply to the current restaurant in operation. He would like to have the inability to allow any other type 2 restaurant establishment to come in subsequently upon the possibility of discontinuance of the current restaurant. Mr. Dan Shapiro, Attorney for the applicant, agreed to this condition on behalf of his client.

Ald. Bernstein requested to modify the original motion to include the previously stated amendment and condition to the ordinance. Ald. Wynne agreed to include with her motion. The vote was 7-0 in favor of the amended motion.

ITEMS FOR DISCUSSION

(PD2) Discussion of Proposed Downpayment Assistance Program and Vacant Building Program

Mr. Wolinski gave an overview of these proposals and the intention is to draft ordinances or resolutions possible for introduction of both these programs at the next meeting.

Ms. Spicuzza gave a run-down of the general criteria for the Downpayment Assistance Program. She noted the need for larger subsidy to make this program viable; anticipated at forgivable grants of $25,000 for 100% of Area Median income and up to $30,000 for 80% AMI over longer periods of time and $15,000 minimum forgivable grant over a period of 5 years or more. The preferential forgivable time period is over a period of 10 years. She said that other options to this program have been suggested; however any type of balloon payment method was not preferable. This program would be for owner-occupied, first time homebuyers only. She noted that the administration would be handled on a contract basis for the pilot program and the cost of $10,000 has been included in the commitment.

Ald. Rainey raised questions on the Vacant Building Program and the number of vacant buildings currently existing in Evanston and the conditions of those buildings. Ms. Spicuzza responded that there are approximately 50 vacant buildings in Evanston at the moment, however Mr. Janusz, Asst. Director of Property Standards, has a better idea of the conditions of those buildings. Mr. Wolinski explained that there are a number of reasons for current vacant buildings and not all are boarded up and cited by Property Standards. **The Committee agreed that they would like to see an updated list of all vacant houses and buildings with some details on the current conditions, ownership, and financial state of the building. They also agreed that this information needs to be reviewed before moving any further on this program.**
It was the consensus of the Committee to direct staff to draft a downpayment assistance ordinance for consideration at the next scheduled P&D Committee meeting.

Ms. Betty Sue Ester, 2114 Darrow, suggested that if the City goes forward with these proposed programs should be advertised on the Internet and as many other forms of advertising communication because many people who can utilize these programs are unaware that such tools are out there for their assistance. She agrees that as many assurances and enforcement need to be in existence to keep housing affordable for as long a length of time as possible. She feels that over time more than 1 additional staff person will be needed to monitor and keep these programs in operation. She suggested that the City put as much effort as possible in the advertisement of these new programs. Ald. Rainey responded that it is also the responsibility of all the CHDO’s out there to help put the word out on any such affordable housing programs as they come into existence and are made available.

(PD1) Zoning Vested Rights Discussion

Ald. Wollin expressed her opinion is that Council needs to move on this as soon as possible and develop something straightforward in writing explaining and confirming when a program has vested rights when a moratorium is in place. Mr. Wolinski suggested that his distinction would be at the point when a completed building permit application has been received in the Building Department. Mr. Hill referred to his memorandum distributed to Council regarding this topic. He referred to the last paragraph of that memo with staff’s determination:

“That the zoning analysis standard may be too low a threshold when compared to the extensive good faith reliance expenditures required on an applicant or a developer to establish a “vested rights” claim. As a result, staff recommends that City Council consider the following as a more appropriate minimum threshold for exclusion from a moratorium: a) in situations of as of right construction, the filing of a completed building permit application, and b) in situations of planned development, special uses or variations, the filing of a completed application for planned development, special use or variation as appropriate.

In conclusion, Mr. Hill stated his opinion is that the analysis is really an ad hoc case-by-case basis for determining if a project has vested rights. He feels that it is almost impossible to have a blanket standard in the case of a moratorium.

Ald. Wynne disagreed; she feels this whole approach is totally political because they should not be left with the situation for each moratorium to allow for discussion of which projects should or should not be considered to have vested rights. She stated that a blanket standard must be made and in writing to avoid such any situation of being able to have the ability to negotiate whether a project has vested rights with a moratorium.

The consensus of the Committee was to continue further discussion when time permits at the upcoming P&D Committee meeting.

ADJOURNMENT
The meeting was adjourned at 8:38 p.m.

Respectfully submitted,

Jacqueline E. Brownlee