

Planning & Development Committee
Minutes of September 24, 2007
Room 2200 – 6:30 p.m.
Evanston Civic Center

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

Staff Present: J. Wolinski, A. Bishop, J. Brownlee, J. Carroll, J. Chambers, K. Cox, B. Dunkley, W. Hallen, V. Jones, G. Morgan, J. Murphy, D. Spicuzza, L. Woods

Presiding Official: Alderman Hansen

DECLARATION OF QUORUM

Chair Hansen called the meeting to order at 6:52 p.m.

APPROVAL OF THE SEPTEMBER 10, 2007 MEETING MINUTES

The minutes were approved unanimously with a vote of 9-0.

ITEMS FOR CONSIDERATION

(P1) Ordinance 78-O-07 – Amending Section 4-2-2 of the city Code to Prohibit Windowless Sleeping Rooms in New Construction

Ald. Wynne moved approval, seconded by Ald. Wollin.

Mr. Wolinski updated the Committee that at the last meeting it was the census of the Committee for staff to come back with a recommendation. He said that staff has invited Mr. John Macsai here this evening who was the resident architect of the P&D Committee to give his opinion on the windowless bedroom issue. He noted that staff's recommendation has been stated before in that they are in favor of this amendment in new construction only. In the case of any rehab construction or any type of existing structure that will be turned into a living space, staff would not be in favor of this amendment. He gave the floor to Mr. Macsai to hear his comments on this subject.

Mr. Macsai introduced himself and reminded the Committee that he has testified his architectural expertise numerous times before Council in the past. He has been an Evanston resident for 35 years and has written several articles for the Evanston RoundTable. He is here to give his professional architectural opinion once again to convince the committee not to allow interior windowless bedrooms in new construction. Mr. Macsai stated that almost any law eventually will be circumvented by smart architects and lawyers and he has witnessed this throughout his 50+ years of practice. In fact he feels somewhat guilty in testifying because since he began practice in 1955, architects have spent much energy in cheapening and ruining the product. However in most cases it was for a good cause to alarm the growing middle classes to afford quality housing. In this he referred to eliminating beams, having flat concrete slabs so there was no space for recess light, no space for central air conditioning, there has been a change to metal studded drywall which has hurt buildings acoustically, eliminated concrete block, etc. There has also been the invention of the drywall fire stud wall which in fact was partly responsible for what happened with the "9-11" incident. He further noted many other damaging amendments to the

building codes that have been made over his architectural career that have affected the quality of new building construction. Nevertheless, he reiterated that the majority of these amendments were made with good faith intentions, including the windowless bedrooms.

Mr. Macsai recalled that this particular code allowance was started back in the early 1970's when in Chicago a large number of lofts became vacant and useless and the idea of converting these spaces into living quarters became popular. He noted that most of these loft spaces had 11-12' ceiling heights that would allow for lowered partition divider walls between the exterior rooms that had windows and could provide sufficient light to the interior windowless space. This scenario did not really solve the ventilation problem, nevertheless it did somewhat satisfy the legal requirement of providing fresh air. However in the case of living spaces with nor more than 8' ceiling heights, the same divider wall situation would not be acceptable, especially in new construction. He pointed out all the negatives with a room confined by being windowless including insufficient light, air and very uncomfortable living space for any human.

In conclusion, Mr. Macsai's professional architectural opinion in that windowless bedrooms in new construction would be create a totally impossible and inhuman condition, not to mention the eventual negative effect it will create on the market for the Evanston housing stock. He proceeded to give several concrete examples of why developers are doing this type of new construction with the number one reason being economics and cutting corners to provide the ability to build a develop residential units to the maximum amount possible within a new building development. He pointed out that with most new construction the units are smaller and are being designed with a much shorter exterior wall resulting in a more narrow and deeper apartment multiplied by the lower floor to floor heights; and again multiplying the result by \$50 per surface square foot which will allow to lower the sales price of that building by several thousand dollar per unit. This will also allow the ability to squeeze deeper and narrower apartments per floor and overall maximize the number of total units per building area. In short, the developer profits from this windowless bedroom code allowance. Mr. Macsai stated that if anyone thinks that these cheaper units are going to help low income residents afford new housing, it will not. He strongly feels this class of residents also deserve better and higher quality housing and do not deserve low quality construction of any sort to save the developer money in providing affordable units in their developments. He noted that the developer in this case has not offered units for low income residents but instead has bought their conscience for very little money. He urged the Committee to take his opinion into consideration for all the reasons stated and to support this amendment to the current City Code.

With no further discussion, Chair Hansen called for a vote. **The vote was 7 in favor of the motion and 2 voting nay (Bernstein, Jean-Baptiste).**

(P2) Ordinance 84-O-07 – Special Use Request for 2428 Main Street

Chair Hansen recalled that this special use is for a type 2 restaurant (Sarpino's Pizza) and that this item was introduced on September 10th and referred back to Committee for staff to provide information on the current operating hours of other pizza establishments in Evanston. She acknowledged staff's chart of pizza restaurant closing times, delivery, carryout and dining operations included in the packet material. She requested for the applicants comments at this time.

Mr. Rajul Shah, representing Bond Companies & the owner of the property. He stated that this company understands the concerns of the Alderman in terms of the lateness in operating hours proposed by Sarpino's Pizza and they are aware that the shopping center is in close proximity to

residential areas and the concerns expressed with possible loitering in the parking lot. However, he presented a handout to the Committee for the record, illustrating his research done on his own part. This handout included a detailed chart of several pizza establishments and also included the operating hours of Steak & Shake restaurant because it is less than 1 mile away from their location. Also included was an aerial map showing the locations of all the restaurants. Mr. Shah explained that his chart is an attempt to respond to the concerns expressed by the Committee with loitering at establishments opened with late operating hours, some also within close proximity to residential areas. First, he pointed out Steak & Shake is open 24-hours for carry-out and dine-in service but has no delivery which he only uses an example of a restaurant with extended hours allowing customers to be present during all times. He especially pointed out Domino's hours of operation which is also close to residential areas, that is open until 1 a.m. for delivery and even later to 3 a.m. for carryout. Several Committee members questioned these hours of operation and were under the impression that the delivery and carryout times were the other way around in accordance with the special use provisions that were approved for Domino's. Mr. Shah assured that his information and research presented were verbally received directly from the manager of Domino's that he personally spoke with. Mr. Wolinski responded that staff will follow up on this and if this is happening, they will enforce that the conditions under the special use permit are followed. In conclusion, Mr. Shah stated that in review of his chart, he only wanted to show other similar establishments with late hours of operation that do not have any noted issues with loitering problems. He assured that the owners of the property are supportive of Mr. Marinov's restaurant management history and his requested hours of operation. They are willing to take full responsibility for making sure that no problems will occur with loitering or disruptive behavior in their parking lot or affecting the residential area.

Ald. Rainey stated that she was under the impression that any special use conditions are required to be included with the lease and recorded for the specific location. If not, what makes the conditions and regulations meaningful. Mr. Cox responded that the City has no real control over what is stated in the individual lease between the owner and the tenant for every special use granted. Mr. Wolinski followed up explaining that a copy of the special use ordinance is required in every type 2 restaurant for public display. He noted in the case of Domino's it is hard for staff to regular and enforce the conditions since there have been no complaints on their hours of operation or late night loitering problems. Ald. Bernstein expressed his concern with the City's ability to enforce their ordinances especially since special uses are privileges; not rights. He addressed Mr. Shah as representative of the landlord and if they would have any problems in imposing restrictions on the use of the parking lot. Mr. Shah responded that he would agree to this condition but would need to present this request to his boss. However he foresees no problem with this and assured that they would be willing to work with Mr. Marinov to conform to any requirements. He also stated the landlords' awareness of the ability for Council to pull back on any special use ordinance if there are any issues or recurring problems with the use. With this said, Ald. Bernstein requested that he would like the landlord to put signage in the parking lot warning against any loitering. He has no real problem with the closing time as requested by the applicant.

Ald. Wynne suggested that she would feel more comfortable if they required the applicant to come back after a 1-year period so as the Committee could review their business over the past year and if any problems or issues came up within that time. Ald. Bernstein concurred. The Committee followed with discussion over an agreeable time of delivery and carry-out hours. Ald. Rainey feels that any pick up/carry out after midnight would be a mistake at this location; however she sees no real problem with allowing the delivery time to 3 a.m. Ald. Bernstein again concurred. He also noted in his opinion there is more likelihood for loitering at restaurant

establishments that allow dining late hours or 24-hours such as Steak & Shake, which incidentally has had no problems in the past.

Ald. Jean-Baptiste proposed for the 1st year of operation for this restaurant that they allow delivery until 2 a.m. and pick up service until 11 p.m. This proposal was agreeable by all Committee members. There was some hesitation from Mr. Marinov at first, however he agreed to this proposal with the understanding that after 1 year he can come back to request extended hours with no problems occurring.

Ald. Jean-Baptiste motioned to approve Ordinance 84-O-07 with the amendment to restrict delivery time until 2 a.m. and allow carry out until 11 p.m. Ald. Wynne seconded the motion and the vote was 9-0 in favor. The Committee also agreed to a 6-month period versus the 1-year originally suggested for the applicant to come back before the Committee to request extended hours of operation.

Chair Hansen chose to address both items (P3) and (P4) together in light of their coinciding moratoriums for the Central Street Master Plan. The Committee members concurred.

(P3) Ordinance 90-O-07 – Extending the Moratorium for New Construction on Central St. from Ashland to 2200 Central for 120 Days

(P4) Ordinance 91-O-07 – Extending the Moratorium for New Construction on Green Bay Road from Isabella to Lincoln for 120 Days

Ald. Wynne moved approval for both ordinances, seconded by Ald. Moran.

Mr. Dunkley gave an overview of where the Plan Commission and staff are with the zoning review for the Central Street Master Plan. He is pleased with the progress that has been made since the beginning of this zoning review process and in his opinion he would estimate the approximate time schedule for final review and a report being ready for presentation before the P&D Committee for the December meeting. He strongly supports the need for this additional time to accurately and appropriately address the fine details involved with zoning for this Master Plan. He said that absolute assurance is desired in this case to answer and address all concerns presented in hopes of resulting in a final zoning report that the community is in support of any changes that are being proposed. Mr. Dunkley informed thus far there is an agreement on the overall rezoning coupled with a corridor wide overlay district. He said the next phase is to go through all of the details of that overlay district to have everyone who has concerns to make sure there is an understanding of what the implications are for property owners/business owners along Central Street and adjacent residential homeowners. He reiterated that the zoning review by the Plan Commission is progressing very well at this point and is pretty confident that a final draft can be done and ready for presentation by the December 2007 meeting.

Mr. Wolinski informed the Committee that there are three major development projects currently ongoing during this moratorium period that will not be effected. Those projects are the Central Street Theatre project that is progressing with their demolition phase, the Prairie Condominiums and the rehab of the Transmission Building across from the Theatre project. Ald. Tisdahl stated that she was very optimistic about how long this process would take for the Central Street Master Plan. She admits that the process has taken much longer than she anticipated, however from all the work involved that she has witnessed from the beginning of this ordeal, she assures her support for staff and the Plan Commission on all their hard work and their diligence towards completion of this project.

Mr. Jeff Smith, 2724 Harrison, expressed his support for staff's request to extend these moratoriums to allow sufficient time to complete the zoning analysis and review for the Central Street Master Plan. He agrees with the efforts in trying to develop an ending product that is acceptable by all parties, especially the business and property owners along this corridor. He recognizes the importance of this zoning review and all the tedious work it requires by staff and the Plan Commission to complete in an appropriate manner. Mr. Smith presented a set of photos to the P&D Committee members illustrating what would be allowed to be built with the current zoning in the Central Street corridor as an example of how important this zoning review and recommended amendments will effect the area.

Chair Hansen called on a vote for item (P3), Ordinance 90-O-07, the vote was 9-0 in favor of the motion. The vote for 91-O-07 was also 9-0 in favor of the motion.

ITEMS FOR DISCUSSION

(PD1) Vacant Building Program

Mr. Wolinski introduced Mr. Jeff Murphy, Supervising Property Standards Inspector, to the Committee. He noted Mr. Murphy as the key person that has been involved with the vacant buildings and board ups throughout Evanston.

Mr. Murphy gave a brief summary of the vacant building status for Evanston at this time. He stated that not all properties on the list are in a state of disrepair for example, the 3 properties listed on Leonard Place. He explained this is a case of where the owner maintains the exterior of the properties very well but refuses to allow the inspectors entrance for an interior inspection. He stated that interior inspections are required to determine if the property is structurally fit or unsound and in need of demolition. Mr. Murphy also informed the Committee that there are a range of reasons for the basis of a property being left vacant by an owner. Those reasons range from foreclosure, death, seniority/inability to take care of property, mental issues, and in some cases where an owner may have several properties and simply chooses to keep the house vacant or used for storage, etc. In many cases, there are people that are just very difficult to work with and to encourage compliance.

Ald. Bernstein asked legal staff if there is a probable clause rule that can be used to enforce a property owner to allow interior inspections or to takeover the property after being vacant for a period of time. If not, there is a need to look into the City having this type of power and authority legally.

The Committee discussed the Rehab program, funds available and how the Vacant Building Loan program would work along with the current rehab program. Ald. Rainey said that she is very concerned with the current vacant building problem especially in the winter when these properties are attractive to squatters. She is also concerned with the funding source for this program. She questions was good will \$600,000 do when you look at the cost of rehabbing one multi-unit building or single-family building for that matter.

Ald. Jean-Baptiste asked what the purpose of this discussion is; there is a need for staff to clarify what exactly they are asking the Committee to consider here. Mr. Cox responded that it is helpful for legal staff to get direction on recommended options from the Committee on how they wish to proceed in taking over these vacant properties after being empty for an unacceptable period of time. He will look into the suggestion of finding a probable clause ruling to gain some type of

authority for the City to take over some of these properties. Ms. Spicuzza said that she is looking for direction from the Committee on ways to impose making it easier for developers to obtain some of these vacant properties and apply for Vacant Building Loans to rehab the properties. The Committee suggested that a good start would be the properties listed in foreclosure and owned by a bank or mortgage company. They would probably be the easiest properties to obtain. Ald. Moran suggested going to our State Representatives and he would anticipate their interest and support in the vacant building problem. These are the people who can aid in providing the sufficient teeth needed in an ordinance to enforce the takeover of any property for unsafe ongoing conditions.

Ald. Rainey suggested that staff begin with the properties as listed with banks and mortgage companies, as suggested previously, then look at properties that might be HUD owned also. It would be a good idea for staff to call the banks and companies and try to make a deal, especially the houses in foreclosure. Ald. Jean-Baptiste asked if it is even possible with the staff available and the feasibility in terms of staff taking on this project. Is additional staff needed?

ADJOURNMENT

The meeting was adjourned at 8:25 p.m.

Respectfully submitted.

Jacqueline E. Brownlee