

APPROVED

**Planning & Development Committee Meeting
Minutes of March 8, 2010
City Council Chambers – 7:05 pm
(15 minutes after the end of Administration Public Works (A&PW)
Lorraine H. Morton Civic Center**

Alderman Present: D. Holmes, L. Jean-Baptiste, A. Rainey, D. Wilson, M. Wynne

STAFF PRESENT: B. Dorneker, B. Dunkley, G. Farrar, A. Logan, M. Lyons, D. Marino, D. Spicuzza, L. Walker

PRESIDING OFFICIAL: Ald. Wynne, Chair

DECLARATION OF QUORUM

Chair Wynne called the meeting to order at 7:05 pm on March 8, 2010.

APPROVAL OF THE FEBRUARY 22, 2010 MEETING MINUTES

Ald. Holmes moved approval, seconded by Ald. Wilson. The minutes were approved unanimously.

I. ITEMS FOR CONSIDERATION

(P1)* 1609 Florence Avenue and 1519 and 1525 Davis Street Plat of Subdivision and Consolidation Approval

Chair Wynne announced that staff is recommending a subdivision of a parcel purchased by two families to allow for both owners to build detached garages to provide off-street parking.

Ald. Holmes moved approval, Rainey seconded. Holmes questioned that the house at 1609 Florence was demolished and because of where the fence is constructed, she can not visualize where the garages would be built.

Bill Dunkley, Zoning Administrator, referred to the drawing in the packet and explained that the garages would be built on each of the two lots resulting from the subdivision of 1609 Florence. Access to the 1509 Davis garage would be via an easement over the western half of the 1609 Florence subdivision.

The committee voted unanimously in favor, 5-0.

(P2)* Ordinance 17-O-10: Granting a Special Use for a Type 2 Restaurant at 1729 Sherman Avenue “Jimmy John’s”

Ald. Wilson moved approval, seconded by Ald. Holmes.

Ald. Fiske expressed concern about delivery drivers parking under the viaduct on Clark Street and the angled parking on Sherman Avenue. She felt Jimmy John's takes away parking from other retail stores. She suggested an amendment to prohibit the delivery drivers from parking on the angled parking on Sherman as well as under the viaduct.

Tom Ryan and Tom Ryan, Jr., applicants and owners of Jimmy John's located at 824 Clark Street, stated that their drivers pay the meters in front of the stores or they will have one of their employees run the food out to the car. Chair Wynne discouraged parking in the metered spaces.

Mr. Ryan stated they have at most three to four delivery cars at any one time and in the evenings typically there is only one driver. Ald. Rainey stated the delivery car is only there to pick up food and then keeps moving. If they were longer than twenty minutes she would object.

Ald. Jean-Baptiste moved to amend the motion to add a condition to the special use to limit delivery vehicle parking to a maximum of 2 cars at any one time in metered spaces. Ald. Rainey seconded.

Mr. Ryan clarified that Papa Johns is located on the corner of Benson and Clark, not Jimmy John's and it is Papa Johns' drivers who park under the viaduct, not Jimmy John's.

**Ald. Jean-Baptiste moved approval, seconded by Wilson.
The committee voted unanimously in favor, 5-0**

(P3)* Recommended Denial of Major Variance Application for 2328 Isabella Street

Ald. Tendam announced that this case be held in committee, pending further action.

(P4)* Request for Extension of Planned Development for 959 Dobson Street

Ald. Wilson expressed hesitation to grant a three-year extension (as recommended by staff) and felt the owners of 959 Dobson should come back after a shorter time frame with a progress report as a matter of policy.

Ald. Rainey said this project is in her ward and the owners have owned the building for many years. They have produced a green project and have done everything in their power to maintain this property. She has been involved with this project for approximately five years, they are Evanston business owners (D & D Foods), and they have made donations over the years.

Chair Wynne agreed saying that while she was not willing to go five years, but agreed to three years.

The committee voted unanimously in favor, 5-0.

Item P5 has been withdrawn from the March 8, 2010 agenda.

(P5)* Plat of Subdivision Approval for 2408 Orrington Avenue, former site of Kendall College

Ald. Rainey requested the reason why this case was withdrawn. Lehman Walker, Director of Community and Economic Development, stated that the case is being withdrawn due to a disagreement between the parties and will be held until the next council meeting.

(P6)* Approval to Match Federal Funds for Varsity Theatre Renovation

Bob Dorneker, staff member, explained that Parks, Recreation and Community Services Department are working with the Community and Economic Development Department to apply for a matching grant of \$ 50,000. The purpose of the grant is to complete a feasibility study to convert the former Varsity Theatre, located at 1710 Sherman Avenue, into a performing arts center.

According to Mr. Dorneker, City staff is preparing a three-page letter of intent to the Mayors' Institute of City Design through the National Endowment of the Arts. The deadline for the letter of intent is March 15th, and the full application is due on April 15th.

Mr. Dorneker stated that the project scope would include a general market study, architectural study, financial study and an operational business plan for the space. The City is working with Steven Rogin, owner of the Varsity property and the Downtown Evanston Business District. The Arts Council has been working on this for the past 2 years and is in full support of this project. The City of Evanston will be applying for \$ 50,000 on the grant application and will match another \$ 50,000 with TIF funds from Washington National TIF funds, totaling \$ 100,000.

Ald. Fiske stated that she supports the project and feels it is a good project for the First Ward. She encouraged support of this project and was pleased that the property owner is on board.

The committee voted unanimously in favor, 5-0

(P7)* Consideration of Request to Waive Transcript Fees – Zoning Board of Appeals Case No. 09ZMJV-0082

Chair Wynne moved approval, seconded by Ald. Holmes.

Ald. Rainey stated that this presents a couple of political issues. If you sign up to appeal the decision of the Zoning Administrator and you have advance notice that the cost for the transcript will be between \$ 3000 and \$ 5000 it might be a deterrent. However, if she

thought it could be filed as an objection against the Zoning Administrator and needed to go to circuit court, that's a different story. Her understanding is that if members of the Zoning Board of Appeals are not able to attend a meeting, the city needs to do a tape or provide a transcript to the missing members.

Ald. Rainey recommended that staff come back with ideas of how to rework this requirement. If a transcript is not needed, you don't pay for it. It deters the appeal of the Zoning Administrator and therefore is not a money maker.

Chair Wynne, agreed. The research in the packets stated the appellant has the option to receive the transcript if they want it or really need it. She recommended setting this issue aside and suggested for staff to come up with a more reasonable approach and give better notice of the zoning fees. The details provided to the committee did not provide enough information and felt there should be some kind of written agreement. Basically, if someone does not need the transcript they should not have to pay for it unless it goes to circuit court.

Ald. Holmes agreed.

Mr. Walker explained that applicants are provided with the information and are notified of the fees, but agreed that staff will reexamine and come back to the committee with specific examples. He explained that over the course of the past year there were about 25 other parties that were charged for transcripts.

Ald. Jean-Baptiste questioned if the applicant was on notice of the fee and wondered if this deters private citizens from coming forward to challenge the Zoning Administrator. He felt the general policy should be explored.

Ald. Wilson felt the City should not be ordering transcripts for every single hearing. The appellant should not bear the risk of a ZBA member not attending a meeting. It is not fair to force them to incur the cost if they don't take that next step. He questioned if the appellant was willing to attest that they did not get the information.

Mr. Newman, attorney for the appellant, George Gaines, spoke about the fact when staff said there are 25 parties that have paid fees, they are for special uses or variances to enhance the value of their properties. His client is objecting to the restaurant opening across the street. He is not the applicant. The applicant is the restaurant and the university. The history is that appellants can say what they want to say, have their due process and it does not cost them anything. They did not have to pay a fee to object. Mr. Newman stated that his client came in on the 43rd day and attested that the zoning fees form was not given to his client.

Ald. Rainey stated that the staff should review the zoning fees forms and the bill should be set aside. It's her understanding that Mr. Gaines does not need the transcript at this time and the information staff provided from other communities is invaluable.

Mr. Dunkley stated that at the time of application the zoning office covers two things:

one is the process and second is the fee. He stated that staff makes sure that applicants understand there will be an invoice coming after the case is heard. Applicants leave the office with the application, the information sheet, and the zoning fees sheet. He explained that the appellant arrived on the 45th day (the last day to file an appeal, not the 43rd day as Mr. Newman stated) at 4:45 pm and he did provide the necessary information.

Ald. Jean-Baptiste felt it is not a fair fee, that it is a deterrent if a private citizen wants to make an appeal, and the process needs to be revamped. He questioned if we want to go forward with the application as the rules are right now, or change them to make them more equitable.

Chair Wynne stated that she thought we are not giving people a good enough idea how much a hearing is going to cost them and that staff should give typical examples of the cost. Give them specifics, as much as possible.

Mr. Walker commented that staff has heard the concerns that have been raised and will come back with other proposals to make sure applicants are advised and have all the necessary information.

Chair Wynne would like this information to be provided to the committee at the City Council meeting on March 22nd. She posed the question to the Law Department staff. Can the City say, the ZBA rules require a transcript to be prepared, but is it up to the appellant to request a transcript if they so desire?

Attorney, Grant Farrar, commented that the waiver and fee as it is set now is by ordinance, the other is the transcript to be done through the ZBA. It can be held in advance.

City Manager, Wally Bobkiewicz, recommended that the transcript be paid for by the City of Evanston and that no additional bill will be invoiced for the next meeting coming up on March 16th, until the council makes a decision.

Ald. Wilson moved to amend to waive the current invoice with the condition that if the applicant takes it to circuit court then they will need the transcript and then the City will get reimbursed for that invoice. Seconded, by Chair Wynne. Ald. Rainey accepts the motion as being very reasonable.

The committee voted unanimously in favor, 5-0.

Ald. Rainey addressed the issue of what our policy is going to be moving forward. She read the transcript fees from the zoning fees schedule and pointed out those resulting in economic development and enhancement of properties. She felt that appeals should be taken off the list because they have nothing to do with improvements of properties and therefore does not belong in the same category.

Ald. Rainey requested staff to provide all the appeals that have been filed against the Zoning Administrator's decisions and what those charges were. This should be provided at the next meeting.

Ald. Jean-Baptiste reiterated that transcripts should not be required for every single category.

Mr. Bobkiewicz said that staff agrees.

Chair Wynne stated that based on the information provided, other communities do not automatically produce a transcript.

II. ITEMS FOR DISCUSSION

PD1 Transcript Fees in Neighboring Communities

This topic was discussed as part of (P7)*

III. COMMUNICATIONS

There were no communications

VI. ADJOURNMENT

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Annette Logan

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