

**Planning & Development Committee
Minutes of February 23, 2009
Council Chambers 6:30 p.m. – 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: K. Cox, J. Chambers, B. Dunkley, D. Marino, B. Newman, R. Russell,
D. Spicuzza

Presiding Official: Alderman Moran

DECLARATION OF QUORUM

Chair Moran called the meeting to order at 7:02 p.m., a quorum being present.

APPROVAL OF FEBRUARY 9, 2009 MEETING MINUTES

The Committee voted unanimously 8-0 to approve the February 9th, 2009 meeting minutes.

ITEMS FOR CONSIDERATION

Chair Moran suggested considering Item (P2) first:

(P2) Ordinance 17-O-09, An Ordinance Amending the Zoning Map and Granting a Special Use and Major Variations for a Private Educational Institution Located at 1200 Davis Street in the R4 General Residential Zoning District (“Roycemore”)

Mr. Steve Friedland, representing Roycemore School, referred to a letter he had submitted to the City asking the Committee to consider two modifications to the ordinance that had been prepared by Mr. Cox.

The first modification was to Section 7 of the ordinance which was an extension of the typical one year period deadline under the code that he had spoken of at the last meeting, which was that Roycemore’s contract with the General Board of Pension and Health Benefits (“General Board”) provides for a closing window of August 2010 to November 2010 which allows the General Board time to build their new facility in Glenview, Illinois. As a result, they will not even take title to the property until that period and he requested an extension to March 1, 2011. His concern about the draft of Section 7 they had before them speaks to that date being the date they would commence their school operation at the site and in fact they will be getting a building permit, building out the site and then commencing operation at the school year September 2011. Mr. Friedland said that his proposed Section 7 was to request that the deadline set forth in Section 6-3-5-15A (the one year period) be extended to March 1, 2011, explaining further that the ordinance provides that the one year period is available to an applicant to pull a building permit during that time and that is what they will be doing during that time frame. Chair Moran said it says March 31st, but Mr. Friedland said his letter has a typo and March 1st is acceptable.

Mr. Friedland said the second modification has to do with a provision in their contract with the General Board, who has requested that they provide some format for a reverter back to the old district in case Roycemore did not close on the property transaction, which he said, they have put up significant earnest money during this period and it is a very unlikely event, but in the event

that were to happen, the General Board is concerned that it would now have R4 property with a special use for an educational institution. He explained that considering there is an obligation to record an ordinance as a condition of it, if they did not record the ordinance by December 31, 2010, that would be evidence that Roycemore had defaulted and hadn't closed and the ordinance would be null and void and the General Board's property would be in an O1 Zoning District again.

Chair Moran stated that they have the ordinance before them with two proposed amendments as requested by Mr. Friedland.

Ald. Bernstein moved approval of both. Ald. Rainey seconded the motion.

Ald. Bernstein said people are going to be concerned about potentially spot zoning of property but in light of the fact that this map change and use change came up concurrently in the same process, he believes they are intertwined and that would placate this concern, so he said he would absolutely support this. He said the difficulty he has is if they have an office building and it remains an R4 zone then we have people coming in and it is going to be more difficult for the General Board to market their property. He said to the extent that they can, he is requesting that they approve it.

Ald. Tisdahl asked whether the applicant would be able to change their driveways to a pervious surface since they are asking for extra impervious surface coverage. Mr. Friedland said the additional impervious surface relates to the stair extensions they were required to put in and not to the drive, to which Ald. Tisdahl replied that if they do the drive they will have less impervious surface. Mr. Friedland said he does not know whether they have looked into the cost and upkeep of that. That type of drive to his understanding, does not have the same longevity as asphalt, so there is a maintenance component to it and that it will be used by some of the trucks that come to deliver to the back of the school. He said he does not have the authority to say they can do it. Ald. Tisdahl asked him to talk to his client about looking into it, to which he said he absolutely would. Ald. Tisdahl thanked him. Ald. Rainey said she was going to ask the same thing. She said the City just did a green alley, which is where all the trucks go, so having heavy equipment on the driveway is not a reason not to have it. Mr. Friedland said he would definitely discuss it with Stephen Yas, the architect, and figure out what that would cost and how it would affect things. Ald. Rainey said one of the things the City is doing is asking people to do their best to be green and this is just a minor request, so she asked that he do more than ask, she asked that he encourage the applicant to use a pervious surface on the drive.

The Committee voted unanimously 9-0 in favor of the motion for introduction of the ordinance.

(P1) Ordinance 1-O-09, An Ordinance Amending the Zoning Map to Re-Zone the Properties at 912-946 Pitner Avenue from the I2 Industrial District to the MXE Mixed Use Employment District.

Ald. Jean-Baptiste moved approval of the ordinance. Ald. Rainey seconded the motion.

Ald. Jean-Baptiste reminded the Committee that they had asked him to investigate the parking situation in the area of the 900 block of Pitner due to the concerns of Mr. Nels Johnson and his counsel. He said he and Andy Spatz, the applicant, walked the length of the block and Mr. Spatz's property observing the parking situation. He said Mr. Spatz has told him that his intent is to add about 3 more spaces to the 5 existing parking spaces. Ald. Jean-Baptiste said he also had a conversation with Mr. Johnson who expressed that his issues go beyond the parking concern as to the impact of a new residential use in the neighborhood and his concern about adjacent businesses

not being cooperative. Mr. Johnson also sees the new mixed use development as an encroachment on a strictly industrial community, but, Ald. Jean-Baptiste said, the reality is that it is not strictly industrial because within 50 yards of the block from Main Street to Lee Street, there are some private homes on Bradley, Lee, Nathaniel and in the surrounding area that have coexisted with the industry for a long time. Ald. Jean-Baptiste said he also brought to Mr. Johnson's attention and further confirmed that C. E. Niehoff, the striving, growing business immediately to the east of the blocks in question, is adding 77 parking spaces according to their representatives and their architect, 35 of which spaces will be on the east side of their property which is adjacent to Pitner Avenue, within 75 yards of Johnson Tree Services and 50 yards west of Mr. Spatz' development. He said a C.E. Niehoff representative told him that a number of their employees park on the street so they compete with Johnson's employees for parking spaces, so Johnson employees will have more spaces on the street.

Ald. Jean-Baptiste said he does not believe Mr. Johnson will see the gloomy outcome that he perceives. He said at the end of the conversation he seemed to agree to coexist. He added that he tried to call him a couple of times this day but he was not able to talk to him but sees his counsel is present. He said he wanted to share with him that upon discussion with Mr. Dunkley, he was informed that in fact the existing I2 district allows higher heights of buildings than the mixed use district that has been proposed, so the impact may not be as negative as he believes. Mr. Johnson did not know C. E. Niehoff and Spatz were adding parking. Ald. Jean-Baptiste said he has also called Mr. Bond to reiterate the businesses on Main Street have coexisted and there has not been a problem. He spoke to some residents on Bradley and Lee who have indicated that they have not seen an interruption in their ability to park across from the homes. Each block has approximately 12 homes and people feel they have adequate parking.

He concluded that Nels Johnson will not be impacted negatively, future issues will be able to be resolved and that there is additional relief from C. E. Niehoff adding spaces and Mr. Bond opening up more spaces, so he asked the Committee to adopt the ordinance.

Mr. Couri, representing Mr. Nels Johnson, said he thinks Ald. Jean-Baptiste's meeting with his client was productive, but from his conversations with his client he respectfully disagrees that there will not be an impact on the parking problem which exists today. He said it is easy to say they don't think it is going to impact them but there have been no studies done because they do not know how many of C. E. Niehoff's employees actually park on the street and they do not know how much additional parking Mr. Spatz is going to provide. But he said what is known is that as it exists today and that Mr. Johnson has employees who have been forced to try to park on residential streets and the residents have complained so he has told his employees not to park on those streets and they are having a tough time finding parking. He said it is a real issue and needs to be explored by doing some studies and obtaining data to ascertain exactly what the impact may or may not be.

Mr. Couri said there are two issues and the second issue that is above and beyond parking or in combination with parking, is the disruption of harmony that Mr. Johnson is fearing because these businesses have coexisted in harmony for 50 years in some cases with no interruption. He said this is changing one side of a street – approximately 4 or 5 properties, which the west side of the street is going to remain I2. He asked the Committee to ask themselves whether the benefit is for the overall public good or whether it is just benefiting one person who wants to develop his property. He believes it is imperative that his client, as a long standing fixture in the business community, should get some consideration about his concerns over what is going to happen to this neighborhood when you interject residential living, pedestrians living, walking and visiting. He said "If it is not broke we do not need to fix it" and that he thinks his client deserves some consideration. He said this is not a broad changing of a zoning area, it is a small change that could diversely affect those few business owners. He said he thinks they need to explore the

parking situation and that his client's concerns need to be evaluated with regard to any kind of business interference that may occur.

Chair Moran thanked him.

Mr. John Zbesko of 1129 Noyes Street, identified himself as a candidate for 7th Ward Alderman. He said when he first heard this issue come up he did not think very much of it but as he listened to Mr. Johnson talk about it, a realization came to him, which was that he noticed that over time in Evanston there used to be a lot more industrial property: steel plants, Rustoleum plants and the opportunity for people to walk to work from the west side of Evanston and he realized that if you're going to change an industrial area like this and allow some residential mix, it was, and he said he was quoting a blog piece, the "camel's nose under the tent" and he feels that having seen what has happened with development in this town, we do run a risk of losing more industrial space to residential development or other type of development. He said he thinks it is important and he said as an analogy, Evanston considers its architectural heritage very important and has historical preservation zones for very fine homes and other nice old architecture. He said he would also maintain that the industrial zones should also be considered a preservation zone as well. So for those reasons, he said, he urged the Committee to consider the larger issue that changing zoning would represent or imply and urged them not to approve it. He thanked the Committee.

Mr. James Murray, representing Mr. Spatz, said in response to the objection to the consideration of this matter that in each and every instance before the Plan Commission and the City Council previously and this evening, Mr. Johnson's point of view has been thoroughly explored and thoroughly addressed by both the alderman of the ward and the members of the various commissions and by this Committee and there is no negative aspect to this. There is no immediate drop in the amount of industrial space that will be utilized in this zone. Industrial space is still the welcome element in the MXE district, just as it was in the I2. The added significance in the zoning change is simply the accommodation of a specific type of residential unit combined with industrial use that provides the opportunity, unlike any other location in the City, to find a housing unit that has the capacity to combine residence and commercial space and/or industrial space. He said that seems to be a very high priority among a certain stratum of today's society and it seems that this is a very modest change and a change that affects only some 450 running straight front feet of the entire city. He said that it will not have an adverse affect upon industrial use: it will embrace it and add just the singular component of probably a one bedroom unit to accommodate the business man who finds it appropriate to enjoy a residential space within his business space. He asked the Committee to concur with Alderman Jean-Baptiste and pass the ordinance.

The Committee voted unanimously 9-0 to approve the ordinance.

(P3) 1890 Maple - Planned Development Extension Request

Mr. David Reifman, on behalf of the applicant stated that he was present to answer any questions. He said the applicant had been working for a period of time with Trader Joe's and that the transaction is not happening at the moment because of a decision by Trader Joe's. He said the developer continues to expend funds and pursue opportunities to make this project a reality. He believes everyone is aware of the current economic situation and he does not believe Mr. King feels this year is going to be productive at all so they are simply trying to assure him enough time to justify the continued expenditure of funds to pursue the project in the manor in which it needs to be pursued.

Ald. Wynne asked Mr. Reifman to explain about Trader Joe's position because the letter that was

distributed just says they do not want to move forward but they are already pursuing other potential tenants. She asked that he clarify what Trader Joe's position is. Mr. Reifman replied that Trader Joe's position at this time is that they are re-evaluating all of their projects in the pipeline and that includes the one in Evanston. They have not said they are not going to come to this location but they have not committed to this location either. They had gone to the point of a fully negotiated lease so this was very, very close to getting done but at this time they cannot offer more than to say they need to reevaluate in the context of this space, other available options to them. But, he said, that is all we know from the developer's perspective. Ald. Wynne asked why he is asking for 3 years, which she said seems like an extraordinary amount of time, to which he replied that the problem is that Mr. King has already expended tens, even hundreds of thousands of dollars in pursuit of options to bring a grocer to this location. He needs time to continue to see what the market is going to do and additional funds would have to be expended if he has to make changes to the plans to accommodate them, so it is simply a matter of being sure that over a period of time there will be enough time to implement that and justify his continuing to spend money until he has a better sense of where this project is going and the other one as well. He agreed that it is a long period of time but said we are in an extraordinary situation economically and no one really knows where it ends and if they had a sense of that they might have a sense of when this would happen. They don't want to lose the investment and the effort to this point, merely by the passage of time, so this extension provides a higher level of comfort.

Ald. Rainey said after hearing the economic news this day she is just grateful that anyone has a job so, she said, 3 years does not have to expire before the building starts: if things pop, the building will probably be built, she would hope, and furthermore, one of the good things about this piece of property and the next on the agenda, is that Mr. King owns these properties and he controls them so the City has nothing to lose by extending this agreement, and she encouraged the Committee to vote in favor of the 3 year extension. She added that what we learned about Trader Joe's is their method of operating: what they do is string people along, cost them money and then they don't care and that it has happened several times in Evanston.

Ald. Jean-Baptiste moved approval. Ald. Rainey seconded the motion.

The Committee voted by majority of 6-3 with Ald. Moran, Wynne and Hansen voting against approval of the extension.

(P4) 1881 Oak - Planned Development Extension Request

Mr. Reifman explained that the circumstances are similar to the previous request. This is not a retail project, however again, Mr. King has continued to advance the project, owns the property, has expended funds, has made a \$200,000 contribution required for the planned development in order to allow him again to continue to position this building for the recovery. He said they are asking for a similar extension for that building as well.

Ald. Rainey moved approval. Ald. Bernstein seconded the motion.

The Committee voted by majority of 6-3 with Ald. Moran, Wynne and Hansen voting against approval of the extension.

(P5) Consideration of a Request for an additional 1-Year Extension for the 959 Dobson Street Approved Planned Development

Mr. David Butner, on behalf of the applicant, introduced himself and said the last time they were before the Planning and Development Committee was in August of 2008 to request an extension due to the fact that there were numerous structural changes that had to be made and architectural

plans had to be revised. He said that since that time those plans have been completed structurally and architecturally however the economic environment has caused a temporary suspension of this project. He said plans are completed but the developer believes that right now it would not make sense to build a 33 unit condo building and have vacant units in a vacant building, but this project will proceed if not this year then next year, however right now an extension is necessary.

Ald. Rainey said this project is in her ward and that it seems they have heard about it for years and the neighbors have been waiting for it with baited breath. She asked Mr. Butner his relationship to the developer, to which he answered that he is one of the attorneys representing the developer.

Ald. Rainey moved approval of the extension. Ald. Wollin seconded the motion.

The Committee voted unanimously 9-0 to pass the extension.

IV. ITEMS FOR DISCUSSION

(PD1) Discussion of Foreclosure Activities

Mr. Marino referred to the material he had distributed explaining the federally sponsored Homeowner Affordability and Stability Plan which was announced last week, which includes a number of documents from the Treasury Department and the White House summarizing the program. He said there would be more detail forthcoming in the next two weeks. He called to the Committee's attention the three examples, being some of the clearest he has seen, of how the program will assist people in danger of foreclosure. He said he expects more information on the federal initiatives to be announced next Tuesday, March 3rd, 2009.

Mr. Marino explained Example A, in which the family initially took a 30 year fixed rate mortgage of \$207,000 on a house worth \$260,000 at the time with a Fannie Mae conforming loan at 6.5%. Today they have \$200,000 remaining on the mortgage but their home value has fallen 15% to \$221,000. The loan's loan-to-value ratio is 90% making them ineligible for Fannie Mae refinancing but under this new program the underwriting criteria for Fannie Mae allowing financing has changed so they can now refinance to get a lower monthly mortgage payment that would help them avert foreclosure.

Mr. Marino continued, explaining Example B in which the family took out a Fannie Mae conforming loan where the value of the property has declined and the loan-to-value ratio is now 84%: historically Fannie Mae's ratio was 80% to allow refinancing but they are currently eligible for Fannie Mae refinancing with an interest rate of 5.16%, which will reduce their annual payments by nearly \$4,000. He added that this initiative is for foreclosure prevention.

He explained further, Example C, which illustrates a dire situation in which the family is eligible for the "Homeowner Stability Initiative." In 2006 this family took out a 30 year subprime mortgage of \$220,000 on a house worth \$230,000 at the time. Their mortgage broker sold their loan to an investment bank. Their interest rate was 7.5%. They have \$214,016 remaining on their mortgage but their home value has fallen 18% to \$189,000, and one of the parents was moved from full time to part time work, causing a significant negative shock to their income. Their loan is "under water," meaning that it is 113% of the value of their home, making them unable to sell their house. Their monthly mortgage payment is a little over \$1,500 and their monthly income has fallen to \$3,650, which makes the ratio of their monthly mortgage debt to income 42%, which normally should be 31% (or in the worst case, 38%). He explained that under the recently announced Homeowner Stability Initiative this family is eligible for a government sponsored loan modification for 5 years, reducing their mortgage payment by \$406

per month. After 5 years, Family C's mortgage payment will adjust upward at a moderate, phased-in level. He pointed out a chart which shows how it will work to save the family's home provided this works for them and they do not incur any other disasters.

Mr. Marino further explained that this is a recently emerged program in the last several days, so we do not have all the information and detail we would like, but he noted that this program also provides financial incentives to lenders to persuade them to do loan modification and to cooperate with these programs. He said the incentives range from \$1,500 for a transaction to other incentives which cover their information and transaction costs and that these incentives had been missing previously in these types of programs.

Ald. Rainey asked how many calls the City receives per month from people concerned about or approaching foreclosure, or in foreclosure, and what we do with those calls. Mr. Marino said Ms. Spicuzza refers them to Interfaith's Housing Counseling Group and other agencies such as CEDA and that these calls also go to Health and Human Services Department. Ald. Rainey asked when someone calls the City's main switchboard and asks to talk to someone about foreclosure, who they are referred to, to which Mr. Marino replied that they are generally sent to the Housing Planner and many people, because of marketing and door hangers we have distributed in locations where foreclosures are most prominent, have called the three organizations, including Interfaith, listed on these materials. Ms. Spicuzza said she gets about 4 calls a month and that Health and Human Services also gets many calls and they find many who need help through people they are working with. She said some callers have said they have seen something on the Cable channel or that they have been referred by a neighbor who has seen something on the website.

Ald. Rainey asked whether the City will play any role in the federal housing initiatives. Mr. Marino replied that the Housing Department would like to collaborate with lenders as well as with bank regulatory agencies and the Treasury Department's regional offices. He said they are planning to meet in early March with a number of entities to use these programs in Evanston. He stressed that the most important thing for a borrower who wants to access these programs to do is to talk to their lender directly, or if they have a lender who is not cooperative, to please let the Planning Division know.

Ald. Jean-Baptiste said he has spoken to the Interim City Manager, Ms. Spicuzza and the Housing Commission and he is suggesting the City track people against whom foreclosures have been filed. He said this information is obtainable and the City needs to be more aggressive about getting this information about specific homeowners, keeping a database which tracks who they consult with, the results of those consultations, and their progress, and follow up with them. He said he would like a report to be presented to the Committee. He said while the federal government and some other entities are taking initiatives, the City is not closer to getting a hold on the situation than when it first emerged and he asked the Interim City Manager to gather some resources within the City Manager's Office, the Housing Department and the Health and Human Services Department, to make a difference. He said the next report should have specific statistics on how many families have been referred, of what services or programs they are availing themselves, how many have gotten off foreclosure, how we can help them, etc., for each ward. He said this crisis is very serious and the City is capable of helping and needs to step up its sense of urgency.

Ald. Wynne said she agrees with Aldermen Rainey and Jean-Baptiste and that the City needs to concentrate on preventing foreclosure. She related a story of a Housing Counselor in Florida whose staff of 4 people receives hundreds of calls each week who said a number of people had received letters from their banks which were inviting them to come in and talk to them about refinancing, but they had not opened the letters because they were afraid they might contain a

foreclosure notice. She said now that there is a federal solution and the banks' goal is not foreclosure either, we need to emphasize in our outreach that it is not just when you're in foreclosure, but it is the period beforehand that is so important because there are programs that can provide renegotiations which can prevent foreclosure.

Ald. Holmes said education is where the City is lacking. She said she and Ald. Jean-Baptiste sponsored one forum and they have another coming up in April, but that is further in the future than she would like it to be, because she said it is amazing what can happen if they can reach someone before foreclosure happens. She cited a case in which they referred a homeowner who had gone from full time to part time employment and was afraid of losing his home, to a bank that renegotiated his mortgage. This proves that it is all a matter of educating people on their options.

Ald. Rainey said if we are going to help, we need to clearly define what the role of municipal government is in this and especially our city and what we are capable of. She expressed concern about condominium owners within a condo association whose fellow condo owners go into foreclosure and the association is left with the repairs, utility bills, etc. in order to protect the other condo owners from freezing pipes that burst and destroy everyone's property. Ald. Jean-Baptiste said knowing who is in foreclosure in their wards is the first step and that we have resources such as Interfaith and CEDA to provide the guidance to help people get modifications to their loans. He said he is suggested 1) obtain the information, 2) know where the resources are, 3) monitor individuals' progress/situations, 4) report on status of each ward, i.e. how many foreclosures there are, how many of them the City is in touch with, how they have been helped, and how we will follow up with those we have not yet contacted. He said he believes saving the homes and condos already owned is more urgent than the affordable housing issue and if we do not address it now, in four years, we will be talking about the same thing except the number of folks in foreclosure will have multiplied. He said some people are hopeful that things will happen immediately, but because the problems are global, he does not believe they will be remedied very quickly. Ald. Rainey asked if he would agree to direct staff in creating a plan to implement his ideas. She said she would like to see the plan and that the City's departments must coordinate with each other. Ald. Jean-Baptiste agreed that it needs to be centralized, that the switchboard needs to know who to direct these calls to, and that the Health & Human Services Department needs to direct the callers to our emergency housing relief resources.

Ald. Bernstein said he agrees with Ald. Rainey. We must determine who they are and how we can assist them. He said he would ask Dennis and the City Manager to coordinate the City's efforts. He said the Law Bulletin which the City subscribes to has all the foreclosure filings and we do not have to buy the list from anyone. Ald. Wollin reminded the Committee that they had been given a map of all the foreclosures in Evanston and agreed that an actual policy of how to attack the problem needs to be put in place. She said that Interfaith has been organizing that material and she assumes they are working with Ms. Spicuzza.

Ald. Holmes said they are talking now about pre-foreclosure and that it is a whole new piece to the education process. Ald. Wollin said she would like to know how this interfaces with the Neighborhood Stabilization Program which is also a federal program to try to deal with vacancies. She said there are so many of these programs coming out now and we must see how they are correlated. She said we must also see if our banks are going to get incentives. Ald. Tisdahl said when we talk about foreclosure and people being afraid to open their envelopes, we need to talk about pre-foreclosure and suggested using the language "reducing monthly payments." She said if we start talking about educating people in how to reduce monthly payments, we will have many people showing up to be educated but if we talk about education in foreclosure, we will not get as many.

There being no further comments, Chair Moran asked Mr. Marino whether he had an idea of what the Committee is looking for. Mr. Marino replied that the discussion had been very helpful and that as was stated, they have access to quite a bit of information. He said they will work on accessing foreclosure prevention solutions. He said they also need to do more educating and marketing. He said they are currently working with Interfaith and in early March they will be working with a number of lenders and regulators as well. He said they will devise a plan in addition to identifying the resources, for educating and assisting Evanston's at-risk homeowners in foreclosure prevention and loan modification.

COMMUNICATIONS

Chair Moran announced that there will be a special Planning and Development Committee meeting to address the revised plan for 708 Church Street, the tabled item on the agenda, this coming Tuesday, March, 3rd, 2009 at 6:00 p.m. in the Council Chambers. He said the development team for 708 Church Street has filed a revised or amended plan related to their proposed project, late Thursday. He said the materials related to that plan have been posted on the City's website and that the revised plan has been placed in each of the libraries, available for public review.

Ald. Bernstein clarified that the 708 Church Street developer's request is pursuant to the current zoning. The Downtown Plan was passed but there has been no legislation regarding the zoning of the downtown.

ADJOURNMENT

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Bobbie Newman