

**Planning & Development Committee Meeting**

**Minutes of May 12, 2008**

**Council Chambers - 6:30 p.m.**

**Evanston Civic Center**

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

**Alderman Absent:** A. Hansen

**Staff Present:** J. Wolinski, J. Brownlee, J. Chambers, K. Cox, B. Dunkley, D. Marino, G. Morgan, R. Russell, A. Stuart, L. Woods

**Presiding Official:** Alderman Holmes

**DECLARATION OF QUORUM**

Chair Holmes called the meeting to order at 6:58 p.m.

**APPROVAL OF THE APRIL 28, 2008 MEETING MINUTES**

Ald. Jean-Baptiste moved approval of the April 28, 2008 minutes, seconded by Ald. Moran. The minutes were approved with a vote of 8-0.

**ITEMS FOR CONSIDERATION**

(P2) Major Variance Request for 1233 Central Street (Bahai Parking Lot)

Chair Holmes announced that the applicant has requested that this item be held until the June 23, 2008 regularly scheduled P&D Committee meeting. The Committee members all agreed.

At the request of Ald. Wynne, Chair Holmes chose to consider all the sidewalk cafe requests for consideration before the remaining agenda items.

(P5) Sidewalk Cafe for Type 1 Restaurant -J.K. Sweet. 720-1/2 Clark Street

Ald. Bernstein moved approval, seconded by Ald. Wynne. The vote was 8-0 in favor of the motion.

(P6) Sidewalk Cafe for Type 1 Restaurant - Blind Faith Cafe. 525 Dempster Street

Ald. Bernstein moved approval, seconded by Ald. Wynne. The vote was 8-0 in favor of the motion.

(P7) Sidewalk Cafe for Type 1 Restaurant - Omaggio Restaurant. 1639 Orrington Avenue

Ald. Bernstein moved approval, seconded by Ald. Wynne. The vote was 8-0 in favor of the motion.

(P1) Ordinance 48-0-08 - Text Amendment: BI District Special Uses Update

Ald. Bernstein moved approval, seconded by Ald. Jean-Baptiste.

Ald. Bernstein clarified that this item was held at the April 28, 2008 meeting due to his request for Legal Staffs opinion as to whether the City might allow owners of homes that are nonconforming uses to expand the structure so long as they do not increase the building's footprint. He explained his position was to see if this option to make a special classification for those legal nonconforming single-family structures was possible instead of adopting Ordinance 48-0-08. However, in view of the legal opinion received from Legal Staff, this alternative seems to present Equal Protection concerns if allowed in only one Zoning district because it would appear to grant greater rights to these property owners over other nonconforming property owners of other types of legal nonconformities with the same district as well as all such owners in every other district. He noted that the City's Law Department has recommended that this option not be pursued due to the potential risk of litigation. Ald. Bernstein pointed out that there are many locations that are legal nonconforming uses within his ward that over the years have become interactive with the current zoning district regulations. However, he is in favor of allowing legal nonconforming single-family home owners the ability to expand these structures as long as they do not expand the buildings footprint. His preference would be to legalize the existing nonconformity, but he realizes the homeowner still has the right to come before Council and request zoning relief which allows the owner to present their case and be considered by Council on an individual basis. The vote was 7 voting in favor of the motion, and 1 voting nay (Moran).

(P3) Ordinance 62-0-08 - Amendment to the Existing Planned Development at 1603 Orrington Avenue and 1629 Orrington Avenue in the 03 Downtown Core Development District

It was noted that the requested amendment to the existing planned development ordinance includes:

1. An amended site plan that illustrates the construction of various improvements and amendments to the previously approved ordinance 57-0-05, granted by City Council,
2. A release from the conditions identified in Sections 3(b) and 4(c) of the original ordinance, requiring a "link" to be constructed between the buildings at 1603 and 1629 Orrington; and,
3. An extension of the deadline to complete the construction of further improvements to September 1, 2010.

Ald. Rainey moved approval, seconded by Ald. Tisdahl. The vote was 7 in favor of the motion and 1 voting nay (Ald. Moran).

(P4) Resolution 27-R-08 - Agreement between the 1603 Orrington Joint Venture of Lowe Enterprises and Golub & Company and the City of Evanston regarding the Orrington Avenue Parking Ramp

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

Ald. Rainey stated that she has no problem with the refunding of sales tax, however the \$625,000 of TIF funds needs more clarification and better reasoning stated for the City's share in the cost for the construction of the ramp relocation. Mr. David Reifman, Attorney for the applicant, responded that the \$625,000 in Washington National TIF Funds will not be released and paid until the completion of the ramp relocation. He explained in further detail the reimbursement agreement conditions.

Ald. Moran noted his position of why he does not support this request and why he will be voting against this. He referred back to Item (P3) reiterating his consistent opposition to this entire planned development because he feels it is not the right project for this location and that the expansion would negatively impact this important downtown core area. He also does not see a supporting case of why this project and ramp relocation can not be funded solely by the developer. Ald. Wollin responded that this ramp location has always been a detriment to the Orrington Avenue thoroughway which is a vital downtown artery for business and retail. She stated that her understanding of TIF Fund money was originally designed for infrastructure improvements to major

throughways in the downtown districts. In her opinion, she strongly believes this ramp relocation will increase the possibility of thriving retail and business on the east side of Orrington Avenue and will over all improve the traffic problems in that area. Ald. Wollin said she supports this use of TIF Funds and the City's involvement in the cost sharing with this developer for the ramp relocation. Ald. Bernstein agreed and added that this developer did not say they could not get the financing to do this ramp relocation construction solely. He further noted that this business transaction is similar to the developer playing poker with the City due to the overall benefit this ramp relocation improvement will gain for the downtown core district by increasing the business and retail possibilities along the Orrington Avenue corridor. He agrees with Ald. Wollin that this is a good place for the use of TIF Funds.

The question was raised by the Committee for the balance in TIF funds at this time. Mr. Marino supplied that information noting a balance of 5.6 million strong tax increment.

Ald. Jean-Baptiste stated his support for the authorization of the City Manager to execute this reimbursement agreement, but he strongly urged the developer fully comply with the MWEBE policy and the utilization of the "Bristol Model" which requires the hiring of Evanston residents to work on the construction of the ramp relocation. Mr. Reifman responded that the developer fully intends to comply with the MWEBE's policy regulations, however he questions if the "Bristol Model" is adequate in relation to this project versus the conditions of the project that the model was developed upon. Discussion followed between Mr. Reifman, the Committee members and legal staff. In conclusion to this discussion, Mr. Cox agreed that Mr. Reifman's questions to the significance of the "Bristol Model" is a legitimate question of whether it is feasible with this planned development.

Upon this conclusion of this discussion, it was decided to vote on the motion made for this item, however the majority of Committee members agreed for Legal staff to research if it is appropriate to also require this developer to utilize the "Bristol Model" in this planned development. The vote was 7 in favor of the motion and 1 voting nay (Moran).

Mr. Wolinski made a suggestion to the Committee that they consider holding this item at Council to allow legal staff to respond to their question. Ald. Bernstein made a motion in agreement to Mr. Wolinski's suggestion, seconded by Ald. Wollin. The vote was 8-0 in support of this motion.

#### ITEM FOR DISCUSSION

(PDI) Reference from Alderman Jean-Baptiste concerning the Affordable Housing Demolition Tax, to include an Exemption for projects that replace the demolished structure with off-street parking

Ald. Jean-Baptiste said that he has read the research and the legal opinion and based upon this correspondence, his reference seems defeated. Ald. Tisdahl agreed with Ald. Jean-Baptiste's reference. She said this demolition tax came about because of the "McMansion" era, which has slowed down tremendously since the real estate market recession. She suggested that maybe they need to revisit this ordinance. Ald. Moran debated with Ald. Jean-Baptiste regarding the McMansion era having to do with the origination of this ordinance. Ald. Wollin mentioned the protection for homeowners with this ordinance; that they be exempt from this tax if they lived in the property for 3 years prior to demolition and 3 year after. She does not want this ruling affected by any change. Ald. Rainey mentioned a situation in her ward where someone has purchased 3 multi-family buildings that were a blight to the neighborhood and the buildings were filled with undesirable tenants and activity. This small time developer is now stuck with those buildings due to the real estate market recession and also had to pay \$3,000 per unit; therefore this developer has been struck twice with financial lost. Her problem is developers that take problem properties and replace with decent housing, should also not be stuck with this tax.

**ADJOURNMENT**

The meeting was adjourned at 7:38 p.m.

Respectfully submitted,

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Jacqueline E. Brownlee