Joint Meeting of the PLAN COMMISSION
& ZONING BOARD OF APPEALS
Tuesday, August 30, 2017
7:00 PM
Civic Center, 2100 Ridge Avenue, Council Chambers

Plan Commission Members Present: Jim Ford, Peter Isaac, Terri Dubin, Colby Lewis, Simon Belisle

Plan Commission Members Absent: Jolene Saul, Andrew Pigozzi, Carol Goddard, Patrick Brown

ZBA Members Present: Myrna Arevalo, Kiril Mirintchev, Violetta Cullen, Mary Beth Berns, Mary McAuley, Lisa Dziekan

ZBA Members Absent: Scott Gingold

Staff Present: Meagan Jones, Melissa Klotz, Scott Mangum, Mario Treto

Presiding Member: Jim Ford

Declaration of Quorum
With a quorum of both the Plan Commission and Zoning Board of Appeals present, the meeting was called to order at 7:05 pm.

Election of Joint Meeting Chair
Ms. Berns motioned for Mr. Ford to serve as Chair of the joint meeting, which was seconded by Mr. Lewis and approved 10-0 with one abstention.

New Business
1829 Simpson Street 17PLND-0037 & 17ZMJV-0065
Rita Kats, property owner, requests a map amendment to rezone the property located at 1829 Simpson Street from the R3 Two-Family Residential District to the B1 Business District (Zoning Code Section 6-3-4, Title 6 of the City Code). The applicant also requests a special use permit for a Type 2 Restaurant in the B1 Business District (Zoning Code Section 6-9-2-3), and major zoning relief for a 4.3’ east interior side yard setback for a roofed patio and one-story addition where 10’ is required (Zoning Code Section 6-9-2-7-E). The Plan Commission and Zoning Board of Appeals make recommendations to City Council, the determining body for this case.
Ms. Jones presented an overview of the requested map amendment, special use, and major zoning relief.

Arkady Kats, applicant, explained the proposal:
- Purchased the property in October 2016
- Restaurant will serve as a gateway from the west side entrance to the City.
- Restaurant will have a nice view of park to the west
- Will serve Mediterranean and Eastern European food combined with a good atmosphere and pricing
- Attended the neighborhood meeting in June to hear concerns
- Back portion of building is in terrible condition so needs to be torn down and rebuilt. New addition will be at least 4.3’ from side property line (existing is at 0’) but extending further back.
- Mr. Kats is also a General Contractor with experience
- Clarified the portion to be torn down is an old 16’ x 10’ addition and will be replaced with a larger addition that is further away from the east property line.
- Addition is needed for kitchen prep area for the bakery
- Fence will surround property to mitigate noise generated from the outdoor patio space. It will be a solid fence on the east side and open fence on the west to provide a view of the park.
- Patio won’t be used for special events; it will be used by restaurant customers only.
- Restaurant will be owner operated
- Outdoor sports field is at least 30’ north of patio on City property and there is 20-30’ of landscaping on the restaurant property to buffer from that.
- Outdoor fireplace will make the outdoor space more inviting
- Garbage will be enclosed to discourage animals from getting at refuse.
- Roll-out garbage cans are acceptable by Groot. Garbage will be picked up once a week.

Ms. Berns suggested garbage should be picked up more than once a week since this is a commercial use.

Ms. McAuley suggested Groot should roll the garbage cans out so that the cans don’t sit out on the parkway in view often. Mr. Kats responded that other businesses in similar situations pay extra for the cans to be rolled out by Groot instead of leaving them out.

Ms. McAuley noted this project should be held to a high standard given its proximity to a large park. Building aesthetics were then discussed. Applicant will attempt to restore
the original brick on the building, but it has been painted over many times so that may not be feasible. Original brick is light red.

Mr. Kats continued:
- Agree to follow the Sustainability Plan for recycling, etc.
- Old addition that will be demolished is 170 square feet and the new addition will be 320 square feet.
- Kitchen prep area will have large mixers and large tables, freezers, and rolling equipment to make the best use of the small space.
- Ovens and possibly a deep fryer will be along the east portion of the building near the ordering area and near the display refrigerators that will feature cakes, pastries, frozen dough and frozen fruit.
- Most commissary deliveries will be brought in by personal vehicle, but large amounts of flour will be delivered approximately every 6 weeks, on Simpson St. - one pallet delivery. There will not be a weekly box truck delivery like many restaurants have.
- Hours of operation are proposed from 11am - 8:30pm for customers.
- Up to 4 employees per shift
- Plenty of parking on the street so employees that drive will park on the street.
- Intend to hire local teenagers and teach them restaurant skills.
- Have experience running a restaurant - previously ran one for 3 years and then the lease ended.
- No sound system or music will be played outdoors.
- Fast-casual concept that will take 5-10 minutes per order.
- Hood vent will go through the roof 3-4’ away from the east property line with a parapet surrounding it.

Ms. Arevalo suggested the vent not be so close to the residential property to the east to mitigate restaurant smells. Mr. Kats explained he can move it a few feet further west.

Ms. Berns asked for clarification about where the parapet will be raised and Mr. Kats explained it will be raised all the way around the building. Mr. Ford then asked for clarification on where the HVAC equipment would be located and Mr. Kats responded that it will be on the rooftop and be screened by the parapet.

Mr. Isaac asked if the applicant is open to installing a scrubber given the concern of the restaurant odor and close proximity to residential. The applicant answered he would look into it, and there may be other ways to address the issue depending on the hood type that is used.
Mr. Kats explained customers will only be able to enter the premises from the front
door. Customers can take their food to go. There will even be an option to text your
order in. Customers that eat in the rear patio will have outdoor garbage cans as well as
indoor. Customer garbage is on the east side of the property.

Ms. Arevalo asked about the proposed fence, explaining an open fence on the west
side of the property by the park may allow garbage from outdoor patrons may blow
through the fence into the park. Ms. Berns explained the applicant is responsible for
collecting all garbage within 250’ of the property per the Litter Collection Plan required
of all Type 2 Restaurants.

Ms. Berns asked if it would be possible to construct a trash enclosure in the parkway,
and Ms. Klotz explained the City does not want permanent structures in the parkway,
but the garbage can issue could be addressed by either limiting the time garbage cans
can be out in the parkway or by requiring the garbage pickup company to roll the cans
through the building themselves if possible.

Ms. Dubin asked for clarification on the garbage cans and Mr. Kats clarified they will be
small cans similar to residential garbage cans, not metal dumpsters. There is no alley
access or other area to locate the garbage for pickup.

Chair Ford noted a continuance may be requested in writing, to a date certain. There
were no requests for a continuance.

Public Comment:
Former City Clerk Rodney Greene - clarified a majority of the residents in the area of
the restaurant are not in favor of the requested zoning change because it will increase
traffic, and because there are many rodents in the area already even though there isn’t
any restaurant waste currently. Bringing the garbage through the restaurant out to the
parkway could contaminate customer food in process. The property is not a good fit for
a restaurant. Many nearby residents were not contacted, including the residents
immediately next door. Mr. Greene asked the procedure to request a continuance.

Chair Ford explained a continuance may be requested but those that testify tonight
cannot testify again at the next meeting.

Mr. Greene continued to explain there is not ample parking for the restaurant, and street
parking is often full.

Betty Ester explained she was previously told the property could not be used for
affordable housing because the area was owned by MWRD. Previous request for
cabinet-making was denied due to the fumes that would be emitted. Ms. Esther asked what the correct property lines are since there is conflicting information, and will the restaurant use any part of the City or MWRD land for the restaurant or access to the patio area. Ms. Esther noted residents have not been aware of the proposal since October 2016 as stated by the applicant.

Ms. Klotz noted a survey approximately 100 years old shows the property at 152 feet long, but the current survey as well as the neighboring plat of survey show the property is 159 feet long. Either way, there is no part of the proposal that is affected by the 7' discrepancy.

Carlis Sutton, 1821 Darrow Ave., spoke in opposition to the proposal. Building has never been a restaurant. It was a convenience store and beauty shop.

Priscilla Giles stated there was never a restaurant at the property, but there was a snackery that sold candy for a short time. Nothing was cooked on site. Housing similar to what is next door could be designed for the site. There used to be a driveway on the property where the park now is (which wasn’t there at the time) that lead to the house that used to be on the property. The rear patio invites trash and rodents to the area. A restaurant does not fit in the neighborhood.

Mr. Kats explained the property to the east is 80 feet wide and this property is 27 feet wide so it is not feasible to build something similar to what is next door.

Tina Foster, 2026 Dodge Ave., sees rats crossing Dodge regularly and is therefore very concerned about garbage and rodents at the restaurant. Ms. Foster also noted concern over the aesthetics of the building and whether it will improve the neighborhood or not, and the lack of parking. Ms. Foster prefers to park on the street rather than her driveway for safety reasons, and often cannot find one parking space.

Madelyn Ducre, 2039 Brown Ave., noted the area has lost a lot over the years. The applicant does not appear to know exactly what he wants to do at the property. The neighborhood needs to know all exact details. Ms. Ducre asked the following: If the applicant runs out of money will he request money from the City to complete the project? What happens if the restaurant does not work out, or if a liquor license is requested? What will be done with the patio in the winter?

Former Alderman Delores Holmes noted she will only speak about the rezoning, and stated as Alderman last October she was notified by City staff of a proposal to convert the building to a residence and add a second story. The building was not previously vacant - the previous owner illegally operated a business. Neighbors have said they are
not comfortable with the property being used as a restaurant. Neighbors who are renters feel their voices have not been heard and they do not have a say. With rezoning to B1, many other uses would be allowed such as a brewery. The zoning change is not appropriate for the neighborhood.

Former Mayor Lorraine Morton, 2102 Darrow, explained public housing is located next door. Ms. Morton spoke to one of the residents of that property who is not in favor of living next door to a restaurant. Ms. Morton used to own the property and sold it to Cook County years ago for housing. The 5th Ward has had a revival and has had many improvements, so a bad project could be detrimental to the neighborhood. Parking will be an issue. There are trees surrounding the property that may be harmed. There are small animals that will get into the garbage.

Daphne Watson, 1822 Simpson requests the rezoning be withdrawn. Ms. Watson was not aware the building was sold or anything was proposed until very recently. There is no street parking available. This business will not serve the community. What happens when the restaurant fails - what will come in next? The neighborhood does not need another place that draws in people from other neighborhoods, it needs something that serves and uplifts this neighborhood such as a library.

Elizabeth Brasher stated she is concerned that Mr. Kats has not adequately answered many of the questions raised. People will not want to eat in a restaurant that garbage cans have to be carried through, and no one wants to look at the garbage cans in front of the property. It appears Mr. Kats is not aware what the community wants, and was a market study done to determine what type of food the area would want. There is not ample parking currently so there definitely will not be ample parking with a restaurant there. The restaurant will not last.

Chair Ford closed the Public Comment, and explained both the Plan Commission and ZBA are recommending bodies so it is possible the Commission and Board make conflicting recommendations that move forward to the City Council

The Plan Commission entered Deliberation:

Mr. Belisle stated he had difficulty seeing how the second standard for rezoning was met, given the more recent rezoning and that the proposed rezoning would break the continuity. Mr Isaac responded that the property has been rezoned from a commercial use, however, other properties have been recently rezoned after fairly recent broader rezoning. He agreed that the proposed rezoning would break the continuity of zoning in the area but that seems to speak more to the first standard for rezoning.
Chair Ford stated that the proposal looks like spot zoning and agreed that there may be an issue with the second standard.

Mr. Belisle stated that if the adjacent residents were property owners they would likely have concerns about the restaurant use affected their property values, affecting the third rezoning standard.

Mr. Lewis asked what could be built on the property given its zoning and current lot size and Ms. Klotz explained since the property is already existing, a single family home is permitted even though the minimum lot size is not met for the R3 District. The lot size and building setbacks are legally-nonconforming.

Mr. Isaac asked if there is any permitted use in the R3 that the property can be used for currently, and Ms. Klotz explained a single family residence is permitted but either parking would have to be added or a parking variation granted. For other R3 uses it would depend on the exact use and parking requirement, but yes some uses could locate there.

Mr. Belisle asked what the basis for denying the previous attempt to rezone the property was. Staff was unaware of precisely why the project was not approved outside of ultimately not meeting the standards for approval.

Mr. Isaac asked if the lack of public alley adjacent to the building affects the property's ability to meet standard number four which speaks to adequacy of public facilities and services. He stated that he believes that without the access to have trash picked up from an alley and having additional trash generated from the restaurant that the fourth standard may not be met.

Chair Ford inquired about the driveway on the adjacent property and if the possibility of obtaining an easement to use that driveway had been pursued. Mr. Kats stated that he looked into that but that discussions did not get very far.

Mr. Belisle motioned to recommend approval of the map amendment. With no second, the motion died. Mr. Belisle motioned to recommend denial of the map amendment, which was seconded by Ms. Dubin. A roll call vote was taken and the motion was approved 5-0 to recommend denial to City Council.

Ayes: Belisle, Dubin, Ford, Isaac, Lewis
Nays: none.

ZBA Deliberation:
Ms. Berns asked staff if the public notice is deficient with regard to the raised roof that is not shown in the plans and therefore was not stated as a variation in the public notice. Ms. Klotz responded staff is looking into the situation in conjunction with Law, so for the time being the meeting should continue to move forward with the case.

Ms. McAuley noted there has been a lot of positive work along Simpson St. and plans are to re-activate Simpson St. as a commercial corridor. However, this proposal does not meet the Standards of upholding excellence in the community for a park-side establishment. The proposal does not take into account the requests of the neighborhood given the proximity to the neighborhood and details are not finalized.

Ms. Cullen agreed, noting the parkway is not adequate for commercial garbage pickup. Without an alley, a restaurant is not appropriate at the property.

Ms. Dziekan stated there are too many unanswered details and inconsistencies.

Mr. Mirintchev agreed that not all details are set yet and noted the property is an extremely challenging lot. The property is not conducive for a residential use, but the proposal as presented is not adequate.

Ms. Arevalo agreed the proposal is not fully thought out since there were many questions that were answered with “I don’t know” and “we’ll see”. The property is appropriate for a restaurant but only if it is integrated into the community and the park for the proper cohesion. That has not been planned or displayed to the community.

Ms. Berns stated she believes the proposal is appropriate. She understands that some questions may not have specific answers at this point and that sometimes it is appropriate to wait and see. It appears that a lack of sophistication in presentation hurt the entire proposal. This proposal is extremely similar to the last request for a Type 2 Restaurant the ZBA reviewed for 2628 Gross Point Rd., where questions were raised and the applicant responded that they would do what is best for the community. That project was recommended for approval.

Standards for Major Variation:

1. No; Yes - Berns
2. Yes
3. Yes
4. Yes
5. Yes
6. No; Yes - Berns
7. Yes
Ms. McAuley motioned to recommend approval and was seconded by Ms. Dziekan. With a vote of 1-5 for approval, the requested variation is recommended for denial.

Standards for Special Use

1. Yes
2. Yes
3. No; Yes - Berns
4. No; Yes - Berns
5. No; Yes - Berns
6. No; Yes - Berns
7. NA
8. NA
9. Yes

Ms. McAuley motioned to recommend approval of the special use with conditions, which was seconded by Ms. Dziekan. With a vote of 1-5 for approval, the special use was recommended for denial.

Conditions:

1. Hours of operation shall not exceed 10:30am - 8:30pm
2. No amplified music outside
3. Fencing shall be installed as shown on the plans except that there shall not be a gate on the fence on the west side of the property leading to the park
4. Employees shall park in a City parking lot
5. Trash in the rear must be in a lockable enclosure
6. Lighting shall be dimmed when the restaurant is not in operation, to the minimum level adequate for safety.
7. The restaurant must have an aggressive monthly rodent control plan.
8. Commercial garbage pickup is required at least two times per week and must be picked up by the garbage company directly from the trash enclosure and wheeled through the restaurant so that at no time are there garbage cans sitting out on the parkway
9. Substantial compliance with the documents and testimony on record including Sustainability Plan

The meeting adjourned at 10:05pm.