

Community Development Commission Meeting Minutes

June 11, 2012

Page 1

Village of Bensenville  
Board Room  
12 South Center Street  
DuPage and Cook Counties  
Bensenville, IL, 60106

**MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION**

June 11, 2012

**CALL TO ORDER:** The meeting was called to order by Chairman Moruzzi at 6:34 p.m.

**ROLL CALL :** Upon roll call the following Commissioners were present:  
Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon  
Absent: None.  
A quorum was present.

**JOURNAL OF PROCEEDINGS:**

The minutes of the Community Development Commission of May 14, 2012 were presented.

Motion: Commissioner Pisano made a motion to approve the minutes as presented. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Pisano, Rowe, Weldon

Nays: None

Abstained: Ventura

Motion carried.

Village Attorney, Mary Dickson, reviewed the rules and process to the audience in attendance of the Public Hearings.

Village Attorney, Mary Dickson, swore in members of the audience under oath that planned to give testimony.

**Public Hearing:** CDC Case Number 2012-21  
**Petitioner:** Village of Bensenville  
**Request:** Text Amendment to Remove Restrictions on Allowable Sign Variances.

**Motion:** Chairman Moruzzi made a motion to open the Public Hearing for CDC Case Number 2012-21. Commissioner Janowiak seconded the motion.

**ROLL CALL :** Upon roll call the following Commissioners were present: Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon  
Absent: None  
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-21 at 6:42 p.m.

Director of Community & Economic Development, Scott Viger, and Assistant Director of Community & Economic Development, Mark Rysavy, were both present on behalf of the Village of Bensenville and had already been sworn in.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on May 26, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing.

Mr. Viger stated the Village has received multiple requests to install signs throughout town that would exceed the ten percent allowable variance. Mr. Viger stated signs of this nature have been previously allowed through the implementation of a planned unit development (PUD). Mr. Viger stated the proposed text amendment would allow these properties that do not meet the standard to apply for a PUD the opportunity to seek the same size of a sign that other sites meet. Mr. Viger stated that after review of various ordinances, staff has developed a text amendment that includes the following provisions:

“The Community Development Commission may recommend and the Village Board of Trustees may approve a variance for any sign.”

Mr. Viger stated staff recommends approval of the proposed text amendment.

There were no questions from the Commissioners.

Community Development Commission Meeting Minutes

June 11, 2012

Page 3

Chairman Moruzzi asked if there was any member of the Public that would like to give testimony. There were none.

**Motion:** Commissioner Rowe made a motion to close the Public Hearing for CDC Case Number 2012-21. Commissioner Weldon seconded the motion.

**Roll Call:** Ayes: Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-21 at 6:45 p.m.

**Motion:** Commissioner Ventura made a motion to approve CDC Case Number 2012-21. Commissioner Pisano seconded the motion.

**Roll Call:** Ayes: Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

**Public Hearing:** CDC Case Number 2012-08

**Petitioner:** Road Ranger, LLC

**Location:** 1188 W. Foster Avenue

523 N. Rte. 83

522 N. Marshall Road

524 N. Marshall Road

**Request:** Rezoning 523 N. Rte. 83, 522 & 524 N. Marshall Road from RS-5 High Density Single Family Residential District to C-2 Highway Commercial District, Planned Unit Development and Conditional Use Permits to Allow a Gasoline and Diesel Fuel Service Station and an Electronic Message Center Sign.

**Motion:** Chairman Moruzzi made a motion to re-open the Public Hearing for CDC Case Number 2012-08. Commissioner Janowiak seconded the motion.

**ROLL CALL :** Upon roll call the following Commissioners were present: Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon  
Absent: None  
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-21 at 6:47 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on May 26, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on May 25, 2012. Mr. Viger stated on May 25, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Steve Brooks, General Counsel for Road Ranger, John Carabelli, Vice President of Construction for Road Ranger, Hal Francke of DLA Piper, outside counsel for Road Ranger, Timothy M. Kelly, Project Engineer from Huff & Huff, Inc., Michael, C. Vail, Civil Engineer from Quigg Engineering, Inc., Steve Lewis of Road Ranger, Mike MaRous of MaRous and Company were all present and sworn in by Village Attorney, Mary Dickson. Mr. Francke reviewed concerns raised by the Community Development Commission at the May 14, 2012 meeting along with concerns raised by Residents in the area. Mr. Francke submitted a letter from Road Ranger with the amended application. The letter submitted has been attached to the minutes as "Exhibit A". Mr. Brooks presented to the Community Development Commission a presentation reviewing matters from the May 14, 2012 Community Development Commission and recent amendment to Road Rangers requests. The presentation has been attached to the minutes as "Exhibit B". Mr. Brooks stated he had misspoke at the May 14, 2012 meeting and that his presentation of the proposed tax benefits to the Village of Bensenville should have been for two percent rather than one.

Mr. Carabelli addressed concerns raised by Commissioner Weldon at the May 14, 2012 meeting regarding visibility on the site.

Mr. Carabelli stated there was nothing Road Ranger could to prevent the visibility of the onsite vehicles pulling in and out. Mr. Carabelli stated he would rely on the operators of the vehicles to make their own decisions. Tim Kelly from Huff & Huff Incorporated passed out a memorandum to the Community Development Commission regarding a facility interior noise analysis for the Road Ranger property. The letter submitted by Mr. Kelly has been attached to the minutes as "Exhibit C".

Michael MaRous of MaRous & Company submitted to the Community Development Commission a memorandum regarding a financial feasibility of new residential construction in Bensenville. The memorandum has been attached to the minutes as "Exhibit D". Steve Lewis from Road Ranger reviewed the sign request and regulations for the proposed site.

Commissioner Pisano asked how many employees will be working on site at one time. Mr. Brooks stated the proposal will allow there to be three to four employees working at one time. Mr. Brooks stated that would leave ten parking spots for customers and one handicap spot.

Commissioner Ventura asked if Road Ranger has received a decision from IDOT in regards to their proposed curbcuts. Mr. Brooks stated they are still waiting for an answer from IDOT.

Commissioner Weldon stated he is still concerned with the proposed entrance and exiting for vehicles on the site. Commissioner Weldon also stated he believes Road Ranger is responsible for the property values in the area.

Commissioner James asked for clarification of the requested curbcuts.

**Public Comment:**

**Ronald Fabian – 563 Marshall Street**

Mr. Fabian stated he believes the congestion will build up and there is not enough room to operate as the plans are predicting. Mr. Fabian suggested Road Ranger purchases the homes along Marshall and build the expansion the proper way.

**Chris Anaya – 573 Marshall Road**

Ms. Anaya stated it's not the Village's responsibility or the Residents if Road Ranger is denied. Ms. Anaya suggested building a park on the vacant property if Road Ranger is denied. Ms. Anaya stated she is currently unhappy with the current operations of Road Ranger and is opposed to the proposed expansion.

**Dale K. Burda – 581 Marshall Street**

Mr. Burda stated he does not approve of the sound study in the area because the locations Road Ranger had a comparison done to are not located within a residential area.

**Margaret Fabian – 563 Marshall Street**

Ms. Fabian stated BP across Route 83 has loud music playing at night and would like for Road Ranger not be allowed to play music. Ms. Fabian reviewed the sales of the property Road Ranger had purchased in the area.

**Nina Keehn – 1110 Nordic Street**

Ms. Keehn expressed her frustration with the process Road Ranger had taken to obtaining the properties in the area and expressed her objection to the proposed expansion.

**Jerry Wrasse – 519 Marshall**

Mr. Wrasse stated Road Ranger has been inconsistent with their requests and are constantly changing their minds. Mr. Wrasse stated Road Ranger has lied to the Residents in the area.

Director of Community Development, Scot Viger, reviewed the Village Staff report. Mr. Viger stated if the proposed conditional uses and variances are to be approved, Staff has nineteen conditions upon approval. Mr. Viger stated Staff recommends denial of the requests.

Commissioner Ventura asked if Staff had met with IDOT regarding the proposed curbcuts. Mr. Viger stated Staff has not met with IDOT regarding the curbcuts.

Motion: Commissioner Pisano made a motion to close the Public Hearing for CDC Case Number 2012-08. Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-08 at 8:19 p.m.

Motion: Commissioner Ventura made a motion to approve the finding of facts for the conditional use permits for CDC Case Number 2012-08 consisting of:

1. Traffic: The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized.

Service Station - Only if the proposed third curbcut and curb barrier are constructed according to Staff recommendation, will the traffic flow function properly. The traffic study indicated no significant adverse effects associated with traffic flow.

EMC - If the EMC meets the Village's Ordinance requirements it should not have a negative effect on traffic in the area.

2. Environmental Nuisance: The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district.

Service Station - The Staff harbors continued concerns in regards to the associated engine noises as well as exhaust odor from idling trucks.

EMC - If the EMC meets the Village's Ordinance requirements it should not have a negative effect on traffic in the area.

3. Neighborhood Character: The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized.

Service Station - The proposed use violates the Comprehensive Plan for the Village in converting single-family residential parcels into commercial districts. The Plan specifically supports the protection of subject residential properties on the Route 83 corridor.

EMC - If approved this would be the second EMC along Rte. 83 (the first has been approved at 801 N. Rte. 83 for Perk's Bar & Grill but has yet to be erected).

4. Use Of Public Services And Facilities: The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area.

Service Station - The expansion of the existing service station as proposed will not require existing community facilities or services to a degree disproportionate to that normally expected of uses permitted in the District. The use as proposed will not generate disproportionate demand for new Village services.

EMC - The proposed EMC will not impact the Village's Public services and facilities.

5. Public Necessity: The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community.

Staff believes that there is sufficient market demand for the proposed service.

6. Other Factors: The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location.

Any other factors are under the discretion of the Community Development Commission.

Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

ABSTAINED: James

Motion carried.

Community Development Commission Meeting Minutes

June 11, 2012

Page 9

Motion: Chairman Moruzzi made a motion to approve the Rezoning of 523 N. Rte. 83, 522 & 524 N. Marshall Road from RS-5 High Density Single Family Residential District to C-2 Highway Commercial District, Planned Unit Development - CDC Case Number 2012-08. Commissioner Weldon seconded the motion.

Roll Call: Ayes: None

Nays: Moruzzi, James, Janowiak, Pisano, Rowe, Weldon

ABSTAINED: Ventura

Motion failed.

Motion: Chairman Moruzzi made a motion to approve the conditional use permit for a service station - CDC Case Number 2012-08. Commissioner Rowe seconded the motion.

Roll Call: Ayes: None

Nays: Moruzzi, James, Janowiak, Pisano, Rowe, Weldon

ABSTAINED: Ventura

Motion failed.

Motion: Chairman Moruzzi made a motion to approve the conditional use permit for an EMC sign for - CDC Case Number 2012-08. Commissioner Rowe seconded the motion.

Roll Call: Ayes: None

Nays: Moruzzi, James, Janowiak, Pisano, Rowe, Weldon

ABSTAINED: Ventura

Motion failed.

Motion: Commissioner Weldon made a motion to approve the finding of facts for the eight variance requests for CDC Case Number 2012-08 set forth by Staff consisting of:

1. Superior Design: The PUD represents a more creative approach to the unified planning of development and incorporates a higher standard of integrated design and amenity than could be achieved under otherwise

applicable regulations, and solely on this basis modifications to such regulations are warranted.

The proposed site plan does not exhibit superior design.

The large tractor-trailer traffic and stacking adjacent to the single-family residences is problematic.

2. **Meet PUD Requirements:** The PUD meets the requirements for planned unit developments set forth in this Title, and no modifications to the use and design standards otherwise applicable are allowed other than those permitted herein.  
Staff believes this to be accurate.
3. **Consistent With Village Plan:** The PUD is generally consistent with the objectives of the Village general development plan as viewed in light of any changed conditions since its adoption.  
The proposal is not consistent with the Village's Comprehensive Plan and its objective in supporting single-family residences along the Route 83 corridor.
4. **Public Welfare:** The PUD will not be detrimental to the public health, safety or general welfare.  
The increase in exhaust fumes from idling engines could be detrimental to the public health.
5. **Compatible With Environs:** Neither the PUD nor any portion thereof will be injurious to the use and enjoyment of other properties in its vicinity, seriously impair property values or environmental quality in the neighborhood, nor impede the orderly development of surrounding property.  
Diesel fuel distribution adjacent to a single-family neighborhood will be a nuisance to residents and to the enjoyment of their properties.
6. **Natural Features:** The design of the PUD is as consistent as practical with preservation of any natural features such as flood plains, wooded areas, natural drainageways or other areas of sensitive or valuable environmental character.  
There are no natural drainage ways or sensitive environmental areas on the subject property.
7. **Circulation:** Streets, sidewalks, pedestrianways, bicycle paths and off-street parking and loading are provided as appropriate to planned land uses. They are adequate

in location, size, capacity and design to ensure safe and efficient circulation of automobiles, trucks, bicycles, pedestrians, fire trucks, garbage trucks and snow plows, as appropriate, without blocking traffic, creating unnecessary pedestrian-vehicular conflict, creating unnecessary through traffic within the PUD or unduly interfering with the safety or capacity of adjacent streets. The proposed plan does not depict sidewalks at the subject property's perimeter. The diesel truck drivers will be unable to navigate site safely and efficiently without the proposed third curbcut located on Route 83.

8. Open Spaces And Landscaping: The quality and quantity of common open spaces or landscaping provided are consistent with the higher standards of design and amenity required of a PUD. There is sufficient landscaping along the east and south property lines. Providing the landscaped barrier between the two fueling areas will improve the site aesthetically as well as functionally.
9. Covenants: Adequate provision has been made in the form of deed restrictions, homeowners or condominium associations or the like for: The presentation and regular maintenance of any open spaces, thoroughfares, utilities, water retention or detention areas and other common elements not to be dedicated to the Village or to another public body. Such control of the use and exterior design of individual structures, if any, as is necessary for continuing conformance to the PUD plan, such provision to be binding on all future ownerships. No covenants are necessary.
10. Public Services: The land uses, intensifies and phasing of the PUD are consistent with the anticipated ability of the Village, the school system and other public bodies to provide and economically support police and fire protection, water supply, sewage disposal, schools and other public facilities and services without placing undue burden on existing residents and businesses. There are adequate public services to adequately service the property. The approval of the PUD will not increase the demand or stress the Village's public services.

11. Phasing: Each development phase of the PUD can, together with any phases that preceded it, exist as an independent unit that meets all of the foregoing criteria and all other applicable regulations herein even if no subsequent phase should ever be completed. There is no phasing proposed.

Commissioner Rowe seconded the motion.

**Roll Call:** Ayes: Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

**Motion:** Commissioner Weldon made a motion to approve the eight variances for CDC Case Number 2012-08. Commissioner Rowe seconded the motion.

**Roll Call:** Ayes: None

Nays: Moruzzi, James, Janowiak, Pisano, Rowe, Ventura, Weldon

Motion failed.

**Public Hearing:** CDC Case Number 2012-09  
**Petitioner:** Thornton's  
**Location:** 601 N. Rte. 83  
**Request:** Conditional Use Permit to Allow a Gasoline and Diesel Fuel Service Station and Electronic Message Center Sign

**Motion:** Chairman Moruzzi made a motion to open the Public Hearing for CDC Case Number 2012-09. Commissioner Ventura seconded the motion.

**ROLL CALL :** Upon roll call the following Commissioners were present: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon  
Absent: James  
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-09 at 8:49 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on May 26, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on May 25, 2012. Mr. Viger stated on May 25, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Richard Claes of Thorntons was present and sworn in. Mr. Claes made a power-point presentation to the Commission and the members of the audience. A copy of the power-point is attached to the minutes as "Exhibit E". Mr. Claes stated the proposed site is a current church that is planning to move to a new location with another church. Mr. Claes shared the current operations at a Thorntons facility. Mr. Claes stated the building will be brand new and fully paid for by Thorntons. Mr. Claes stated the operation will occur twenty four hours a day, three hundred and sixty five days.

Mr. Claes stated they had taken concerns from Residents in the area into consideration and had made the determination to not allow overnight parking on the property. Mr. Claes stated they have proposed a two hour only parking for drivers. Mr. Claes stated Thorntons would like to add a restaurant to the facility in the future. Mr. Claes reviewed the request for a conditional use permit and variances being requested with the Commission. Mr. Claes stated Thorntons is not seeking additional curbcuts from the Village or IDOT. Mr. Claes stated Thorntons will build a ten foot sound and light barrier around the diesel facility to benefit the residents. Mr. Claes stated trucks will be limited to a right turn only out of the exit driveway. Mr. Claes stated there will be high speed fuel pumps on site. Mr. Claes stated Thorntons has proposed a truck scale north of the diesel canopy. Peter Lemmon of Traffic Analysis & Design, Inc. reviewed a traffic study that was conducted in the area. Mr. Claes stated Thorntons will lease the property and has a lease pending approval of the proposed operation by the Village.

Commissioner Pisano asked what will happen if a truck will not leave within two hours. Mr. Claes stated if they need to call the Police, they will.

Chairman Moruzzi asked if there was any opportunity to promote the industrial area with signage on Thorntons property, much like their facility in Wood Dale. Mr. Claes stated he would be open to discussion and does not see any issues with Mr. Moruzzi's request.

**Public Comment:**

**Lawrence Hull – 471 N. Marshall**

Mr. Hull asked for clarification of the curbcuts. Mr. Claes stated the curbcuts will remain as is and no additional curbcuts are necessary.

**Dale K. Burda – 581 Marshall Street**

Mr. Burda raised concern with the amount of gas that will be stored on site and asked if the Fire Department has been included in the discussion of the proposed site.

**Chris Anaya – 573 Marshall Road**

Ms. Anaya stated she is opposed to the proposed use but appreciates the way Thorntons approached the Residents in the area and asked for their input in the design.

**Hal Francke of DLA Piper**

Mr. Francke asked for clarification on the traffic study.

Director of Community Development, Scott Viger, reviewed his Staff report with the Commission and members of the audience. Mr. Viger stated the red box would not be allowed to be on the property. Mr. Claes stated they were ok with the decision made by Staff. Mr. Viger stated there was an error in the Staff report and stated there will be no impact on the environment based on the proposed plans submitted by Thorntons. Mr. Viger stated condition number three for landscaping will follow IDOT rules. Mr. Viger stated Staff recommends approval on the conditional uses with the recommendations of Staff. Mr. Viger stated Staff recommends denial of the truck stacking variance. Mr. Claes stated Thorntons is willing to change their requests for stacking and signage to meet Staff's recommendations.

Motion: Commissioner Weldon made a motion to close the Public Hearing for CDC Case Number 2012-09. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-09 at 10:21 p.m.

Motion:

Commissioner Ventura made a motion to approve the findings of facts for the conditional use permits for CDC Case Number 2012-09 consisting of:

1. **Traffic:** The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized.  
**Service Station** - The traffic study indicated no significant adverse effects associated with traffic flow, assuming the recommendations are implemented.  
**EMC** - If the EMC meets the Village's Ordinance requirements it should not have a negative effect on traffic in the area.
2. **Environmental Nuisance:** The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district.  
**Service Station** - The Staff harbors continued concerns in regards to the associated engine noises as well as exhaust odor from idling trucks. Similarly, there are concerns of overnight truck parking and its effect on the neighboring areas.  
**EMC** - If the EMC meets the Village's Ordinance requirements it should not have a negative effect on traffic in the area.
3. **Neighborhood Character:** The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized.

**Service Station** - The proposed service station should fit harmoniously with the existing environs. The majority of the abutting and adjacent land uses are non-residential and the property serves as a gateway to the northern business district. The proposed use is in compliance with the Comprehensive Plan for the Village. The Comprehensive Plan indicates "Quasi - Public" use for the property based on the historical use as a House of Worship, while the zoning is C - 2 Highway Commercial.

**EMC** - If approved this would be the second EMC along Rte. 83 (the first has been approved at 801 N. Rte. 83 for Perk's Bar & Grill but has yet to be erected). Other EMC sign Conditional Use Permits are pending.

4. **Use Of Public Services And Facilities:** The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area.

**Service Station** - The service station as proposed will not require existing community facilities or services to a degree disproportionate to that normally expected of uses permitted in the District. The use as proposed will not generate disproportionate demand for new Village services.

**EMC** - The proposed EMC will not impact the Village's Public services and facilities.

5. **Public Necessity:** The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community.

Staff believes that there is sufficient market demand for the proposed service.

6. **Other Factors:** The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location.

Any other factors are under the discretion of the Community Development Commission.

Commissioner Janowiak seconded the motion.

Community Development Commission Meeting Minutes

June 11, 2012

Page 17

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Ventura made a motion to approve CDC Case Number 2012-09 with Staff's eighteen conditions and an additional condition to enter into a cross access agreement with a no compete use and possible signage on the property for the Bensenville Industrial Park. Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Ventura made a motion to approve the findings of facts for the conditional use permits for CDC Case Number 2012-09 consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.  
Special circumstances exist in that the site exists on one of the Village's largest corridors and industrial areas.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience.  
Hardship would exist in providing feasible traffic flow and maneuverability on and off-site.

- 3. Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.  
The circumstances relate to the property in that it exists on the corner lot of two major corridors in the Village. The large front and corner side yards and the adjacent residential property.
- 4. Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.  
The variances are the results of the traffic movements and physical site design dictated by the property itself and the surrounding uses, not necessarily the specific actions of the applicant.
- 5. Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.  
Allowing a service and diesel fueling station on a C-2 Highway Commercial District does not confer special privilege in that three other gas stations already exist on the same intersection as the proposed.
- 6. Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.  
The variances are necessary for the use of property.

7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. The local character will not be altered in that three other service stations on the same intersection as the proposed Thorntons. Foster Avenue is also an industrial corridor typically accommodating diesel truck traffic and serves as a gateway into the Northern Business District.
8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. The property's location, size, abutting uses and separation from the existing single family homes by Foster Avenue make it a candidate for a commercial use and requested variance(s).
9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. Staff believes that the variances are the minimum necessary to appropriately operate the proposed use with the exception of the number of signs. The number and area of signs can be reduced without negative impact.

Commissioner Ventura seconded the motion.

Roll Call:

Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Motion:

Commissioner Ventura made a motion to approve the variances for CDC Case Number 2012-09 with the change of stacking vehicles to a 2-1 ratio and changing the allowed signs to eight. Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

**Public Hearing:** CDC Case Number 2012-06

**Petitioner:** Begzvdin Livadio

**Location:** 680 Industrial Drive

**Request:** Motor Vehicle Repair and Outdoor Storage and Variances to reduce required parking stall length, eliminate fencing and screening requirements for outdoor storage and foundation (landscaping) strip requirements.

Motion: Chairman Moruzzi made a motion to open the Public Hearing for CDC Case Number 2012-21. Commissioner Ventura seconded the motion.

**ROLL CALL :** Upon roll call the following Commissioners were present:

Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Absent: James

A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-06 at 10:40 p.m

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on May 26, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on May 25, 2012. Mr. Viger stated on May 25, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Begzvdin Livadio was present and sworn in. Mr. Livadio stated they are seeking a conditional use permit for vehicle repair, both major and minor and are seeking to waive the variance requirements set forth in the Village Code.

**Public Comment:**

**Mario Rizzi – 400 Industrial Drive**

Mr. Rizzi stated he is supportive of the proposed usage but asked that it be done the proper way and raised concern with the drainage on site.

Director of Community & Economic Development, Scott Viger, presented his Staff report to the Commission and the members of the audience. Mr. Viger stated Staff recommends approval of the conditional use request and denial of the variance requests.

Commissioner Weldon asked if Mr. Livadio was ok with Staff's recommendations. Mr. Livadio stated they were ok with them.

Motion: Chairman Moruzzi made a motion to close the Public Hearing for CDC Case Number 2012-06. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-21 at 10:54 p.m.

Motion: Commissioner Ventura made a motion to approve the finding of facts for the conditional use permits for CDC Case Number 2012-06 consisting of:

1. **Traffic:** The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized.  
The proposed use of major and minor motor vehicle repair will not create any adverse impact of traffic flow outside of the property due to the industrial use of the surrounding area. The proposed use of outdoor storage will not create any adverse impact of types due to the location and surrounding area of the property in question. Since it is a flag lot, the outdoor storage of trucks would not be visible from the Industrial Road frontage.
2. **Environmental Nuisance:** The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district.

As all the work is to be conducted wholly within the enclosed building in keeping with the Village's Code requirements, the environmental impact due to the proposed motor vehicle repair use and ancillary outdoor storage will not have negative effects uncharacteristic of permitted uses in the industrial district.

3. **Neighborhood Character:** The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized.  
The property in question is located in the heart of the Northern Business District and is surrounded by properties zoned I - 2 Light industrial. The use proposed will fit harmoniously with the existing character of the area.
4. **Use Of Public Services And Facilities:** The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area.  
No significant increase in the utilization of the public utility systems is anticipated by either proposed conditional use. Storm water detention proposal will reduce the burden of runoff.
5. **Public Necessity:** The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community.  
Staff believes that there is sufficient market demand for the proposed service.
6. **Other Factors:** The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location.  
Any other factors are under the discretion of the Community Development Commission.

Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve CDC Case Number 2012-06 with staff's recommendations. Commissioner Ventura seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the finding of facts for the five variance requests for CDC Case Number 2012-06 consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.

**Parking Space Size:** There appears to be sufficient room for both the automobile and tractor— trailer spaces to meet the Village's Code for minimum size. The automobile spaces do provide a 1.5' overhang that is a generally accepted design although our Ordinance does not identify that design as acceptable.

**Fencing & Screening:** There do not appear to be any special circumstances that would make the fencing and screening of the outdoor storage unfeasible.

2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience.

**Parking Space Size:** The property in question is large enough that the tractor trailer and automobile spaces should be able to meet the minimum sizes required without causing hardship or practical difficulties.

**Fencing & Screening:** Staff believes that the property can be fenced and screened in accordance with Code requirements without causing undue hardship or practical difficulties.

3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.

The circumstances relate to the property in that the physical character of the land has deteriorated significantly.

**Parking Space Size:** The property in question is large enough that the tractor trailer and automobile spaces should be able to meet the minimum sizes, therefor there are not special circumstances related to this property that would support the variance request.

**Fencing & Screening:** Staff believes that the property can be fenced and screened in accordance with Code requirements and that there are no special circumstances that would support the variances requested to eliminate the fencing and screening requirements.

4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.

**Parking Space Size:** The parking and outdoor storage area are as designed by the applicant's design team and therefore are resulting from actions of the applicant.

**Fencing & Screening:** The lack of the required fencing and screening are as designed by the applicant's design team and therefore are resulting from actions of the applicant.

5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.

**Parking Space Size:** The property appears to be large enough to meet the Municipal Code requirements without negatively impacting the applicant's use of the property.

**Fencing & Screening:** Eliminating the requirement to fence and screen outdoor storage would confer a special privilege to this property.

6. **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.

**Parking Space Size:** The applicant will have a reasonable use and enjoyment of the property without the variances.

**Fencing & Screening:** The elimination of the fencing and screening requirement appears to be an economic issue. Should the applicant meet the fencing and screening requirement they still would be able to use and enjoy the property.

7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Approval of the variances sought will not alter the essential character of the highway commercial neighborhood as the business will cater to the established trucking industry.

**Parking Space Size:** As an older industrial area, with some existing non -conforming uses and properties, granting of the variance may not alter the local character.

**Fencing & Screening:** As an older industrial area, with some existing nonconforming uses and properties, granting of the variance may not alter the local character.

8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof.

**Parking Space Size:** The Village Plan envisions a well-planned and designed business park. While the use proposed is consistent with that goal, maintaining appropriate and well-designed parking and storage areas is critical to obtain that goal. The site appears to be large enough to accommodate the appropriate sized parking and storage spaces.

**Fencing & Screening:** Appropriate fencing and screening is necessary to create a well-designed and maintained business park. The outdoor storage area could easily be fenced and screened.

9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property.

**Parking Space Size:** Staff believes that the variances requested are in fact, the minimum needed.

**Fencing & Screening:** Staff believes that the variances requested are in fact, the minimum needed.

Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Rowe, Weldon

Nays: Ventura

Motion carried.

Motion: Commissioner Weldon made a motion to approve the five variance requests for CDC Case Number 2012-06. Commissioner Rowe seconded the motion.

Roll Call: Ayes: None

Nays: Moruzzi, Janowiak, Pisano, Rowe, Ventura, Weldon

Motion fails.

**Public Hearing:** CDC Case Number 2012-17  
**Petitioner:** 10 W. Irving Park, LLC  
**Location:** 10 W. Irving Park Road  
**Request:** Variances to allow parking in the front & corner side yards, reduce the front yard (parking) setbacks, reduce the required frontage (landscaping) strip, allow the construction of garbage corral in the corner side yard, allow sign and height variances to exceed maximum allowance and extend the maximum allowed curbcut.

**Motion:** Chairman Moruzzi made a motion to open the Public Hearing for CDC Case Number 2012-17. Commissioner Janowiak seconded the motion.

**ROLL CALL :** Upon roll call the following Commissioners were present:  
Moruzzi, Janowiak, Pisano, Ventura, Weldon  
Absent: James, Rowe  
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-17 at 11:03 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on May 26, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on May 25, 2012. Mr. Viger stated on May 25, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Marshall J. Subach from Hunt, Kaiser, Aranda & Subach, ltd. and Jim Kissane, property owner were both present and sworn in. Mr. Subach distributed photos of the property to the Commission. The photos have been attached to the minutes as "Exhibit F". Mr. Subach stated the requests are being made due to the taking of a portion of the property by IDOT. Mr. Subach reviewed the photos handed out to the Commission. Mr. Subach reviewed the current operation of the company and how the IDOT plans will affect the operations.

Commissioner Weldon thanked Mr. Kissane for maintaining the property over the years.

**Public Comment:**

**Allen Devitt 16W603 3<sup>rd</sup> Ave**

Mr. Devitt stated he is fully in support of the requests being made and commends Mr. Kissane for his current operations.

Director of Community & Economic Development, Scott Viger, presented his Staff report to the Commission and members of the audience. Mr. Viger stated Staff recommends approval of the requests being made.

Motion: Commissioner Ventura made a motion to close the Public Hearing for CDC Case Number 2012-17. Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-17 at 11:20p.m.

Motion: Commissioner Ventura made a motion to approve the finding of facts for the variance requests for CDC Case Number 2012-17 consisting of:

**1. Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.  
The special circumstances exist for the property in question due to the DOT taking of approximately 1,453 SF for the expanded right-of-way of Irving Park Road and 405 ft. as a temporary easement.

**2. Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience.

The property in question will be subjected to undue hardship and practical difficulties up to and including relocation if the variances are not granted.

3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.

The special circumstances only relate to the physical characteristics specifically, the size of the property in relation to the existing brick and concrete building.

4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.

The special circumstances and practical hardship are not a direct result of actions of the applicant, but is a direct and proximate result of the condemnation under DuPage County IDOT Case Number 2000 ED 0056.

5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.  
A variance is necessary to allow the owners to enjoy substantial use of the property. Without the requested variances, the Applicant states they will need to relocate the business thereby creating a vacant lot along Irving Park Road. Allowing these variances does not confer a special privilege.

- 6. Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. According to the IDOT's Appraisal and Review Certification, the highest and best use of the property still remains as a motor vehicle repair business. If the variances are not granted, the applicant will have reduced customer and employee parking area and perhaps limited on-site mobility, thereby depriving the applicant of reasonable use and economic return.
- 7. Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Approval of the variances sought will not alter the essential character of the highway commercial neighborhood as the business will remain the same.
- 8. Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. The granting of the variances will comply with the Comprehensive Plan of maintaining commercial space along the Irving Park Road corridor.
- 9. Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. The staff has worked with the applicant and believes that the variances sought are the minimum required.

Commissioner Janowiak seconded the motion.

Community Development Commission Meeting Minutes

June 11, 2012

Page 31

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Ventura made a motion to approve the variance requests CDC Case Number 2012-17. Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

**Public Hearing:** CDC Case Number 2012-18

**Petitioner:** Midwest Eurosport

**Location:** 104 W. Irving Park Road

**Request:** Variances from the frontage strip, parking, stacking of vehicles and outside storage requirements

Motion: Commissioner Ventura made a motion to open the Public Hearing for CDC Case Number 2012-18. Chairman Moruzzi seconded the motion.

**ROLL CALL :** Upon roll call the following Commissioners were present:

Moruzzi, Janowiak, Pisano, Ventura, Weldon

Absent: James, Rowe

A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-18 at 11:20 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on May 26, 2012 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on May 25, 2012. Mr. Viger stated on May 25, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Marshall J. Subach from Hunt, Kaiser, Aranda & Subach, Ltd. and Brian and George Weathered, property owners were both present and sworn in. Mr. Subach distributed photos of the property to the Commission. The photos have been attached to the minutes as "Exhibit G". Mr. Subach stated the requests are being made due to the taking of a portion of the property by IDOT. Mr. Subach reviewed the photos handed out to the Commission. Mr. Subach reviewed the current operation of the company and how the IDOT plans will affect the operations.

Village Attorney, Mary Dickson raised concern with the outdoor storage of the trailer that is currently on site. Mr. Subach stated his clients are under the impression it is a legal non-conforming due to the fact the trailers has been stored onsite for over fifteen years. Mr. Viger stated the outdoor storage of the trailer is not allowed in the area. Mr. Subach stated his clients are not seeking a variance for the outdoor storage of the trailer, rather the requested variances being made based off the requirements from the taking of property by IDOT. Mr. Subach stated his clients have difficulty as is with the stacking of parking and operations of the facility.

Chairman Moruzzi asked if there was any member of the Public that would like to give testimony. There was none.

There were no questions from the Commissioners.

Director of Community & Economic Development, Scott Viger, presented his Staff report to the Commission and members of the audience. Mr. Viger stated the Commission is not voting on the outdoor storage of the trailer. Mr. Viger stated Staff recommends approval of the variances being requested.

Motion: Chairman Moruzzi made a motion to close the Public Hearing for CDC Case Number 2012-18. Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, Janowiak, Pisano, Ventura, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-18 at 11:47p.m.

Motion:

Commissioner Weldon made a motion to approve the finding of facts for the variance requests for CDC Case Number 2012-18 consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them.  
The special circumstances exist for the property in question due to the IDOT taking of approximately 1,742 SF for the expanded right-of-way of Irving Park Road and 297 ft. as a temporary easement.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience.  
The property in question will be subjected to undue hardship and practical difficulties up to and including relocation if the variances are not granted.
3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property.  
The special circumstances only relate to the physical characteristics specifically, the size of the property in relation to the existing building and the number of service bays.

- 4. Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act.  
The special circumstances and practical hardship are not a direct result of actions of the applicant, but is a direct and proximate result of the condemnation under DuPage County IDOT Case Number 2012 ED 010.
- 5. Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties.  
A variance is necessary to allow the owners to enjoy substantial use of the property. Without the requested variances, the Applicants state they will need to relocate the business thereby creating a vacant lot along Irving Park Road. Allowing these variances does not confer a special privilege.
- 6. Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property.  
According to the IDOT's Appraisal and Review Certification, the highest and best use of the property still remains as a motor vehicle repair business. If the variances are not granted, the applicant will have reduced customer and employee parking area and perhaps limited on-site mobility, thereby depriving the applicant of reasonable use and economic return.

- 7. Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity.  
Approval of the variances sought will not alter the essential character of the highway commercial neighborhood as the business will remain the same.
- 8. Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof.  
The granting of the variances will comply with the Comprehensive Plan of maintaining commercial space along the Irving Park Road corridor.
- 9. Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property.  
The staff has worked with the applicant and believes that the variances sought are the minimum required.

Commissioner Ventura seconded the motion.

Roll Call: Ayes: Janowiak, Pisano, Weldon

Nays: Moruzzi, Ventura

Motion carried.

Motion: Commissioner Weldon made a motion to approve the variance requests CDC Case Number 2012-18. Commissioner Ventura seconded the motion.

Roll Call: Ayes: Janowiak, Pisano, Weldon

Nays: Moruzzi, Ventura

Motion fails.

### **Report from Community Development**

Mr. Viger reviewed both recent Village Board actions and prior CDC cases along with upcoming cases.

### **ADJOURNMENT:**

There being no further business before the Community Development Commission, Chairman Moruzzi made a motion to adjourn the meeting. Commissioner Janowiak seconded the motion.

All were in favor

Motion carried.

The meeting was adjourned at 11:58 p.m.