

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION
January 8, 2007

CALL TO ORDER: The meeting was called to order at 7:33 p.m.

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

Markowski, McCutcheon, Ramirez, Wilhelm

Absent: Gibbs, Zaleske

A quorum was present.

CHAIRPERSON PRO-TEM

APPOINTMENT: Commissioner Wilhelm made a motion to appoint Commissioner Markowski as Chairperson Pro-Tem. Commissioner Ramirez seconded the motion.

All were in favor. Motion carried.

JOURNAL OF

PROCEEDINGS: The minutes of the Community Development Commission Meeting of November 13, 2006 were presented.

Motion Commissioner Wilhelm made a motion to approve the minutes as presented. Commissioner Ramirez seconded the motion.

All were in favor. Motion carried.

Chairperson Pro-Tem Markowski explained the hearing process and the role of the Community Development Commission.

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Public Hearing CDC Case No. 091106-01

Petitioner: **Paldo Sign & Display Company, Inc.**

Location: **710-720 W. Irving Park Road**

Request: **A review of a Master Sign Plan proposed for the existing Commercial/Office center (Bensenville Plaza) at 710-720 W. Irving Park Road in the C-2, Highway Commercial Zoning District**

Due to the absence of the petitioner, Chairperson Pro-Tem Markowski continued Public Hearing CDC Case No. 091106-01.

Public Hearing CDC Case No. 091106-02

Petitioner: **American Sign & Lighting Company**

Location: **100-300 Devon Avenue**

Request: **A review of a Master Sign Plan proposed for the existing Commercial/Office center at 100-300 Devon Avenue in the I-2, Light Industrial Zoning District**

Due to the absence of the petitioner, Chairperson Pro-Tem Markowski continued Public Hearing CDC Case No. 091106-02.

Public Hearing CDC Case No. 010807-1

Petitioner: **Interra-Vision Development, LLC**

Location: **5, 7 & 9 W. Irving Park Road, C-2 Highway Commercial District**

Request: **Approval of Preliminary/Final Subdivision Plat and Approval of an Amendment to the Planned Unit Development**

Witnesses: **Gary Taylor**
300 E. Roosevelt
Wheaton, Illinois

Javier Millan
9575 W. Higgins Road, Suite 400
Rosemont, Illinois

Thomas Gamsjaeger
541 N. Fairbanks Court, Suite 1890
Chicago, Illinois 60611

Chairperson Pro-Tem Markowski swore in the witnesses.

Gary Taylor provided background information on the development at 5, 7, and 9 W. Irving Park Road. Subway, a new tenant, will soon be occupying approximately 1,000 square feet of the 3,000 square foot retail building located west of the Walgreens store. The petitioner would like to subdivide the property into two parcels. Lot 1 is 18,491 square feet. Lot 2 is 52,101 square feet. The preliminary PUD plat depicts the parcel as Lot 1 and Lot 2. The request before the Commissioners this evening is to divide the property into two separate lots. The covenants and restrictions have been recorded and will remain in effect. The existing declaration contemplates that there will be two separate lots and restrictions are specified in that

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document. Parking is the issue which has been raised. Mr. Taylor distributed copies of the parking study, marked as petitioner's Exhibit #3, which was prepared by Javier Millan. Also distributed was a copy of Javier Millan's resume, which was marked as petitioner's Exhibit #2.

Javier Millan advised that he was retained to perform a parking evaluation of the subject property. Subway will be occupying 1,100 square feet of the 3,000 square foot building. The remaining portion of the retail building will be leased to a business such as a florist, travel agent, or wireless dealer. The study was performed at Subways located in Niles and Arlington Heights, and at Jimmy John's located in Palatine and Lombard. The data was collected on Fridays due to a higher demand for lunch on that day versus the other weekdays, and on Saturdays when many people are out running errands. The study was broken down hourly from 11 a.m. to 7 p.m.

Commissioner McCutcheon inquired why the study was not performed at the Subway in Bensenville.

Mr. Millan responded that this study was pulled from in-house data which was collected previously for other studies in locations similar to the one at Irving Park and York Roads.

Commissioner Ramirez commented that there are only 10 spaces located in the front of the retail building and one of those spaces is for handicapped parking.

Mr. Millan added that there are also six parking spaces in the rear.

Commissioner Ramirez stated that chances are slim to none that customers will utilize the rear parking. Commissioner Ramirez commented that the site appears over booked for parking.

Mr. Millan advised that the study includes both employee and customer parking. There are two employees and they park in the rear. Subway has a quicker turn over in parking spaces. Sixty percent of sales are carryout.

In referring to the study, Commissioner Ramirez finds it difficult to believe that an eatery would have a smaller volume of traffic than retail at lunch time.

Mr. Millan advised that Subway does not get the same traffic as fast food restaurants such as Burger King.

Commissioner Ramirez questioned what happens if Subway moves out.

Chairperson Pro-Tem Markowski advised that the problem the Commissioners are facing is that once the parcel is subdivided, the next tenant could have a greater impact on parking.

Village Planner, Marcy Bunch, added that there was no documentation filed to support the traffic study.

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Mr. Millan stated that he will provide her with the documentation.

Assistant Village Manager for Community Development, Steven Marshall, questioned how Subway could stay in business with the number of people served in an entire day as depicted in the study. Mr. Marshall recommended the Commissioners look at the request in the long term and not focus on the particular business which is moving in. The recommendation for approval of subdivision should be based on the criteria. Use of the remaining portion of the building should also be of concern.

Gary Taylor stated that the original PUD was approved. Mr. Taylor claims that it was determined at that time that the two buildings could stand alone. The petitioner is not seeking to change the ordinance or restrictions. The parking situation will remain the same whether the property is divided or not. There is no cross parking agreement. There is only a cross access agreement.

Steve Marshall added that the PUD was granted for a single zoning lot, under one ownership. Uses for the C-2 Zoning District are clearly defined in the Zoning Ordinance. There is not enough parking for a Subway and another use in the retail building. The entire site was considered for parking when the PUD was approved. The Village approved a PUD for a single parcel by a single owner.

Mr. Taylor advised that separation of ownership is necessary for financing.

Chairperson Pro-Tem Markowski stated that adequate parking cannot be provided when divided.

Commissioner Wilhelm stated that cross parking is acceptable when there is one owner, even without an agreement.

Mr. Taylor commented that he understands what Commissioner Wilhelm is saying but disagrees. There is to be no cross parking and he believes there is adequate parking for the proposed use.

Thomas Gamsjaeger, the developer and owner of the parcels, stated that the documents recorded control parking restrictions and uses. Under the agreement, the users of the retail building to the west are not to park in the Walgreens lot. This agreement is part of the PUD. The recorded easement agreement would be part of any lease or purchase of the property. The recorded easement agreement allows for casual or fast food restaurants. Subway is a less intensive use than McDonalds, although a McDonalds is an allowed use.

Mr. Taylor clarified that when referring to the recorded easement agreement, Mr. Gamsjaeger is talking about the recorded declaration. The declaration was recorded in March, 2005.

Mr. Marshall added that the recorded declaration is part of this petition but not part of the original PUD request. A recorded easement agreement was not required at the original

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hearing because the petition was for a single owner on a single zoning lot.

Mr. Taylor stated that whether the lot is sold or not, the users are still restricted as part of the declaration.

Chairperson Pro-Tem Markowski inquired what happens if Walgreens moves out. The Village will have to deal with what remains.

Mr. Gamsjaeger advised that Walgreens has a 75 year lease. Walgreens is obligated to pay rent for that length of time. The declaration is in place and remains in force unless all parties agree to modify or delete it.

Mr. Marshall advised that he was under the impression that when dealing with a single zoning lot and a single owner, cross parking is and would be allowed.

Commissioner McCutcheon asked if the Commissioners have been provided with all the documents being discussed this evening.

Mr. Taylor responded that there is no cross parking agreement. The only documents are part of this petition.

Mr. Marshall advised that it is the petitioner's contention that the declaration was a part of the original PUD. The Village contends that a declaration would not have been necessary for a single owner on a single zoning lot. Mr. Marshall will review the original submittals and bring back that information to the Commissioners. The petitioner has the choice of continuing the case until January 22, 2007 or having the Commissioners vote this evening.

Mr. Taylor advised that he would prefer the Commissioners have all the information prior to making a recommendation.

Chairperson Pro-Tem Markowski advised that he may not be able to attend the meeting on January 22.

MOTION: Commissioner Ramirez made a motion to continue Public Hearing CDC Case No. 010807-1. Commissioner McCutcheon seconded the motion.

All were in favor. Motion carried.

Chairperson Pro-Tem Markowski continued Public Hearing CDC Case No. 010807-1.

Steve Marshall requested that Item F be taken out of order to accommodate the petitioners in attendance.

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Public Hearing CDC Case No. 010807-3

Petitioner: **Frank & Alice Domino**

Location: **144 S. Church Road, RS-5, High Density, Single Family, Residential**

Request: **To consider a variance in the setback from 30' to 13'-11" on the corner side yard**

Chairperson Pro-Tem Markowski called Public Hearing CDC Case No. 010807-3 to order.

Witnesses: **James Klingbiel**
14 W. Willow St.
Lombard, IL

Frank Domino
144 S. Church Road
Bensenville, IL

Alice Domino
144 S. Church Road
Bensenville, IL

Chairperson Pro-Tem Markowski swore in the witnesses.

James Klingbiel presented the request for a variance in the corner side yard setback from 30' to 13'-11". The existing non-conformity resulted 18 to 20 years ago when the County took 18' of the side yard for road construction. The petitioners are seeking this variance in order to be able to tear down the original 1920's home and rebuild with a second story.

In response to Commissioner Ramirez, Mr. Klingbiel advised that the footprint will be enlarged to accommodate the office and breakfast room.

In response to Commissioner Wilhelm, Mr. Klingbiel advised that the height of the home will be less than 24'.

Chairperson Pro-Tem Markowski recommended that all dimensions be provided prior to presentation to the Village Board.

Chairperson Pro-Tem Markowski asked if the Board Members or Staff had any further questions or comments. There were none.

Chairperson Pro-Tem Markowski asked if any members of the audience had any questions or comments. There were none.

MOTION: *Commissioner Ramirez made a motion to approve the request for a variance in the corner side yard setback from 30' to 13'-11". Commissioner McCutcheon seconded the motion.*

ROLL CALL: **AYES: McCutcheon, Ramirez, Wilhelm, Markowski**

NAYS: None

Motion carried.

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Chairperson Pro-Tem Markowski closed Public Hearing CDC Case No. 010807-3.

FINDINGS OF

FACT: The Commissioners reviewed and agreed with the approval criteria and staff recommendations on Pages 2 and 3 of Staff Report.

Public Hearing CDC Case No. 010807-2

Petitioner: Village of Bensenville

Location: 12 S. Center Street

Request: To consider a Text Amendment to the Zoning Codes, Section 10-14-11: Fences

Chairperson Pro-Tem Markowski called Public Hearing CDC Case No. 010807-2 to order.

Steven Marshall presented the request to amend the Zoning Ordinance to eliminate dangerous fencing anywhere in the Village. While Section 8-1-8 of the Bensenville Village Code prohibits barbed wire fences along any sidewalk within the Village, Section 10-14-11 allows barbed wire fencing in certain areas under certain conditions.

Commissioner Ramirez inquired if this would affect those in town who currently have this type of fencing.

Mr. Marshall responded that those would be considered legal non-conforming and would not have to be removed until a change occurs.

Commissioner McCutcheon asked what businesses could use for protection if not barbed wire.

Mr. Marshall responded that in industrial areas, 10' fencing is allowed. Barbed wire is dangerous and becomes in disrepair quite quickly.

Commissioner Ramirez asked Mr. Marshall to verify that existing fencing will not have to be removed as long as no change occurs and there are no other code violations.

Mr. Marshall confirmed this.

Commissioner McCutcheon inquired if this amendment will apply only to barbed wire. He cited razor wire as an example.

Mr. Marshall advised that the amendment will address all dangerous fencing.

Chairperson Pro-Tem Markowski asked if the Board Members or Staff had any further questions or comments. There were none.

Chairperson Pro-Tem Markowski asked if any members of the audience had any questions or comments. There were none.

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MOTION: *Commissioner Ramirez made a motion to approve the Text Amendment to the Bensenville Zoning Code to delete Section 10-14-11(D): Exceptions as presented. Commissioner McCutcheon seconded the motion.*

ROLL CALL: *AYES: McCutcheon, Ramirez, Wilhelm, Markowski*

NAYS: None

Motion carried.

Chairperson Pro-Tem Markowski closed Public Hearing CDC Case #010807-2.

ADJOURNMENT: Commissioner Wilhelm made a motion to adjourn the meeting.
Commissioner Ramirez seconded the motion.

All were in favor. Motion carried.

Chairperson Pro-Tem Markowski adjourned the meeting at 8:40 p.m.



Chairperson Pro-Tem
Community Development Commission

PASSED AND APPROVED by the Community Development Commission this 22nd day of January, 2007.