

# CITY OF WEST CHICAGO

WHERE HISTORY & PROGRESS MEET

## MINUTES

### Development Committee

October 11, 2010

### APPROVED AT DECEMBER 13, 2010 MEETING

#### 1. Call to order, Roll Call and Establishment of a Quorum.

Chairman Pineda called the meeting to order at 7:00 p.m.

Roll call found Aldermen James Beifuss, Nicholas Dzierzanowski, Joseph Gianforte, H. Ronald Monroe, Alan Murphy, Ruben Pineda and Rebecca Stout present.

Also in attendance was Community Development Director Joanne Kalchbrenner.

#### 2. Approval of Minutes.

**A. Development Committee, August 9, 2010. Alderman Gianforte made a motion, seconded by Alderman Stout, to approve the minutes of the August 9, 2010 Development Committee Meeting with changes as noted by Alderman Beifuss. Voting yea: Aldermen Gianforte, Stout, Beifuss, Dzierzanowski, Monroe, Murphy and Pineda. Voting Nay: 0. Motion carried.**

#### 3. Public Participation

Anthony Pisciotta from Ardmore Auto Sales stated he was here regarding the text amendment and special use permit for internet auto sales. He noted that several people involved in the project are here to answer any questions.

John Green from Engineering Resources Associates stated that a condition of the special use permit is that occupancy would not occur until final engineering has been approved by DuPage County. He stated that they would like to change that condition. Mr. Green commented that a letter from DuPage County stating that the County has no objection to the project moving forward was distributed this evening. He added that even though DuPage County is timely on their reviews, it could take five to six months for the approval and it is the owner's desire to be able to occupy the building and start improvements sooner.

#### 4. Items for Consent.

**A. Triad Construction – 310-330 Charles Court, Deviation to pavement Slope**

- B. Ardmore Auto Sales – 3N155 (1965) Powis Rd – Text Amendment for Internet Auto Sales and Special Use permit for Internet Auto Sales**
- C. Shell Gas Station – 184 W. North Avenue – Setback Variances**
- D. City of West Chicago – Text Amendment, Driveways**

Chairman Pineda read the Items for Consent. Alderman Dzierzanowski removed items 4B and 4C for discussion.

**Alderman Murphy made a motion, seconded by Alderman Beifuss, to move consent items 4A and 4D to City Council on Monday, October 18, 2010. Voting yea: Aldermen Murphy, Beifuss, Dzierzanowski, Gianforte, Monroe, Pineda and Stout. Voting nay: None. Motion carried.**

**4B. Ardmore Auto Sales – 3N155 (1965) Powis Rd – Text Amendment for Internet Auto Sales and Special Use permit for Internet Auto Sales**

Chairman Pineda noted that the Plan Commission/Zoning Board recommended approval of the special use permit with conditions. He stated that one of the conditions is approval from the County for final engineering before occupying the building. He added that after receiving the letter from the County this evening, he wants to avoid any issues with the final engineering. Chairman Pineda stated that the City has had problems before allowing a business to occupy a building prior to final engineering approval from the County. He suggested that the owner apply for the storm water permit and be allowed into the building to start the improvements and then require the final engineering approval before any outside storage be permitted.

Alderman Beifuss commented that the text amendment is for internet used auto sales which should be a lower intensity use. He asked if the internet sales would generate any local sales tax to the City of West Chicago. Mr. Pisciotta responded that yes, there would be local sales tax. He added that 70% of the vehicles sold are in Illinois. He stated that year-to-date his business has paid \$88,000.00 to the Illinois Department of Revenue and in addition he collects taxes for other states such as Indiana and Michigan. He noted that those states do not have reciprocity rights so the money is collected and paid to the Illinois Department of Revenue. Alderman Beifuss stated that he has no problem allowing the text amendment.

Mr. Dan Davies, consultant, stated that they met with West Chicago staff to discuss the proposed project and staff requested improvements to the site. He added that they happily agreed to the improvements. He added further that they had a quick meeting with DuPage County regarding the management areas and the County indicated that the permit would not be a problem for what they wanted to accomplish. Chairman Pineda stated that he is concerned about running into issues once the permit has been submitted and reviewed. Mr. Davies commented that they had a pre-application meeting with the County and the County is well aware of the project. Chairman Pineda asked if the permit has been submitted to the County and Mr. Davies responded no, but they should be able

to submit in a couple weeks. He added that it does not work for them economically to wait until the permit has been approved. He commented that they have been diligent on their part as much as they can at this point and they received a blessing from the County regarding the project. He noted that there is no way to speed up the County review process. He estimated it would take three to four months to get the approval.

Alderman Monroe stated that he is in favor of their request and asked that an update be provided every couple of months.

Chairman Pineda asked how long it would take to submit the permit to the County and Mr. Green responded two to three weeks.

Alderman Dzierzanowski asked when the application was filed with the City and Ms. Kalchbrenner responded April 16, 2010. Alderman Dzierzanowski questioned why it has taken so long to come before the Development Committee. Ms. Kalchbrenner responded that it took some time to negotiate the improvements. She noted that this property was part of the forced annexation in February. She added that the applicant is a new purchaser/tenant. She commented that the previous owner illegally filled the wetland, it was corrected and then illegally filled again. Ms. Kalchbrenner stated that it took some time to address the violations on the property.

Alderman Murphy asked how long it would take to get the business operating and Mr. Pisciotta responded that he would like to be open by December 1<sup>st</sup> or January 1<sup>st</sup>. He added that they met with City staff prior to submitting to cover all the bases. He commented that they were first informed the internet auto sales would be a legal non-conforming use. Mr. Pisciotta stated that the official application was delayed a little bit while the improvements were negotiated. Mr. Davies noted that they are not changing the dynamics of the property.

Alderman Beifuss questioned how the ordinance would be worded if the City accepts their request to allow occupancy prior to final engineering approval and then the final engineering is not approved and they are occupying the building. He noted that there is a risk to the City. Ms. Kalchbrenner commented that she would need a legal opinion to determine if there is a way to revoke occupancy without cost to the City. She noted that the City has expended money to remove Peacock Relocation who moved into a building prior to final engineering approval. Mr. Davies commented that they are not here to waste time and money.

Alderman Murphy noted that under Action Proposed it states, "Consideration of a text amendment to add internet based used auto sales as a special use in the Manufacturing zoning district and a special use for internet based used auto sales at 3N155 (1965) Powis Road." He stated that he has no problem with the text amendment. He commented that it would take three to four months to get the approved permit from the County which would take it to January 31, 2011. Alderman Murphy stated that he does not see a problem with a temporary occupancy contingent on DuPage County approval of the final engineering.

Mr. Davies stated that if the City Council approves their request, it would take one week to complete the improvements to the wetland. Ms. Kalchbrenner noted that a permit is needed from the County to restore the wetlands and it has not been applied for.

Alderman Dzierzanowski stated that he has had many dealings with the County and he is not comfortable allowing occupancy until the County approves all of the engineering plans.

Ms. Kalchbrenner noted that the County letter does not say that the site plan was approved. Chairman Pineda suggested an interim step after the full-tab submittal to the County and prior to final engineering approval allowing work to be completed. Chairman Pineda requested staff to request a legal opinion by tomorrow of rescinding occupancy.

Alderman Murphy made a motion to grant a temporary occupancy contingent upon legal counsel approval and a final engineering plan being submitted to DuPage County. He noted that if the applicant does not get final engineering approval, the temporary occupancy or special use could be revoked.

Mr. Pisciotta commented that he understands protecting the City. He added that he has incurred expenses thus far and will incur additional expenses to make the improvements. He noted that the timing of the project due to closing on the property, moving his existing business, making the improvements and obtaining the final engineering approval is delicate. He added further that a manufacturing business could move in without making improvements. Ms. Kalchbrenner stated that the property is legal non-conforming and if a manufacturing business wanted to move in, an inspection would need to be done and violations corrected. She added that the wetland issues would still be the same.

Ms. Kalchbrenner commented that the first review from the County should take approximately five weeks. She stated that the condition of the special use could require that the full-tab engineering plan be submitted to the County by November 1, 2010 and that the first review state if the site plan is in substantial conformance with the site plan approved by the City. She added that after the first review if the plan is in substantial conformance, a temporary occupancy could be granted. Ms. Kalchbrenner stated that after each review by the County, the applicant must resubmit within 15 days. She added that the applicant must provide updates to City staff as to the status of the final engineering plan.

**Alderman Murphy amended his motion to approve the text amendment to add internet based used auto sales as a special use in the Manufacturing zoning district and a special use for internet based auto sales at 3N155 (1965) Powis Road as recommended by the Plan Commission amending condition No. 2 to require the applicant submit the full-tab final engineering plan to DuPage County by November 1, 2010; temporary occupancy shall be granted when the City receives a letter from**

**DuPage County stating that the site plan is in substantial conformance to the site plan approved by City Council; and after the first review and any future reviews, the applicant will make a re-submittal to DuPage County within 15 days. The motion was seconded by Alderman Gianforte. Voting aye: Aldermen Murphy, Gianforte, Beifuss, Dzierzanowski, Monroe, Pineda and Stout. Voting nay: None. Motion carried.**

#### **4C. Shell Gas Station – 184 W. North Avenue – Setback Variances**

Chairman Pineda requested staff to provide a brief overview. Ms. Kalchbrenner stated that the site formerly had three canopies over each of the three gas pump islands. She noted that in the late 1980's the canopy immediately north of the building was removed and in 2007 the remaining two canopies were removed. She commented that the applicant is requesting front and corner side yard building and landscaping setback variances. Ms. Kalchbrenner noted that staff recommended denial of the proposed variances because staff's position is to encourage redevelopment in conformance with the City's current regulations instead of perpetuating a legal non-conforming use. Ms. Kalchbrenner stated that the Plan Commission recommended approval of the variances.

Alderman Dzierzanowski commented that it was interesting that Plan Commission recommended approval when staff recommended denial of the variances. Ms. Kalchbrenner stated that Plan Commission tabled the request at one meeting and when the applicant came back with an increased landscape setback, the Plan Commission recommended approval. She added that staff is concerned with the long-term development of the intersection.

Alderman Monroe stated that he is in favor of the variances because it would improve the look of the corner. He added that redevelopment of the site would be expensive.

Alderman Gianforte commented that he does not like the look of the intersection. He added that it always looks run down and the Citgo made the corner worse. He added further that he would like to make the corner look better.

Alderman Beifuss commented that the original canopies were in compliance and he questioned why the new canopies would be non-conforming. Ms. Kalchbrenner responded that she does not know the history but that the widening of the road probably played a role. Alderman Beifuss stated that for the short-term, the canopies would improve the look.

Ron Ambrose, representing the applicant, stated that to redevelop the site would be a large undertaking and there are no plans to do so at this time.

Alderman Monroe asked if there were any renderings of the proposed canopies and Ms. Kalchbrenner provided the drawing from the Plan Commission packet. Alderman Dzierzanowski noted that there is not a dumpster enclosure on the site and Ms.

Kalchbrenner commented that businesses are not required to have dumpsters or they may keep it inside.

Alderman Murphy noted that variances are approved when an applicant has proven hardship. He questioned what the hardship is. Mr. Ambrose responded that the original setback has changed because of the widening of the road.

Chairman Pineda stated that the building needs improvement and that approving the variance request would be just putting a band-aid on the problem. He added that he does not see the hardship and approving a variance for a non-conforming property would set a bad precedent. He commented that he is not in favor of the canopies.

Mr. Ambrose stated that they are requesting to put back the canopies that were there. He added that they are putting in additional landscaping to improve the site.

**Alderman Monroe made a motion, seconded by Alderman Stout, to move Ordinance 10-O-0092 to City Council. Voting aye: Aldermen Monroe, Stout and Beifuss. Voting nay: Aldermen Dzierzanowski, Gianforte, Murphy and Pineda. Motion failed.**

**5. Items for Discussion – None.**

**6. Unfinished Business - None.**

**7. New Business - None.**

**8. Reports from Staff – None.**

**9. Adjournment**

Alderman Stout motioned to adjourn, seconded by Alderman Gianforte. The members unanimously agreed. Motion carried. The meeting adjourned at 8:10 p.m.

Respectfully submitted,

Linda Ericksen