

REGULAR MEETING – PLAN COMMISSION/ZONING BOARD OF APPEALS
Gregory J. Bielawski Municipal Center, Carol Stream, DuPage County, Illinois

MARCH 9, 2009

All Matters on the Agenda may be discussed, amended and acted upon

Chairman David Michaelsen called the Regular Meeting of the Combined Plan Commission/ Zoning Board of Appeals to order at 7:30 pm. and directed Recording Secretary Wynne Progar to call the roll.

Present: Chairman David Michaelsen, Commissioners Frank Petella, Timothy McNally, Tony Manzzullo, Angelo Christopher, Ralph Smoot and Dee Spink

Also Present: Assistant Community Development Director Don Bastian and Recording Secretary Wynne Progar

PREVIOUS MINUTES: Minutes of February 23, 2009

Commissioner Spink moved and Commissioner Petella made the second to approve the Minutes of the Meeting of February 23, 2009 as presented. The results of the roll call vote were:

Ayes: 7 Commissioners Frank Petella, Timothy McNally, Tony Manzzullo,
 Angelo Christopher, Ralph Smoot, Dee Spink and David
 Michaelsen

Nays: 0

PUBLIC HEARING:

#09022: KAROUN HOLDINGS, LLC – 690 E. NORTH AVENUE
Re-Zoning – B-2 to B-4
Special Use – Research Laboratory

Robert McNees, 195 Hiawatha Drive, Carol Stream and Dr. Mansour Samadpour, 690 E. North Avenue, Carol Stream were sworn in as witnesses in this matter. Mr. McNees described the property and its location. He noted that Dr. Samadpour is the principal of both Karoun Holdings, LLC and IEH Laboratories and Consulting Group and he wants to establish an IEH Laboratory within the building. The property is currently zoned B-2 and the request is to change it to B-4 that includes a special use for a research laboratory. Mr. McNees stated that IEH Laboratory tests food from both grocery stores and restaurants for E. coli and salmonella. There are no airborne germs tested and there are no live cultures in the facility. When the tests are complete, the total sample and anything used to test it; culture tubes, instruments, slides, etc. are autoclaved to destroy any bacteria that could be there. Finally, the sample is double wrapped and put into the garbage. The building will be divided into 60% laboratory and 40% offices and Mr. McNees stated that the owner agrees with all of the conditions noted in the staff report. There was no response from those in attendance at the call for public hearing.

Mr. Bastian said that since the presentation by the petitioner was so inclusive that it would be redundant to go over everything again, but he will answer any questions from the Commissioners.

Commissioner McNally asked Dr. Jeff Handel, West Chicago, after he was sworn in, does he have any concerns for his patients being in the same building and Dr. Handel said that he does not have any concerns for himself or his patients.

Commissioner Spink asked if it was just the product being tested that is autoclaved and if so what about the dish and tools that are used in the testing. She said her concern was if anything that touched the specimen would simply go into the garbage. Dr. Samadpour said that everything that touched the specimen are autoclaved together and that every disposable item and the specimen are double bagged before being put in the trash. Commissioner Spink asked if anyone visiting the building could become contaminated and Dr. Samadpour said that the lab is not for public entry, non-employees would only be allowed in the business office. Since none of the bacteria are air-borne, there is no way anyone would be contaminated. In response to a question about clothing, it was stated that everyone wears a white lab coat, which are washed and dried on the premise in a washer and dryer; they do not leave the building. It was also determined that employees do not wear shoe covers.

Commissioner Manzullo asked how the samples get to this lab and it was explained that the samples are packed in zip-lock bags, labeled and are delivered to an individual who has to sign that they have been received. They are not just dropped off; they must be received and signed for at the lab.

Commissioner Petella asked if there were any animals used at the lab and was told no.

Chairman Michaelsen asked if the food samples are uncooked and the answer was that most items are uncooked and they are properly refrigerated until being tested. Chairman Michaelsen asked about the HVAC system and it was stated that system for the lab building is separate from any other part of the building. Each building has a separate HVAC system.

Commissioner Manzullo moved and Commissioner McNally made the second to recommend approval for the Re-zoning from B-2 to B-4 for the building at 690 E. North Avenue, in accordance with staff recommendations. The results of the roll call vote were:

Ayes: 7 Commissioners Frank Petella, Timothy McNally, Tony Manzullo, Angelo Christopher, Ralph Smoot, Dee Spink and David Michaelsen

Nays: 0

Commissioner Manzullo moved and Commissioner Christopher made the second to recommend approval of the request for a Special Use for research laboratory at 690 E. North Avenue in accordance with the conditions noted in the staff report. The results of the roll call vote were:

Ayes: 7 Commissioners Frank Petella, Timothy McNally, Tony Manzullo, Angelo Christopher, Ralph Smoot, Dee Spink and David Michaelsen

Nays: 0

The applicant was told that these matters will be heard by the Village Board at their meeting on March 16, 2009 and was advised to attend that meeting.

**#90935: DUKE REALTY CORPORATION – 815-955 Kimberly Drive
Variations – Landbanked Parking**

Tom Degan, Duke Realty Corp. 6133 N. River Road, Rosemont, IL was sworn in as a witness in this matter. He explained that there is a lease with Hart-Cooley, who manufactures HVAC products for residential and commercial use. The request is to landbank an additional 223 parking spaces on the property on paved surfaces. Mr. Degan said that when Hart-Cooley moves into the space, it is anticipated that there will be 170 additional jobs for the Village of Carol Stream and the adjacent areas.

There were no comments or questions from those in attendance at the call for public hearing. Mr. Bastian said that the petitioner is asking for two variations; one is to landbank required parking spaces and the second is to allow parking spaces to be landbanked on existing asphalt, as opposed to green space landbanking. Mr. Bastian stated that in March of 2005, Duke Realty

received approval to landbank 85 parking spaces on the property. He referenced an exhibit A that was in the packet, and said that most of those spaces were on the east side of the building. Now they are coming back for landbanking of 167 additional spaces to bring the total up to 233 spaces of landbanked parking. Duke is also asking for approval to have many of those space landbanked on existing asphalt, or concrete areas on the west side of building, which is a truck and trailer maneuvering and staging area. The Zoning Code does allow for the landbanking of parking spaces in the industrial district, if approved through the variation process. Approval is considered on a case by case basis, and has to be supported by the employee count. Historically, landbanking has been approved by showing where greenspace areas on the site could be converted into parking. In this particular case, with the approval that was granted 2005, there really isn't any greenspace left on this site for additional landbanking, so they are requesting a variance that the landbanked parking be on the truck and trailer moving area on the west side of the building. Mr. Bastian referenced the table that is in the staff report which shows the parking requirements that are based on the use of space within their tenant space, which is 406,000 sq. ft. Hart-Cooley will occupy 250,000 sq. ft. and the Zoning Code, based on the use of space, requires 330 parking spaces. Niven Marketing requires 215 spaces, for a total of 545 parking spaces for the entire building. Given the employee counts and projections for growth, the Zoning Code requires 324 parking spaces to serve the ultimate peak demand. With the 335 existing spaces there should be adequate parking to accommodate the worst case scenario. Staff can support the first variation, which is to landbank 233 spaces, noting that with landbanking, the Village always retains the right to require the installation of a portion, or all of the landbanked required spaces at any time. The second request is for 167 of the landbanked spaces to be on the asphalt area, which are primarily on the west side of the building. The petitioner has prepared a green space exhibit that shows how, if the parking area were ever actually installed and shows how the parking lot greenspace requirements of the Zoning Code would be met. Mr. Bastian commented that if all the parking spaces were to be installed, it would eliminate access to some of the docks on the west side of the building. Staff has received letters from both tenants that indicate they are very low truck dock users. Mr. Bastian said that this variation is for these two tenants and if either tenant relocates then the condition in the staff report would require Duke to come back to the Plan Commission and make a re-affirmation of the landbanked area to the new tenant, which would require updated employee counts and have the public hearing process before the Board and then approval of the Village Board. Or they could simply provide all of the parking spaces that are required by the Zoning Code. Staff can recommend approval of both variations, one to landbank 233 parking spaces on the property and two, to allow 167 of those spaces to be landbanked on existing asphalt or concrete.

Commissioner Petella asked if the area leading to the dock are to be developed first and where would spaces be available should more spaces be required. Mr. Bastian said that the Village shall work with the applicant in determining what group of stalls and how many stalls would be developed. The Village shall retain the discretion that only a portion of the stalls be developed. Commissioner Christopher asked if these stalls would be done as new, or would they be a relocation of several others. It was determined that it would be a relocation of several others. Commissioner Spink moved and Commissioner Christopher made the second to recommend approval of the variations for landbanked parking in accordance with the noted in the staff report. The results of the roll call vote were:

Ayes: 7 Commissioners Frank Petella, Timothy McNally, Tony Manzzullo,
Angelo Christopher, Ralph Smoot, Dee Spink and David
Michaelsen

Nays: 0

The petitioner was reminded that this matter will be heard by the Village Board on March 16, 2009 and was advised to attend that meeting.

#09048: CORE PIPE PRODUCTS, INC. – 170 Tubeway Drive

Special Use Modification – Outdoor Storage

Michael Cortwright, V.P. Engineering - Core Pipe Products, Inc. 170 Tubeway Drive, Carol Stream was sworn in as a witness in this matter. He explained that the request is to allow the facility to change the outdoor storage tank by replacing the 16 foot tall liquid nitrogen tank and replace it with an 11 foot tall gaseous hydrogen tank. This change is mainly due to economic changes and prices.

There were no questions or comments from those in the audience at the call for Public Hearing.

Mr. Bastian said that Michael Cortright, Vice President of Engineering for Core Pipe Products, Inc., has filed an application for a modification to the existing special use which authorized the installation of two outdoor storage tanks on the property at 170 Tubeway Drive. Ordinance 2000-03-12, approved by the Village Board in March 2000, granted a special use to allow for the outdoor installation of a 39-foot tall liquid nitrogen tank and a 16-foot tall liquid hydrogen tank, both of which are installed within a fenced enclosure near the southwest corner of the property. Core Pipe Products wishes to remove the existing 16-foot tall liquid hydrogen tank and replace it with an 11-foot tall gaseous hydrogen tank. Because Ordinance 2000-03-12 contains a condition stating that, "An amendment to the special use permit shall be required for changes or modifications in the size, quantity or location of the tanks", the applicant is requesting a modification to the approved special use to install a new tank.

Core Pipe Products, Inc. is a manufacturer of stainless and alloy steel pipe fittings and flanges. Liquid nitrogen and hydrogen are used in the heat treating process of the fittings and flanges that Core Pipe Products produces. The company has determined that it would be more cost effective to utilize gaseous hydrogen as opposed to the liquid hydrogen that is currently being used in the heat treating process. To accommodate the switch from liquid hydrogen to gaseous hydrogen, the existing liquid hydrogen storage tank needs to be removed and replaced with a new gaseous hydrogen tank. The new gaseous hydrogen tank would be 11 feet in height, which is five feet shorter than the existing liquid nitrogen tank. Although the new gaseous tank will have more of a horizontal configuration, as seen on the attached site plan and detail drawing, it will fit within the existing 14 by 53-foot fenced enclosure behind the building.

For informational purposes, staff wishes to further explain the rationale for requiring the applicant to seek approval to modify the existing special use. If the current special use ordinance for this property did not contain the condition stipulating that, "An amendment to the special use permit shall be required for changes or modifications in the **size** (emphasis added), quantity or location of the tanks", staff would not have required Core Pipe to apply for a special use amendment, since the proposed tank is shorter than the existing tank, and would be located within the fenced area that was approved for the tanks. Under that scenario, it would have been staff's position that the tank replacement was consistent with the intent and scope of the original special use approval. However, given the specific language of condition #3 in Ordinance 2000-03-12, the applicant is required to receive approval to modify the prior special use to allow for the installation of a tank of a different size. To avoid having to process similar requests for this property in the future, staff recommends a condition stipulating that future changes could be made to the tanks without the need for a modification to the special use, provided that the size or number of tanks is not increased.

Staff has evaluated the request from both operational and aesthetic standpoints. From an operational standpoint, the primary concern with these types of tanks involves the potential hazards related to the commodity stored within the tank. To install the proposed gaseous hydrogen tank, approval is required from the State Fire Marshal's Office. The applicant has submitted an application to the State Fire Marshal's Office for approval to install a Non-Dispensing Aboveground Bulk Storage Tank, and staff recommends as a condition that the Village not issue a building permit for the tank unless and until the State Fire Marshal's Office

approves the tank installation. Staff also recommends that a condition be included in the special use ordinance that would allow for some flexibility in the final tank installation details, should minor changes be necessary based on the State Fire Marshal's review, provided that the tank can be located within the existing fenced tank enclosure. Since the area where the tank would be installed is already enclosed by a chain link fence with screening slats, which is also protected by bollards, staff has no other operational concerns. From an aesthetic standpoint, as discussed, the proposed tank will be shorter in height than the tank it would replace. Provided that the fencing and screening slats are maintained, staff is not concerned with aesthetic issues related to the proposed tank.

Staff wishes to point out, however, that on a recent site visit, we observed an accumulation of wooden pallets and shipping crates in the parking lot area behind the building. The storage of this sort of debris outdoors on the property is not allowed. Further, the existing trash dumpsters on the property are sitting out in the open, which is in violation of §9-1-5 of the Village Code, which reads as follows:

"Collections shall be made by private scavengers from...industrial establishments at least once every seven days. Every person owning or in possession, charge or control of any such establishment shall be required to provide...garbage containers capable of holding all garbage and refuse which would ordinarily accumulate on such premises between the times of successive collections. Such containers shall be enclosed on three sides and the garbage containers shall not be visible from the street or adjacent properties."

In a discussion with Mr. Cortright, staff learned that the accumulation of the pallets and shipping crates as observed during our site visit is a common occurrence. This occurrence does not comply with the Village Code requirement that the garbage containers be capable of holding all garbage and refuse that ordinarily accumulates on the premises between successive collections. Further, the Village Code requires that the existing trash dumpsters need to be located within an enclosure that is screened on three sides. As stated, the existing dumpsters are located within plain view and are not contained within any sort of enclosure. To address these issues, staff recommends as a condition that the applicant be required to construct a proper trash enclosure on the property that complies with the requirements of §9-1-5 of the Village Code.

Commissioner Smoot asked if the petitioner was in agreement with the conditions in the Staff Report and Mr. Cortwright said that they were acceptable.

Commissioner Manzzullo commented in regard to Condition # 4, which reads "That additional changes to the tanks shall be allowed in the future, without the need for a modification to the special use, provided that the size or number of tanks is not increased;" he said that the residents should be given the opportunity to voice any objection they may have.

Mr. Bastian said that if the Plan Commission wishes to go that route, the condition can be amended or removed. From Staff's perspective, these tanks and the commodities in them are reviewed by the State Fire Marshall's Office and if there is no objection, the Village relies on them to determine if something is okay. Staff is comfortable with not requiring them to come back even if it does change the product from liquid to a gas. Even if it does change product, the State Fire Marshall will determine if it is acceptable.

Commissioner McNally said that in his experience with the State Fire Marshall's Office and he has found that they are very strict and very tough about compliance to their regulations including our own Fire District inspector, Gary Rasmussen. If the company handles this project to the State standards, then we shouldn't have any issues.

Commissioner Petella asked what about jet fuel or gasoline; Mr. Cortright stated that they would never have to have either product.

Commissioner McNally moved and Commissioner Smoot made the second recommend approval of the request for a Special Use Modification for outdoor storage in accordance with staff recommendations. The results of the roll call vote were:

Ayes: 7 Commissioners Frank Petella, Timothy McNally, Tony Manzzullo, Angelo Christopher, Ralph Smoot, Dee Spink and David Michaelson

Nays: 0

The petitioner was reminded that this matter will be heard by the Village Board on March 16, 2009 and was advised to attend that meeting.

Commissioner Patella moved and Commissioner Christopher made the second to close the public hearing. The results of the roll call vote were:

Ayes: 7 Commissioners Frank Petella, Timothy McNally, Tony Manzzullo, Angelo Christopher, Ralph Smoot, Dee Spink and David Michaelson

Nays: 0

NEW BUSINESS:

Mr. Bastian stated that there are no cases that will be ready for the March 23rd meeting and recommended that that meeting be cancelled.

Commissioner Manzzullo moved and Commissioner Spink made the second to cancel the meeting on March 23, 2009 because there are no cases ready for that date. The results of the roll call vote were:

Ayes: 7 Commissioners Frank Petella, Timothy McNally, Tony Manzzullo, Angelo Christopher, Ralph Smoot, Dee Spink and David Michaelson

Nays: 0

Commissioner Smoot moved and Commissioner Manzzullo made the second to adjourn. The motion passed by unanimous voice vote. The meeting adjourned at 8:30 p.m.

FOR THE COMBINED BOARD