



**MEETING MINUTES**

**LAND USE COMMISSION**

Wednesday, July 12, 2023

7:00 PM

Lorraine H. Morton Civic Center, 2100 Ridge Avenue, James C. Lytle City Council Chambers

Members Present: Myrna Arevalo, George Halik, John Hewko, Brian Johnson, Jeanne Lindwall, Kiril Mirintchev, Max Puchtel, Kristine Westerberg, and Matt Rodgers

Members Absent:

Staff Present: Deputy City Attorney Alexandra Ruggie, Neighborhood and Land Use Planner Meagan Jones, and Zoning Administrator Melissa Klotz

Presiding Member: Matt Rodgers

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**SPECIAL NOTE: Due to a Tornado Warning for the area the meeting was not held in Council Chambers and therefore there is no audio-visual recording.**

**Call to Order**

Chair Rodgers opened the meeting at 7:13 PM. A roll call was then done and a quorum was determined to be present.

**Approval of May 24, 2023 Meeting Minutes**

Commissioner Lindwall made a motion to approve the Land Use Commission meeting minutes from May 24, 2023. Seconded by Commissioner Westerberg. A voice vote was taken, and the motion passed 6-0 with three abstentions.

**Old Business**

**A. Public Hearing: Special Uses | 1806-1808 Dempster Street | 23ZMJV-0028**

Danielle Dean, lessee, requests Special Use Permits for two independent businesses, an existing Convenience Store at 1806 Dempster Street, Dempster Snack Shop, currently in operation with approved Special Use Ordinance 120-O-21, and a new Type 2 Restaurant at 1808 Dempster Street, Windy City Flavors, in the B1 Business District (City Code Sections 6-9-2-2.5, 6-9-2-3). The Land Use Commission makes a recommendation to the City Council, the determining body for this case per City Code Section 6-3-5-8. PIN: 10-24-200-007-0000

Mr. Dean provided an overview of the use of the spaces and the intent to sell snacks such as nachos and hot dogs along with the existing store. There will be no dine-in seating.

### Commissioner Questions

Chair Rodgers asked for clarification of the proposed business hours. Mr. Dean responded 11 AM to 7PM for food with a possible extension until 9 PM on weekdays and 11 AM to 11 PM on weekends. Ms. Klotz clarified that typical restaurant hours are until 11 PM but constraints were placed on the business due to previous violations. Currently there are no violations.

Chair Rodgers asked about the number of employees and Mr. Dean responded that the employees will be family.

Commissioner Halik asked if Mr. Dean was aware of staff recommendations. Chair Rodgers then reviewed each of the fifteen staff recommendations detailed in the packet.

Mr. Dean said he is registering his food truck and has been using it as a catering truck.

Commissioner Lindwall inquired about the inside space and Mr. Dean responded with additional detail and that the snack shop is in the best location.

Commissioner Puchtel asked why they were reviewing an operating snack shop with an existing Special Use Permit. Ms. Klotz responded that it was due to the extent of violations of the existing permit and this new application enables the Health Department to enforce regulations. The goal is to achieve two successful businesses.

Chair Rodgers asks for final statements. There was none.

### Deliberations

Commissioner Lindwall commented that it was good to hear that the violations have been corrected and the direction on hours of operation needs to be finalized. Commissioner Halik stated that the hours suggested by Ms. Klotz seem fine based on other businesses. Commissioner Westerberg asked if the approval of hours could be conditioned based on no further violations. Chair Rodgers recommended that it be addressed as a permit violation procedure.

The Chair reviewed the Standards for Special Use (Section 6-3-5-10).

1. Is one of the listed special uses for the zoning district in which the property lies: The standard is met as convenience stores and Type 2 restaurants are both permitted in the zoning district.

2. Complies with the purposes and the policies of the Comprehensive General Plan and the Zoning ordinance: The standard is met as it is in a business district where businesses are expected to take place and grow.
3. Does not cause a negative cumulative effect in combination with existing special uses or as a category of land use: The standard is met with the correction of health violations and with adherence to the staff recommendations. It is not anticipated to be a problem.
4. Does not interfere with or diminish the value of property in the neighborhood: The standard is met because having a business instead of an empty storefront is better for the neighborhood. No testimony that will create issues has been heard.
5. Is adequately served by public facilities and services: The standard is met as nothing new is being brought in and the property is adequately served.
6. Does not cause undue traffic congestion: The standard is met because traffic is assumed to be pedestrian and not vehicular.
7. Preserves significant historical and architectural resources: The standard is met as there is no historic or architectural significance to the building or property and no changes to the façade are proposed.
8. Preserves significant natural and environmental resources: The standard is met as there is no historic or architectural significance to the property and no changes to the façade are proposed.
9. Complies with all other applicable regulations of the district in which it is located and other applicable ordinances, except to the extent such regulations have been modified through the planned development process or the grant of a variation: The standard is met as the applicant will comply with other applicable regulations. The recommendations are within the Special Use Permit and the applicant will work with the Health Department.

Chair Rodgers asked for Commissioner comments on the standards. There were none.

**Commissioner Puchtel made a motion to recommend approval for two Special Use Permits to the Planning & Development Committee of the City Council, for the property located at 1806-1808 Dempster Street, zoning case number 23ZMJV-0028, with the following conditions:**

1. Hours of operation shall not exceed 7am - 11pm, 7 days a week, at both businesses.
2. Entry to both businesses shall remain open/unlocked during regular business hours and shall not use buzzer entry.
3. The outdoor cooking of food is strictly prohibited, whether for customers or employees.
4. Use of the public sidewalk and right-of-way area for unlicensed block parties, events, and loitering is prohibited.
5. Sustainability measures are required including recycling for employees and customers, and use of recyclable or compostable to-go containers.
6. A food truck shall not operate in relation to either business without an approved license from the Health Department.

7. No food truck that is related to either business shall park in violation of City Ordinances, including being prohibited from parking on residential streets, within 100 feet of another restaurant, or on residential streets where commercial vehicle parking is prohibited.
8. One dumpster is required for refuse rather than two, due to the limited space behind the building. The dumpster shall not overflow. A separate dumpster shall exist for the residential use at the property.
9. Re-review of the special use approval by staff may occur after six months of operation, at which time conditions may be reevaluated, reduced, or expanded.
10. Windows must remain clear and not blocked by shelves or unapproved signage.
11. Reflective coverings are not allowed on any windows or doors.
12. The convenience store shall not handle or sell unpackaged food.
13. The special uses may be deemed invalid if any of the following issues occur: recurrence of any previous Health Code violation cited at the property, substantial verified violations of the Property Maintenance Code occur, substantial police activity occurs at the property, if the property is deemed a nuisance premise under the Evanston City Code, and/or if conditions of this special use ordinance are not adhered to.
14. Substantial compliance with the documents and testimony on record.
15. Recordation of the special use ordinance with the Cook County Recorder of Deeds is required prior to operation.

**Second by Commissioner Lindwall. A roll call vote was taken, and the motion passed, 9-0.**

Chair Rodgers called for a five-minute recess. The commission then returned to its regular business at 7:45 PM.

### **New Business**

#### **A. Public Hearing: Major Variation | 2017 Jackson Avenue | 23ZMJV-0037**

John Cleary of TEMP Capital Inc., property owner, requests a Major Variation to construct a 4-story, 24 dwelling-unit residential building with 25 parking spaces. The applicant requests a density variation to allow 20 dwelling units where 14 dwelling units are allowed (Section 6-8-4-7) as well as 4 bonus units, for a total of 24 dwelling units in the R5 Residential District. The Land Use Commission is the determining body for this case in accordance with Section 6-3-8-10 of the Evanston Zoning Code. PINs: 10-13-204-022-0000, 10-13-204-023-0000.

John Cleary, owner, reviewed the property surroundings, nearby transit access, and the variation requests. He stated that the main reason for the variation requests is because of the required street extension for Jackson Avenue. Additional units are being requested to cover the cost of the street extension. He noted that he cannot use the street property in the density calculations, and they are only asking for one variance.

Jack Stone, architect, said all the zoning bulk requirements are being complied with. Their request is to establish more density within the building volume. The residential

units have exterior spaces. The facade has various layers, attempting to enhance the streetscape with parkways, trees, and curbs to foster a more walkable neighborhood.

Mr. Cleary said he has listened to the neighborhood including meeting with the alderman and the neighborhood group. He stated that their main concern was to not build five stories.

### Commissioner Questions

Chair Rodgers asked about unit size and rents. Mr. Cleary responded that the smallest unit is a one (1) bedroom up to 600 square feet and a (2) bedroom up to 1,000 square feet. There is a rooftop deck and 25 parking spaces.

Chair Rodgers inquired about utilities. Mr. Cleary replied that a water main crosses Jackson Avenue, the sewage line would need to be extended, and he assumed electric service is in the alley. He has engaged a civil engineer, obtained existing utility maps, and is willing to invest in these services.

Commissioner Halik complimented the building architecture and noted that it adds two bedrooms units which is currently lacking in Evanston. He asked about the mural on the ground floor. Mr. Cleary was asked by staff to increase the windows or break up the ground floor facade. Mr. Stone said that a mural on the building is something that can be studied.

Mr. Cleary confirmed Commissioner Lindwall's question regarding access to the parking garage, which is off the north/south alley from Foster Avenue through the rear of the building.

Commissioner Mirintchev asked if he owned the land to the northeast of the parcel and Mr. Cleary responded yes. He had considered but withdrew developing the whole property which requires a longer expensive Planned Development process, and he is not a large developer. He may in the future come back with additional parcels. The current different zoning makes it more challenging. Commissioner Mirintchev stated that it is well planned and agrees with his reasoning.

Commissioner Puchtel inquired about the affordable units. Mr. Cleary stated both units have outdoor spaces and that affordable units must be maintained in a balance of type, size, and location.

Mr. Cleary confirmed adherence with the condition that Jackson Avenue be built to standard and deeded to City within one (1) year of approval of the Special Use. Ms. Klotz added that Public Works will not accept the street if it is not built to standard and that the applicant would have to maintain the street if it was not accepted.

Chair Rodgers asks for final statements.

Mr. Stone thanked Commissioner Mirintchev for his advice throughout the process.

### Deliberations

Commissioner Mirintchev appreciated the well-designed building that fits within setback and height regulations. He expressed concern about what may happen with the other property. Overall, he thought it was a great addition to the neighborhood.

Chair Rodgers also appreciated a development with few variations. It is an attractive building with the bird friendly ordinance likely being met. It meets affordable housing goals, and those units will have an outdoor space. He liked the mural idea or something to be done to make sure the ground floor is not a solid wall.

Commissioner Lindwall thought the additional requested density is appropriate given the need to construct a street.

Commissioner Halik suggested moving the walk one foot west to increase the size of the one 9-foot dimension on a two-bedroom unit (10-foot is minimum).

The Chair reviewed the Standards for Major Variations (Section 6-3-8-12.E).

1. The requested variation will not have a substantial adverse impact on the use, enjoyment or property values of adjoining properties: The standard is met because it is being built in a field making use of vacant space with a new street being constructed and utilities extended improving the surrounding properties.
2. The requested variation is in keeping with the intent of the zoning ordinance: The standard meets the highest and best use for the location. The empty field is not providing a benefit.
3. The alleged hardship or practical difficulty is peculiar to the property: The standard is met as the lack of infrastructure creates a hardship for the property.
4. The property owner would suffer a particular hardship or practical difficulty as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out: The standard is met because if size of the building was restricted, it would create a burden due to need to bring additional infrastructure and utilities which is a hardship not faced by typical buildings being constructed.
5. a. The purpose of the variation is not based exclusively upon a desire to extract additional income from the property, or  
b. While the grant of a variation will result in additional income to the applicant and while the applicant for the variation may not have demonstrated that the application is not based exclusively upon a desire to extract additional income from the property, the Land Use Commission or the City Council, depending on final jurisdiction under Section 6-3-8-2, has found that public benefits to the surrounding neighborhood and the City as a whole will be derived from approval of the variation, that include, but are not limited to, any of the standards of Section 6-3-6-3 of the Zoning Code: The standard is met as the addition of

infrastructure is not getting additional income and the affordable units are a benefit.

6. The alleged difficulty or hardship has not been created by any person having an interest in the property: The standard is met as it is an old railroad property that was never developed.
7. The requested variation requires the least deviation from the applicable regulation among the feasible options identified before the Land Use Commission issues its decision or recommendation to the City Council regarding said variation: The standard is met with one variation and that variation is sensible due to additional infrastructure cost incurred.

Chair Rodgers asked for Commissioner comments on the standards. There were none.

**Commissioner Halik made a motion to recommend approval of the Major Variation to the Planning & Development Committee of the City Council, for the property located at 2017 Jackson Avenue, zoning case number 23ZMJV-0037, with the staff recommended conditions as follows:**

1. To construct the proposed Jackson Avenue extension to City-standards and deed the street and streetscape over to the City as public right-of-way within one year of building occupancy (FCO).
2. Develop a façade treatment for the ground floor wall to avoid solid wall (mural, material change, etc.)

**Second by Commissioner Halik. A roll call vote was taken, and the motion carried, 9-0.**

**B. Public Hearing: Major Variations | 1404 Judson Avenue | 23ZMJV-0041**

Errol Kirsch, architect and applicant on behalf of the property owner, requests the following Major Zoning Variations to expand a non-conforming structure as it relates to bulk (Code Section 6-6-5-2): 1) a rear-yard setback of 3.75' where 30' is required and the existing legally non-conforming condition is 2.75' (Code Section 6-8-2-8 (A) 4); and 2) building lot coverage of 33.25% where 30% is the maximum permitted and 31% is the existing legally non-conforming condition (Code Section 6-8-2-7). The Land Use Commission is the determining body for the proposed zoning relief in accordance with Code Section 2-19-4 (E). PIN: 11-18-415-020-0000.

This case was not heard at this meeting and will be re-noticed for a future meeting date to be determined.

**Communications**

Staff briefed commissioners that the City Council approved a contract with HDR to rewrite the City's Comprehensive Plan and Zoning Code.

Staff received various comments on the Omnibus Text Amendment and responded to questions regarding the Comprehensive Plan.



**Adjournment**

Commissioner Westerberg motioned to adjourn, Commissioner Puchtel seconded, and the motion carried, 9-0.

Adjourned 8:26 PM.

The next meeting of the Evanston Land Use Commission is a Special Meeting to be held on **Wednesday, July 26, 2023, at 7:00 PM, in the James C. Lytle Council Chambers in the Lorraine H. Morton Civic Center.**

Respectfully submitted,  
Amy Ahner, AICP, Planning Consultant

Reviewed by,  
Meagan Jones, AICP, Neighborhood and Land Use Planner