



## **MEETING MINUTES**

### **LAND USE COMMISSION**

Wednesday, May 24, 2023

7:00 PM

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

Members Present: Kiril Mirintchev, Kristine Westerberg, Matt Rodgers, Myrna Arevalo, Brian Johnson and Jeanne Lindwall

Members Absent: Max Puchtel, John Hewko, and George Halik

Staff Present: Assistant City Attorney Brian George, Planner Katie Ashbaugh, Zoning Administrator Melissa Klotz, and Planning Manager Liz Williams

Presiding Member: Matt Rodgers

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### **Call to Order**

Chair Rodgers opened the meeting at 7:03 PM. A roll call was then done and a quorum was determined to be present.

### **Approval of May 10, 2023 Meeting Minutes**

Commissioner Lindwall made a motion to approve the Land Use Commission meeting minutes from May 10, 2023. Seconded by Commissioner Westerberg. A voice vote was taken, and the motion passed 5-0 with one abstention.

### **New Business**

#### **A. Public Hearing: Special Use | 831 Foster Street | 23ZMJV-0026.**

Mohammed Abdelmajid, lessee, requests a Special Use Permit for a Convenience Store to sell food, beverages, household goods, and tobacco in the B1 Business District (City Code Section 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: 11-18-104-019-0000

Mohammed Abdul Abdelmajid expressed his intention to open a convenience store at 831 Foster Street.

### **Commissioner Questions**

Commissioner Lindwall raised questions regarding the operation of the store, particularly concerning the sale of deli items and cold sandwiches. Mr. Abdelmajid

explained that the deli meats will be stored in a fridge, and they will slice meats based on customer demand, ensuring freshness rather than relying on pre-packaged items. He has not completed the health department application, but he intends to follow all the required processes and regulations.

Commissioner Westerberg inquired about other stores operated by Mr. Abdelmajid. He explained that he and family members have been running similar businesses for nearly 10 years in Chicago. Commissioner Westerberg asked about the store's layout, particularly regarding items that are not pre-packaged. He described a salad preparation table located next to the deli counter, with a three-compartment sink to the right.

Commissioner Halik asked how waste will be handled. Mr. Abdelmajid explained that they will have disposal bins inside the store behind the deli counter. There is a hallway leading to the back with an exit door to recycle or put waste in regular garbage bins.

In response to Commissioner Johnson's question about the anticipated mode of transportation for customers, Mr. Abdelmajid responded that they expect both foot traffic and customers arriving from the Foster train station.

Commissioner Rodgers asked about the planned hours of operation and Mr. Abdelmajid responded from 7:30 AM to 8:00 PM. Commissioner Rodgers asked staff about city usual hours of operation, to which Ms. Klotz responded that it is until 11 PM on weekdays and midnight on weekends, with a starting time of 6 AM.

In response to additional questions from Commissioner Rodgers, Mr. Abdelmajid described that there would be two employees working in the store at any given time, one at the front register and one in the deli. He anticipated deliveries of soft drinks, snacks, chips, and grocery items from vans and small box trucks at the rear of the building. He is aware of the city's regulations regarding tobacco sales. He confirmed that he agrees with the Department recommendations regarding the cashier's location, tobacco sales, storefront window obstructions, accessible trash bins, and a litter collection plan.

After discussion of the existing bathrooms, Ms. Klotz advised Mr. Abdelmajid to consult with an architect to determine if any modifications are needed, particularly regarding ADA (Americans with Disabilities Act) restroom requirements. If modifications are necessary, architectural plans will need to be submitted for a building permit.

#### Public Comment

Chair Rodgers called for public comment. There was none. Chair Rodgers closed the public testimony.

#### Deliberations

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

1. Is one of the listed special uses for the zoning district in which the property lies: A store like a convenience store is permitted in the B1 business district so the standard is met.
2. Complies with the purposes and the policies of the Comprehensive General Plan and the Zoning ordinance: A convenience store that utilizes the business space aligns with the goals and standards of the plan, so the standard is met.
3. Does not cause a negative cumulative effect in combination with existing special uses or as a category of land use: The minimal impact standard is met because the store's size and the nature of its offerings, along with the expectation of foot traffic rather than heavy vehicular traffic, suggests that the impact on the neighborhood will be minimal.
4. Does not interfere with or diminish the value of property in the neighborhood: A functioning business does more for property values than an empty storefront and no one has testified against the project, so the standard is met.
5. Is adequately served by public facilities and services: The proposed convenience store will not result in a significant increase in the building's usage compared to its previous use as a daycare and so the standard is met.
6. Does not cause undue traffic congestion: Most of the traffic for this use is pedestrian traffic, bicyclists, and people going to and from the train, so the standard is met.
7. Preserves significant historical and architectural resources: There is no change to the outside of the building so that standard is met.
8. Preserves significant natural and environmental resources: There is no change to the outside of the building so that standard is met.
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: They will be required to be licensed and monitored through the Health Department which is included as standard language of code and regulation compliance in the final ordinance, so the standard is met.

**Commissioner Lindwall made a motion to recommend approval of the Special Use Permit to the City Council for the property located at 831 Foster Street, zoning case number 23ZMJV-0026, with the following conditions:**

- 1. That the cashier is located at the front of the store;**
- 2. That tobacco sales are not to exceed 50 percent of total sales or floor display;**
- 3. That storefront window obstruction is restricted to a height of 3 feet above the grade;**
- 4. That a refuse receptacle is to be placed near the cashier and is to be accessible to customers;**
- 5. The store owner will clean up litter within 250 feet of the front of the store;**
- 6. That hours of operation are 6:00 am to 11:00 pm Sunday-Thursday, to 12:00 am Friday and Saturday; and**

**7. That employees will not park on the street.**

**Second by Commissioner Westerberg. A roll call vote was taken, and the motion carried, 6-0.**

**B. 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.

Danielle Dean, owner of Windy City Fitness Club Redemption snack shop, presented his proposal to expand his business to include Windy City flavors, offering items like salads, nachos, and hot dogs. He acknowledged a citation from the Health Department and is committed to taking the necessary steps to resolve the concerns.

**Commissioner Questions**

Chair Rodgers asked about the hours of operation. Mr. Dean said he plans to operate the new site from 11 AM to 7 PM on weekdays, with a potential closing time of 9 PM, and from 11 AM to 12 AM on weekends. As for the number of employees, Mr. Dean anticipated having one employee for each store. He does not anticipate the need for delivery trucks for the snacks and there will not be a sit-down eating area. Sales would be kept within the stores and not on the sidewalk. In response to Commissioner Westerberg questions, Mr. Dean explained that a three-compartment sink is installed at the new site (1808), and that all food preparation and sales will take place there.

Chair Rodgers instructed Mr. Dean that the Zoning Code standard to comply with all other regulations cannot be met with the existing health code violation. Mr. Dean estimated a timeline of 30 to 45 days to bring his business into compliance. Ms. Klotz suggested conducting unscheduled inspections by the Health Department to ensure compliance. Chair Rodgers raised the possibility of including an update from the Health Department at the next meeting. Ms. Klotz mentioned that there are no police records related to the business. She further advised that the food truck parked on the street is a violation that needs to be addressed.

**Commissioner Westerberg made a motion to grant a continuance for a Special Use to the June 28, 2023 LUC Meeting for the property located at 1806-1808 Dempster Street, zoning case number 23ZMJV-0028. Second by Commissioner Lindwall. A voice vote was taken, and the motion carried, 6-0.**

**C. Public Hearing: Text Amendments | Omnibus Text Amendment Package | 23PLND-0006.**

A City-initiated Text Amendment to the Zoning Ordinance, Title 6 of the Evanston City

Code, for an Omnibus Text Amendment package relating to the following:

1. Amend the definition and applicability of Unified Comprehensive Sign Plans and establish a review process with the Land Use Commission as the final determining body (Chapters 3, 19).
2. Modify eligible Major and Minor Variations related to signs and establish Standards for Approval for Major and Minor Variations related to signs (Chapters 3, 19).
3. Amend the TOD (Transit Oriented Development) Area definition to encompass a consistent and predictable distance from mass transit lines (Section 6-18-3).
4. Clarify language and procedures for continuance requests to public hearings (Chapter 3).
5. Modify the Unique Use process into a Unique Adaptive Use process that is eligible to historic and non-historic properties (Section 6-3-7, Section 6-18-3).
6. Clarify language that prohibits curb cuts to the street when alley access is present in Residential Districts (Chapter 8).
7. Clarify accessory structure required setbacks and yards in non-residential districts (Section 6-4-6).
8. Clarify open parking required setbacks and yards also apply to loading berths (Section 6-4-6, Chapter 16).
9. Clarify definitions, yards, and setbacks for Patios and Terraces (Section 6-18-3, Section 6-4-6)
10. Establish a Mixed-Use Market as an eligible principal use in non-residential and non-university districts (Title 6, Section 6-18-3).
11. Modify the existing Apartment Hotel use and/or definition for clarity (Section 6-18-3, Section 6-8-8, Section 6-11-4).
12. Clarify and modify the process for Adjustments to Development Plans for Planned Developments (Section 6-3-6-12).

The Land Use Commission makes a recommendation to the City Council, the determining body for this case per City Code Section 6-3-4-5.

### Deliberations

Chair Rodgers opened with Item Number 12. The proposed change aims to ensure that if a site development allowance is granted and changes need to be made (such as building height, FAR, parking, etc.) it would come back to the commissioners for review. However, if the modifications did not require commission involvement at the beginning, it would be handled by staff.

The commissioners discussed Item Number 11. It is suggested to remove the definition of an apartment hotel and differentiate between hotels and apartments. Commissioner Lindwall expressed concern about changing definitions while a specific case is ongoing and suggested addressing residential definitions comprehensively as part of the zoning rewrite. Chair Rodgers preferred to act now regarding apartment hotels to prevent issues in the future.

The commissioners considered Item Number 3. They agreed to state the distance for Transit-Oriented Developments as  $\frac{1}{8}$  mile from a transit station and  $\frac{1}{4}$  mile from a transit station along a commercial corridor. Commissioner Lindwell recommended exploring bus routes and transit further in the comprehensive planning process.

The commissioners considered Item Number 4. The purpose is to resolve any remaining contradictions between "may" and "shall" regarding the granting of continuances. They agreed that the aim is to use the "may" language and provide clear guidelines for granting continuances while ensuring that the decision to grant or deny a continuance remains.

The commissioners considered Item Numbers 1 and 2. Ms. Ashbaugh briefed that the standards for sign variations, previously evaluated by the Design and Project Review Committee, will now be used when evaluated by the Land Use Commission. The second procedural change would allow businesses to request sign packages for entire properties and multi-tenant properties. The evaluation of sign variations will focus on factors such as unique architecture, site layout and hardship. The content-based directory sign has been removed from the sign code definitions. Additionally, there are future plans to rewrite the sign code to ensure content neutrality based on property use, lot size, and building type. Overall, the proposed changes aim to improve the administration of the sign code and reduce the need for detailed evaluations of sign variations by the Land Use Commission.

Commissioner Lindwall inquired about the definition of a directory sign. Ms. Asbaugh said that it is smaller in size and not intended to compete with main signage or be easily legible from a public right-of-way. The purpose of specifying that it is not legible from a public right-of-way is to ensure that the sign serves its intended function without requiring a permit. A suggestion to clarify the definition by adding the phrase "and not intended to be legible from a public right-of-way" was agreed to.

The commissioners considered Item Number 5. Ms. Klotz briefed that staff is requesting to expand the Unique Use process to a Unique Adaptive Use process to apply to any property, not just designated landmark properties. This expansion would allow non-historic structures, such as older buildings with no landmark designation, to be adapted and repurposed instead of being demolished. This is particularly beneficial for properties located in the R1 District where limited options for reuse currently exist.

Commissioner Westerberg raised a concern regarding the proposal to eliminate parking requirements for adaptive use of buildings. The concern is that if these buildings are converted into residential structures, there may still be a need for parking. Ms. Klotz responded that the intent is not to eliminate parking requirements but rather to allow for flexibility through the Special Use approval process. This would enable a case-by-case evaluation of the appropriate amount of parking based on the proposed use and the specific district. Commissioner Mirintchev asked if the proposed change would apply to all zoning districts and Ms. Klotz confirmed that it would and there was no further discussion.



The commissioners considered Item Number 6. Ms. Klotz reviewed that the current Zoning Ordinance does not provide for all curb cut conditions. The ordinance prohibits new curb cuts in the front yard when alley access is available. However, it does not account for street side yards where driveways could potentially be constructed. To address this and promote pedestrian safety, the proposed language extends the restriction to include street side yards, encouraging the use of alleys. In response to Commissioner Mirintchev about circular driveways, Ms. Klotz said that no changes are proposed regarding them. Commissioner Arevalo asked about the case of a corner lot with two streets. Ms. Klotz responded that if a corner lot without an alley desired two curb cuts—one on each street—to create a circular driveway spanning both streets, it would meet the Zoning Ordinance requirements. However, it is unlikely to comply with Public Works requirements, particularly the distance from the intersection, making it unlikely to be approved.

The commissioners considered Item Number 7. Ms. Klotz summarized that the current Zoning Ordinance lacks clarity for non-residential districts about accessory structure setbacks and yards. The approach has been to apply the same setbacks as residential districts, typically five or three feet, unless the setback of the principal structure is even less. The request is to codify this past policy for clarity. There were no questions.

The commissioners considered Item Number 8. Ms. Klotz explained that the Zoning Ordinance currently specifies setbacks and yards for open parking but does not include loading areas. However, it is logical to include loading areas within the same regulations. Commissioner Westerberg asked about loading berths in larger developments and Ms. Klotz clarified that the requirement for loading berths will remain unchanged, but variations or site development allowances can still be requested through the Planned Development process or other entitlement processes.

The commissioners considered Item Number 9. Ms. Klotz stated that the Zoning Ordinance has conflicting definitions and yard setbacks for patios and terraces. To simplify the regulations, it is proposed that terraces at grade be treated as front porches or patios depending on their location. Patios will be restricted to rear yards, while terraces will be considered roofed porches. In response to Commissioner Mirintchev about patio setbacks, Ms. Klotz determined that addressing this issue would require a significant text amendment to multiple code sections, so it was decided to leave this issue for the new zoning ordinance update. In response to Commissioner Arevalo question regarding above grade terraces, Ms. Klotz described that an elevated open area would meet the definition of a deck and be treated as such. If it served as the rooftop for a second-story structure, it would follow the setbacks of the principal structure underneath it.

The commissioners considered Item Number 10. Ms. Klotz summarized that staff is requesting the establishment of a new use called "mixed-use market" to accommodate a variety of uses within a single building or location. This type of use has been successful in larger communities and repurposed industrial buildings in bustling

commercial districts. However, current zoning regulations create challenges as individual uses may not comply with existing district requirements or may be unique and not covered by the Zoning Ordinance. The request is to create an overall use category with some flexibility in regulations, particularly in downtown areas, and moderate flexibility in neighborhood business and commercial districts. This would address the need for small businesses, pop-ups, and economic development. The current process of obtaining individual special uses for each sub-use within a mixed-use market has proven cumbersome and inefficient. A more streamlined approach is desired to evaluate the entire facility as a whole and determine its overall appropriateness. Commissioner Lindwall suggested clarifying the square footage range for the "mixed-use market" special use category as more than 7,500 square feet and less than 20,000 square feet. She also inquired about adding freestanding big box spaces and industrial spaces that might exceed 20,000 square feet in other specific districts. Discussion ensued on how to update the chart to add those as a special use.

Commissioner Westerberg asked how the different uses within the establishment would self-regulate and address any potential conflicts or incongruities. Ms. Klotz responded that the proposed definition of a mixed-use market specifies that most of the sub-uses must be retail, restaurant, and/or service-oriented in nature. This requirement aims to maintain a commercial atmosphere and discourage nuisance uses. Chair Rodgers added that Property Standards would be responsible for addressing any nuisance issues that arise.

There was no public testimony.

The Chair reviewed the four Standards for Amendments (Section 6-3-4-5) in context of allowing the text amendments.

1. Whether the proposed amendment is consistent with the goals, objectives and policies of the Comprehensive General Plan as adopted and amended from time to time by the City Council: The current Comprehensive General Plan aims for adaptive reuse so the proposed amendments for mixed-use market areas (10), Unique Adaptive Use (5), consistent language (4, 6, 7, 8, and 9), and business impact on neighborhoods (1, 2) meet the standard.
2. Whether the proposed amendment is compatible with the overall character of existing development in the immediate vicinity of the subject property: The proposed amendments address various issues and clarifications that have arisen over time. These changes are not expected to significantly alter the character of neighborhoods, so the standard is met.
3. Whether the proposed amendment will have an adverse effect on the value of adjacent properties: The proposed amendments aim to improve conditions on properties by addressing issues such as signage regulations and consistent language and expectations, so the standard is met.
4. The adequacy of public facilities and services: No strain is anticipated so the standard is met.



Commissioner Lindwall made a Motion to recommend approval of the Omnibus Text Amendment Package, 23PLND-0006, to the Planning & Development Committee of the City Council, with the following amendments to the proposed changes:

1. Adjustment to the definition of 'directory sign' under Section 6-19-3(C)
2. Clarifying the floor area size range of the new use, 'mixed-use market', allowed in certain zoning districts as either a permitted, special, or administrative review use.

Second by Commissioner Arevalo. A roll call vote was taken, and the motion carried 6-0 with 3 absent.

### **Communications**

Ms. Williams thanked Ms. Ashbaugh for her contributions and noted her last day would be June 9, 2023.

### **Adjournment**

Commissioner Westerberg motioned to adjourn, Commissioner Lindwall seconded, and the motion carried, 6-0.

Adjourned 8:52 PM.

The next meeting of the Evanston Land Use Commission is a Special Meeting to be held on **Wednesday, June 28, 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, Neighborhood and Land Use Planner