

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

May 13, 2013

OATH OF OFFICE: Deputy Village Clerk, Corey Williamsen, conducted an Oath of Office for re-appointed Chairman Moruzzi and newly appointed Commissioners Caira and Rodriguez.

CALL TO ORDER: The meeting was called to order by Chairman Moruzzi at 6:30p.m.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon
Absent: None
A quorum was present.

JOURNAL OF PROCEEDINGS:

The minutes of the Community Development Commission Meeting of April 22, 2013 were presented.

Motion: Commissioner Pisano made a motion to approve the minutes as presented. Commissioner Rowe seconded the motion.

All were in favor. Motion carried.

Public Meeting: CDC Case Number 2013-10
Petitioner: Irving 202, Inc.
Location: 202 W. Irving Park Road
Request: Variance; Reduction in Parking Spaces

Motion: Commissioner Weldon made a motion to open CDC Case No. 2013-10. Commissioner Rowe seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon
Absent: None
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2013-10 at 6:32 p.m.

Director of Community & Economic Development, Scott Viger and Assistant Director of Community & Economic Development, Mark Rysavy, were sworn in by Chairman Moruzzi.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on April 29, 2013 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on April 26, 2013. Mr. Viger stated on April 25, 2013 Village Staff mailed first class notice of the Public Hearing to taxpayers of record within 250 feet of the property in question.

Paul Kolpak, representing Irving 202, Inc., was present and sworn in by Chairman Moruzzi. Mr. Kolpak stated his client was seeking a variance that would reduce the required twenty four parking spaces to zero. Mr. Kolpak stated this request is being made due to the widening of Irving Park Road. Mr. Kolpak stated the only way to add parking to the current property is to demolish part of the building. Mr. Kolpak stated demolishing part of the building is not in his client's best interest. Mr. Kolpak read the approval criteria into the record that was provided to the Commissioners in the Staff Report.

Commissioner Rodriguez asked how the property meets code requirements now. Mr. Kolpak stated his client's property is legal non-conforming.

Commissioner Rodriguez asked who owns the parking along Addison Street. Mr. Kolpak stated the parking along Addison Street is Village owned property.

Public Comment:

Chairman Moruzzi asked if there was any member of the Public that would like to give testimony in regards to CDC Case No. 2013-10. There was none.

Mr. Viger presented the Staff Report. Mr. Viger stated Staff recommends approval of the request with the following conditions:

1. A copy of the variance Ordinance shall be kept upon the property at all times.
2. The applicant shall submit a landscape plan for the front yard along West Irving Park Road for review and approval by the Community and Economic Development Department prior to appearing before the Village Board Committee.

Commission Caira asked who is responsible for maintenance of the Addison Street parking. Mr. Viger stated the parking along Addison Street is the public right of way and would be maintained by Public Works.

Chairman Moruzzi asked what will be replacing the current area for parking in front of the building along Irving Park Road. Mr. Viger stated he has yet to see a landscape plan from the petitioner.

Mr. Kolpak asked if his client was responsible for producing a landscape plan or if it needed to come from IDOT. Mr. Viger stated the landscape plan needs to come from the petitioner.

Motion: Commissioner Rowe made a motion to close CDC Case Number 2013-10. Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing at 6:53p.m.

Motion: Commissioner Weldon made a motion to approve the findings of fact for the variance request consisting of:

1. **Special Circumstances:** Special circumstances exist that are peculiar to the property for which the variances are sought and that do not apply generally to other properties in the same zoning district. Also, these circumstances are not of so general or recurrent a nature as to make it reasonable and practical to provide a general amendment to this Title to cover them. There are special circumstances imposed upon the property in question as the State of Illinois through the acquisition of approximately 6.5' for the widening/improvement of West Irving Park Road.
2. **Hardship Or Practical Difficulties:** For reasons set forth in the findings, the literal application of the provisions of this Title would result in unnecessary and undue hardship or practical difficulties for the applicant as distinguished from mere inconvenience. The property acquisition by IDOT creates a hardship for the property. The literal application of the Zoning Ordinance, requiring the provision of 24 on-site parking spaces would result in an unusual and undue hardship for the applicant.
3. **Circumstances Relate To Property:** The special circumstances and hardship relate only to the physical character of the land or buildings, such as dimensions, topography or soil conditions. They do not concern any business or activity of present or prospective owner or occupant carries on, or seeks to carry on, therein, nor to the personal, business or financial circumstances of any party with interest in the property. The special circumstances relate to the physical character of the land and building location of this property as the existing building size and location do not allow for the provision of the required on-site parking spaces.
4. **Not Resulting From Applicant Action:** The special circumstances and practical difficulties or hardship that are the basis for the variance have not resulted from any act, undertaken subsequent to the adoption of this Title or any applicable amendment thereto, of the applicant or of any other party with a present interest in the property. Knowingly authorizing or proceeding with construction, or development requiring any variance, permit, certificate, or approval hereunder prior to its approval shall be considered such an act. The reduction in the size of the property that necessitates the variance is not due to actions of the owner.

5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy a substantial property right possessed by other properties in the same zoning district and does not confer a special privilege ordinarily denied to such other properties. The variance is needed for the applicant to enjoy the property and does not confer special privilege on the property.
6. **Necessary For Use Of Property:** The grant of a variance is necessary not because it will increase the applicant's economic return, although it may have this effect, but because without a variance the applicant will be deprived of reasonable use or enjoyment of, or reasonable economic return from, the property. Granting of the requested variance is necessary for the reasonable use of the property rather than simply for an increase in the applicant's economic return.
7. **Not Alter Local Character:** The granting of the variance will not alter the essential character of the locality nor substantially impair environmental quality, property values or public safety or welfare in the vicinity. Granting of the variance will not alter the local character. Property values, public safety will not be negatively affected should the variance be granted.
8. **Consistent With Title And Plan:** The granting of a variance will be in harmony with the general purpose and intent of this Title and of the general development plan and other applicable adopted plans of the Village, as viewed in light of any changed conditions since their adoption, and will not serve in effect to substantially invalidate or nullify any part thereof. Staff believes that the variance to grant a reduction in the required parking is consistent with the Village's Ordinances and plan..
9. **Minimum Variance Needed:** The variance approved is the minimum required to provide the applicant with relief from undue hardship or practical difficulties and with reasonable use and enjoyment of the property. Staff believes that the variance sought is the minimum required for the applicant to gain relief.

Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Pisano made a motion to approve the variance request with Staff recommendations consisting of:

1. A copy of the variance Ordinance shall be kept upon the property at all times.
2. The applicant shall submit a landscape plan for the front yard along West Irving Park Road for review and approval by the Community and Economic Development Department prior to appearing before the Village Board Committee.

Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon

Nays: None

All were in favor. Motion carried.

Public Meeting: CDC Case Number 2013-11
Petitioner: Lezsak Rybak
Request: Text Amendment; to Allow Outdoor Storage of Enclosed Containers and Enclosed Trailers in the C-4 Regional Destination Commercial District Subject to a Conditional Use Permit.

Motion: Commissioner Weldon made a motion to continue CDC Case No. 2012-11 until June 10, 2013. Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon

Nays: None

All were in favor. Motion carried.

Public Meeting: CDC Case Number 2013-12
Petitioner: American Tower
Location: 602 N. York Road
Request: Conditional Use Permit Amendment; to Allow Additional Antennas and Ground Equipment for an Existing Mobile Communications Tower.

Motion: Commissioner Weldon made a motion to open CDC Case No. 2013-12. Commissioner Rowe seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon
Absent: None
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2013-12 at 6:53 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on April 29, 2013 and that a certified copy of the legal notice is maintained in the CDC file and available for viewing. Mr. Viger also stated that Village Staff posted a notice of the Public Hearing sign on the property on April 26, 2013. Mr. Viger stated on April 25, 2013 Village Staff mailed first class notice of the Public Hearing to taxpayers of record within 250 feet of the property in question.

Mike Bieniek, AICP – Agent for American Tower/Sirius XM, was present and sworn in by Chairman Moruzzi. Mr. Bieniek stated the amendment to the existing conditional use would allow for the addition of a Sirius XM radio antenna. Mr. Bieniek stated there will be no changes to the existing tower other than the addition of another antenna. Mr. Bieniek read the approval criteria into the record as prepared by Lora, Chanthadouangsy & Castellanos, LLC. A copy of the approval criteria read into the record has been attached to the minutes as “Exhibit A”.

There were no questions from the Commissioners.

Public Comment:

Chairman Moruzzi asked if there was any member of the Public that would like to give testimony in regards to CDC Case No. 2013-12. There was none.

Mr. Viger reviewed the Village Staff report and stated Staff recommends approval with the following conditions:

1. The Conditional Use Permit Amendment be granted solely to American Towers, Inc. and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of the sale or lease of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.
2. The property shall be developed and utilized in substantial conformance to the plans submitted as part of this application prepared by Fullerton Engineering Design dated 03.25.13 last revised 04.01.13

There were no questions from the Commissioners.

Motion: Commissioner Pisano made a motion to close CDC Case Number 2013-12. Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing at 7:02p.m.

Motion: Commissioner Weldon made a motion to approve the findings of fact for the conditional use request consisting of:

1. **Traffic:** The proposed use will not create any adverse impact of types or volumes of traffic flow not otherwise typical of permitted uses in the zoning district has been minimized. No increase in traffic volume is expected as the subject property is an unmanned facility and only sporadic maintenance would need to be performed during the course of operation.
2. **Environmental Nuisance:** The proposed use will not have negative effects of noise, glare, odor, dust, waste disposal, blockage of light or air or other adverse environmental effects of a type or degree not characteristic of the historic use of the property or permitted uses in the district. As this is a proposed collocation of equipment onto an existing wireless communications tower, it prevents the need for an additional tower to be built. The site itself produces no waste, dust, glare, odor and only minimal sound from an internal cooling source.
3. **Neighborhood Character:** The proposed use will fit harmoniously with the existing character of existing permitted uses in its environs. Any adverse effects on environmental quality, property values or neighborhood character beyond those normally associated with permitted uses in the district have been minimized. The proposed installation involves additional equipment being added onto an existing wireless communications tower as well as utilizing available space within the existing compound for an additional radio equipment cabinet. The installation conforms to the current use and will not change the current character of the area.
4. **Use Of Public Services And Facilities:** The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of permitted uses in the district, nor generate disproportionate demand for new services or facilities in such a way as to place undue burdens upon existing development in the area. As an unmanned facility there will be no unusual demands placed upon the municipal services or facilities.
5. **Public Necessity:** The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community. There is an expanding use and need for satellite services in and around Bensenville. Expanded facilities such as this service that need.

6. Other Factors: The use is in harmony with any other elements of compatibility pertinent in the judgment of the commission to the conditional use in its proposed location. Other factors are subject to the Commission's judgment.

Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the conditional use request with Staff recommendations consisting of:

1. The Conditional Use Permit Amendment be granted solely to American Towers, Inc. and shall be transferred only after a review by the Community Development Commission (CDC) and approval of the Village Board. In the event of the sale or lease of this property, the proprietors shall appear before a public meeting of the CDC. The CDC shall review the request and in its sole discretion, shall either; recommend that the Village Board approve of the transfer of the lease and / or ownership to the new proprietor without amendment to the Conditional Use Permit, or if the CDC deems that the new proprietor contemplates a change in use which is inconsistent with the Conditional Use Permit, the new proprietor shall be required to petition for a new public hearing before the CDC for a new Conditional Use Permit.
2. The property shall be developed and utilized in substantial conformance to the plans submitted as part of this application prepared by Fullerton Engineering Design dated 03.25.13 last revised 04.01.13

Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, Caira, Janowiak, Pisano, Rodriguez, Rowe, Weldon

Nays: None

All were in favor. Motion carried.

Report from Community Development

Mr. Viger reviewed both recent CDC cases along with upcoming cases.

ADJOURNMENT:

There being no further business before the Community Development Commission, Commissioner Rowe made a motion to adjourn the meeting. Commissioner Janowiak seconded the motion.

All were in favor

Motion carried.

The meeting was adjourned at 7:15p.m.



Mike Moruzzi, Chairman
Community Development Commission

 LORA, CHANTHADUANGSY
& CASTELLANOS, LLC
ATTORNEYS AT LAW • SITE ACQUISITION

April 17, 2013

Mark Rysavy
Village of Bensenville
Assistant Director
12 S. Center Street
Bensenville, IL 60106

RECEIVED

APR 17 2013

COMMUNITY DEVELOPMENT

RE: American Tower Site Number: 9211
602 N. York Road
Bensenville, IL 60106

Dear Mr. Rysavy:

In granting a Conditional Use, the Village of Bensenville Community Development Commission shall consider the effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands, including land values. Among other things, the Community Development Commission shall make the following findings where applicable:

1. Traffic

Any adverse impact of any types or volumes of traffic flow not otherwise typical of Allowed Uses in the zoning district has been minimized.

The existing facility is unstaffed, there will be no impact on the existing traffic nor will there be any traffic hazards generated. Maintenance personnel will visit the facility once or twice a month. Access will be provided via existing entrances. Existing parking at the subject property is more than adequate for the expected infrequent maintenance visits to this site.

2. Environmental Nuisance

Any effects of noise, glare, odor, dust, waste disposal, blockage of light or air, or other adverse environmental effects of a type or degree not characteristic of Allowed Uses in the district, have been minimized.

The proposed Conditional Use would not constitute a nuisance. To the contrary, the proposed tower will enhance the wireless telecommunications for residents in the area. A wireless telecommunications facility is unmanned and is visited approximately once per month by a single technician in a van sized vehicle. A wireless telecommunications facility does not produce any noise, dust, smoke, odor or any other form of nuisance.

3. Neighborhood Character

The proposed use will fit harmoniously with the existing character of the existing Allowed Uses in its environs. Any adverse effects on environmental quality, property values, or neighborhood character beyond those normally associated with Allowed Uses in the district have been minimized.

Due to the minimal size of the leased parcel and the nature of the surrounding uses, there will be little impact on the character of the locality, with no adverse effect on existing or future development in the area. Enhanced technology will have a positive influence on the development of this area.

4. Use of Public Services and Facilities

The proposed use will not require existing community facilities or services to a degree disproportionate to that normally expected of Allowed Uses in the district, nor generate disproportionate demand for new services or facilities, in such a way as to place undue burdens upon existing development in the area.

As mentioned above, the existing facility is unstaffed and entirely self-monitored. The only utilities necessary for this facility are telephone and electricity both of which are readily available. Because the facility is unstaffed, there will be no impact to the existing traffic patterns nor will there be any need for additional access roads. No drainage, sanitation, refuse removal, parks, library, or school services will be necessary for this facility. Existing police and fire protection are more than adequate to provide security for the facility. Therefore, there will be no additional requirements at public cost for public facilities and services.

5. Public Necessity

The proposed use at the particular location requested is necessary to provide a service or a facility which is in the interest of public convenience, and will contribute to the general welfare of the neighborhood or community.

The proposed services being added to the existing facility will be in the interest of the public convenience and will contribute to the general welfare of the community. As technology progresses, so too does the demand for enhance services. With the addition of improved satellite services in and around Bensenville, the residents will be provided a better opportunity to take advantage of this technology. Since this is an existing facility and there will be no increase in height or expansion of the lease area, this site will contribute to the general welfare of the neighborhood without any negative impacts.

6. Other Factors

The use is in harmony with any other elements of compatibility pertinent in the judgment of the Board to the Conditional Use in its proposed location.

Due to the fact that there will be no increase in height or expansion of the leased parcel and the nature of the surrounding uses, there will be little impact on the character of the locality, with no adverse effect on existing or future development in the area. The additional equipment on the existing facility will be compatible with the existing and proposed uses in this location.