

**DATE:** October 19, 2016

**TO:** Honorable Mayor John Rey  
City Council

**FROM:** Anne Marie Gaura, City Manager  
Jo Ellen Charlton, Acting Community Development Director  
Derek Hiland, Long Range Planner

**SUBJECT:** Authorizing a Special Use Permit for an Existing Vehicle Service Facility Located at 1031 West Lincoln Highway Pursuant to Article 5.08.03.21 of the Unified Development Ordinance. (First Reading)

## I. Summary

Adam Del Muro (applicant) is purchasing the Illini Tire business from the existing owner who had leased the property for many years. As there is no special use documentation in place for a “vehicle service facility”, it is assumed that the use was authorized as a “tire store”, which is listed in the Unified Development Ordinance (UDO) as a permitted use. While staff acknowledges the existing Illini Tire has evolved over time to include auto service beyond that of a simple tire store, the change in ownership and acknowledgement by the new owner that his business model includes automobile service, a special use permit is required in order to continue using the existing structure for a vehicle service use.

Staff has met with the applicant on numerous occasions to find solutions to the challenges the site’s limited space has brought upon the operator of the business over the years. One example of these limitations surface when a vehicle needs to be serviced on one side of the building and then moved to the other side of the building. Currently the owner of the vehicle or an automobile technician drives around the southern end of the building and, according to the aerial photography, drives over the public sidewalk to make that turning movement.

The separation of vehicles and pedestrians is an important issue to address given that the corner is a blind corner and cars are frequently driving over the sidewalk to go from one side of the building to another.

To address the liability for the property owner, business owner, driver and the City, all parties have agreed that something must separate the sidewalk from the driving lane. The agreed solution was to saw cut and install a new curb on or near the property line, with the addition of landscaping between the new curb and the existing sidewalk. The new curb line would roughly follow the property line as marked by the orange painted property corners as shown in the picture below. The asphalt pavement between the

property line and the line of the sidewalk would be removed and replaced with dirt and landscaped.

It was decided by all parties that it would be a priority to provide this separation along the Annie Glidden Road section, stopping at the area near the fire hydrant and the newer cross walk pavement as shown in the picture below.



This is the critical area that requires protection. A similar

treatment along the Lincoln Highway section is also warranted, given that some of that area would be protected with the wheel stops that will be installed at the end of the parking spaces as recommended in the conditions of approval. The applicant also believes improving both sides would better balance the look of the corner and has sought additional time for completing both sides.

The green area in the picture below represents the general location east of the crosswalk (along Lincoln Highway) that would represent Phase 2 of the owner's improvements to



provide better separation and create a more balanced appearance on the corner. The curb would be placed roughly on the right side of the green area, along the existing parking space striping, with the balance of the pavement removed and landscaped up to the line of the existing sidewalk.



The Planning and Zoning Commission (PZC) held a public hearing on this request at their regular meeting of September 28, 2016, and continued the hearing to October 12, 2016.

The PZC deliberated on the various items addressed in the staff report and conditionally recommended approving the vehicle repair facility special use. The PZC learned that the bids to install the curbing and landscaping initially were too costly and the petitioner was seeking additional time to allow for the installation of both the landscaping and the curbing. The PZC deliberated and recommended that the SUP be approved (3 aye and 2 nay votes) with the limitation that no vehicles be allowed to pass along the southern edge of the building until such time that the curb and landscaping is installed on the property line. The PZC also indicated that the curbing is to be installed no later than one year from approval by the City Council. The conditional recommendations to approve the request is shown in the attached Special Use Ordinance. Approval is recommended.



The subject property is located on the northeast corner of Lincoln Highway and Annie Glidden Road as shown in the picture below:



### **III. Community Groups/Interested Parties Contacted**

Legal notice of the public hearing was published in The Daily Chronicle. The PZC held a public hearing on this request at their regular meeting on September 28, 2016, at which the petitioner spoke. The PZC continued the hearing to the October 12, 2016 meeting where the petitioner testified again on the subject matter.

### **IV. Legal Impact**

The City has the legal authority to approve special uses and to impose conditions that mitigate possible negative impacts after a public hearing and review and recommendation by the PZC.



## **V. Financial Impact**

This item is not anticipated to have any significant financial impact.

## **VI. Options**

City Council may affirm, modify or deny the request, or refer the matter back to the PZC for further consideration.

## **VII. Recommendation**

The PZC held a public hearing on this matter at their meeting on September 28, 2016, and continued the hearing to October 12, 2016.

The PZC deliberated and recommended that the SUP be approved with the limitation that no vehicles be allowed to pass along the southern edge of the building until such time that the curb and landscaping is installed on the property line. The PZC also indicated that curbing be installed no later than one year from approval by the City Council. A copy of their referral letter, including their motion to forward to the City Council their findings of fact and approved (vote of 3 ayes and 2 nays) the special use with conditions, is attached as Exhibit 1 of the attached ordinance.

Staff supports the PZC's recommendation. In keeping with past practice, the attached ordinance has been prepared for first reading, however the City Council may wish to approve on first reading and waive second reading.



**ORDINANCE 2016 -**

**AUTHORIZING A SPECIAL USE PERMIT FOR AN EXISTING VEHICLE SERVICE FACILITY LOCATED AT 1031 WEST LINCOLN HIGHWAY PURSUANT TO ARTICLE 5.08.03.21 OF THE UNIFIED DEVELOPMENT ORDINANCE.**

**WHEREAS**, Adam Del Muro, contract purchaser of Illini Tire (herein referred to as “Applicant”) of the property commonly known as 1031 W. Lincoln Highway, DeKalb, Illinois (herein referred to as “Subject Property”), has petitioned the City of DeKalb for approval of a special use permit for a vehicle service facility pursuant to section 5.08.03.21 of the City of DeKalb Unified Development Ordinance (UDO); and

**WHEREAS**, the Subject Property is located in a General Commercial (GC) Zoning District within the City of DeKalb (the “City”); and

**WHEREAS**, pursuant to proper legal notice, a public hearing was conducted by the Planning and Zoning Commission on September 28, 2016, and then continued to October 12, 2016; and

**WHEREAS**, on October 12, 2016, the Planning and Zoning Commission reviewed the evidence presented and forwarded its recommendation of approval for the petition described herein to the City Council (attached hereto as Exhibit 1), including the following findings of fact with respect to the application:

- A. The proposed special use operation can be allowed and regulated in compliance with all use regulations of the UDO. The site, however, is characterized by building and pavement setback non-conformities, and there are elements of the site’s design that do not conform to existing regulations. In an effort to allow for the continued viability of this business site, some accommodations can be made as long as basic life safety requirements can be addressed.
- B. The granting of the special use permit for the business will have no detrimental impact on the value of other property in the neighborhood given that the use has been in operation successfully over the years.
- C. The granting of the special use for this business will not dominate the neighborhood.
- D. The site is already provided with adequate utilities, drainage and other public services.
- E. The operation of the use as it exists today is NOT consistent with good planning practice, as it accommodates a potential dangerous interaction between pedestrians and vehicles. This situation, however, can be addressed by installing curbing and landscaping along the property line. Additional conditions to prevent cars from overhanging onto the public sidewalk and to require restriping of the parking lot to comply with the Illinois Accessibility Code have been added to address basic life safety concerns on the property. Operational conditions have also been added to ensure all work occurs inside the building, that inoperable cars may not be stored on the premises, and that no materials may be stored outside; and

**WHEREAS**, the City Council has reviewed the findings and recommendations described above, adopts the findings made by the Planning and Zoning Commission, and now determines that it would be in the best interest of the City of DeKalb to grant said approvals, subject to the terms and conditions established by this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL** of the City of DeKalb, Illinois as follows:

**Section 1.** The recitals set forth in the preamble are hereby incorporated herein by reference and made a part of this Ordinance.

**Section 2.** This Ordinance is limited and restricted to the Subject Property legally described as follows:

THAT PART OF LOT 24 IN JOSEPH F. GLIDDEN'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "D" OF PLATS, PAGE 31, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT; THENCE SOUTHERLY, ALONG THE EAST LINE THEREOF, 200.0 FEET FOR THE POINT OF BEGINNING, THENCE CONTINUING SOUTHERLY, ALONG SAID EAST LINE, 151.62 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF ILLINOIS ROUTE 38 (LINCOLN HIGHWAY). AS RECORDED IN DOCUMENT NO. 87-01821; THENCE WESTERLY, AT AN ANGLE OF 93°01'53", MEASURED COUNTERCLOCKWISE FROM SAID EAST LINE, 70.71 FEET; THENCE WESTERLY, AT AN ANGLE OF 172°46'55", MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID RIGHT OF WAY LINE, 27.23 FEET; THENCE NORTHWESTERLY, AT AN ANGLE OF 159°19'53", MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID RIGHT OF WAY LINE, 27.38 FEET; THENCE NORTHWESTERLY, AT AN ANGLE OF 161°24'31", MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID RIGHT OF WAY LINE, 27.38 FEET; THENCE NORTHWESTERLY, AT AN ANGLE OF 161°24'39", MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID RIGHT OF WAY LINE, 27.38 FEET; THENCE NORTHWESTERLY, AT AN ANGLE OF 161°24'35", MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID RIGHT OF WAY LINE, 29.38 FEET TO THE EASTERLY RIGHT OF WAY LINE OF ANNIE GLIDDEN ROAD; THENCE NORTHERLY, AT AN ANGLE OF 170°39'18", MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID EASTERLY RIGHT OF WAY LINE, 61.19 FEET; THENCE NORTHEASTERLY, AT AN ANGLE OF 93°04'12", MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, 160.38 FEET TO THE POINT OF BEGINNING, ALL IN THE CITY OF DEKALB, DEKALB COUNTY, ILLINOIS. (PIN: 08-22-151-003) And commonly known as 1031 W. Lincoln Highway, DeKalb, Illinois.

**Section 3:** Pursuant to 5.08.03.21 of the UDO, a Special Use Permit is hereby granted for the Subject Property to authorize a vehicle service facility.

**Section 4:** The approval in Section 3 is herein granted subject to the following conditions:

- A. Plans shall be submitted prior to construction and approved by the Community Development Director that show the location of new curbing and landscaping as described in the staff report. The curbing and landscaping along Annie Glidden Road and Lincoln Highway shall be installed within 365 days of occupancy. Until such time that the Annie Glidden Road curbing is installed, the movement of vehicles from one side to the other is not permissible.
- B. Until such time that the curbing is installed, Applicant shall install two heavy semi-permanent barriers (one along Annie Glidden Road and one along Lincoln Highway) to serve as a barrier that prevents vehicles from traveling between the east and west sides of the building.
- C. Secure a performance bond or other acceptable form of security in the amount of \$8,000.00 to insure the curbing is installed within one year of occupancy.
- D. Wheel stops shall be added to those parking spaces that currently allow for overhang on the public sidewalk.
- E. The parking lot shall be re-stripped and signed in compliance with the Illinois Accessibility Code pursuant to plans submitted to and approved by the City.
- F. Inoperable vehicles shall not be parked on the site for more than 96 hours.
- G. All repair work must occur within the building.
- H. There shall be no outside storage of any materials.

**Section 5.** That all provisions of the UDO shall remain in full force and effect and this Ordinance shall take effect upon its passage and approval according to Law.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and approved by me as Mayor on the same day.

**ATTEST:**

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**JENNIFER JEEP JOHNSON**, City Clerk

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**JOHN A. REY**, Mayor

Exhibit 1  
Recommendation Letter

October 12, 2016

TO: Mayor John Rey and City Council

FROM: Christina Atherton, Chair, City of DeKalb Planning and Zoning Commission

RE: Recommendation, including findings of fact, regarding PZC Case 10-2016

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The Planning and Zoning Commission conducted a public hearing and considered the facts relative to Case Number PZC 15-2016. At that hearing, the following members were in attendance: Chair Atherton, Castro, Crull, and Wright.

The following motion was unanimously approved by a unanimous roll call vote of 5-0-0:

Based on the submitted petition and testimony presented, I make a motion that the Planning and Zoning Commission adopt the findings of fact provided below and recommend to the City Council approval of a special use for vehicle service facility pursuant to Section 5.08.03.21 of the UDO subject to the following conditions:

- A.** Prior to occupancy, plans shall be submitted and approved by the Community Development Director that show the location of new curbing and landscaping as described in the staff report. The curbing and landscaping along Annie Glidden Road and Lincoln Highway shall be installed within 365 days of occupancy. Until such time that the Annie Glidden Road curbing is installed the movement of vehicles from one side to the other is not permissible.
- B.** Secure a performance bond in the amount of \$8,000.00 to insure the curbing is installed within one year of occupancy.
- C.** Wheel stops shall be added to those parking spaces that currently allow for overhang on the public sidewalk.
- D.** The parking lot shall be re-striped and signed in compliance with the Illinois Accessibility Code pursuant to plans submitted to and approved by the City.
- E.** Inoperable vehicles shall not be parked on the site for more than 96 hours.
- F.** All repair work must occur within the building.
- G.** There shall be no outside storage of any materials.

## Standards for Special Use and Findings

- 1. The proposed special use complies with all provisions of the applicable district regulations.**

The proposed special use operation can be allowed and regulated in compliance with all use regulations of the UDO. The site, however, is characterized by building and pavement setback non-conformities, and there are elements of the site's design that do not conform to existing regulations. In an effort to allow for the continued viability of this business site, some accommodations can be made as long as basic life safety requirements can be addressed.

- 2. The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or to the public welfare at large.**

The granting of the special use for this business will have no detrimental impact on the value of other property in the neighborhood given that the use has been in operation successfully over the years.

- 3. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to (1) the location, nature and height of buildings, structures, walls and fences on the site; and (2) the nature and extent of proposed landscaping and screening on the proposed site.**

The granting of the special use for this business will not dominate the neighborhood.

- 4. Adequate utility, drainage and other such necessary facilities have been or will be provided.**

The site is already provided with adequate utilities, drainage and other public services.

- 5. The proposed use, where such developments and uses are deemed consistent with good planning practice, or can be operated in a manner that is not detrimental to the permitted developments and uses in the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; shall in all other respects conform to the applicable regulations of the district in which it is located; and is deemed essential or desirable to preserve and promote the public health, safety and general welfare of the City of DeKalb.**

The operation of the use as it exists today is NOT consistent with good planning practice, as it accommodates a potential dangerous interaction between pedestrians and vehicles. This situation, however, can be addressed with the installation of relatively inexpensive bollards or concrete landscape planters that can be situated on the lot to prevent cars from moving around the south side of the building. Additional conditions to prevent cars from overhanging onto the public sidewalk and to require restriping of the parking lot to comply with the Illinois Accessibility Code have been added to address basic life safety concerns on the property. Operational conditions have also been added to ensure all work occurs inside the building, that inoperable cars may not be stored on the premises, and that no materials may be stored outside.