

MINUTES
CITY OF DEKALB
PLANNING AND ZONING COMMISSION
November 7, 2022

The Planning and Zoning Commission held a meeting on November 7, 2022, at the DeKalb Public Library in the Yusunas Meeting Room located at 309 Oak Street, DeKalb, Illinois. Chair Max Maxwell called the meeting to order at 6:00 PM.

A. ROLL CALL

Recording Secretary Stephanie Turner called the roll. Planning and Zoning Commission members present were: Steve Becker, Trixy O’Flaherty, Maria Pena-Graham, Shannon Stoker, Jerry Wright, Bill McMahon, and Chair Max Maxwell. Planning Director Dan Olson was present representing the City of DeKalb.

B. APPROVAL OF THE AGENDA (Additions/Deletions)

Chair Maxwell requested a motion to approve the November 7, 2022, agenda as presented. Mr. McMahon motioned to approve the agenda as presented. Mr. Wright seconded the motion, and the motion was approved by unanimous voice vote.

C. APPROVAL OF MINUTES

1. October 17, 2022 – Chair Maxwell requested a motion to approve the October 17, 2022, minutes as presented. Mr. Becker motioned to approve the minutes as presented. Ms. O’Flaherty seconded the motion, and the motion was approved by unanimous voice vote.

D. PUBLIC PARTICIPATION (Open Floor to Anyone Wishing to Speak on Record)

None

E. NEW BUSINESS

1. **Public Hearing** – A petition by Chris and Laura Manski, represented by Mark Doherty, for a special use permit to allow the resubdivision of a “TFR” Two Family Residential zoned lot into two single-family attached lots in accordance with Article 5.03.06 of the Unified Development Ordinance for the site located at 202-204 Chamberlain Drive.

Maria-Pena Graham recused herself for this hearing due to a conflict of interest and she left the room at 6:02 p.m.

Mark Doherty, attorney for the owners of the property, described the property as two separate units, on one parcel, that were used as rental properties. Mr. Doherty explained the owners are looking to separate the parcels for the purpose of selling the 204 Chamberlain Dr. unit. He stated he has been working with the City on the request to ensure all concerns are addressed.

Planning Director Olson went over the staff report dated November 3, 2022, and explained the subject site consists of a duplex on one lot and the owners are looking to separate it into two lots. Mr. Olson stated a minor subdivision plat has been submitted for this special use permit and it shows lot one being 4,300 sq. ft. and lot two being 3,990 sq. ft. which meet the UDO criteria. He stressed each lot needs to have its own separate utilities which is currently being worked out with KWRD and the establishment of a sanitary easement.

Mr. Olson told the Commission the Declaration of Cross Easements and Party Wall Agreement required in the UDO was reviewed by the City Attorney and met his approval. He added there have been a few of these requests in the past. Mr. Olson said the findings of fact have been met for the petition. He noted the one public comment received was from George Christensen and Lori Jones of 205-207 Chamberlain Drive who expressed their support for the request. Mr. Olson said an amended sample motion was prepared that added all staff comments be addressed before the recording of the plat.

Chair Maxwell asked if there were any comments from the public in which there were none.

Chair Maxwell asked if there were any questions or comments from the Commission members.

Jerry Wright asked Planning Director Olson if any of the previous similar requests have led to any problems or concerns. Mr. Olson responded the last request was approximately three years ago and there have been no issues brought to his attention.

Jerry Wright inquired on the purpose of splitting the lot. Mark Doherty replied the reasoning is for selling the property, the owners are currently under contract for one lot and may look to sell the newly created lot in the future.

Mr. McMahon stated that based upon the submitted petition, testimony presented and findings of fact, the Planning and Zoning Commission forward its findings of fact and recommend to the City Council approval of a special use permit to allow the Resubdivision of a "TFR" Two-Family Residential Zoned Lot into Two Single-Family Attached Lots in Accordance with Article 5.03.06 of the UDO for the property located at 202-204 Chamberlain Dr. and approval of the Final Plat of the Manski Subdivision labeled as Exhibit A subject to all staff comments being addressed prior to the recording of the plat.

Ms. O'Flaherty seconded the motion.

A roll call vote was taken. Mr. Becker – Yes, Ms. O'Flaherty – Yes, Ms. Stoker– Yes, Mr. Wright – Yes, Mr. McMahon – Yes, Chair Maxwell - Yes. Maria Pena-Graham recused herself from the vote. Motion passed 6-0 with 1 recusal.

Maria Pena-Graham returned to the meeting room at 6:09 p.m.

2. **Public Hearing** – A petition by DINA 5 Inc. d/b/a Smoker's Choice represented by Omar Younis for approval of a special use permit for a retail tobacco store at 1180 W. Lincoln Highway.

Omar Younis, representing DINA 5 Inc., spoke on the request for a special use permit for a retail tobacco store and stated the petitioner is a small family operated business that currently owns other tobacco shops in Kentucky, Indiana, and Missouri. Mr. Younis stated DINA 5 Inc. is currently under lease for the subject property and only tobacco items would be sold at this location if the special use permit is granted.

Planning Director Olson covered the staff report dated November 3, 2022. He described the proposed request for a retail tobacco store at 1180 W. Lincoln Highway, which has been used by multiple restaurants in the previous years but has been vacant now for about a year. He added the UDO has a definition for retail tobacco stores which is 30% or more of the revenue from tobacco related products or 25% or more of the floor area being dedicated to tobacco products and accessories which is the case with this proposal.

Mr. Olson explained the proposal meets the setback requirements in the UDO for retail tobacco stores and the Municipal Code (Chapter 64) requirement they must be in freestanding buildings. He stated there is a drive-thru along the east side of the building that will not be used and is recommend as a condition to the issuance of the special use permit. He added if an expansion to the building is needed, the applicant will have to come before the Commission for a hearing. Mr. Olson explained there is adequate parking and there are no site changes proposed.

Planning Director Olson stated one public response was received from Sang Woo of 1127 W. Lincoln Highway (Popeye's Chicken Property) indicating they do not support the request with no additional information provided.

Chair Maxwell asked if there were any comments from the public in which there were none.

Chair Maxwell asked if there were any comments from the Commission members.

Steve Becker asked if 1,800 sq. ft. is typical of their other tobacco store locations. The owner of DINA 5 Inc. stated they have locations that are 5,000 sq. ft., 2,800 sq. ft., 2,300 sq. ft., and 2,200 sq. ft.

Steve Becker asked if there was a need to expand this location in which the response from the owner was no.

Max Maxwell questioned the reasoning for a free-standing building for tobacco shops. Mr. Olson responded that was put into place before he started with the City and he thinks the reasoning may be due to the potential sharing of ventilation systems in a multi-tenant building.

Jerry Wright inquired on the percentage of the business being involved with vapes. DINA 5 Inc. representative said vapes, CBD, Delta 8's, cigars, hookah tobacco, and

loose tobacco are sold at their locations. Mr. Younis added about 20% of the sales are sales of vape products. He added there will be sales of cigars and accessories as well.

Bill McMahon questioned how many employees would be working at this location. The owner of DINA 5 Inc. stated they will start with one or two employees and see how the business goes and maybe add two to three employees per shift.

Max Maxwell inquired on the hours of operation. DINA 5 Inc. responded it depends on the City but should be approximately 10:00 am to 11:00 pm.

Shannon Stoker expressed her appreciation for something new coming to this building and added it has included many restaurants that never seem to stay long.

Mr. Becker stated based upon the submitted petition, testimony presented and findings of fact, the Planning and Zoning Commission forward its findings of fact and recommend to the City Council approval of a special use permit for a retail tobacco store at 1180 W. Lincoln Highway as shown on Exhibit A and subject to the following:

1. The existing drive-through on the east side of the building shall not be used in the operation of the special use.
2. There shall be no smoking in the existing building on the site.
3. The existing building shall not be expanded without an amendment to the special use permit.

Ms. Stoker seconded the motion.

A roll call vote was taken. Mr. Becker – Yes, Ms. O’Flaherty – Yes, Ms. Pena-Graham – No, Ms. Stoker – Yes, Mr. Wright – Yes, Mr. McMahon – Yes, Chair Maxwell - Yes. Motion passed 6-1.

F. REPORTS

Planning Director Olson informed the Commission the next meeting is November 21 at the Police Department. He noted one public hearing is currently scheduled, which is for the rezoning of 145 Fisk Avenue and approval of a Preliminary Plan. Mr. Olson informed the Commission the Plat for the County Nursing Home and the esports café special use at 901 Lucinda Ave. were approved at the last City Council meeting. He added there will be a variance hearing in December for the Shell Station 175 W. Lincoln Highway due to the applicant not obtaining a building permit within six months after approval.

G. ADJOURNMENT

Mr. Wright motioned to adjourn, Ms. O’Flaherty seconded the motion, and the motion was approved by unanimous voice vote. The Planning and Zoning Commission Meeting adjourned at 6:24 PM.

Minutes prepared by: Stephanie Turner Approved: November 21, 2022