

**ZONING BOARD OF APPEALS  
DECEMBER 7, 2010**

**CALL TO ORDER**

Chairman Celske called the meeting to order at 7:00 p.m.

**ROLL CALL**

Dal Compo polled the members present: Zoning Board members, Celske, Anderson, Dufern, Murren and Schneider. Also present were Al Maiden of Rolf Campbell and Associates, Village Administrator Art Osten as staff to the Zoning Board and John Donahue, Village Attorney. Rosch was absent. Ruckoldt has resigned.

Village President Bob Nunamaker, Trustee Mike Ireland, PEDC Chairman Mike Schiestel and PEDC member Ron Hameetman were in attendance.

Mr. Joseph Ash, Mr. David Mangurten and Mr. Jeff Miller were also in attendance.

**APPROVAL OF NOVEMBER 10, 2010 MINUTES**

A motion was made by Murren and seconded by Dufern to approve the minutes from the November 10, 2010 meeting as presented. A voice vote followed with one abstention. The motion carried.

**ZONING BOARD CASE 2010-09 SPECIAL USE: 910 NORTHWEST HWY STRIP MALL DEVELOPMENT**

(The following is a restatement of the application request) “Commonly known as 910 Northwest Hwy, Fox River Grove, Illinois. The application requests a Special Use Permit for the subject property that is within the existing B2 General Business Zoning District to: 1) allow the property to be developed with one commercial building that will have a building square footage in excess of 5,000 square feet as required by Article VII(C)(4)c of the Village’s Zoning Ordinance; and (2) to allow a Motor Vehicle Repair Shop, Major Repairs being listed Special Use under Article VII(C)(3) and Table 2—Table of Permitted And Special Uses in Business Districts. The application also requires special use exceptions from (1) the requirements of Article IX (G)(11) (d) with entrances through abutting Property to the east and west with shared parking consistent with the Agreement for Easements, Covenants, Conditions And Restrictions, recorded with the Office of the McHenry County Recorder Document Number

2004R0026132 on April 1, 2004 to the extent necessary to allow the shared parking as shown on the Site Plan Exhibit; (2) the requirements of Article IX(G)(10)(c) for parking lot screening and landscaping along the east and west property line to the extent necessary to allow the parking lot design and setbacks as shown on the Site Plan Exhibit and Landscape Plan Exhibit; and (3) the requirements of Articles IV(L)(7)(i) to the extent necessary to allow the sidewalk design as shown of the Site Plan Exhibit.”

Chairman Celske thanked the petitioners for attending the meeting. He asked to see the requisite return receipts notices. He enumerated letters which had been received pertinent to the special use petition. They were as follows:

- Letter from Grove Electric re: drainage issues
- Letter from KMA and Associates re: lighting apparatus dated 11/30/10
- Letter from Consulting Engineer Larry Thomas dated 12/2/10
- Letter from Urban Forest Management 12/3/10
- Letter from Rolf Campbell and Associates (Al Maiden) dated 12/3/10

*Chairman Celske recognized Joseph Ash, 77 W. Washington, Chicago, as attorney for the petitioner, Aetna Development Corporation.*

Mr. Ash explained that the petitioner desires to construct a 15,780 square foot retail building, including a major auto repair shop. The special uses include building in excess of 5,000 square feet, and a major vehicle repair shop.

The variations are as follows:

- A) Exception for 40 on-site parking spaces (79)
- B) No parking lot landscaping in front
- C) East property line--permit vehicle property an 18” overhang
- D) Portion of parking on East and West property line to not require landscape screen

*Chairman Celske recognized David Mangurten, from KMA and Associates, 1141 Lake Cook Rd, Deerfield.*

Mr. Mangurten is the architect of the site plan for the proposed 910 Northwest Hwy. The plan includes two special uses, and four departures of standards. He explained that Aetna Development had also been the developer for the Walgreens building in Fox River Grove. Aetna Development has been producing retail projects for the 35 years, and KMA has been their architect for the past 30 years. The 910 Northwest Hwy development would link the Walgreens project with the River Pointe project. There are no new driveway cuts being proposed off of Route 14. A six bay auto garage is being proposed for the north end, and a 3,700 square foot building on the south end.

The special use is for “major repairs”, an umbrella used to fall within the proper category. The scope would include tire replacement, brakes, tune-ups and the like. The company being

described is starting a new business model. They do no body or engine work. They expect to employ five to seven employees, with work hours to be 8:00 a.m. to 6:00 p.m. Monday through Friday. Saturdays and Sundays the hours will be 8:00 a.m. to 4:00 p.m. They expect approximately 15 customers daily. The company is ecologically motivated, and in conjunction with this they recycle tires and fluids.

There will be four shared tenant spaces. There is concern for traffic movement on the North End. It will mostly be service traffic use behind the building. They expect only one major delivery (semi truck) per week at the North End, and two on the South end.

The petitioner accepts Urban Forest Managements Critique, except that on the East side there is a possibility that the tenant would want a sign. Further, they would like to keep the landscaping as it exists.

The buildings will be all masonry, with masonry parapet walls. They will have decorative awnings and stone accents.

The traffic consultant said that the intensity of the service drive would be low. The existing drive along Walgreens is one way. As mentioned, they expect only three semi truck deliveries per week. Any other deliveries will primarily be UPS or Fed Ex, and some of these deliveries could be made in the front.

Baxter and Woodman had brought up the matter of weak soils in the proposed area. The petitioner is looking at different options to compensate for this, such as rammed aggregate enhancers.

An audience member asked for confirmation that the front of the Walgreens property had initially collapsed during construction, he was told yes.

Mr. Mangurten also reiterated the proposed 40 parking spaces, but that 2 spaces straddle the Walgreens parking lot, so technically there would be 42 available spaces. Additionally, on the East side there is existing parking off property. Also, an exception to ordinance would be the five foot setback.

*The following exhibits were made available by the petitioner: L1—Landscape; 1-Site Plan; 2 Elevation Plan, photo metrics. Also, the preliminary engineering plan was included with the petition.*

Member Anderson asked about the dimensions of the parking lot, and what is the largest vehicle (such as an emergency vehicle) that could get by. Mr. Mangurten said that a semi was able to get around it, and their trailers can be 65 to 70 feet long. Member Schneider asked if it is one way, he was told it is actually two way. He further asked if the trucks could go in off of 14 and go north. He was told yes.

Chairman Celske preemptively discussed community concern regarding the auto repair shop. The question will be, is there actually enough business to host another one. Is this type of business something the community actually needs and can sustain. Mr. Mangurten explained

that the company is on the New York Stock Exchange. It has almost 600 stores nationwide thus far, and companies always do demographic studies prior to choosing a location. Chairman Celske said that of course, the community does not want empty buildings five years from now. Additionally, since there is approximately 50% shared space with the adjacent property to the east, is there a tentative agreement in place? Attorney Ash said that there is an easement. Chairman Celske further asked if a study of capacity was done. Mr. Mangurten said that some Village's ordinances count the six bays, but Fox River Grove does not. Attorney Ash further commented that the tenants would not be interested if they did not believe they could generate the amount of business they desire.

Chairman Celske asked if the shared parking spaces at the Fox Pointe Medical Offices typically full at the times of the day that the stores will be open. Mr. Mangurten said that the ordinance requires five parking spaces per 1,000 square feet. Chairman Celske asked what types of businesses will fill the remaining buildings. He was told a cell phone store and an optical store will likely be among them.

Member Murren asked what the rationale was for the 18" overhang. Mr. Mangurten asserted that the curb is almost at the property line of the shared parking, but that there should have been a landscape strip. Mr. Maiden said that was not true in this case.

Member Dufern asked for clarification as to how many employees would be working at the auto repair. He was told 5-7. He further said that by that measure, 45% of the parking spaces would be used by employees.

Member Schneider asked for clarification regarding the classification of "major repairs" as opposed to "minor" repairs. Mr. Mangurten explained that since the store may sometimes do muffler work, the safe category to put it into was the "major" category. Administrator Osten added that on-line, one potential occupant said they were in the major repair category. Member Schneider said that restrictions could be put on the approval, so that it would make for no gray areas. Attorney Donahue also noted that "no transmission work" could be made as a restriction. Attorney Ash asked if special use was required for automotive, he was told no—just the major vs. minor.

Chairman Celske asked if the petitioner had reviewed Mr. Thomas' concerns, and if they would prefer to keep the east side of the building clean so as to have room for signage. He was told yes. Administrator Osten said this was item #7.

Member Dufern asked if retail parts sales would be included in the automotive portion. He was told that although it will not be an automotive supply store, there will be some accessories sold. It will resemble a neighborhood service store, with car air fresheners and the like.

Member Anderson, who is also a local fireman, asked if sprinklers will be present in the buildings. He was told yes.

*Chairman Celske recognized Jeff Miller of Watermark Engineering.*

He is a civil engineer who was retained by the petitioner. He put together the preliminary grading and utility plan. It includes:

- proposed elevation to drain property
- basic sewer and water
- domestic and fire sprinkler

He explained that storm water is the big issue in the Doyle Triangle (RT 22/Rt 14/Doyle). A large bypass drain was at Doyle and Rt 22. There is a low spot on the Grove Electric property. Then, the water goes to the culvert on Rt. 22. In the front parking area, the water will be stored in the underground storage and drained to the open air detention basin. The discharge location is in the same place as it is now, but it will drain slower because of the 3" diameter restrictor.

According to Baxter and Woodman's review, they had no issues except condition #6. They would like to see a swale/easement route to get to the discharge channel.

Chairman Celske asked about the foundation, and the sufficiency of the land. In paragraph one, is an easement agreement to be entered into with the property to the west? Mr. Mangurten said that a cross easement is not a problem, and the parking easement is just for the two crossover spaces. Attorney Donahue asked if the underlying beneficiary for the properties is the same, he was told yes. Administrator Osten inquired as to if there is an agreement yet. Attorney Donahue answered that there is shared access to the east, but there is currently no agreement on the west.

Member Murren asked on a percentage scale in a heavy rain, if 20% goes out through the outlet; how much will go out with the storage factor. Mr. Miller stated that it is a controlled release rate of .1 CFS per acre. For example, a 12" pipe can produce about 2.5 CFS; we are at 1/20 of that. Member Murren asked what the land is currently producing. Attorney Ash stated that the measures being taken will help the surrounding properties.

*Chairman Celske asked Mr. Maiden to comment.*

Mr. Maiden said that one of the issues is regarding the traffic study. A painted stripe may help. He said that he is in agreement with the signage plan. The site was previously approved for a smaller building. If one of the units in the interior were removed, it would bring the site closer to what was originally approved. Chairman Celske noted that signage is included in the traffic study. Administrator Osten suggested that a do-not-enter sign should be posted on the same pole as the stop sign.

Member Murren asked the representative from Car X how many deliveries he receives per week. He said that he gets oil deliveries twice a month, UPS every day and Fed Ex once a week. He also stated that he gets a lot of small truck deliveries. Mr. Mangurten said that the company which would be moving in has their own trucks for small deliveries. Member Murren noted that UPS trucks may block the back alley.

*Chairman Celske recognized Dr. Kipferl from River Pointe.*

He explained that he was one of the two original River Pointe developers. He is also a Board member there. He stated that he and his Board of Directors did not know anything about the meeting until just before it happened. He made it clear that while he is excited about this opportunity, he wished that they had been more informed. He also said that the notice from the Village only mentioned that there would be an automotive repair center involved. He was also concerned about 50% of the parking lot being shared. Attorney Ash responded that part was considered easement. Dr. Kipferl further explained that LaSalle Bank had their own driveway. In this case, there will be semis and tow trucks driving through the shared area, where children and elderly patients will be crossing back to their cars. He felt that he and his Board needed more information on the impact to parking and traffic flow for those reasons.

Chairman Celske asked if River Pointe's offices were condos; he was told yes. He further asked how much of the proposed shared parking area is currently being used. Dr. Kipferl said that the building is not fully occupied at this time, so the parking lot is also not fully utilized. He also noted that they as the developers had a difficult time obtaining the parking they have, and since the building is not full it is hard to predict future needs. Member Dufern asked what the current occupancy of the building is, he was told about 50%. Member Anderson asked what type of commercial deliveries River Pointe regularly receives. He was told mostly UPS, but also document destruction trucks.

Dr. Kipferl inquired as to the water retention. Since there is piping underneath the parking lot, where is the water outletting? Mr. Miller answered that there is 24" diameter piping, then a 12" CMP pipe going to the detention facility, restricted by a 3" diameter pipe. This meets the MCC Ordinance. Chairman Celske stated that the Zoning Board members defer to the experts on these types of questions. Attorney Ash added that there should be no greater run-off than existed before, and likely would be less. Mr. Miller stated that Larry Thomas does a good job with regard to these assessments.

*Chairman Celske recognized resident Bob Ruer.*

Mr. Ruer asked why more automotive shops were being considered for the Grove. He felt that the small business owners here are already doing a great job! He is a Crystal Lake business owner himself, and commented on the number of empty buildings already existing in the Grove.

*Chairman Celske recognized resident Bob Nash.*

Mr. Nash reiterated Dr. Kipferl's concerns as to what would happen if the businesses in the new strip mall fail. If the exception is made for the parking, how long would the stores sit vacant due to the insufficient parking?

*Chairman Celske recognized John Derer.*

Mr. Derer owns the Car Wash/Loop Center and has been a business owner here for thirteen years. His property is north of the proposed strip mall. He stated that his business could not stay afloat servicing only 12 cars a day! There is already a traffic problem since Walgreens moved in. Since cars can only exit one way, it is impossible to get out of his business at 5:00

p.m. He also pointed out that only half of the strip mall is in a TIF district. Mr. Derer said that a traffic light should be required if these new businesses are allowed to come in, to cut down on accidents. He further asserted that the Trustees had promised that similar businesses would not be permitted. Chairman Celske said that Mr. Derer made a valid point with reference to the northern exit by Jimmy Johns.

Mr. Mangurten stated that the traffic consultant has a model for that type of building, and that the mall simply adds a stop, not necessarily creates more traffic. He pointed out that a retail building had been approved that had a drive thru, and cars had to go in and com out the same way. What is being proposed would be an improvement over what currently exists. Mr. Derer asked what the car count would be. Mr. Mangurten said that the expectation is 12 cars per day, 5 employees working two shifts. The company would likely hire locally, which would create about 12 jobs. Dr. Kipferl said that he had not been aware of the drive thru project. He further asked to see detailed site plan sketches. Mr. Mangurten said that Scott Fleming had requested that information, and that he had e-mailed it out to Mr. Fleming. Additionally, Mr. Mangurten pointed out that the required sign was posted at the property notifying the public of the meeting tonight.

*Chairman Celske recognized Jim Burke.*

Mr. Burke owns the CarX in Fox River Grove. He commented that the description of the new business is almost identical to his business. Most of his customers come from a 2 mile radius, 50% from Fox River Grove, 20% from Barrington, 23% from Cary, and 2% other. If there was another identical business added, he did not see how this will add revenue. Instead, it will only take away business from the existing ones. He made reference to the R.E.A., (Reciprocal Easement Agreement). If there is a parking problem and a bridge needed to be built, sharing would create more parking problems. Additionally, TIF's are supposed to have benefit to the community, and help reduce vacancies. He further asked if there will really only be three businesses in the strip mall, or if it will actually be six. He said that it would be nice if the new business was actually an automotive parts store—but it is not. He stated that his business followed all the correct setbacks and Eastgate's landscape plan.

*Chairman Celske recognized Bill Welisek*

Mr. Burke is the owner of Grove Electric. He stated that severe drainage problems had been caused by the parking lot drainage system. His parking lot flooded every time there was a significant rain. Baxter and Woodman's assessment is that the water is not draining the way it should, and that the drainage pipe should be removed. He asked for assurance that the drainage issues will truly be addressed. He also asked for specifics as to how the water from the exit to the east will work. Mr. Mangurten explained that the water will divert to the east in to the ditch, not into the low spot in his property. There had been a tentative agreement with Preferred that they would put a ditch in as long as the property owners would clear out their debris. This agreement never panned out. Dr. Kipferl asked what provision would be made to get across the ditch. Chairman Celske said that this could be revisited as part of the total package.

*Chairman Celske recognized Ron Hameetman.*

Mr. Hameetman brought up the matter of drainage at 9107 Gardner. He stated that there is a 20" drain behind Ace Hardware. Chairman Celske asked if this is part of the same system being discussed. Mr. Hameetman asked where the water goes north of Rt. 22. Chairman Celske said that it goes towards the River. Mr. Hameetman said that the Norge Bog fills up frequently, and when that happens his yard is 50% under water. Mr. Dadesa installed the system in the 1960's. Chairman Celske noted that the Doyle Triangle drainage may be aggravated by this condition. Mr. Mangurten explained that Preferred Development was asked to do the drainage. On January 12, 2004 a study was done, and two addendums were done subsequent to the review by Baxter and Woodman. The outlet culvert to the bog silted out. The pipes going towards the river get smaller instead of bigger. So even if the bog were completely full, it would pour into the 24" drain. A hydraulic analysis was completed. Also, the Village, IDOT and Storm Water Management have all looked at these issues, and have reviewed and approved the preliminary plans. Additional capacity is not being requested.

Mr. Hameetman said that the Doyle Triangle involves more asphalt area. He further stated that since the incoming pipe is 24" and the outgoing is 16", it is a problem. Where does the water go? Mr. Mangurten said it is stored. Mr. Hameetman stated that he recommended no further development until the issues at 9107 Gardner are addressed. He further stated that he has been in correspondence with Superintendent of Streets and Parks Jon Huizinga since April of 2009 in regards to the flooding in his own yard.

Chairman Celske considered the concerns of Dr. Kipferl from River Pointe. Attorney Donahue added that since everyone who is a taxpayer within 250 feet of the proposed site must be informed at least 15 days in advance of the hearing by certified mail; this must be taken care of before final decisions can be made in this matter. These condo owners should have an opportunity to have a voice in the decision. Dr. Kipferl was very fair about expressing his views and concerns, and because of these necessary matters this petition cannot be decided at tonight's meeting. This is a key issue which must be addressed. It is not just a 'technicality'; any final decisions made without all taxpayers having proper notification would not be enforceable. Administrator Osten asked if River Pointe condo's tax pin numbers were on the County's website, and if not then why not. Realtor Wayne Katina said that there should be between seven and ten pin numbers associated with River Pointe Condos. Attorney Ash said that the records of the County did not show River Pointe's condos. Chairman Celske stated that he had no doubt that it was an honest oversight on the part of those providing the information. Additionally, he said that Mr. Mangurten should provide more specifics on drainage at the next meeting.

*A motion was made by Chairman Celske, seconded by Member Dufern, to continue case 2010-09 until Wednesday, January 12, 2011 to allow for the required certified mail receipts to be sent out. Motion carried with all in favor.*

**ZBA CASE 2010-08, TEXT AMENDMENT, POLITICAL SIGNS**

Attorney Donahue explained that there will be a change in Illinois State Law regarding political signs coming in January 2011. In the past, the commission has regulated political signs by requiring that they only stay up a certain number of days before and after the corresponding event. The State, as of January, says this can no longer be restricted in this fashion. The Village's ordinance does not specifically address political signs, so the question becomes how do we regulate/restrict them in the future? The signs cannot be restricted as to content, so someone who wants to have a "save the whales" sign has just as much right to do so as the person who wants a political sign. Also, can the signs be restricted by the size of lot it is on, and would each tenant at a business be entitled to their own sign?

Chairman Celske stated that if any restriction would be put into place, it would have to relate to business and residential districts equally. Village President Nunamaker explained that since we do not restrict political signs now, it might be best to wait until other bodies have made some sort of regulation. In essence, it might be best to remain silent until this can be brought up again at a later date when more information is available. Chairman Celske agreed that it was probably best to do nothing on this subject at the present time. Member Murren also recommended doing nothing for now. Attorney Donahue stated that the issue is a hornet's nest. Chairman Celske asked if the members if they felt it best to continue, recommend, or take no current action on the matter.

*A Motion was made by Murren, seconded by Dufern, to recommend taking no current action on ZBA Case 2010-08, text amendment regarding political signs. A roll call vote was taken. Celske-yes, Anderson-yes, Dufern-yes, Murren-yes, Schneider-yes. Motion Carried.*

**POTENTIAL FUTURE MEETINGS**

*Boarding Dogs in Residential Area*

There is a resident on North Lincoln Ave who has been running a dog boarding business. In order to continue doing business, the resident will need a special use permit.

**OTHER BUSINESS**

Member Dufern inquired about the U-Haul business on Doyle, and whether or not it had been given restrictions. Administrator Osten said that the trucks are supposed to be parked out of the right of way. Member Dufern thought that it was supposed to be special use.

**ADJOURNMENT**

A motion was made by Dufern and seconded by Schneider to adjourn the meeting. A voice vote followed with all in favor. The meeting adjourned at 9:26 pm

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Daniel A. Celske, Chairman

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Alison Dal Compo, Secretary

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Date Approved