

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

MINUTES OF THE COMMUNITY DEVELOPMENT COMMISSION

September 10, 2012

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

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Janowiak, Rowe, Pisano, Weldon
Absent: James, Ventura
A quorum was present.

JOURNAL OF PROCEEDINGS:

The minutes of the Community Development Commission of August 13, 2012 were presented.

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

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

Nays: None

All were in favor. Motion carried.

Village Attorney, Mary Dickson, reviewed the rules and process to the audience in attendance of the Public Hearings.

Village Attorney, Mary Dickson, swore in members of the audience under oath that planned to give testimony.

Continued

Public Hearing:

CDC Case Number 2012-22

Petitioner:

John Morawa

Location:

155-157 Beeline Drive

Request:

Amendment to a Conditional Use Permit and Variance to Allow a Fence in the Actual Front Yard

Motion: Commissioner Weldon made a motion to re-open CDC Case No. 2012-22. Commissioner Janowiak seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Janowiak, Rowe, Pisano, Weldon
Absent: James, Ventura
A quorum was present.

Chairman Moruzzi re-opened the Public Hearing for CDC Case Number 2012-22 at 6:34 p.m.

Commissioner James entered the meeting at 6:35 p.m.

Pete Gallagher and Annette Mumford were both present on behalf of Mr. Morawa and had been previously sworn in by Village Attorney, Mary Dickson. Director of Community & Economic Development, Scott Viger, gave a brief summary of past events for CDC Case Number 2012-22. Mr. Gallagher stated there is not a second driveway, nor has there ever been a plan for a second driveway. Mr. Gallagher submitted photos to the Commission. The photos are attached to the minutes as "Exhibit A". Mr. Gallagher addressed the fire wood that is currently stored outdoor. There were no questions from the Commissioners.

Chairman Moruzzi asked if there was any member of the Public that would like to speak on behalf of CDC Case Number 2012-22. There was none.

Director of Community and Economic Development, Scott Viger, reviewed the Village Staff Report and recommended approval with the following conditions:

1. The Conditional Use Permit and subsequent amendment be granted solely to John Morawa 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. All conditions existing in the Ordinance #29 – 2012 will be met.
3. Proposed fence be landscaped in accordance with the Zoning Ordinance.

Chairman Moruzzi asked Staff if the fire wood can be stored outside. Mr. Viger stated it would be treated as outdoor storage and recommended the fire wood be removed. Chairman Moruzzi asked if the structure the wood is stored in is considered a permanent structure. Mr. Viger stated he would consider it as a structure and that it should follow requirements set forth in the Village Code.

Mr. Gallagher asked the Commissioner for suggestions of where Mr. Morawa should store the wood.

Motion: Commissioner Pisano made a motion to close CDC Case Number 2012-22. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-22 at 6:50 p.m.

Commissioner Weldon asked what Staff's position is on the firewood that is stored outdoors. Mr. Viger stated Staff recommends removal of the firewood.

Motion: Commissioner Pisano made a motion to approve the Finding of Facts for CDC Case Number 2012-22 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. The variances requested are special circumstances in that the poor condition of the current fence requires the replacement. The removal of the existing fence and replacement in the front yard of the site is due to the special development of the subject property in locating the main building in the northeast corner making the majority of the property the front yard.
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. If the variances are not approved, the applicant would experience unnecessary and undue hardship in the utilization of the subject property due to the necessity of policing the unfenced area for fly-dumping.
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 variance requested is to accommodate a special circumstance in that the development of the site created a front yard occupying a large portion of the subject property.
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 special circumstances and practical hardship are not a direct result of actions of the applicant. The existing building location in the northeast corner created a front yard occupying a large portion of the subject property.

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. Approval of the relief sought by the applicant would not confer any special privilege to this property that is ordinarily denied other properties in the C – 4 Regional Destination PUD Commercial District.
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. The variance if granted will allow the applicant a reasonable use of the property otherwise left unused.
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. Approval of the relief sought will not alter the essential character of the business and industrial neighborhood.
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. Granting of the requested variance will be in harmony with the general purpose and intent of the Village of Bensenville's plans.
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. The staff believes that the variances sought are the minimum required.

Commissioner Rowe seconded the motion.

Roll Call: Ayes: James, Janowiak, Rowe, Pisano

Nays: Moruzzi, Weldon

Motion carried.

Motion: Commissioner Pisano made a motion to approve the requested amendment to the conditional use permit with Staff's recommendations for CDC Case Number 2012-22. Commissioner Janowiak seconded the motion.

Roll Call: Ayes: James, Janowiak, Rowe, Pisano, Weldon

Nays: Moruzzi

Motion carried.

Motion: Commissioner Pisano made a motion to approve the variances requested for CDC Case Number 2012-22. Commissioner Janowiak seconded the motion.

Roll Call: Ayes: James, Janowiak, Rowe, Pisano, Weldon

Nays: Moruzzi

Motion carried.

Public Hearing: CDC Case Number 2012-30
Petitioner: ASAP Pallets, Inc. – Angela Cortez
Location: 480 Podlin Drive
Request: Conditional Use Permit to Allow Pallet Manufacturing and Repair and Parking Variance.

Motion: Chairman Moruzzi made a motion to open the Public Hearing for CDC Case Number 2012-30. Commissioner Rowe seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, James, Janowiak, Rowe, Pisano, Weldon
Absent: Ventura
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-30 at 6:58 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on August 25, 2012 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 August 24, 2012. Mr. Viger stated on August 24, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Marshall J. Subach, Attorney; Thomas Budzik, Architect; Philippe Delgado and Angela Cortez, owners, were all present and previously sworn in by Village Attorney, Mary Dickson. Mr. Subach submitted photos to the Commissioners. The photos have been attached to the minutes as "Exhibit B". Mr. Subach stated his clients are moving from Addison to Bensenville and are currently in negotiations with Citi Bank to purchase the building. Mr. Subach stated an inspector has already been out to the property and his clients are understandable with the recommendations set forth and are willing to comply with code. Mr. Subach stated after review of the site plan, there are currently seven parking spaces on the township owned right of way. Mr. Subach submitted a copy of the site plan to the Commissioners. A copy of the site plan has been attached to the minutes as "Exhibit C". Mr. Subach stated the plan allows for eight parking spaces behind the building. Mr. Subach stated there will be 5,000 square feet of outdoor storage, which is allowed in the current I-4 zoning district. Mr. Subach asked for Staff to reconsider their recommendations and amend recommendation number one and remove recommendation number four. Mr. Subach asked for clarification from Staff regarding the recommendation to landscape the property to the west. Mr. Subach asked for clarification on Staff's calculations of the 46 parking spaces required for the property.

Commissioner Pisano asked what the current plan is to pay the outstanding water bill. Mr. Subach stated he is currently in negotiations with Citi Bank over the outstanding water bill.

Commissioner Rowe asked if the company had trucks. Mr. Delgado stated they own several trucks for transportations and that the trucks will be stored inside.

Chairman Moruzzi asked if there was any member of the Public that would like to speak on behalf of CDC Case Number 2012-30. There was none.

Director of Community & Economic Development, Scott Viger, reviewed the Village Staff Report. Village Attorney, Mary Dickson asked Mr. Subach to review the approval criteria for his clients variance request. Mr. Subach reviewed the approval criteria for the variance and stated he would submit a written document to Staff at a later time. Mr. Viger stated Staff recommends approval with the following conditions:

1. The Conditional Use Permit be granted solely to ASAP Pallets, 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. A copy of the Conditional Use Permit and associated variances must be kept on the premises of the establishment and be presented to any authorized Village official upon request.
3. The property shall be developed and utilized in substantial conformance to the plans to be submitted as part of this application prepared for ASAP Pallets, Inc.
4. The floor be striped to dictate where pallets are allowed within the building, providing required aisles of egress to the correct width and location.
5. Outdoor storage of pallets be located within the pre-approved locations, permanently marked with paint.
6. An Annual Fire Alarm Inspection report and Commodity versus Density study be conducted.
7. A landscape plan shall be submitted and approved as part of the sign/building permit.

Commissioner Pisano asked if the company uses a forklift. Mr. Delgado stated they use a propane forklift. Commissioner Pisano asked if the dust on the floor will affect the performance of the forklift. Mr. Delgado stated the dust is collected by machines in throughout the warehouse. Mr. Delgado stated he is willing to comply with Staff's recommendations.

Commissioner James asked if the building is sprinkled. Mr. Subach stated the building meets the proper code requirements. Commissioner James asked that a key be left with the fire department in case of an emergency. Mr. Delgado did not object.

Mr. Viger clarified a mistake in the Village Staff Report. Mr. Viger stated the landscaping in question was to the east side of the property, not the west side and that the property in question is Village owned and not Township owned. Mr. Subach asked that the recommendation be lifted due to the fact that his client will then loose seven parking spaces and invest money in landscaping for no purpose. Mr. Subach suggested allowing the use to occur as is and visit the issue at a later date when the Village decides to pave Podlin Drive.

Motion: Commissioner Rowe made a motion to close the Public Hearing for CDC Case Number 2012-30. Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-30 at 7:40 p.m.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the conditional use permit request for CDC Case Number 2012-30 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.

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.
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.
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.
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.
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.

Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the findings of fact for the requested variance 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.

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.
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.
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.
5. **Preserve Rights Conferred By District:** A variance is necessary for the applicant to enjoy 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.
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.
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.
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.

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.

Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the conditional use permit requested with Staff recommendations. Commissioner Pisano seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Pisano made a motion to approve the variance requested from 38 to 8 parking stalls with Staff recommendations. Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Public Hearing:

Petitioner:

Location:

Request:

CDC Case Number 2012-29

Janjic Trucking Lines, Inc. – Danilo Janjic

211 Beeline Drive, Unit #3

Conditional Use Permit to allow Motor Vehicle Repair, Major and Minor and Parking Variance.

Motion: Commissioner James made a motion to open the Public Hearing for CDC Case Number 2012-29. Commissioner Weldon seconded the motion.

ROLL CALL :

Upon roll call the following Commissioners were present:

Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Absent: Ventura

A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-29 at 7:51 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on August 25, 2012 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 August 24, 2012. Mr. Viger stated on August 24, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Mr. Danilo Janjic and Ms. Lana Janjic, owners, were both present and previously sworn in by Village Attorney, Mary Dickson. Mr. Janjic stated an inspection has been done to the property and he is willing to comply with the recommendations from Staff. Mr. Janjic stated the garbage and trucks will be kept inside the unit. Mr. Janjic stated there will not be more than five trucks at one time. Mr. Janjic stated there will be four employees.

Chairman Moruzzi asked if the trucks being repaired are semis. Mr. Janjic stated there were semis. Chairman Moruzzi asked if the entrance was tall enough to bring the trucks inside. Mr. Janjic stated the door on the west side of the building was tall enough.

Chairman Moruzzi asked if there were any members of the Public that would like to speak in regards to CDC Case Number 2012-29. There were none. Mr. Viger stated he had met with a concerned citizen earlier in the day and provided Mr. and Ms. Janjic photos of the gentleman's complaints.

Director of Community & Economic Development, Scott Viger, presented the Village Staff report. Mr. Viger stated Staff recommends denial. However, if the Commissions recommend approval, Staff would ask for the following conditions to be considered:

1. The Conditional Use Permits be granted solely to Janjic Trucking Lines, 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, and
2. A copy of the Conditional Use Permit and associated variance must be kept on the premises of the establishment and be presented to any authorized Village official upon request, and
3. The property shall be developed and utilized in substantial conformance to the plans submitted as part of this application. Site Plans prepared by Premier Land Surveying, LLC., dated 08.21.12 with revisions requested by staff below, and
4. There shall be no work performed on vehicles out of doors, all work to be conducted within the fully enclosed building.
5. The owner and applicant shall work with the Village staff to create a functioning property owners/business association to ensure the maintenance, upkeep and harmony of the property and businesses.
6. There shall be no outdoor trash corral. All trash to be kept inside the building.
7. There shall be no outdoor storage or overnight parking of tractors or trailers outside of the subject property.
8. There shall be no trailers left on-site.
9. The property owner and applicant will work with the Village in garnering support for the establishment of a mechanism that provides unified control of the overall property to ensure the proper.

Motion:

Commissioner Pisano made a motion to close the Public Hearing for CDC Case Number 2012-29. Commissioner Rowe seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-29 at 8:11 p.m.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the conditional use permit request for CDC Case Number 2012-29 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. The addition of another truck repair business will increase the current traffic congestion found on-site due to the reduced parking available for the applicant.
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. There should not be environmental nuisances uncharacteristic of other I -2 uses and as work will be done indoors negative air and waste disposal nuisances are mitigated; however, the influx in truck traffic and storage would be an environmental nuisance to the surrounding tenants.
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 property in question is zoned I -2 Light Industrial. The proposed use should be in harmony with the businesses in 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. No significant increase in the utilization of the public utility systems is anticipated.

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. Staff believes that as the business is located in an industrial area, there is sufficient market demand for the proposed service.
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. Janjic Trucking Lines, Inc. repair will be in harmony with the surrounding business and industrial uses.

Commissioner Janowiak seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the findings of facts for the variance request for CDC Case Number 2012-29 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. The parking variance sought is not a special circumstance that is peculiar to this property.
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. Hardship does not exist in providing feasible traffic flow and maneuverability if variances are not granted. The parking requirements are based on the number of service bays available within the building to account for both the motor vehicles to be repaired as well as customer and employee parking. The applicant and site plans indicate up to five truck tractors will fit within the property in question requiring the equivalent parking standard of five service bays.

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. Staff finds that circumstances relate to the property.
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 variance requests are resulting from applicant action in the proposed five service bays to be utilized. If fewer bays were requested, the parking variance would be minimized and potentially unnecessary.
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. Staff believes no special privilege is conferred by the applicant in the subject variance requests.
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. Staff finds the variance is not necessary for the use of property. As the subject property is zoned I-2, a multitude of uses are allowed and could be implemented without a parking variance.
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. Local character is not altered as many other motor vehicle repair facilities exist nearby.

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 the parking variance is consistent with the Title 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 finds the minimum variance was not requested in that fewer service bays could have been requested, thereby reducing the parking stalls required.

Commissioner Weldon seconded the motion.

Roll Call: Ayes: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the conditional use permit request for CDC Case Number 2012-29 with Staff recommendations. Commissioner Rowe seconded the motion.

Roll Call: Ayes: None

Nays: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Motion fails.

Motion: Commissioner Pisano made a motion to approve the variance request for CDC Case Number 2012-29 with Staff recommendations. Commissioner Weldon seconded the motion.

Roll Call: Ayes: None

Nays: Moruzzi, James, Janowiak, Rowe, Pisano, Weldon

Motion fails.

Commissioner James left the meeting at 8:16 p.m.

Public Hearing: CDC Case Number 2012-20
Petitioner: GTO Automotive – Gabriel Nieto
Location: 1148 E. Green Street
Request: Conditional Use Permit to Allow Motor Vehicle Repair, Major & Minor

Motion: Commissioner Rowe made a motion to open the Public Hearing for CDC Case Number 2012-20. Commissioner Janowiak seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Janowiak, Rowe, Pisano, Weldon
Absent: James, Ventura
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-20 at 8:17 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on August 25, 2012 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 August 24, 2012. Mr. Viger stated on August 24, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Mr. Gabriel Nieto and Ms. Marlana Nieto, owners, were both present and previously sworn in by Village Attorney, Mary Dickson. Ms. Nieto reviewed the current operations of the company. Ms. Nieto stated all work on vehicles will be performed inside the building. There were no questions from the Commission.

Chairman Moruzzi asked if there was any member of the Public that would like to speak in regards to CDC Case Number 2012-20. There were none.

Director of Community & Economic Development, Scott Viger, presented the Village Staff Report. Mr. Viger stated staff recommends approval with the following conditions:

1. The Conditional Use Permits be granted solely to G.T.O. Automotive 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, and
2. A copy of the Conditional Use Permit and associated variances must be kept on the premises of the establishment and be presented to any authorized Village official upon request, and
3. The property shall be developed and utilized in substantial conformance to the plans submitted as part of this application. Site Plans prepared for GTO Automotive, dated 08.22.12 with revisions requested by staff below, and
4. There shall be no work performed on vehicles out of doors, all work to be conducted within the fully enclosed building.

Mr. Viger also suggestion adding that the company be required to comply with 8-6-15 of Village Code, grease, oil and sand. There were no objections from the Commission.

Motion: Commissioner Pisano made a motion to close the Public Hearing for CDC Case Number 2012-31. Chairman Moruzzi seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-20 at 8:30 p.m.

Motion: Commissioner Weldon made a motion to approve the findings of facts for the conditional use permit 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. Traffic flow will not be negatively impacted by G.T.O. Automotive due to the work being done inside the subject property. The site had previously been used as a motor vehicle repair shop without negative impacts to the area.
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. There should not be environmental nuisances uncharacteristic of other I – 4 uses as all work will be completed within the property in question.
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 property in question is zoned I – 4 Light Industrial. The proposed use should be in harmony with the businesses in 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. No significant increase in the utilization of the public utility systems is anticipated as motor vehicle repair has been a previous use of the property.
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. Staff believes that there is sufficient market demand for the proposed service.
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 subject to Community Development Commission’s discretion.

Commissioner Pisano seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the conditional use permit request for CDC Case Number 2012-20 with Staff's recommendation and the addition to meet the requirements of Village Code Section 8-6-15. Commissioner Rowe seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi recessed the meeting at 8:36 p.m.

Chairman Moruzzi called the meeting back to order at 8: 40 p.m.

Public Hearing: CDC Case Number 2012-28
Petitioner: Ambrose Design Group, LLC
Location: 154 S. York Road
Request: Conditional Use Permit to allow a service station and EMC, and a variance relating to sign, landscaping, parking and setbacks

Motion: Commissioner Rowe made a motion to open the Public Hearing for CDC Case Number 2012-28. Commissioner Janowiak seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Janowiak, Rowe, Pisano, Weldon
Absent: James, Ventura
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-28 at 8:42 p.m.

Director of Community & Economic Development, Scott Viger, stated a legal notice was published in the Daily Herald on August 25, 2012 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 August 24, 2012. Mr. Viger stated on August 24, 2012 Village Staff mailed first class notice of the public hearing to taxpayers of record within 250 feet of the property in question.

Mr. Ron Ambrose, Architect, and Mr. Bala Gogineni, owner, were both present and previously sworn in by Village Attorney, Mary Dickson. Mr. Ambrose stated he and his client had reviewed the recommendations set forth by Staff and have agreed to close the entrance off of Green Street closest to York Road. Mr. Ambrose stated his client intends to remove the existing pole sign and replace it with a two pole EMC sign. Mr. Ambrose stated the canopies and pumps will remain the same. Mr. Ambrose stated the parking stalls are currently on an angle and will now be 90 degree parking stalls. There will be one handicap parking space and nine parking spaces. Mr. Ambrose stated his client is seeking a variance from fifteen to ten parking spaces. Mr. Ambrose reviewed the plans for the building remodeling.

Commissioner Pisano asked if cars would be backed up onto Green Street with the current plan of not allowing stacking to take place. Mr. Ambrose addressed the concern and stated he was willing to seek permission for stacking of one vehicle. There were no objections from the Commission.

Chairman Moruzzi asked if there was any member of the Public that would like to speak on behalf of CDC Case Number 2012-28. There was none.

Director of Community Development, Scott Viger, presented the Village Staff Report and stated Staff recommends approval with the following conditions:

1. The Conditional Use Permits be granted solely to Bala Gogineni 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, and
2. A copy of the Conditional Use Permit and associated variances must be kept on the premises of the establishment and be presented to any authorized Village official upon request, and
3. The property shall be developed and utilized in substantial conformance to the plans submitted as part of this application. Site and Engineering Plans prepared by Paul R. Glenn Architects, Inc., dated 04.26.12 with revisions requested by staff below, and
4. Landscape materials be added to the Green Street and York Road frontage strips to meet the Village requirements. The landscape plan is subject to the review and approval of Village staff, and
5. Revised architectural plans clearly identifying materials and colors of the proposed convenience store are submitted reviewed and approved by the Village staff, and
6. There shall be no window displays or advertising banners in the area of the cashier that will restrict the cashier's view or the view of passing police patrol, and
7. The site shall be conspicuously sign posted per Village Code 4-3-18(b) 2, Criminal Trespass, to discourage loitering.

Chairman Moruzzi asked if Mr. Gogineni plans to replace the current fence. Mr. Gogineni stated the current fence is being replaced due to an accident. Mr. Gogineni is currently in negotiations with an insurance company.

Motion:

Commissioner Pisano made a motion to close the Public Hearing for CDC Case Number 2012-28. Commissioner Rowe seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed the Public Hearing for CDC Case Number 2012-28 at 8:52 p.m.

Motion: Commissioner Weldon made a motion to approve the Findings of Facts for the condition use permit request for the service station 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. Staff finds the proposed site plan would enhance the traffic flow found along Green Street as a curb cut will be removed.
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. The use currently exists on the subject property and the proposed site plan will not cause any environmental nuisance as upgrades are being made to the property in question.
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 site plans will fit harmoniously with the existing character and improve the environs with an updated construction for a major gateway into the downtown mixed use district.
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. No additional use of public services and facilities will be necessary as the current use will be maintained.

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 improvements to the store interior and exterior will provide an improved experience to customers frequenting the site as well as an improved perspective of the Village even for individuals passing through the intersection.
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. Any other factors are under the discretion of the Community Development Commission.

Commissioner Pisano seconded the motion.

Roll Call:

Ayes: Moruzzi, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion:

Commissioner Weldon made a motion to approve the Findings of Facts for the condition use permit request for the EMC Sign 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. The EMC shall meet the Village's Ordinance requirements thereby eliminating negative effects on the traffic in the area.
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. If the EMC meets the Village's Ordinance requirements including the illumination of the sign not exceeding a 40 foot candle, it should not have a negative effect on the environment in the area.

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. If the EMC meets the Village's Ordinance requirements it should not negatively impact the neighborhood character of the Bensenville's Downtown Mixed Use District.
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. The proposed EMC will not impact the Village's public 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. Staff finds that there is sufficient market demand for the proposed use as other gas stations within the Village have requested such EMCs.
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. Any other factors are under the discretion of the Community Development Commission.

Commissioner Rowe seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the Findings of Facts for the variance request for parking 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. The variances sought are special circumstances that are peculiar to this property in the size and location as an entryway into the Village's downtown district.
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. Hardship would exist in providing feasible traffic flow and maneuverability if variances are not granted. The applicant contends there is no other practical location with high visibility to place the sign.
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 circumstances that relate to the property are the subject property's location on a corner lot, limiting the location and amount of parking, signage and landscaping.
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 variances are the result of the traffic flow and physical site design dictated by the property itself and the surrounding uses, not the specific actions of the applicant.

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. Staff believes no special privilege is conferred by the applicant in the subject variance requests. These requests are typically found within service station renovations.
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. The variances are necessary for the use of property to bring the site to the highest conforming level.
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. Local character is not altered in that another service station exists just east of the subject property.
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. The property's location as a commercial entrance to the downtown area is consistent with the comprehensive plan. The granting of the aforementioned variances will allow for a harmonious improvement to the surrounding area.
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 finds the minimum variances have been requested.

Chairman Moruzzi seconded the motion.

Roll Call:

Ayes: Moruzzi, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the Findings of Facts for the variance request for landscaping 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. The variances sought are special circumstances that are peculiar to this property in the size and location as an entryway into the Village's downtown district.
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. Hardship would exist in providing feasible traffic flow and maneuverability if variances are not granted. The applicant contends there is no other practical location with high visibility to place the sign.
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 circumstances that relate to the property are the subject property's location on a corner lot, limiting the location and amount of parking, signage and landscaping.
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 variances are the result of the traffic flow and physical site design dictated by the property itself and the surrounding uses, not the specific actions of the applicant.

- 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. Staff believes no special privilege is conferred by the applicant in the subject variance requests. These requests are typically found within service station renovations.
- 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. The variances are necessary for the use of property to bring the site to the highest conforming level.
- 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. Local character is not altered in that another service station exists just east of the subject property.
- 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. The property's location as a commercial entrance to the downtown area is consistent with the comprehensive plan. The granting of the aforementioned variances will allow for a harmonious improvement to the surrounding area.
- 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 finds the minimum variances have been requested.

Chairman Moruzzi seconded the motion.

Roll Call:

Ayes: Moruzzi, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the Findings of Facts for the variance request for the sign 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. The variances sought are special circumstances that are peculiar to this property in the size and location as an entryway into the Village's downtown district.
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. Hardship would exist in providing feasible traffic flow and maneuverability if variances are not granted. The applicant contends there is no other practical location with high visibility to place the sign.
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 circumstances that relate to the property are the subject property's location on a corner lot, limiting the location and amount of parking, signage and landscaping.
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 variances are the result of the traffic flow and physical site design dictated by the property itself and the surrounding uses, not the specific actions of the applicant.

- 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. Staff believes no special privilege is conferred by the applicant in the subject variance requests. These requests are typically found within service station renovations.
- 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. The variances are necessary for the use of property to bring the site to the highest conforming level.
- 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. Local character is not altered in that another service station exists just east of the subject property.
- 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. The property's location as a commercial entrance to the downtown area is consistent with the comprehensive plan. The granting of the aforementioned variances will allow for a harmonious improvement to the surrounding area.
- 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 finds the minimum variances have been requested.

Chairman Moruzzi seconded the motion.

Roll Call:

Ayes: Moruzzi, Janowiak, Rowe, Pisano, Weldon

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Pisano made a motion to approve the conditional use permit request for a service station with staff's recommendations for CDC Case Number 2012-28. Commissioner Weldon seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Rowe made a motion to approve the conditional use permit request for an EMC Sign with staff's recommendations for CDC Case Number 2012-28. Commissioner Weldon seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the variance request for parking with staff's recommendations for CDC Case Number 2012-28. Commissioner Pisano seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the variance request for landscaping with staff's recommendations for CDC Case Number 2012-28. Chairman Moruzzi seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Motion: Commissioner Weldon made a motion to approve the variance request for signage with staff's recommendations for CDC Case Number 2012-28. Commissioner Janowiak seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Public Hearing: CDC Case Number 2012-33
Petitioner: Village of Bensenville
Request: Comprehensive Plan Amendment for the Legends Site.

Motion: Commissioner Pisano made a motion to open the Public Hearing for CDC Case Number 2012-33. Commissioner Rowe seconded the motion.

ROLL CALL : Upon roll call the following Commissioners were present:
Moruzzi, Janowiak, Rowe, Pisano, Weldon
Absent: James, Ventura
A quorum was present.

Chairman Moruzzi opened the Public Hearing for CDC Case Number 2012-33 at 9:00 p.m.

Director of Community & Economic Development, Scott Viger was present and had been previously sworn in by Village Attorney, Mary Dickson. Mr. Viger stated the current land use designation for the Legends site identified in the 1980 Comprehensive Plan amended by the Corridor Plan: General Development Plan Update, adopted April 20, 2004 is "Park/Open Space." Current Village thinking is based on several consultant projects and evaluations. The future land use can be maximized with the incorporation of both industrial and commercial districts on the subject site. Along with the preservation of the Park/Open Space surrounding the creek running through the site, a commercial future land use shall be identified along the eastern and southern portion of the site and an industrial land use within the remaining north western area. To facilitate the aforementioned development in the future, staff recommends the Comprehensive Plan be amended to include these future use patterns. Attached, both the current and proposed land use plans can be found to exemplify this amendment.

There were no questions from the Commission.

Chairman Moruzzi asked if there was any member of the Public that would like to speak on behalf of CDC Case Number 2012-33. There was none.

Motion: Commissioner Pisano made a motion to close CDC Case Number 2012-33. Commissioner Rowe seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Chairman Moruzzi closed CDC Case Number 2012-33 at 9:05 p.m.

Motion: Commissioner Weldon made a motion to approve the comprehensive plan amendment for the Legends Sit. Commissioner Pisano seconded the motion.

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

Nays: None

All were in favor. Motion carried.

Report from Community Development

Mr. Viger reviewed both recent Village Board actions and prior CDC cases along with upcoming cases.

ADJOURNMENT:

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

All were in favor
Motion carried.

The meeting was adjourned at 9:10 p.m.