

BEFORE THE DU PAGE COUNTY  
ZONING BOARD OF APPEALS

Conditional Use to allow an ) Sur Mac Builders  
existing duplex to remain. ) Z24-000006-A

May 9, 2024

6:00 p.m.

PROCEEDINGS HAD and testimony  
taken before the DU PAGE COUNTY ZONING BOARD OF  
APPEALS, taken at the DuPage County  
Administration Building, 421 North County Farm  
Road, Wheaton, Illinois, before LINDA M.  
CIOSEK, C.S.R. a Notary Public qualified and  
commissioned for the State of Illinois.

BOARD MEMBERS PRESENT:

MR. ROBERT KARTHOLL, Chairman.

MR. BARRY KETTER, Commissioner.

MR. JACK MURPHY, Commissioner.

MR. DENNIS MORAN, Commissioner.

MR. CARL SCHULTZ, Commissioner.

MR. ZAIN RAHMAN, Commissioner.

MS. JANICE ANDERSON, Commissioner.

ALSO PRESENT:

MR. PAUL HOSS, Planning & Zoning.

<p style="text-align: right;">Page 2</p> <p style="text-align: center;">I N D E X</p> <p style="text-align: center;">Page No.</p> <p>Petitioner's Group Exhibit 6      15</p>	<p style="text-align: right;">Page 4</p> <p>1 petition and we've heard this case before. The</p> <p>2 amendment is simply a restatement of the</p> <p>3 requested relief.</p> <p>4 And with that, I don't have</p> <p>5 any new surveys or site plans, so I'll turn it</p> <p>6 over -- are you the petitioner's attorney, or</p> <p>7 what?</p> <p>8 MR. TESSITORE: I am, yes, sir. My name</p> <p>9 is Vince Tessitore from the law firm of Lindell</p> <p>10 &amp; Tessitore, P.C. in Naperville, and we</p> <p>11 represent the owner of the property which is</p> <p>12 Sur Mac Builders, LLC.</p> <p>13 CHAIRMAN KARTHOLL: Are you -- do you</p> <p>14 have clients that are coming to testify, or are</p> <p>15 you going to present the testimony?</p> <p>16 MR. TESSITORE: I do not, I'm going to</p> <p>17 present and I will present to the extent that</p> <p>18 Your Honor wishes me to present. I am going to</p> <p>19 ask that the previous record of March 21st,</p> <p>20 2024 be incorporated and admitted into these</p> <p>21 proceedings on that date.</p> <p>22 CHAIRMAN KARTHOLL: It will be. It's an</p> <p>23 amended petition, so it is already a part of</p> <p>24 this amended case.</p>
<p style="text-align: right;">Page 3</p> <p>1 CHAIRMAN KARTHOLL: We're here this</p> <p>2 evening for our Zoning Board of Appeals</p> <p>3 meeting. I'm not going to call the roll, I</p> <p>4 will indicate all members of the Board are</p> <p>5 present with the exception of Ms. Anderson who</p> <p>6 has not indicated that she'll appear by Zoom,</p> <p>7 so it's likely that she'll join us in a moment.</p> <p>8 We have no old business on</p> <p>9 the agenda, and I'm told that there is no</p> <p>10 public comment to be offered.</p> <p>11 So the first item on the</p> <p>12 agenda is calling the zoning case that we have</p> <p>13 this evening, which is 24-06, which is the Sur</p> <p>14 Mac Builders, LLC. And this is a request for a</p> <p>15 conditional use for a planned development to</p> <p>16 allow an existing duplex to remain on the</p> <p>17 subject property.</p> <p>18 The matter was published in</p> <p>19 the Daily Herald on April 24th, 2024. And I</p> <p>20 have no objections or substantive comments</p> <p>21 filed by any of the entities to whom the</p> <p>22 petition has been circulated. I should correct</p> <p>23 myself. I read the docket number as 24-006, it</p> <p>24 should be 24-006-A because this is an amended</p>	<p style="text-align: right;">Page 5</p> <p>1 Could you raise your hand</p> <p>2 and be sworn in, please.</p> <p>3 (Whereupon, the oath was</p> <p>4 duly administered by the</p> <p>5 Notary.)</p> <p>6 MR. TESSITORE: Again, my name is Vince</p> <p>7 Tessitore on behalf of the applicant.</p> <p>8 CHAIRMAN KARTHOLL: Do you have any new</p> <p>9 exhibits?</p> <p>10 MR. TESSITORE: I do not have any new</p> <p>11 exhibits.</p> <p>12 CHAIRMAN KARTHOLL: Okay, fine.</p> <p>13 MR. TESSITORE: The exhibits that we're</p> <p>14 asking to be admitted are the same as before.</p> <p>15 There were five exhibits that we did have</p> <p>16 admitted at the previous proceeding.</p> <p>17 CHAIRMAN KARTHOLL: Okay.</p> <p>18 MR. TESSITORE: I'm happy to go through</p> <p>19 those to the extent that the Board wants me to.</p> <p>20 And to the extent that the Board wants me to go</p> <p>21 through each and every one of the conditional</p> <p>22 use factors, I'm happy to do that. I did do</p> <p>23 that at the previous proceeding, all the Board</p> <p>24 members were present with His Honor, the</p>

<p style="text-align: right;">Page 6</p> <p>1 chairman, being present remotely.  2 But a brief overview is that  3 the property was purchased by our client in  4 July of 2023. The property was built in the  5 year 1900 as a duplex. It had remained as a  6 duplex, according to the township records which  7 have been admitted into evidence, until at  8 least 2012. However, so at least in 2012 the  9 property was legal non-conforming. It was  10 discovered by the County that in 2017 the then  11 owner had taken one of the entrances to one of  12 the duplex units and converted that to a  13 window. That was also the case in 2018. When  14 our clients bought the property in 2023, it had  15 been converted back to a duplex. We don't know  16 exactly when that happened, but it must have  17 been sometime between 2018 and 2023. So, the  18 duplex has been existing prior to our client's  19 purchase, and we know at least for 112 years  20 from its construction.  21 So, we're here -- and the  22 reason for the amended petition is that we  23 originally requested a conditional use for the  24 duplex and realized that a duplex is not one of</p>	<p style="text-align: right;">Page 8</p> <p>1 development includes -- I mean could be very  2 encompassing to include whatever the sort of  3 mixed uses are that the petitioner is  4 requesting. This is simply a two-unit  5 structure in its existing form that's not being  6 altered at all that we're requesting the  7 planned development that we're requesting a  8 conditional use for.  9 CHAIRMAN KARTHOLL: So the original  10 petition that was before us that's part of this  11 record was faulty because it requested a  12 conditional use for a use that is not cited as  13 a conditional use; namely, a duplex. There is  14 a catch-all for conditional use for a planned  15 development. What is it about this project  16 that makes it a planned development?  17 Anything could be a planned development.  18 MR. TESSITORE: Well, anything really  19 can be a planned development, it really kind of  20 goes back to the use of the property not being  21 a permitted use, but being desired by the  22 County, the community, and being consistent  23 with not only the factors that are set forth  24 within the conditional use, but desired by</p>
<p style="text-align: right;">Page 7</p> <p>1 the listed conditional uses under the R-4  2 zoning code, so we amended that request to be a  3 planned development because a planned  4 development is, in fact, one of the listed  5 conditional uses under the R-4 Zoning Code.  6 (Whereupon, Commissioner  7 Anderson entered the  8 hearing.)  9 MR. TESSITORE: So, in essence, we are  10 here requesting that the conditional use for  11 the planned development be granted.  12 The record is complete with  13 our evidence to support the conditional uses,  14 but again -- and the factors. But, again, I'm  15 happy to go through in any detail that the  16 Board would wish me to.  17 CHAIRMAN KARTHOLL: Well, I don't think  18 you need to enumerate the conditional uses.  19 Let me recognize Ms. Anderson's attendance.  20 I don't think you need to,  21 you know, go through the conditional uses, but  22 I would like to know how this constitutes a  23 planned development.  24 MR. TESSITORE: Well, a planned</p>	<p style="text-align: right;">Page 9</p> <p>1 guidelines concerning the County in general,  2 one of those guidelines being that affordable  3 housing is desired within the County. And  4 you're right, there could be a myriad of  5 different planned development uses that could  6 fall into that catch-all category. We think  7 this is one that is consistent with the goals  8 of the County. But, to sort of describe every  9 potential planned development use would really  10 be impossible, because it could be anything  11 that isn't a permitted use but is desired and  12 permitted within the factors set forth.  13 CHAIRMAN KARTHOLL: Are you familiar  14 with the Living Word case as it relates to  15 conditional uses?  16 MR. TESSITORE: I've heard of the Living  17 Word case, but I have not read it recently.  18 CHAIRMAN KARTHOLL: I didn't mean to --  19 you know, this is not -- I'm not trying to  20 joust with you about the legalities, I just --  21 from my own sake, I don't think that the  22 rationale of the Living Word standard applies  23 in this instance to permitted uses, but that's  24 another -- you know, that's somewhat esoteric</p>

<p style="text-align: right;">Page 10</p> <p>1 and should be reserved for discussion at our 2 recommendation meeting. 3           Anyone on the Board have 4 questions of the petitioner? 5           (No response.) 6       CHAIRMAN KARTHOLL: No questions. We 7 all know what is being requested here, I guess. 8           Can I turn to the audience? 9 Do you want to make, either of you want to make 10 comments about this case, just yes or no for 11 now? 12       MR. FARRINGTON: Yes. 13       CHAIRMAN KARTHOLL: Both of you? 14       MR. FARRINGTON: Yes. 15       CHAIRMAN KARTHOLL: Okay, would you 16 raise your hands and be sworn in. 17           (Whereupon, the oath was 18           duly administered by the 19           Notary.) 20       CHAIRMAN KARTHOLL: All right, who would 21 like to go first? You're both pointing at the 22 other. 23           Okay, tell us your name, 24 spell your name, and then once again I think we</p>	<p style="text-align: right;">Page 12</p> <p>1 which is part of Eola. 2           And when we moved in, there 3 was a single family in there, a lady, an 4 elderly lady. And she was there I can't tell 5 you how many years, but after she moved out, 6 another single family moved in, a husband and 7 wife and a daughter, and their family owned the 8 business which was adjacent to the house in 9 question. And we were told by them that the 10 house in question served as an ice storage 11 facility for this business. Years and years 12 ago this used to be a bean factory, but now 13 it's just nothing, just a building. And our 14 concern is that having a duplex in the 15 neighborhood, which is entirely residential 16 homes, homeowners, is going to possibly affect 17 the property values. And the turnover that you 18 typically see with rental-type units is going 19 to, you know, we think not be an asset to the 20 community. And already we can see no 21 maintenance has been done on the outside at 22 all; the grass hasn't even been cut. We hear 23 fighting from the two tenants that have 24 apparently been renting the units over various</p>
<p style="text-align: right;">Page 11</p> <p>1 recognize you from the last time, but tell us 2 your address, where you live in relation to 3 this petition or this property, and then tell 4 us how you feel. 5       MS. FARRINGTON: June Farrington. 6       CHAIRMAN KARTHOLL: Just a little touch 7 louder. 8       MS. FARRINGTON: June Farrington, 9 F-a-r-r-i-n-g-t-o-n. I live at 1064 East 4th 10 Street, Aurora, 60502, directly across from the 11 building in question, and we were at the last 12 meeting. Did I say everything I was supposed 13 to say? 14       CHAIRMAN KARTHOLL: Yeah. 15       COMMISSIONER ANDERSON: I can't hear 16 her. Do you want to stand up maybe? 17       MS. FARRINGTON: I just wanted to make 18 sure I said all the stuff I was supposed to. 19           As I mentioned at our last 20 meeting, we've lived at our house since it was 21 built 22 years ago. The property was an 22 asparagus farm before that where our units were 23 built as part of Aurora, which is directly 24 across the street from the house in question</p>	<p style="text-align: right;">Page 13</p> <p>1 issues such as there's only one driveway 2 they're supposed to share somehow, so they 3 basically are fighting over that because the 4 neighbor doesn't want them using her driveway 5 to access the single driveway. 6           So it's just creating an 7 unpleasant neighborhood for us in what has 8 always been a very, very tranquil neighborhood. 9       CHAIRMAN KARTHOLL: Okay, thank you. 10 Sir? 11       MR. FARRINGTON: Actually she said 12 everything there was to say. 13       CHAIRMAN KARTHOLL: Well, then tell us 14 your name. 15       MR. FARRINGTON: Robert Farrington, 16 husband of June. Same address, 1064. 17       CHAIRMAN KARTHOLL: And you agree with 18 her comments? 19       MR. FARRINGTON: Yes, I do. 20       CHAIRMAN KARTHOLL: All right, thank you 21 very much. 22           Back to the petitioner then 23 for summary or a response? 24       MR. TESSITORE: The only response that I</p>

<p style="text-align: right;">Page 14</p> <p>1 would point to is we do have -- actually this  2 isn't in the record, there was testimony  3 concerning it and I do have photographs of  4 this, but I think the comment was that 22 years  5 ago the property was a single family, or  6 perhaps was occupied by a single family.  7 Actually that may be -- both may be true.  8 Twenty-two years ago we do have evidence that  9 the property was a duplex. It may be that one  10 family lived in the property and the other unit  11 was not occupied.  12 I do have -- and I could  13 submit this as evidence as Exhibit No. 6 -- a  14 photograph of the property dated April, 2012  15 where you can see the separate units as a  16 duplex with the separate entrances.  17 CHAIRMAN KARTHOLL: We'll take that as  18 your --  19 MR. TESSITORE: That also has --  20 CHAIRMAN KARTHOLL: Is it 6, did you  21 say?  22 MR. TESSITORE: That would be No. 6,  23 yes. That also has two additional photos that  24 I had alluded to previously from 2017 and 2018</p>	<p style="text-align: right;">Page 16</p> <p>1 cafeteria room because we have other cases  2 where we'll have -- we anticipate a crowd that  3 will be a little too big for this room.  4 MR. TESSITORE: Thank you very much.  5 CHAIRMAN KARTHOLL: There's no old  6 business, so we'll adjourn.  7 (Which were all the  8 proceedings had and  9 testimony taken in the  10 above-entitled cause.)  11  12  13  14  15  16  17  18  19  20  21  22  23  24</p>
<p style="text-align: right;">Page 15</p> <p>1 where the entrance was converted to a window.  2 I have copies of that, too, I can pass out.  3 CHAIRMAN KARTHOLL: We'll take this  4 first one as your hearing exhibit, and then you  5 can pass out copies to the members if you want.  6 MR. TESSITORE: Sure.  7 (Whereupon, the document was  8 marked as Petitioner's  9 Group Exhibit 6 for  10 identification.)  11 MR. TESSITORE: That's all I have.  12 CHAIRMAN KARTHOLL: Okay. Let's note  13 Exhibit 6 is Group Exhibit 6 consisting of  14 three photographs of the property, all of which  15 are dated at the bottom.  16 All right, I guess that's  17 all you have in terms of exhibits, or that's  18 all you have for presentation?  19 MR. TESSITORE: That's all I have for  20 presentation.  21 CHAIRMAN KARTHOLL: Okay, very good,  22 then we'll close the hearing this evening and  23 set the matter for our June 6th recommendation  24 meeting. That's to be held at 5:30 in the</p>	<p style="text-align: right;">Page 17</p> <p>1 STATE OF ILLINOIS )  ) SS.  2 COUNTY OF DU PAGE )  3 I, LINDA M. CIOSEK, C.S.R.  4 No. 084-2892, duly qualified and commissioned  5 for the State of Illinois, County of DuPage, do  6 hereby certify that at the request of the DU  7 PAGE COUNTY ZONING BOARD OF APPEALS, subject to  8 the usual terms and conditions of Veritext,  9 reported in shorthand the proceedings had and  10 testimony taken at the public hearing of the  11 above-entitled cause, and that the foregoing  12 transcript is a true, correct and complete  13 report of the testimony so taken at the time  14 and place hereinabove set forth.  15  16  17  18  19  20  21  22 My Commission Expires:  23 July 26, 2026.  24</p> <p style="text-align: center;"><i>Linda M. Ciosek</i>  CERTIFIED SHORTHAND REPORTER</p>

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