

**MINUTES
CITY OF DARIEN
PLANNING & ZONING COMMISSION MEETING
March 20, 2019**

PRESENT: Lou Mallers, Robert Cortez, Michael Desmond, Robert Erickson, Brian Gay, Steven Manning - City Planner, Bryon Vana – City Administrator

ABSENT: Brian Liedtke, Mary Sullivan, Ralph Stompanato, Liz Lahey – recording Secretary

Chairperson Lou Mallers called the meeting to order at 7:00 p.m. at the City Hall – City Council Chambers, Darien, Illinois and declared a quorum present and swore in the audience members wishing to present public testimony.

REGULAR MEETING:

A. Public Hearing - Continued

Case: PZC 2018-11 Chemical Uses (zoning text amendment)

City of Darien has petitioned for approval of a text amendment of the Zoning Code, Title 5A, Chapter 9: Office and Industrial Districts, Chapter 12: Performance Standards, and Chapter 13: Definitions, regarding standards for chemical-related uses and activities.

Steve Manning reported that this hearing was opened January 16 and was continued to February 6 and March 6. The staff report for this meeting includes correspondence from Aldermen Tom Chlystek and Lester Vaughan, research from Federal and State websites on Tier II regulations, and correspondence from Tri-State Fire District. This input along with testimony from property owners at the previous three hearings was used to prepare a revised draft of the zoning text amendment presented in ordinance form in the staff report. The revisions no longer have a list of uses to be deleted from the ORI and I-1 zoning district. Instead, the amendment includes a statement that businesses with Tier II reportable chemicals are to be prohibited in the ORI and I-1 districts.

Brooke Leneman, attorney from Holland & Knight, representing Sterling Bay, repeated the statement she made at the March 6 hearing and the statement made by her associate Peter Friedman for the February 6 hearing that the proposed text amendment seems overly broad and they request more time to prepare a response, such as limiting the prohibition to just the manufacture of extremely hazardous chemicals in large quantities.

Commission members asked whether there was any merit to have the Darien City Code list all the Tier II reportable chemicals, the minimum quantity thresholds specified by EPA for purposes of reporting, and setting up a special use procedure for exceptions.

Staff commented that EPA has already selected the most hazardous chemicals out of the over ½ million known and have designated this list of under a thousand as Tier II. This Tier II designation can be referenced for local regulation purposes. The chemicals included and their threshold quantities may be changed by EPA over time, so trying to list them in the Darien ordinance will become out of date. A special use procedure for allowing some Tier II chemicals

would be problematic, since we do not have a standard for determining if any would be safe in our community.

Keith Lang, a property owner of an industrial building on Wilmette Avenue in Darien, commented that by prohibiting all businesses that would have Tier II chemicals, would limit the number of potential businesses that could move into Darien. This may limit his rental income and the City's tax revenue.

Staff acknowledged that potential exists. In light of the lack of vacancies and the absence of current businesses in the ORI and I-1 district reporting Tier II chemicals, the risk of negative economic impact may be low. The risk to the health of people and the environment from a release of Tier II chemicals may be high.

Commission members commented on the potential economic benefits of the proposed regulation that may come from higher rents for Tier II chemical-free properties, lesser insurance liability for personal injury and contamination, and lesser costs for health care and cleanup of contamination.

Joseph Myczek, 8632 Ailsworth Drive in Darien, commented that even a small leak of hazardous chemical can be disastrous, such as from the Sterling Bay property into the adjacent forest preserve Waterfall Glen or from dry cleaners. He also said that all landlords have economic risks and should be willing do their part to protect the environment and our health as part of the cost of doing business.

Commissioner Cortez asked about reporting history. Staff referenced the EPA information that Tier II reporting is an honor system with penalties for non-compliance and cited recent news of forced business closing in Willowbrook. Commissioner Erickson asked about role of the fire department. Staff recounted the information obtained from the Tri-State Fire Prevention Director that their annual inspections of businesses are done with Tier II reports in hand and they are looking for proper storage and fire suppression. So far they have not found any business that failed to report as required by Tier II, however they are not tasked with finding improper handling of Tier II chemicals.

Commissioner Gay asked if the proposed text amendment would prevent a situation in Darien similar to the Sterigenics situation in Willowbrook. Bryon Vana responded that is the intent.

Steve Manning commented that the intent is to be proactive. This zoning approach is innovative and to our knowledge Darien is first community to try this approach to regulating hazardous chemicals. Holland and Knight has asked three times for more time to respond. We have continued for two months but they have not provided any further input. There is some urgency here in that the two large industrial properties in Darien, 7879 Lemont Road and 1035 S. Frontage Road, are now searching for tenants and City could be well-served by have this proposed regulation in place now. As with any new code, the language should be our best attempt to get it right, but if our experience with the new regulation reveals a need for improvement, we should be willing to consider further amendment at that time. Commissioner Cortez said he understands that one of the functions of public hearings is to give the public a chance to provide input and for all commissioners to review and comment. However, we also have the obligation to move the proposal forward in a timely manner.

Commissioner Desmond made a motion to recommend approval of the ordinance as presented with changes to the text in sections 1 and 2 adding the word 'process' after the words 'utilization' and the words 'at quantities' before the words 'subject to the Tier II

reporting' based on a finding-of-fact that the proposed zoning text amendment does comply with the decision criteria in Section 5A-2-2-5 of the Zoning Code, specifically that it would be compatible with the existing uses and trend of development in the area, it would not have a negative impact on the character of the area or the property values therein, and it would be consistent with the plans and policy of the City to protect the health safety and general welfare. Commissioner Gay seconded.

Upon roll call vote, **THE MOTION CARRIED UNANIMOUSLY 5-0.**

Staff commented that this agenda item and the PZC recommendation will be scheduled for the Municipal Services Committee on March 25.

CORRESPONDENCE

None

OLD BUSINESS

None

NEW BUSINESS

None

APPROVAL OF MINUTES

None

NEXT MEETING

Scheduled for April 3

PUBLIC COMMENTS

None

ADJOURNMENT

With no further business before the Commission, Commissioner Cortez made a motion to adjourn. Seconded by Commissioner Erickson. Upon voice vote, **THE MOTION CARRIED** unanimously and the meeting adjourned at 8:40 p.m.

RESPECTFULLY SUBMITTED:

APPROVED:

Steven Manning
Acting Recording Secretary

Lou Mallers
Chairperson