



# City of Aurora

44 East Downer Place  
Aurora, Illinois 60505  
www.aurora-il.org

## Legistar History Report

**File Number: 21-0064**

**File ID:** 21-0064

**Type:** Petition

**Status:** Draft

**Version:** 2

**General Ledger #:**

**In Control:** Building, Zoning, and Economic Development Committee

**File Created:** 01/26/2021

**File Name:** Circle K / 1340 Molitor Road / Preliminary Plan

**Final Action:**

**Title:** A Resolution Approving a Preliminary Plan and Plat for vacant land located at 1340 Molitor Road being at the northwest corner of Farnsworth Avenue and Molitor Road (Circle K - 21-0064 / AU11/2-21.014-CUPD/R/Ppn - JS - Ward 1)

**Notes:**

**Agenda Date:** 02/24/2021

**Agenda Number:**

**Sponsors:**

**Enactment Date:**

**Attachments:** Land Use Petition and Supportiing Documents - 2021-01-25 - 2021.014, Memorandum of Decision (Vacating Diehl Road Easement) - 2021-01-25 - 2021.014, Plat of Survey - 2021-01-25 - 2021.014, Exhibit A - Preliminary Plan, Fire Access Plan - 2021-01-25 - 2021.014, Landscape Plan - 2021-01-25 - 2021.014, Building and Signage Elevations - 2021-01-25 - 2021.014

**Enactment Number:**

**Planning Case #:** AU11/2-21.014-CUPD/R/Ppn

**Hearing Date:**

**Drafter:** jsodaro@aurora-il.org

**Effective Date:**

**Related Files:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
2	Planning and Zoning Commission	02/17/2021	Forwarded	Building, Zoning, and Economic Development Committee	02/24/2021		Pass
<b>Action Text:</b>		A motion was made by Mr. Elsbree, seconded by Mr. Cameron, that this agenda item be Forwarded to the Building, Zoning, and Economic Development Committee, on the agenda for 2/24/2021. The motion carried.					
<b>Notes:</b>		See Attachment for Items 21-0110 and 21-0064.					

Aye: 7 At Large Anderson, At Large Cameron, Fox Valley Park District  
Representative Chambers, At Large Elsbree, At Large Owusu-Safo, At  
Large Tidwell and Chairperson Bhatia

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Attachment for Items 21-0110 and 21-0064:

21-0110      An Ordinance amending a Revision to the Estate of Adeline Diehl and Chicago Land Trust Plan Description on 3.4 acres for property located at 1340 Molitor Road being at the northwest corner of Farnsworth Avenue and Molitor Road (Circle K – 21-0110 / AU11/2-21.014-CUPD/R/Ppn/Psd – JS – Ward 1) (PUBLIC HEARING)

Good evening Mr. Chairman and fellow Commissioners. My name is Ed Sieben. I am the City of Aurora Zoning and Planning Director. With me, from my staff, is Jake Sodaro, a Planner on our staff. We also have 2 other City of Aurora employees that here to be able to answer any questions. We have Mark Phipps, who is the Development Coordinator with the City of Aurora Engineering Department. Mark worked with us on the review and approvals of where we are at with this project and also Bob Greene, who you see on the screen. Bob is our City of Aurora Traffic Engineer, who also worked on this project. What I'm going to do is I'm going to turn it over to Jake Sodaro, who will do kind of a background of the what the proposal is. I'll finish up with a little bit of additional information and then we'll turn it over for questions and then we can open the public hearing. I believe we have 5 speakers to speak tonight.

This is Jake Sodaro with the City of Aurora's Planning and Zoning Department. So the property in question is currently vacant land and is zoned B-2(C), which is General Retail District with a Conditional Use and that Conditional Use puts it in a Planned Development District. What I can do here is share the screen real quick and show everyone what it is we are going to be looking at. The Petitioner is requesting a Plan Description Revision to the Conditional Use Planned Development. Originally when the Plan Description was approved in 2013, gasoline stations were explicitly prohibited on this site due to the lack of access available onto Farnsworth and that was due to IDOT. The Illinois Tollway had a restriction placed that would not allow any sort of access going south on Farnsworth due to a long off-ramp. After that interchange was done in 2016, the restriction was lifted allowing for an access off of Farnsworth and really the access on Farnsworth is critical to developing this site. Otherwise, it would only be approved for an access off of Molitor, so that is really why staff feels comfortable going forward with the revision to the Special Use. Because of the large amount of detention and compensatory storage that is required for this site, being largely in part of the flood plain, gas stations really are one of the few uses that would work for the site, mainly because you wouldn't be able to pave over more of this land to create more parking. Concurrently with this proposal, the Petitioner is requesting approval of a Preliminary Plan and Plat. Attached to this item, we have the plans for the proposed gas station. I have a landscape plan, grading plan, the very preliminary building and signage elevations and the preliminary plan as well. With that gas station comes a 5,200 square foot convenience store being proposed, larger than the one across the street, which is 1,500 square feet. Like I said earlier, the key to this site is the large amount of compensatory and dry bottom detention storage because of it being in a flood plain. Like I said, this is one of the few uses that would work on this site, as there is a limit of buildable land here. I would like to stress that this gas station is not an additional gas station on this intersection, as there are currently 2. The Circle K across the street on the northeastern corner of Farnsworth and Molitor is moving to a larger footprint at this site. They plan on removing and demolishing that site and deed restricting it so that there would be no further gas stations allowed there. With that being said, we are trying to be cognizant of the fact there are residential areas nearby. The proposed convenience store is 150 feet away from the nearest residential outline and even further

from the nearest building. That's all I have. Ed, if you'd like to take over and discuss some of the other future things.

Mr. Sieben said Jake, do you want to just touch on the number of pumps from the old to the new?

Mr. Sodaro said absolutely. The old gas station only has 4 pumps, so 8 fueling stations, while the new one proposed currently has 7 gasoline stations with 14 fueling positions. I'd also like to add that there is no car wash being proposed at this time and there are no plans for a truck stop being on the site at all. It is strictly a passenger vehicle gas station being proposed.

Mr. Sieben said thanks Jake. If you want to just leave this up. Let me talk a little bit about some of the traffic and road improvements. Along with, as Jake mentioned, the new right-in/right-out on Farnsworth, there is a proposed full access on Molitor Road, which you see, which is really set away from the intersection. Both access points are being put as far as feasibly possible away from the intersection in order to abate congestion at the intersection. Jake, do you want to pull it down a little bit to show the bike path? So the bike path which currently is on the shoulder of Farnsworth, and it kind of just disappears down at the intersection with Molitor, what they are doing is they are going to swing it onto the property. You'll see at the top of the screen the bike path is pulling onto the property. They'll have its own culvert for that and it will be pulled away from Farnsworth for safety and then it will come back into the intersection as designed. In addition, a sidewalk will be constructed along the north side of Molitor Road. In addition, as you can see on this drawing, a right turn taper and decel lane is being added to Farnsworth Avenue for that right-in right there. Additionally, Molitor Road is being widened and a left turn lane is being extended. Basically, we are doubling the stacking within that left turn bay and it is to approximately an additional 150 feet where the taper begins. There is also additional right-of-way being dedicated. Then finally what I'd like to add before turning it over to the Petitioner is that these drawings are actually a preliminary plan, so these will come back as a final plan and plat submittal. However, because this is kind of an important change in the conditional use request, we wanted the Petitioner to pretty much show us what final landscaping and elevations may look like. However, we do not yet have a photometric plan. That has not been designed. However, once this comes back for approvals, a photometric will be submitted and that will have to meet the zoning code. That is less than one foot candle at the property line. However, I can guarantee you that based on how far this is located from the edge of the property line to north and to the west, it will be well under, if not close to zero, at the outer edges of the property line. As Jake also mentioned, the current Circle K shell, which is on the east side of Farnsworth, that will be demolished. That property is already in the City of Aurora, zoned B-2. The plans are that, and the developer can touch on that, they are planning on demolishing the existing facility, pulling out the tanks and then deed restricting any gas station on the property. Possible reuse for this corner may be for maybe a small coffee shop to take advantage of the northbound traffic heading toward the Tollway. If that site does get redeveloped, we intend to improve access on that corner also. Right now, there are several access points right at the intersection, so once that's developed, that would also be improved. With that, unless there are any questions of staff, the Petitioners are here.

Chairman Pilmer said any questions of staff?

Ms. Tidwell said just for my own understanding Ed or Jake, can you talk about the purpose of the preliminary versus the final and what the scope of review for the Commission is for this?

Mr. Sieben said sure. So let me give maybe a little history of this property. So the landowner petitioned the City of Aurora to have this annexed and zoned back in 2012. It actually got approved in 2013. This has been shown, as I'll show later, as commercial on the Comprehensive Plan. The property was zoned B-2, which is our General Retail, which typically would allow gas stations. However, in this case, as Jake mentioned earlier, because there was limited access at the time, we thought a gas station would not be an appropriate use there. As we mentioned, the restriction off of Farnsworth was changed. The property is zoned B-2. Does that answer your question Ms. Tidwell?

Ms. Tidwell said did you talk about the scope of review?

Mr. Sieben said I'm sorry, you mentioned the preliminary. So when this got approved with the annexation and the zoning, it was approved only as a concept plan. There was a lot of flood plain on the property, so the concept plan really delineated the amount of area that really was not buildable and this plan really reflects that, and maybe Mark can talk about it later, but there is both flood plain and compensatory storage. In other words, there is additional stormwater management that is taking place on this property from normal. There really was not a preliminary plan that was approved with the annexation because we really didn't know what would be built here. We just kind of showed a square kind of at the corner that showed this is the developable land. Because of that, the Annexation Agreement required that a preliminary plan come in first and then a final, so that's why this is in for preliminary.

Chairman Pilmer said any other questions of staff? If none, I would ask at this point the Petitioner, whoever is going to speak on behalf of the Petitioner, I will swear you in at this point.

That would be myself, Ryan Swanson and Kevin Kirchner as well.

Chairman Pilmer said if each of you would raise your right hand and I will virtually swear you in. Do you swear to tell the truth, the whole truth, and nothing but the truth?

The Petitioners responded yes.

Chairman Pilmer said then if you would just state your name and address prior to speaking.

My name is Ryan Swanson with the company Arch Design Resources. We are the Petitioner on behalf of Circle K. The address is 5291 Zenith Parkway in Loves Park, Illinois. With me tonight also is Kevin Kirchner. He's with Circle K as a Real Estate Development Manager. We're here to answer any questions. I do have a very brief couple of illustrations if I can share my screen if that's possible.

Chairman Pilmer said sure.

Mr. Swanson said first of all, we appreciate your time, Commissioners and staff, this evening as well as the time that staff's put into the project. We're excited about this relocation potential as well. So thank

you to start off with. I'll try not to repeat things that have been brought up already. The biggest thing with this site and the layout, obviously, is the circulation. It is substantially improved over the existing site, so basically from the northeast corner to the northwest corner. This is just a colorized site plan by the way that I'm just showing here just to kind of get a little better feel, a little cleaner feel for just the site elements. Of note, the wider drive isles, you have a single row of dispensers now instead of the double row perpendicular to the storefront basically to allow for safer and more efficient circulation for the Circle K customers and deliver traffic as well. So that, obviously, is a huge benefit. More efficient parking. Parking is along the storefront. Additional parking compared to the old site, approximately 26 parking spaces. So that's really the biggest improvement to this site in general. As has been mentioned, the site is about 3½ acres. The majority of the site is being used for open green space in terms of flood plain mitigation as well as detention. I think it is important that those 2 elements, as discussed, are really separate. The detention area for our site is providing a stormwater benefit on top of the additional mitigation area that's been set aside. As has been mentioned, the bike path, I'd like to call that out again just because we worked with staff early on to try to place that bike path along Farnsworth and struggled in terms of cost related to the ditch, retaining walls, impacts to the wetlands in the ditch and working with staff kind of collaboratively came up with this idea to put the bike path on the site. I think it is, as mentioned, much safer. It saves some costs for us as well in terms of retaining walls and the things I mentioned. I think that was a win/win with how this ultimately ended up. We are very pleased with that. As this site plan shows, there is significant landscaping, not only around the perimeter of the pavement and building, but also around the perimeter of the whole site, so even around these large massive green open space areas we've got additional landscaping, which staggered as it provides good screening for the neighbors in different viewpoints looking toward the building or the site in general. The other important thing to note is all the customer activity being under the canopy for fueling or just pulling up to the store is all in front of the store adjacent to Farnsworth, so the neighbors are further shielded by the building. As mentioned too, the lighting, we will meet all lighting code and because of the proximity and spacing those primaries will be much, much darker than right in front of the store, so that is a benefit there. As mentioned with traffic, we are making improvements, off-site improvements. The southbound right turn lane was mentioned, and this is a right-in/right-out. Just to clarify, it is not a full cut, it is a right-in/right-out. The full access on Molitor, we are extending the left turn lane with some associated widening and curbing and permits there. As required by the traffic study, we are also looking to restripe, it is not shown on this exhibit, part of the northbound left turn lane on Farnsworth as well. I can get into the traffic later if there are further questions, but essentially those improvements make the intersection operate, between the build year of 2021 and 2031, even 20 years out, will operate at the same level with or without the store going in. Those improvements are a big help. This is just a little bit zoomed in version. You can see the sidewalk along the south and the left turn lane extension on Molitor there a little bit better. This is the proposed building in color. I don't even think we submitted a black and white. As you can really see, it is a vast upgrade to the existing store. This corner will serve as gateway into the city. This has 4 sided architecture, so all 4 sides are upgraded with high quality building materials, natural colors, earth tone colors. There is different elements of height and articulation on all 4 sides and really add a lot of interest to the store versus something with just plain flat white walls like there is across the street on the existing site. Raised parapets on the building, on the wall, will screen rooftop units and then the columns and the stone base just add further interest and really make this an attractive building. These are just a couple of interior photos of the new store. Fresh made to order food products, beverages, and more beverages here just to give you an indication of really how improved this new store is going to

be. Jumping back quickly to the site, overall in terms of drainage, generally the drainage pattern on this site flows from northwest to southeast. That's not changing. Right now, we are currently working with the city, the county and FEMA to make sure that every regulation will be met and even additional flood plain volume storage will be exceeded compared to what's there today. I mentioned the detention area. That's a completely separate storage facility for our stormwater and then we've got the flood elevations let alone on top of that. I think we've done a pretty job trying to make sure that both the regulations are met or exceeded and we are still working toward modeling and everything like that to make sure all the agencies are happy with the end result. With that, Kevin, I don't know if you want to add anything else.

Mr. Kirchner said sure I can add a few things. I just wanted to make a general statement for Circle K. In the Chicago area, we're really trying to redevelop our store, our look and our presence in the market. One of the things that we're trying to do is relocate, or redevelop existing stores that are smaller, with smaller lots, less parking, much worse circulation. This is all part of a bigger plan to redevelop our portfolio in the market.

Chairman Pilmer said any questions of the Petitioner?

Ms. Tidwell said I'm not sure that this is a pertinent question right now, but I'm curious about the proximity to the 7-Eleven across Molitor. Is that a different customer base from the Petitioner's perspective? Would your convenience store be considered a duplication of 7-Eleven?

Mr. Kirchner said I think the customer base would be overlapping and we would, obviously, offer some more amenities, such as fuel. For the most part, our customer base would essentially be the same except for those searching for fuel.

Ms. Tidwell said thank you.

Chairman Pilmer said can I ask a question on the detention area to the west behind the property? Will water stay in that or is that just short-term and then it will flow out and be dry?

Mr. Swanson said fair question. It is a short-term. It is not a wet basin or wet bottom basin. It will basically detain and release over time.

Chairman Pilmer said so some kind of plantings in the bottom of that?

Mr. Swanson said typically you wouldn't see as the plantings around the perimeter in the bottom, typically not. We just have basically turf that we can mow, basically the variations. Sometimes it is difficult to get plantings on there just because you get frequent events over and over again. Those materials don't like being so wet, or if you try to get wet plantings it's too dry. So typically in the bottoms of those we would just mow the turf.

Chairman Pilmer said any other questions of the Petitioner?

Mr. Bhatia said I have one. Considering that it's going from a much smaller building to a larger one, what are the differences in services between the old and the new? I understand Jake had mentioned the bays for fueling are almost doubled, right, but if somebody can just kind of cover besides the fueling on the inside that would just be helpful. I'm sorry if that's been mentioned before and I didn't catch it.

Mr. Kirchner said yes, I can do that. I'll reiterate that we are upgrading, or increasing, the size of the building from a 1,500 square foot to a 5,000 square foot building so along with that comes a lot more items and offerings. A lot of those come from the fresh food offering and food prep onsite. You would see a lot more of that and more space available for kitchen and prep equipment to make those foods. Then also we also provide a larger sandwich case, is what's called, where it obviously includes sandwiches, but also yogurts and other refrigerated snacks that are definitely more healthy and more in mind with what we are seeing in terms of customer preferences. But along with that, you'll see it a lot more in terms of beverage. We'll offer our standard, well our pop machine, but you can see right there upgraded coffee, the higher quality coffee, the higher quality machines, bean to cup right in front of you. We'll offer more bakery items as well. It will change drastically. There's just not a lot you could fit into a 1,500 square foot building so it would be your typical convenience items such as, obviously, cigarettes and then snacks and polar pop is all we'll have. We'll have more groceries as well in our center store area.

Mr. Swanson said I think the other thing too, the bathrooms are substantially larger, aren't they Kevin?

Mr. Kirchner said yes that is correct. I can't recall the bathroom situation at our current store, the new bathrooms would be substantially larger.

Mr. Bhatia said so I think in terms of one other question, I think in terms of the delivery trucks coming in for supplies. I'm not sure, but maybe I'll just let you cover it. It seems like it is facing south towards Molitor because that's the only thing that appeared to be noise and I'm just kind of curious if that's the case and if the entrance/exit is large enough.

Mr. Kirchner said yes, the access point there, as you can see, 2 exiting turn lanes on Molitor. We have truck traffic pattern plans and that would be substantial for delivery trucks and for the most part, a lot of these items come on one delivery truck, one vendor that we use. You, obviously, have your Coke a Cola, Pepsi trucks, things like that, Frito Lay, but a lot of the items come from the same vendor.

Mr. Swanson said where the trash enclosure is in the rear of the store, it is tucked behind there, it's for mostly aesthetics, so you would occasionally have, perhaps once a week, perhaps that pickup, but there is a fence enclosed with gates so that's kind of tucked away there for a reason, but that would be fairly infrequent in terms of pickup and drop-off.

Mr. Bhatia said that's that southwest corner is the one where the delivery trucks park and get stuff in and out?

Mr. Kirchner said yes, that's correct. Sometimes they'll park right in front of the trash enclosure. I think that's typically the preferred option.

Mr. Chambers said I have a quick question. From behind the building, how far is it to the property line that would be to the west?

Mr. Swanson said it is approximately 150 feet to the property line.

Mrs. Owusu-Safo said I have a question. Regarding the proposed detention, I believe you said it was dry bottom detention and the question is roughly how deep is the depression basically from the property line to where the slope of the detention basin is going to be for the detention pond? My second question is in the mitigation area. Is it going to be usable at all for recreation or something for, I guess, the neighborhood? Basically it's going to be open space. Are there any thoughts on how to make that somewhat usable?

Mr. Swanson said the first question on that site for the detention, it will be roughly 10 feet, from the property line it will be roughly a flat area. After that, it will drop to about 3½ feet along that line, basically 3 to 4 feet all along that western property line.

Mrs. Owusu-Safo said so it is mowable and it is traversable?

Mr. Swanson said absolutely. Obviously, we would follow the city codes for that too, which is what they prescribe just for that very reason. Regarding the open space, right now it is graded, but it is fairly flat. There would be nothing to prevent somebody from walking through there or kicking a ball through there or doing something like that. The perimeter's got trees and shrubs, but in the interior part of that will just be open space turf, probably some longer grasses.

Chairman Pilmer said any other questions for the Petitioner? Hearing none, I'm going to go ahead and open up the public hearing. We do have 5 people registered to speak this evening and what I will do is call on them one at a time, I will swear them in and ask them to state their name and address for the record and then we will record the questions that you have. Once all the questions have been asked, we will call either staff or the Petitioner back to answer those questions. So why don't we go ahead and start. The first registered to speak is Steven Brengman. Can Steven Brengman hear me?

This is attorney Dan Klenke. Mr. Brengman is in my office and I'll hand him the phone.

Chairman Pilmer said Mr. Brengman I'm going to ask you to raise your right hand and I'll swear you in virtually. Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Brengman said yes, I do.

Chairman Pilmer said and if you'll just state your address for the record please.

Mr. Brengman said 1321 Adeline Court, Aurora, Illinois. I would like my attorney to speak on my behalf.

Chairman Pilmer said and your attorney is Dan Klenke. If Mr. Klenke would raise his right hand, I will swear him in virtually. Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Klenke said I do.

Chairman Pilmer said go ahead and state your address for the record please.

Mr. Klenke said my name is Daniel Klenke. I'm an attorney with an office at 563 W. Galena Boulevard and my residential is 419 W. Downer Place. As indicated, I'm the attorney for Mr. Brengman. I have been licensed as an attorney since 1981. I have had occasions to work with the Law Department as an outside contractor. I also have had transactional representation with people involving the City of Aurora, including Mr. Brengman. I just mention those things because part of what I'm going to be addressing or raising questions about arise not necessarily from me as an attorney, but as a resident as well as interactive citizen throughout the city at various sites. With regard to Mr. Brengman, you will note, his address, 1321 Adeline Court, if you look at depictions of the site, he is to the west of the first parcel fronting on Farnsworth and the north end of the second parcel that fronts to Molitor, so essentially he is surrounded on 2 sides by the proposed development and we would submit that his site is such that he has at most, about 80 feet before he comes in contact with any portion of the proposed development. He is in a neighborhood, his own house was built in 1965 according to the Township, he is in a neighborhood of similar vintage, all single family residents. These are located in Aurora Township, so they do not have city connection to water. They have wells, so there is an immediate concern about petroleum contamination, benzene and all the other associated chemicals coming from the percolation of gasoline tanks. Nothing presented has shown any sort of understanding or representation associated with the characteristics of the aquifer or the watershed or any sort of preventive measures that might address protecting these resident's water supplies from direct or percolation from this site. Turning to another topic for the moment, the nature of the annexation here from 2013 consists of 2 packets of recorded documents and then a subsequent 3 page ordinance with some attachments all dating from October 22, 2013. I raise this because it bears mentioning. A prominent part of this presentation has been about Tollway restriction associated with the southbound access off of Farnsworth that prohibited use of a gas station. I would submit to the body, to the Commission, that the review of the documents which show that a gas station is not the only normally permitted use that was prohibited. There are also things like tattoo parlors that are allowed under the zoning classification. There are no fewer than 6 other types of enterprises that were not permitted. Nowhere in these documents is there a reference to any sort of Tollway ban or policy associated specifically effecting the gas station. In one document, one packet of documents, the one that is 29 pages in length, there is a specific intention declaration that this was to be used for light office and commercial. There is no reference whatsoever to any consideration of intent or projected idea of a gas station. With regard to the placement of this gas station, my parents moved me here in 1965. I've been here, with the exception of undergrad and law school, since 1983 when I moved from North Aurora. In decades worth of thinking about this, I can think of no other endeavor or time where a new gas station was proposed to be sited abutting entirely single family residential, let alone a neighborhood of this size. If you consider going west on Galena, you have Exxon Mobile and BP Amoco on the western fringes out by the Aldi's there. They are buffered by hundreds of feet, if not several yards, from the Stonefence residential area, Washington Middle School, etc. If you go to Orchard Road, there is an Exxon Mobile station at Sullivan, again, entirely separate from any sort of residential. It is surrounded by commercial and then a series of motels to the west. I can think of nothing really eastbound out to the fringes towards the Villages. I've always been a West Aurora character. I can think of no gas stations sited in this sort of fashion there. On Farnsworth itself, turning into Kirk Road at Route 56, you have an Exxon Mobile and a Shell Station, both of which are

relatively substantial in terms of construction and manner of operation. Neither of those abut or adjoin a single family residential area. I would submit as a concept, the city is acting across purposes in either expressed or implicit policy of planning that it has had for a matter of decades. In terms of looking at the site itself and particularly my client's property, the presentation has properly pointed out that it is flat in that area. I did a drive by before we got blasted by the most recent snows and was indeed struck by, a one word description of what this is, is flat, and what that means to me is that there is substantial likelihood of headlights with the 24 hour, 24/7, operation coming off from the parking lot, people parking. There will be noise, the associated noise of cars, as well as the delivery trucks, which generally operate off hours and also the lighting involved with the operation of the station. The use of trees as a buffer or a cover for that sort of thing is inadequate and I think that you have to consider the use of actual earthen berms to be able to conceal this station from the residents in the single family residents looking upon it from the rear. That would impact perhaps the idea of using the area for recreational purposes suggested by one of the Commission members and acknowledge that you'd have to think about that. I think it is a potential problem. In addition to the ground saturation, or ground percolation, ground contamination of this operation, you have to consider damaging emissions as well from evaporating gasoline, which is not necessarily captured in the use of present pump recovery systems. Again, you are dealing with a serious proximity question associated with a number of people who have been in an area for years longer than this proposed project. The staff submitted a report that my client and I received earlier today and in that, the overall tone to me about this is that we are relying complacently on normal standards, normal ordinances, normal regulatory matters on something that is not an attractive operation. Gasoline is dangerous by its nature. It is a proven health risk agent and I would submit that saying that well this can be covered by traditional, by just the use of our normal standards, is not going to cut it. Staff is looking to, what they consider large setbacks to residential. The stormwater management appears to acknowledge that is something inherent in that site from the date that it was annexed to the city. I believe that the water problem in that area associated with rains and flooding is larger than that site and so that, again, the idea of a detention of 3 or 4 feet to me addresses only what collects at the parcels involved and will not address from a neighborhood perspective anything else. The lighting, I would submit similarly is going to be something that is going to be more than visible to a number of the residents on a continual basis nearby and requires some consideration beyond, I think, what are considered established norms associated with commercial lighting. The final matter to approach this is to indicate that I was going to speak as an interactive citizen of Aurora. One of my hobbies, which has been expanding quite a bit over these days of COVID, is biking and I accumulated some 2,500 miles worth of biking purely up and down the various trails here originating or connecting to Aurora. I'm very interested to hear about this bike path proposal and relocation, but there is an advisory body within the city which seems to me should have some input about the concept because past experience with how Aurora has dealt with like placing arrows for bikes on Benton that were going the wrong way on each side years ago, as well as some other things, would suggest that if there's going to be planning or consideration of relocating any part of the Prairie Path or connectors to it, the Bicycle, Pedestrian and Transit Advisory Board should be involved at the get go to deal with that. I'm not aware that such a contact or effort has been made. I believe at this point that I've exhausted what I have for my list. I'm going to turn to my client briefly to see if he is giving me the signal on anything else. He indicates not, so I am resting my submission at this time. Thank you.

Chairman Pilmer said thank you Mr. Klenke and Mr. Brengman. Our next registered speaker this evening is Pat Weiler. Are they joining us? Hi Pat, I'll swear you in, so if you would raise your right hand, do you swear to tell the truth, the whole truth and nothing but the truth?

Ms. Weiler said I do.

Chairman Pilmer said and if you would just please state your address for the record.

Ms. Weiler said 1710 Violet Street, Aurora, Illinois. Thank you very much for allowing some of the neighbors who have concern. I think I'm going to just list the concerns and questions. Some things may have been gone over before, but I too, and I think many of the neighbors, especially those that live there, are concerned that 150 feet is not very far from the noises, the lights, the sounds and the activity that are going to drawn by this convenience store and by the gas station pumps and by the resupplying with trucks all hours of the night, etc. Trees are nice, plants are nice, but they are not going to prevent the light spill and the noise from disturbing and changing the neighborhood that exists there. Number 2, so I'd like somebody to address how you can be 150 feet from somebody and think that a tree is going to improve what could be disastrous. Number 3, the right-in/right-out on Farnsworth is disturbing for several reasons. One is the speed of the traffic coming down from the north. You have got people coming from the north, you've got people getting off the ramp and heading south on Farnsworth. That is a volatile intersection right now without any thing else. It is very volatile. Trucks use it, pedestrians. There are 2 schools in the vicinity. You've got parents taking kids to and from school, so that right-in and right-out on Farnsworth is disturbing. I'll talk about IDOT and FEMA in a second. I'm interested in knowing how, if you are going north on Farnsworth Avenue, how do you get into the Circle K? That will be very interesting. Let's talk about Molitor for a second. How far from the 7-Eleven entrance, which is an entrance and an exit, and it is a dozy almost anytime of the day, but horrible, horrible during those huge congestion hours. How far is that entrance/exit from the proposed Circle K entrance/exit, which will have not 2 in and out, but it looks like 3, 1 in, 2 out. I cannot imagine what the plan for that is going to be. What is the plan to widen Molitor? I'm not sure what double stacking means, so I'm interested in finding that out. The other concern is the old station. To avoid the Copley dilemma, I'm hoping that the intention of Circle K is to demolish the old station, remove the tanks and clean the space before they begin construction on this new site. I've said that intersection may have to have some revisions also. It is a crazy intersection if you are going from the east to the west on Molitor as it is. So I'm not sure if that's going to happen. I'd like to know if there are plans for that. The next thing is the hours. Is this going to be a 24 hour a day? I'm not sure that's really conducive to the lifestyle of the residents who have been there, some of them, of lifetimes, especially the 2 or 3 homes across the street on the 7-Eleven side, 24 hours a day. That's a lot of noise, a lot of congestion, a lot of activity and I don't think those people bought into that. It is called Marywood. I think one of the last things I need to know is when you draw up these plans, do you show them to FEMA and IDOT or must they be approved also by FEMA and IDOT? The detention with tall reeds has zero appeal any of us who have had full basements at least twice in our residencies in this lifetime. You allot space and then you fill it up with tall reeds. I'm not sure that, while it might be pretty, it certainly is not holding as much as it should. So I have some questions about that. Basically, those are my questions. I may have some more at some other point in history, but for right now, thank you for hearing my concerns, our concerns.

Chairman Pilmer said thank you. Our next speaker will be either Marlen or Jesus Sanchez. I don't know which one is going to speak or if both are going to speak. Are either of the Sanchez's there? Why don't we go to our next speaker and that would be Dr. Monica Silva. Is Dr. Silva there?

Dr. Silva said I'm here. Can you hear me?

Chairman Pilmer said I'm going to swear you in. If you'll raise your right hand virtually, do you swear to tell the truth, the whole truth and nothing but the truth?

Dr. Silva said I do. My name is Dr Silva. I'm at 1552 Marikay and I am the Kane County Commissioner representative for this region. Basically my purpose for this meeting is to listen to the resident's concerns. I do feel that Ms. Weiler did bring up some very important points that have been actually vocalized to me. I would like to know, one of the questions that I have is regarding the annexation and why the certain uses were excluded. I know we talked about that at the beginning regarding Farnsworth access, but it seems like much less intense uses were intended, much less intense than gas stations. I'd also like to share that this 29 page document of annexation is available online at the Kane County Recorder's office and the number for the document of Annexation Agreement that you would need to find it would be 2013K080080. In addition to everything that has already been mentioned, we want to make sure that everyone knows that the county is working closely with the city for any potential work on the behalf of any of the Township residents to insure that drainage issues will not be made worse. Thank you.

Chairman Pilmer said thank you. I want to back up for just one last call for either Marlen or Jesus Sanchez. Not hearing them, I've got a number of questions that we'll work through to get answered. I think some of these staff can help with. Maybe I'll start with 150 feet being too close to the neighboring properties. I know the zoning on this was initially B-2. We have heard from the Petitioner and, I think, city staff that the site, due to the drainage, there is a limited amount of space available, but in typical setbacks, is 150 feet normal or if staff could help with what would be allotted I guess from a setback perspective.

Mr. Sieben said sure, I could answer that Mr. Chairman. Commercial zoning adjacent to residential requires a minimum of a 20 feet setback, that's for both building and parking, so any activity on a commercial site. Obviously, with a gas station, that's really not acceptable. So this site lent itself potentially for a gas station because of the relatively large buffer to the property line with the detention and compensatory storage that had to be done here. So the minimum requirement in the Zoning Ordinance is 20 feet, and again, these are a minimum of 150 feet.

Chairman Pilmer said and then I might also ask, I know in our packet the Petitioner provided a detailed Traffic Study, but if maybe staff or the city's Traffic Engineer could help with several of the questions, right-in/right-out onto Farnsworth. There was a concern regarding the speed on Farnsworth. I know what I saw in the plans, there was a deceleration lane, but if they can expand on that. Also if you are heading north on Farnsworth, if you could just explain the access to the property, how that would happen. I believe there is an expansion of the westbound turn lane for those that are heading north on Farnsworth and then what the plan is to widen Molitor Road.

Mr. Sieben said may be Bob Greene, out Traffic Engineer, can answer that.

Mr. Greene said sure. I hope I take these in the right order. Again, Bob Greene, city Traffic Engineer. I think the concerns about coming south on Farnsworth toward the intersection and toward the site, the developer has proposed a deceleration lane. That really helps get people out of the through lane, decelerate as the term says and then they go into the right-in/right-out. That's a big plus. That's a good improvement for the site. I think the second question was about the northbound access, if I recall correctly. If you are coming northbound on Farnsworth, you'd have to get in that northbound left turn lane at Molitor at the signal and then you'd have to go to the west on Molitor and then get into the site that way because if you went straight on Farnsworth and continued northbound, you wouldn't be able to get into the right-in/right-out access that's north of the intersection. Then the third question about the widening of Molitor Road on the west leg of the intersection with Farnsworth, I think there is a question about double stacking. It is really twice the existing storage. If you look at the left turn lane, the eastbound left turn lane that's on that west leg of the intersection, it has roughly 75 feet of storage. In this proposal, they are going to be pushing that storage from 75 feet to 150 feet and then providing a better taper to get into that eastbound left turn lane. A lot of that extension of that left turn lane and that left turn taper dictates the widening that you see of the west leg of the intersection. I hope that helps explain that.

Chairman Pilmer said thank you Mr. Greene. I might also ask, well you can comment, but on that west leg of the intersection, I think one of the questions we heard from the residents is where does the ingress/egress for the Circle K line up with the ingress/egress of the 7-Eleven. I believe that the ingress for the Petitioner's is much further west, but if you can just clarify that.

Mr. Greene said yes, it is. If you look at the proposed site access onto Molitor, it is really pushed pretty far west from the intersection as probably as far as possible. If you look at the south in this picture, the 7-Eleven driveway is really near the intersection, so you are roughly maybe about 75 feet from the intersection for the 7-Eleven. The distance between the two, I'm going to guesstimate, it might be as much about 200 feet center to center between those two, maybe a little less than that, maybe 175, but there is quite a bit of distance between those two driveways.

Chairman Pilmer said thank you Mr. Greene. Maybe an additional couple of questions for staff if they could help clarify, I know it was talked about earlier during staff's presentation, but maybe if they can reiterate the proposed annexation back in 2013. Several things, why a gas station was excluded then and then if staff could discuss, I know they talked about commercial lighting. I believe the lighting plan will come back with final plat, but again maybe reiterate the requirements that they'll have to meet city standards at the property lines and then also an additional question regarding the City of Aurora's bike committee, if they've had any input on this.

Mr. Sieben said sure, I could answer, I think, those question Mr. Chairman. So I was involved in 2012-2013 when this came in. Again, a huge restriction on this property was no access to Farnsworth. That really limited what could be done here. We did work with our Economic Development team. We've had commercial brokers look at it and it just didn't make any sense for a gas station. The Petitioners could maybe also touch on that too, but this site does not work at all unless that Farnsworth access is there, the right-in/right-out. Strictly with a Molitor access, imagine this with just the Molitor, it doesn't really

capture much of any of that Farnsworth traffic. Farnsworth is the arterial, so it was just looked at that this would probably be kind of a lesser intense use. We were thinking it might be more of an office type of use or maybe a small medical or something like that, more, if you will, a destination type use. This really is not a destination use. It is capturing the traffic going by on Farnsworth. Again, this is a replacement of a use across the street. That was the thinking there. What was the second part?

Chairman Pilmer said just maybe reiterate the commercial lighting.

Mr. Sieben said sure. So the lighting at the property line has to be less than 1 foot candle. However, I can guarantee you that the lighting will be much less than that because of the distance to the residential property. We will not get the final photometrics until we get final engineering and we get the final plan, but they cannot exceed that. We would make sure also that there are appropriate shields and that kind of thing. So the lighting should be just concentrated at the corner and would not have any overspill even onto the streets potentially. Then the third question on the bike path, Mr. Klenke brought up, we do have a Bike/Ped Committee. We do also have staff on the committee. We have staff in Economic Development and Engineering and they are, obviously, involved on the front end. This goes through our DST, which stands for Development Services Team, which is a preapplication review with city staff. Mark is an integral part of that review representing the Engineering Department. We've got Bob Greene involved with this early on too. I thought it was a very clever way of improving not a great bike path that I believe the Tollway did when they removed the ramp, so I think this is a much safer and better connection through this site. Bob, would you agree?

Mr. Greene said yes I would. It solves a lot of issues. In fact, the existing pavement wasn't really a bike path. It was more of a paved shoulder by the Tollway, so this really improves on that to get you up to the north of the site and then connect where the bike path is up there. It seems like a very logical connection and I kind of like how it goes into the site. It would definitely be a lot more comfortable to users.

Chairman Pilmer said thank you Mr. Greene. Ed, I do have one additional question regarding the permitted use of a gas station near residential, but the underlying zoning here is B-2. I believe that allows for a gas station use typically with that zoning classification.

Mr. Sieben said yes Mr. Chairman. It typically would. B-2 is really our most common commercial/retail zoning category, most of our commercial corridors. Most of Farnsworth is zoned B-1, most of Lake Street, parts of Orchard, etc., New York Street, so that's fairly common.

Chairman Pilmer said thank you. So I've got several questions for the Petitioner, so whether it's Mr. Swanson or Mr. Kirchner, maybe I'll start with we've heard testimony regarding pollution control, any preventative measures, anything that would potentially contaminate the water supply for the neighbors. If you can comment on that.

Mr. Swanson said sure, I can comment on that one Mr. Chairman. The term percolation was used. That should absolutely not be used when it considers underground tanks for these for fuel storage. A couple of things first of all. It is heavily regulated, which it should be. Obviously, nobody wants, either the

business or citizens, want any pollution from these tanks. It is heavily regulated to start with. First of all, in terms of proximity to wells, our tanks need to be 200 feet from any private well. We exceed that and then some substantially with that distance setback. Secondly, and probably most importantly, these tanks now, modern tanks are fiberglass double wall with sensors inside the space area there between the walls. They monitor moisture coming in and fuel escaping the inside tank. If that's detected, and it is monitored constantly, if it's detected something is leaking or what have you, it is shut down, the tanks are drained and the issue is resolved very quickly. These things don't sit for weeks on end to leak into the soil or that sort of thing. That's not done anymore. They are also regularly inspected and maintained. There is documentation that's obviously required by agencies, including the state Fire Marshall. Like I said, it is heavily regulated and it is monitored and the proximity of where these tanks are located in particular and toward Farnsworth on that front end of the site, the east end of the site, is as far away from any neighbors and their wells as we can possibly be.

Chairman Pilmer said thank you. What about additional submissions to either FEMA or IDOT along with city approvals. I know there's a question. Do you have additional approvals required from those agencies?

Mr. Swanson said yes. For IDOT, no. IDOT does not have jurisdiction over Farnsworth or Molitor. From FEMA, yes. We are working with them currently as part of their big picture drainage improvement project here.

Chairman Pilmer said I know the drainage is a concern, but that will meet all the city requirements as well as FEMA and I believe there was some testimony regarding potentially adding berms to the property. I don't know if you want to comment on that and its impact from a drainage perspective.

Mr. Swanson said essentially the areas that you see, like I said, I mentioned before, we will not change the drainage patterns. No part of this site will drain onto the neighbor's property. It all drains to the southeast today and it will continue to do so. We're going to, like I said, meet the regulations and we are currently working on our model with the city and the county. Obviously, we don't want to create any negative impact. The other thing that's consistent, or I think key to mention, as part of the requirement is we are going to be adding at least 20% more flood storage volume that is currently not there just by way of the requirements and the regulations. Just by way of meeting those regulations we're going to actually add and enhance what is there today in terms of just the flood plain, the capacity of the site. The detention area is a completely separate entity from this flood plain element. Essentially we can store our site, but we are also not impacting the capability of the site to contain and hold any flood waters as well. That's going to be maintained. Berming, there are other things we can do. It is a fairly flat site, but we can add additional vegetation if lights are an issue. Obviously, there is a vast distance between the two, about 200 feet to just the property line alone, but berm are, especially depending on where they are placed, berms can inhibit flows and runoff patterns, so we contend to not necessarily add berms, but perhaps enhance landscaping or things like that.

Chairman Pilmer said I think there was a question regarding screening, so I was just going to ask if the Petitioner, and I'm sure staff looks at this as well, but anything they could do to add additional screening, whether it be at the ingress/egress on Molitor or on the north end of the building that would prevent headlight spillover into the neighboring properties I think would be appreciated.

Mr. Sieben said we can definitely work on that Mr. Chairman. Again, this is preliminary landscaping. We did have some initial comments. You can see some of the evergreens and a mixture of canopy, some ornamentals, but there are some areas that can be enhanced and we would definitely look at that per your suggestion.

Chairman Pilmer said and then if the Petitioner could comment on hours of operation and the timeline and plans for the existing station.

Mr. Swanson said the hours of operation, it is considered to be a 24 hour store that would be maintained and Kevin I'll let you jump in. I guess the one thing I wanted to add, deliveries would not be during overnight hours as far as I'm aware of. Kevin, you can elaborate on that, but typical deliveries are during the day only.

Mr. Kirchner said I would hate to guarantee that as well, but as far as I'm aware, most of the deliveries are during the day during working hours. That could be one thing that we focus on. I know the trash trucks avoid that as there is some additional sounds. I know they focus on going in during the day to empty those enclosures.

Chairman Pilmer said I know the existing station, I believe, is going to be razed, but is there a timeline on that and the tanks removed?

Mr. Kirchner said yes. The timeline would be to construct the new building while the existing Circle K is still in operations. That's just typically the route that we take to maintain service to our customers in the area. Then once that new store is constructed and open, we would close down, demolish and remove the tanks on the existing store. Right now I'm not sure I see any benefit of closing the existing store before we start construction.

Chairman Pilmer said I should ask, and maybe staff can elaborate, while there are not plans at this time, there was a comment regarding ingress and egress on the northeast corner and I think staff mentioned it as well in their presentation, but at some point when a reuse is planned for that site, I would assume that presently there are 3 access points, 2 on Farnsworth and 1 on Molitor, I would assume the one on Molitor would be moved further east and probably the southernmost on Farnsworth would be eliminated, but I might let staff comment on that.

Mr. Sieben said exactly Mr. Chairman. Bob, I don't know, maybe you could comment on it, but if that's a green grass site, that's probably what we would be looking at, correct?

Mr. Greene said yes. I would echo that. That would be the desired way to arrange the access points. I always like to get them away from the intersection. The farther the better usually. To eliminate a redundant access that may not be needed for the site, we can always definitely look at that.

Chairman Pilmer said I believe that is a summary of all the questions that were presented. Are there any other questions by the Commission? Any additional questions by anyone registered to speak?

Mr. Klenke said I have no questions.

Chairman Pilmer said thank you. If there are no further questions, at this time I will close the public hearing and would turn it back to staff.

Mr. Sieben said thank you Mr. Chairman. Before I give the staff recommendation, I would like to briefly summarize the Findings of Fact for Conditional Use Petitions. But right before I get into that, just to reiterate the duties of the Planning and Zoning Commission. Typically that is to look and recommend land use policies of the city, be it the Comprehensive Plan or other development policies. If I could just touch on the 6 Findings of Fact for the Conditional Use. Number 1, staff does believe that the many measures that are being proposed for the development will mitigate any outside impacts and would not be detrimental or endanger general welfare in the area. Number 2, staff believes the Conditional Use would not be injurious to the use and enjoyment of other property in the immediate vicinity or impair property values based on the mitigating factors being proposed such as heavy landscaping, large setbacks to residential, stormwater management and future lighting that will meet all codes of the city and roadway improvements as discussed. Number 3, that the staff believes the Conditional Use would not impede the normal and orderly development and improvement of surrounding property. If I can just share real quick, let me pull up our Comprehensive Plan briefly. The property in question is right here. This is Farnsworth Avenue and this is Molitor, so this is the site in question. Staff believes the Conditional Use would not impede orderly development and improvement of surrounding property. This proposed use complies with the Comprehensive Plan, which has shown commercial, which is the red, that's commercial, for this corner, with the green being open space as a buffer adjacent to the residential subdivision. The proposed use also complies with the underlying B-2 zoning of the property. Large buffers and setbacks, as already mentioned, are proposed. Number 4, staff believes that the proposal provides adequate utilities, access roads and drainage as is required for the development. Staff has worked closely with the Engineering Department and our Traffic Engineer, that's Mark and his team and Bob on review and development of the site plan. Number 5, staff believes that adequate measures to provide proper access to and from the site, along with minimizing traffic congestion has been shown here. As stated earlier, several roadway improvements are part of the proposal along with improved pedestrian access. Regarding concentration of gas stations, which is another thing you need to look at, concentration in the vicinity, this is not an additional gas station, but an upgraded one, which will replace the Circle K across the street. That site will be completely demolished and sold for new development that will not include a new gas station. Once that site is developed, access in and out of that site will also be improved, so you will have two corners improved. Number 6, and finally, staff believes that the Conditional Use in all other aspects conforms to the applicable regulations of the B-2 zoning district. I will stop sharing. With that said, staff does recommend approval of the Ordinance approving a Revision to the Estate of Adeline Diehl and Chicago Land Trust Plan Description on 3.4 acres for property located at 1340 Molitor Road being the northwest corner of Farnsworth and Molitor Road.

MOTION OF APPROVAL WAS MADE BY: Mr. Chambers

MOTION SECONDED BY: Mrs. Anderson

AYES: Mrs. Anderson, Mr. Bhatia, Mr. Cameron, Mr. Chambers, Mr. Elsbree, Mrs. Owusu-Safo,  
Ms. Tidwell

NAYS: None

## FINDINGS OF FACT

1. Will the establishment, maintenance or operation of the conditional use be unreasonably detrimental to or endanger the public health, safety, morals, comfort, or general welfare?

Ms. Tidwell said no, it will not.

2. Will the conditional use be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or substantially diminish and impair property values within the neighborhood; factors including but not limited to lighting, signage and outdoor amplification, hours of operation, refuse disposal areas and architectural compatibility and building orientation?

Mrs. Anderson said no, it should not.

Chairman Pilmer said the building is placed with significant setbacks and the site has been engineered to help with stormwater management as well.

3. Will the establishment of the conditional use impede the normal and orderly development and improvement of surrounding property for uses permitted in the district?

Mr. Chambers said no, it would not.

Chairman Pilmer said and this does comply with the Comprehensive Plan.

4. Will the proposal allow for the provision of adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided to the conditional use?

Mr. Elsbree said yes, it will.

5. Does the proposal take adequate measures or will they be taken to provide ingress and egress so designed to minimize traffic congestion in the public streets? (For automobile intensive uses, including but not limited to gas stations, car washes, and drive through facilities, the concentration of similar uses within 1000 feet of said subject property should be given consideration as to the impact this concentration will have on the traffic patterns and congestion in the area.)

Mr. Elsbree said it will have no negative effect. I believe positive effect actually.

Chairman Pilmer said there are several road improvements being made as part of this, as well as this is not an additional use, as this is a relocation of an existing gas station that will be deed restricted in the future.

6. Does the conditional use in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the City Council pursuant to the recommendations of the Commission?

Ms. Tidwell said yes, they do.

Mr. Sieben said this will next go to our Building, Zoning and Economic Development Committee, which is a subcommittee of City Council. That will be Wednesday, February 24<sup>th</sup>, at 4:00 p.m. via Zoom.

21-0064        A Resolution approving a Preliminary Plan and Plat for vacant land located at 1340 Molitor Road being at the northwest corner of Farnsworth Avenue and Molitor Road (Circle K – 21-0064 / AU11/2-21.014-CUPD/R/Ppn/Psd – JS – Ward 1)

Mr. Sieben said staff would also recommend approval of the Preliminary Plan and Plat.

MOTION OF APPROVAL WAS MADE BY: Mr. Elsbree

MOTION SECONDED BY: Mr. Cameron

AYES: Mrs. Anderson, Mr. Bhatia, Mr. Cameron, Mr. Chambers, Mr. Elsbree, Mrs. Owusu-Safo, Ms. Tidwell

NAYS: None

Mr. Sieben said this will go to the BZE Committee on Wednesday, February 24<sup>th</sup>, at 4:00 p.m. via Zoom.