

Approved 06/06/16

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING
PUBLIC HEARING

MAY 2, 2016, 7:00 P.M.

Chairman Rickard called the May 2, 2016 meeting of the Downers Grove Plan Commission to order at 7:00 p.m. and led the Plan Commissioners and public in the recital of the Pledge of Allegiance.

ROLL CALL:

PRESENT: Chairman Rickard, Mr. Cozzo, Mr. Cronin, Ms. Gassen, Ms. Hogstrom, Ms. Johnson, Mr. Quirk, Mr. Thoman; ex-officio Ms. Lupesco

ABSENT: Mrs. Rabatah; ex-officios Mr. Livorsi, Mr. Menninga

STAFF: Community Development Director Stan Popovich, Village Planner Scott Williams

VISITORS: Mr. Dan Buie, 5541 Fairmount; Ms. Kim and Mr. John Helms, 5529 Fairmount; Mr. Mike Dunn, 5649 Fairmount; Mr. Joe Galvan, 5540 Fairmount; Mr. Robert Kinisinch, 5543 Fairmount; Mr. Dan Johnson, 5548 Fairmount; Mr. Jim Heiniger, 5545 Fairmount; Mr. Walter Carlquist, 5616 Fairmount; Mr. Greg Jermak, 5626 Fairmount; and Mr. Chris Custer, 5621 Fairmount; Mr. Rich Kulavaney, 6825 Camden

APPROVAL OF MINUTES:

APPROVAL OF MARCH 28, 2016 MINUTES – MOTION BY MR, CRONIN, SECONDED MR. THOMAN TO APPROVE THE MINUTES AS WRITTEN. MOTION CARRIED BY VOICE VOTE OF 8-0.

APPROVAL OF APRIL 4, 2016 MINUTES – A change was noted on page 6 of the minutes with Mr. Quirk asking staff to review the audio -- pointing out that the village's storm water ordinance, and not the petitioner, mandates that the storm water be made better, not worse. **MOTION BY MR. THOMAN, SECONDED BY MR. QUIRK TO APPROVE THE MINUTES AS REVISED. MOTION CARRIED BY VOICE VOTE OF 8-0.**

PUBLIC HEARINGS:

Chairman Rickard explained the protocol for the public hearings and swore in those individuals that would be speaking on the petition listed below.

FILE 16-PLC-0020: A petition seeking approval of a Preliminary Plat of Subdivision with 3 exceptions. The property is zoned R-3, Residential Detached House 3. The property is located on the east side of Fairmount Avenue approximately 300 feet south 55th Street, commonly known as

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5527-5531 Fairmount Avenue, Downers Grove, IL (PINs 09-17-201-011, --012). Dan Buie, Petitioner and John Helms, Owners.

Village Planner, Scott Williams, referenced an aerial photo of the existing site conditions, noting that two homes were located on one parcel. Surrounding zoning of the area was reviewed and a plat of survey for both properties was produced by Mr. Williams. The petitioner was seeking to combine the two parcels and then subdivide it into three parcels for new single-family homes with exceptions to allow the lot widths to be under 75 feet. The existing two combined properties totaled 215 feet wide by 225 feet deep. Upon conceptual review by the village's stormwater engineer, Mr. Williams reported that a flood plain existed on the site and, as a result, if the proposal was approved, the three-home proposal would have to comply with all flood plain codes and stormwater ordinance regulations.

Mr. Williams further explained that the petitioner was proposing on these newly created lots two 3,000 square foot homes and one 2500 sq. foot home. Since the area was zoned R-3, the Subdivision Ordinance and Zoning Ordinance overlapped and the same dimensional requirements applied for the underlying zoning -- 75 feet x 140 feet and 10,500 square feet for each lot.

A summary of how staff reviewed the exception criteria for the request followed in detail. Mr. Williams reported the majority of the surrounding properties averaged over 75 feet in width. South of Patriots Park 73% of the lots widths averaged at least 75 feet. A review of the village's Comprehensive Plan as it relates to the scale and surrounding community then followed. From 55th Street to 59th Street, 74% of the lots averaged at least 75 feet wide. Staff believed the proposal would increase density and; therefore, does not comply with the village's Subdivision Ordinance and Zoning Ordinance. Staff recommended denial. Mr. Williams further referenced a letter he received in support of the exception after the agenda packets were distributed.

Asked what the reasoning was for the 75-foot width requirement, Director Popovich explained it was the middle-ground for the R-3 zoning and allowed for a nice size home but still provided enough area for yard and storm water drainage. Ms. Gassen asked why the two original parcels were so narrow. Mr. Cozzo inquired about the latest "trend" for the neighborhood, wherein Mr. Williams was not aware of any trend but, at the same time, he stated staff does receive many general requests to subdivide with almost 90% requiring at least one exception.

Staff's concern was that the reduction in widths would set a precedent for the area as well as the village. At the same time, he stated the lots under discussion were annexed to the village in 1926 and there were no recent lot splits in the area. The structures were constructed during the 1930s-1940s.

Per Mr. Quirk's inquiry, Mr. Williams explained that the Greenscape proposal on 35th Street was one example of where lots were created that were less than 75 feet wide and approved by the Plan Commission because a portion of one of the lots was set aside for stormwater purposes.

Petitioner, Dan Buie, 5541 Fairmount Avenue and Kim and John Helms, 5529 Fairmount introduced themselves.

Mr. Dan Buie explained he and his wife purchased the northern 115 ft. wide lot, and Mr. John Helmes and his wife live in one of the homes on the parcel with two structures. Mr. Buie stated he

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currently owned Cypress Hill Development, a custom home development company, and constructed over 30 homes in the village over the past 12 to 13 years. Mr. Buie confirmed he would be reconfiguring the two lots into three lots with the lots averaging 72 feet wide by 225 deep. The current homes would be razed along with the other structures. Mr. Buie stated he and Mr. Helmes would be residing in the two homes; the third home would either be build-to-suit or resold. Current building standards would be followed.

Mr. Buie explained that his proposal would not produce more density; instead, the lot sizes would exceed the minimum 10,500 sq. feet because he was providing 16,000 sq. feet for each lot and the proposed lots were only three feet short of the minimum width requirement. He asked the commissioners to remember that there were varying lot widths, pointing out the current 58-foot lot widths that existed. Mr. Buie emphasized that the outdated/non-conforming structures were being replaced with new homes which would add value to the area, add to the tax base and the area's character would be preserved. Mr. Buie shared his own calculations for the lot widths.

Asked what the trend of development seemed to be, Mr. Buie stated that homes with less square footage appeared more common, due to cost, with the average home being 2,500 to 3,000 sq. feet.

Chairman Rickard opened up the meeting to public comment.

Mr. Mike Dunn, 5649 Fairmount, supported the request and believed the proposal was in character of the area. Modernizing the storm water flow would be helpful.

Mr. Joe Galvin, 5540 Fairmount, resided in the village since 1971 at three different locations within the village but chose his current home due to the character of the block, the families, and the new construction. He believed the storm water improvements would be beneficial. He supported the proposal.

Mr. Robert Kinisinch, 5543 Fairmount, said he resides on one of the 58-foot wide lots and agrees that the non-conforming structures on the lots under discussion were in need of "revamping." A number of storm water issues existed, and he believed addressing the current storm water runoff at its start versus where it ends, was beneficial. He supported the proposal.

Mr. Dan Johnson, 5548 Fairmount, lived in his house for the past 16 years and stated that 12 to 14 homes have been replaced. He believed the current structures on the lots were not appropriate for the area anymore. After seeing the types of homes the petitioner developed, he and his wife supported the proposal.

Mr. Jim Heiniger, 5545 Fairmount, said he and his wife have resided in their current home for the past 35 years. He stated that the comparison of the existing homes on-site to the homes the petitioner has constructed, the commissioners would much prefer the latter. Also, he stated the three-foot exception was minor and adhering to the strict code was doing the village a disservice. He supported the proposal.

Mr. Walter Carlquist, 5627 Fairmount has resided on Fairmount for 50 years and agreed it was a unique street. He inquired generally about the required side yard setbacks and voiced concern that not enough room existed between the homes when one mowed the grass from front to back. He explained that most of the properties started at 120 feet but the one property that was 178 feet was a

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one-owner house and was located in the flood plain. As far as the lot widths, he voiced concern that the widths were becoming narrower, thereby setting a precedent and overbuilding of lots. He stated the calculations mentioned earlier were skewed because his lot was actually two lots – one 60 feet wide and the other 50 feet wide and declared as unbuildable due to it being in a flood plain.

Mr. Greg Jermak, 5626 Fairmount, recalled his mother-in-law tried to have a lot split some time ago but due to opposition from the neighbors, pulled it. He pointed out that only one person objected to the proposal tonight. He agreed the current homes were old and unsightly and the concrete retaining wall was a safety concern. He believed that because the petitioner lived in the neighborhood he would look out for the best interests of his neighbors and construct something that was consistent with the neighborhood.

Mr. Chris Custer, 5621 Fairmount, has a lot 62 feet wide and attested to the workmanship done by the petitioner. He fully supported the proposal.

Mr. Rich Kulavaney, 6825 Camden, opposed the proposal, mainly due to storm water issues. Addressing the earlier question as to why the lot widths in the R-3 district were 75 feet, it was because the village did not want homes constructed close together because the storm water issues were not being resolved. He pointed out that the ordinance was clear and that the commissioners did not have to split the lot into thirds but could, instead, split the lot into two lots and have two nice size homes, which he would support. He stated the village would be spending \$25M over the next 15 years to address storm water issues.

Applicant, Mr. Buie returned and addressed the last person's comments stating that he would not be constructing homes out of proportion and there would be extra land around the home when he was done. The storm water management would also improve.

Some commissioner questions followed regarding the history of the non-conforming house. Regarding the side yard setbacks, Mr. Buie stated the setbacks would be at least 7 feet off the property line. The front setback would be 35 to 40 feet in order to line up with the other homes.

The commissioners were reminded by one commissioner that a 3,600 sq. foot home was constructed next to a 3,000 sq. foot home and both homes were located on 58-foot wide lots. There was also room for the side yards to be mowed. Also, it was pointed out that the lot variance being requested was for two 3,000 sq. foot homes and a smaller home for the third lot, so more space would remain between these homes as compared to the two homes on the 58-foot wide lots.

The chairman reminded the commissioners that the key issue was for them to review the 71.64 feet lot width requirement with the size of the home being irrelevant because the builder could construct whatever was allowed by code.

Hearing no further comments, the chairman closed the public hearing portion.

Commissioners proceeded to review and discuss the five standards in staff's report.

Standard No. 1 – Commissioners raised concern about precedent setting, asked whether lot splitting was occurring in other parts of the village, and pointing out that the commission was attempting to squeeze more houses into less area. Ms. Gassen pointed out some important verbiage as it related to

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practical difficulties or particular hardships in carrying out the strict letter of the provisions of the subdivision ordinance. Commissioners seemed to agree that this standard was met initially.

Standard No. 2 – Discussion followed that the trend of development was not consistent and did not meet the minimum standards for lot width. Splitting parcels was not a trend for the area. The average frontages for a number of parcels were reviewed as well as dialog on what the village was spending on stormwater issues. Mr. Quirk pointed out that taxes were increasing and that taking a common sense approach to what the trend was in the neighborhood, and maximizing the village's tax base was good common sense.

Standard No. 3 – Referencing the language in the first paragraph about practical difficulties and hardships, Mr. Cozzo had not heard a particular hardship to compel the commission to reduce the minimum 75 foot setback to 71.5 feet. He stated there were no limiting characteristics of the land to cause a hardship. Other commissioners concurred and shared positive comments about the lots in their current state. However, Mr. Cronin reminded the commissioners that the standards were guidelines, not the law and, the fact that the homes were smaller in square footage versus the very large homes, which he stated would not be in character of the neighborhood. Furthermore, he said only two neighbors did not support the proposal while the remainder did. The chairman, however, cautioned the commissioners that state law required a hardship to be identified.

After a thorough discussion among the commissioners, it was mentioned that since the third lot had a non-conforming use on it because more than two dwelling units were on the lot. Director Popovich explained that if the structure was vacated for a period of time, a request for an exception to re-establish the non-conforming use had to be filed. Mr. Quirk identified that as being the exception – the structure could not be used without going through a process, which he believed was a hardship. However, the chairman stated it was not the intent of the petitioner.

Standard No. 4- The exception was in conformance with the general plan and spirit of the chapter.

Standard No. 5 – The chairman referenced this standard as to whether the exception would alter or be consistent with the essential character of the locality. He pointed out that currently three structures existed and three were being proposed. But while the three structures were being proposed, he questioned whether the requests for narrower lot widths would end, citing that if the lots widths were 70 to 72 feet wide and were in the majority, he could then consider the matter differently; however, they were in the minority. Mr. Cronin believed each situation was unique and should be discussed just the same. Mr. Thoman pointed out the importance of the language written in Standard No. 1 and, again, stated there was no proven hardship. Mr. Quirk shared a difference of opinion explaining that there were three houses that existed currently on the lots and that was the hardship.

Again, the chairman reminded the commissioners that the extended period of vacancy had run out and dictated that the lots be brought into compliance. Mr. Thoman also reminded the commissioners about following municipal code while Mr. Quirk argued that the commission granted variances all the time, including for setbacks. He supported the proposal based on its uniqueness.

Referencing the hardship verbiage, Mr. Cozzo stated that while he understood there could be a hardship because the development would not be as profitable due to the developer having to

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construct two homes versus three; it does not stop him from carrying out the strict letter of the ordinance. However, Mr. Cozzo stated it was not enough of a compelling reason to disregard the code. He stated the commission was being asked to approve something that was against the ordinance and did not meet the standard for which the commission should grant an exception. For Standard Nos. 1, 4 and 5, he believed staff may be wrong in its findings. Director Popovich was then asked to provide some examples of a limiting physical characteristic where an exception had been granted. Mr. Cozzo stated he would have a difficult time supporting this proposal.

Mr. Quirk reiterated that there were many cases where the commission deviated from the ordinance -- bulk standards, etc. -- and proceeded to cite examples around the village. He stated there were three homes on the lots and three homes being proposed. Two of the bulk requirements were being met in terms of depth and area and they were certainly close with the lot widths.

WITH RESPECT TO FILE 16-PLC-0020 MR. QUIRK MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL, SUBJECT TO THE FOLLOWING TWO (2) CONDITIONS:

- 1. THE FINAL PLAT OF SUBDIVISION SHALL SUBSTANTIALLY CONFORM TO THE PRELIMINARY PLAT OF SUBDIVISION PREPARED BY PROFESSIONAL LAND SURVEYING, INC. DATED 10-21-2015, LAST REVISED ON 4/4/16 AND**
- 2. PARK AND SCHOOL DONATIONS MUST BE PAID PRIOR TO APPROVAL OF A FINAL PLAT OF SUBDIVISION.**

SECONDED BY MR. CRONIN. ROLL CALL:

AYE: MR. QUIRK, MR. CRONIN

**NAY: MR. COZZO, MS. GASSEN, MS. HOGSTROM, MS. JOHNSON, MR. THOMAN,
CHAIRMAN RICKARD**

MOTION FAILED. VOTE: 2-6

WITH RESPECT TO FILE 16-PLC-0020 MR. THOMAN MADE A MOTION THAT THE PLAN COMMISSION FORWARD A RECOMMENDATION FOR DENIAL TO THE VILLAGE COUNCIL.

SECONDED BY MS. GASSEN. ROLL CALL:

**AYE: MR. THOMAN, MS. GASSEN, MR. COZZO, MS. HOGSTROM, MS. JOHNSON,
CHAIRMAN RICKARD**

NAY: MR. CRONIN, MR. QUIRK

MOTION PASSED. VOTE: 6-2

Explaining their reasons for why they voted nay, Mr. Quirk stated that a hardship existed and the standards to approve the lot split were met. Mr. Cronin stated the commission granted variances in

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the past; it was a minor variance request; the request met two of the three bulk requirements; and the proposal was almost unanimously supported by surrounding neighbors.

Director Popovich briefly reported that the Comprehensive Plan Ad hoc Committee is scheduled to meet on May 4, 2016 in the Community Room. The focus will be on Chapters 1 and 2 and the Downtown Focus Area Plan. Changes/revisions from that meeting will be brought to the Plan Commission's June 27th meeting. Further details followed. Two petitions are scheduled for the June 6th meeting.

THE MEETING WAS ADJOURNED AT 8:45 P.M. ON MOTION BY MR. COZZO, SECONDED BY MR. QUIRK. MOTION CARRIED UNANIMOUSLY BY VOICE VOTE OF 8-0.

/s/ Celeste K. Weilandt
Celeste K. Weilandt
(As transcribed by MP-3 audio)