

APPROVED

VILLAGE OF DOWNERS GROVE  
PLAN COMMISSION MEETING

February 1, 2021, 7:00 P.M.

Chairman (Ch.) Rickard called the February 1, 2021 remote meeting of the Downers Grove Plan Commission to order at 7:00 p.m. Because of the state mandated requirements regarding social distancing, the meeting was held electronically. Ch. Rickard provided an overview on how the public can participate via Zoom or through providing written comments to [planning@downers.us](mailto:planning@downers.us). He then led the meeting in reciting the Pledge of Allegiance.

**ROLL CALL:**

**PRESENT:** Ch. Rickard (In Person); Commissioners Boyle, Dmytryszyn, Johnson, Majauskas, Maurer, Patel, Rollins (Electronically)

**ABSENT:** None

**STAFF:** Planning Manager Jason Zawila, Development Planner Flora Ramirez (In Person)

**VISITORS:** Chuck Wiley (Petitioner), Amy Olson, Victoria Protsyuk, Beth Brownson, Liz Pelloso, Claudia Kappel, Paul Bollinger, Mary Yurkovic, Michael Malinowski, Amy Olson, Betty Ann Morton, Jessica Lynch, Maureen Bialas, Gordon Goodman (Electronically)

Ch. Rickard entertained a motion to conduct the February 1, 2021 Plan Commission meeting electronically. (Commissioner Toth arrives remotely at 7:03PM)

**MOTION BY COMMISSIONER MAURER, SECOND BY COMMISSIONER ROLLINS TO CONDUCT THE FEBRUARY 1, 2021 PLAN COMMISSION MEETING ELECTRONICALLY. ROLL CALL:**

**AYE: MAURER, ROLLINS, BOYLE, DMYTRYSZYN, JOHNSON, PATEL, MAJAUSKAS, RICKARD.**

**NAY: NONE**

**MOTION PASSED. VOTE 8-0**

**MINUTES**

**MINUTES OF THE DECEMBER 7, 2020 PLAN COMMISSION MEETING WERE APPROVED ON MOTION BY COMMISSIONER BOYLE. SECOND BY COMMISSIONER DMYTRYSZYN.**

**AYE: BOYLE, DMYTRYSZYN, MAURER, ROLLINS, JOHNSON, PATEL, MAJAUSKAS, TOTH, RICKARD.**

**NAY: NONE**

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**MOTION PASSED. VOTE: 9-0**

**PUBLIC HEARINGS**

Ch. Rickard reviewed the procedures for the public hearing.

**FILE 20-PLC-0027:** A petition seeking annexation and rezoning from R-1, Residential Detached House 1, to R-4, Residential Detached House 4. The vacant property will be annexed with the default zoning of R-1, Residential Detached House 1. The property is located at the southwest corner of Jefferson Avenue and Downers Drive, commonly known as 5801 Springside Avenue, Downers Grove, Petitioner and Owner, Charles W. & Sigrid P. Wiley

Ch. Rickard swore in those individuals that would be speaking at tonight's public hearing.

Petitioner, Charles Wiley, explained that he lives in an apartment complex in Lisle and said he purchased the lot in August 2020. He shared his reasons why he chose to live in Downers Grove, explained that he originally started discussions of development with the DuPage County Stormwater Management Department and determined that water access could only be granted through annexation into the Village of Downers Grove. He did discuss the legal practicalities of pursuing an exemption from the annexation. A slide review followed. Mr. Wiley said he was only asking for rezoning from R-1 to R-4 due to the surrounding zoning districts.

Mr. Wiley explained the wetlands mitigation efforts will be reviewed under the building process but that ultimately the proposal met all of the requirements of the Village from a wetlands perspective, a stormwater management perspective, and no relief was being sought for any variances. The proposal was consistent with the surrounding properties which were zoned R-4, and he felt the proposed single-family home could be developed on the non-wetlands portion of the property which was consistent with the area and would add value to the surrounding properties; not diminish them.

To that end, Mr. Wiley relayed that he addressed all of the issues raised by the planning staff and asked for the commission's approval.

Ch. Rickard invited commissioner comments/questions. Commissioner Boyle inquired of the petitioner whether he spoke to anyone on the Council about the annexation wherein Mr. Wiley's said his attorney did have discussions with the Village's attorney on whether he could be allowed access to the Village's water supply without having to be required to annex into the Village, which was under Ordinance #3528, which was put in place to deal with water contamination issues.

Asked if the petitioner had spoken to FEMA, since the site was a floodplain, Mr. Wiley indicated he did not but instead did initiate dialog with DuPage County who indicated that if he did want to access water, he would have to annex into the Village. In addition, similar discussions occurred with the DuPage County Stormwater Management department, the Village's planning staff, and he expected it would be addressed through the permitting process. Mr. Wiley did recall that he may have had to receive feedback from the Army Corp of Engineers regarding soil but that the topic never came up in discussions.

In addressing the staff report, Commissioner Maurer inquired of the petitioner whether there would

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be any further plans to extend storm sewer services to the property, wherein Mr. Wiley indicated he hoped that was possible, given the limited area on the property, and since there was no room on the property to place a septic system. A storm drain was located outside the property and his expectation was to access storm sewer. Asked what other wetland mitigation efforts were being applied to the site, Mr. Wiley described that a buffer zone would be created outside the wetlands with post-construction best management practices that would drain from the area as well as a compensatory storage requirement, which he did not know the specifics of. He was working with an engineer on the matter. Furthermore, Mr. Wiley discussed the various surveys he had done on the property – wetland delineation survey, plat survey, tree survey, etc. and explained that vegetation would have to be replaced if cut down during the construction process in the buffer zone, guided by the stormwater management guidelines provided by DuPage County. He offered to get the information from the County.

Commissioner Dmytryszyn asked about the variance with the County and what the primary driver was for the R-1 versus R-4 zoning wherein Mr. Wiley summarized that it was a benefit in that it allowed to place the footprint on the property without impeding the wetlands. The County was amenable to a variance because it would minimize the impact on the wetlands, however, discussions never went further because of the need for water service.

Hearing no other commissioner comments, Ch. Rickard explained that two issues were of interest on the proposal: wetlands and the fact that a good portion of the property sat in an LPDA (Localized Poor Drainage Area). He emphasized the focus was limited to the zoning classification from R-1 to R-4 and the annexation was at the discretion of the Village Council and not the Plan Commission. Items such as stormwater management, LPDA construction, and compliance with wetland regulations were handled with the building permit application, which was handled by staff, and which review comments would have to be satisfied by the petitioner.

Ch. Rickard opened up the hearing to public comment.

Mr. Gordon Goodman, 5834 Middaugh, explained that given the uniqueness of the property, he believed that R-2 zoning versus R-4 zoning was preferable. He noted that R-2 zoning required a minimum of 15,000 sq. feet versus the R-4 zoning which required 7500 sq. feet. The other difference between the two zonings was the setback requirements from the street: For R-4 zoning it was 25 feet and R-2 zoning was 35 feet, citing Section 28.2.30 of the Zoning Ordinance, under Lot and Building Regulations, Table 2-2. He believed the Village should issue an exception to the setback from the street in order to preserve the lot to support one home under the R-2 zoning versus the R-4 zoning.

Ch. Rickard asked staff for clarification of Mr. Goodman's comments where he stated there was an opportunity to construct two homes under the R-4 zoning. Development Planner Ramirez confirmed that only one single-family structure could be constructed. However, Mr. Goodman stated that under the R-4 zoning, the lot was susceptible to subdivision.

Ms. Claudi Kappel, stated she lived in the area for 30 years and would speak to Mr. Wiley at some point.

Ms. Jessica Lynch, thanked the petitioner for being transparent with the proposal, and affirmed the flooding in the area. She pointed out that the criteria for approval of the site had to do with

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property values increasing but she did not believe that with certainty. Contrarily, with the construction, she stated there could be additional flooding issues and could not affirm that her property value or the general area's property values would increase. She asked the Commission to consider those items.

Ms. Liz Pelloso, resident and Chairman of the Environmental Concerns Commission acknowledged that the site was being considered for voluntary annexation and it was contiguous to the Village's municipal boundary. Her statement included concerns about the petitioner's response to the Village's review and approval criteria, specifically Criteria 3 as it related to property value and the petitioner's response that the annexation would significantly increase property values. While she stated the annexation could increase property value, it could also affect public health and safety of residents by creating additional flooding that occurs on the site and in the area. As to Criteria 4, Ms. Pelloso pointed out that of the 0.95 acre site, 0.33 acres of the lot was considered wetland, which extended off the platted lot towards the roadway. Zoning the lot for residential development would set the lot up for actual development, which if occurred, would result in additional impervious surfaces and fill amendments to the natural soils on the site, creating run-off and decreasing the property's natural ability for water to percolate into the groundwater, leading to additional flooding.

Ms. Pelloso summarized that the site was an LPDA and a house was proposed to be constructed in a portion of that. She stated in her professional opinion the site needed to remain as such and was not a site for development. The proposed home would not have a basement and noted that within the public agenda packet it stated, "*The foundation will be flood-proof in accordance with a geotechnical report and the house will be reasonably safe from flooding.*" Ms. Pelloso stated the words "*reasonably safe from flooding*" did not provide assurance that the home would not flood or assurance that development of the lot would not further increase flooding that the community currently faced. Her further concerns included having compensatory storage requirement around the home itself, assuming the owner did not encroach into the wetlands or storage areas over time. Since more than fifty percent of the site was wetland, she questioned if it was really an appropriate use of the property. Regarding Criteria 6, Ms. Pelloso pointed out that the value of a property to a community was not just its economic redevelopment value -- there was a reason why the land was not developed, even though platted, for over 100 years: it was a low area and a wetland area. The fact that the neighborhood residents previously petitioned the Village to obtain the property and keep it in its natural state reflected that its intrinsic value was open space wetland, and fauna habitat was being undervalued, if valued at all. The value to the community was its natural area, which was being used for floodwater, and filtration, which was not mentioned by the petitioner to the Village for review. Birds, small mammals, and amphibians used the property for coverage. Ms. Pelloso recommended postponing the proposal until additional and adequate information was provided to the Plan Commission and that the Village and Commission consider the message and precedence set in well areas and LPDA areas and its residents.

Mr. Michael Malinowski said he liked the presentation and provided no comment.

Ms. Mary Yurkovich, 5805 Springside, voiced concern about water run-off and would talk to the petitioner at a future time.

Mr. Gordon Goodman, 5834 Middaugh, addressed Ms. Pelloso's comments and stated that the R-1 zoning was appropriate if the Village was considering the area as open land because traditionally

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such zoning was given to open land set aside for that purpose. In addition, the R-1 zoning would permit one structure to be constructed with a 40 ft. setback, which could be made an exception if the Village later decided construction was appropriate, after reviewing the floodwater criteria that are not a part of this zoning proceeding. He believed the Commission should not recommend R-4 zoning but to recommend either zoning or R-1 or R-2. He agreed the Commission needed more information before a decision is made and to investigate alternative zoning, as he suggested.

Planning Manager Jason Zawila explained for commissioners and the public that when the Village receives such requests, as the one being discussed, the property defaults to the Village's R-1 zoning which is the most restrictive. The surrounding zoning was reviewed and in this case the R-4 zoning was determined as the the predominant zoning district in the neighboring area. As for the comment that the site could have multiple homes, it was not the case and, in this case, it was for one single-family home.

Mr. Wiley responded that he had no plans to subdivide the lot and he liked the wetlands because it was like having a park in the back that could not be touched. To the comment about property values not increasing, he concurred, but if done carefully, it would have more economic value in the property. To other comments and whether the annexation was appropriate, he explained that the actual property being developed was about one-quarter of an acre, which was the average size lot in the Downers Grove Gardens subdivision. He believed he was developing a property that was suitable and suggested holding a discussion outside this public meeting.

Mr. Wiley also pointed out the site had many dead trees and vegetation as well as evidence of persons dumping trash and, therefore, having a home on the site would be appropriate. To not have a basement, was proper planning. As for whether the lot should be purchased and be kept from development, Mr. Wiley believed that the person in charge, who controlled how the lot should be developed, was well established. He had his experts review the site as well as the County and planning staff in order for the development to be done correctly. He stated he has been very transparent about his plans.

Ch. Rickard inquired if staff had any comments submitted electronically from members of the public. Staff stated that there was none. Ch. Rickard invited the petitioner to ask questions of the public. Mr. Wiley offered to the public that if they wanted to have discussions with any of the individuals who advised him on the proposal, to contact him by his email address: [chuckwiley12@gmail.com](mailto:chuckwiley12@gmail.com).

Development Planner Flora Ramirez came forward and summarized the petition before the Commission was for a zoning map amendment. The parcel location was noted and currently identified as unincorporated zoning district R-4. The petitioner was proposing to construct a single-family home with all building, zoning, and stormwater reviews to occur during the building permit submission phase. The petitioner was also seeking connection to Village water. However, Ms. Ramirez explained that, per Village policy, if an unincorporated property was requesting water, the property shall be annexed if contiguous to the municipal boundary and shall be reviewed solely by Village Council. If approved by Council, the default zoning for the parcel became R-1 Single-Family Detached House 1.

Development Planner Ramirez reminded the Commission that tonight's review had to do with the petitioner's request to rezone the property from R-1 to R-4 in order to bring the property into the

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same zoning classification as the neighboring properties to the north and east. Slides of an aerial map and approval criteria for the zoning map amendment followed. Staff found the petition met the zoning map criteria.

Ch. Rickard entertained questions of the commissioners regarding staff's report. Responding to Ms. Majauskas' inquiry if a petitioner asks to be annexed into the Village whether it is by-right, Manager Zawila explained that anyone has a right to ask the Village and in this case the petition met the eligibility criteria for annexation since the request was for water service and the parcel was contiguous to the municipal boundary. However, it was up to the Village Council to ultimately approve or deny the annexation.

Commissioner Rollins questioned that if the single-family home was not constructed would the petitioner have to return to the commission/council if a multi-family was to be constructed on the property, wherein Ch. Rickard stated that within the zoning district, multi-family would not be allowed. In addition, if a future owner changed their mind, they would have to come before this Commission to rezone. Furthermore, if the current and/or future owner wanted to subdivide the parcel to build more than one home, this process would have to be repeated.

Commissioner Toth confirmed with staff that the difference between the R-1 and R-4 classification was the size of the lots and the side yard setbacks, wherein Development Planner Ramirez explained the largest difference was the street setback for the R-1 district at 40 feet while the R-4 street setback was at 25 feet. Commissioner Toth asked why the Commission would consider approving the R-4 when it appeared to fit better in the R-3 classification, wherein Ms. Ramirez explained that the Village was always looking at adjacent parcels for development patterns, which Ms. Ramirez pointed out and explained the proposed parcel would better match the development located across the street and to the side.

Responding to Commissioner Boyle's question about the parcel's current zoning, Ms. Ramirez explained that under the county's current zoning – which was unincorporated -- the parcel was zoned R-4. Understanding that the Plan Commission had no purview over the annexation, yet was being requested to review the parcel as a conversion of R-1 to R-4, Commissioner Boyle has voiced concern that there was no existing zoning from the Village's perspective. However, Chairman Rickard explained that by default, parcels were annexed into the Village as R-1 and it was very common at the time of annexation that a request for a rezoning can occur, which this Commission was being asked to consider, based on the petition and staff's request, because it matched the surrounding zoning classes. Manager Zawila confirmed that tonight's request was consistent with past practices and policies, recalling a prior petition the Commissioners reviewed.

Commissioner Boyle shared concern about approving the rezoning prior to Council approving the annexation, wherein Ch. Rickard explained the Commission was not making a decision tonight and the lot would not be rezoned. Instead, he explained that Council would consider the rezoning in conjunction with the annexation; and, if the annexation was not approved, the rezoning did not occur.

Commissioner Dmytryszyn happened to point out a parcel zoned R-1 that was located across the street and down further from the lot and inquired why that was, wherein Manager Zawila referenced a slide, said he would have to research it, but presumed most likely the parcel may have been annexed into the Village and the default went to the R-1 zoning.

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Ch. Rickard invited Petitioner Mr. Wiley to provide closing comments.

Mr. Wiley thanked the Commission for being able to present his case, stated he wanted to make the development work, and hoped to have an opportunity to discuss the matter with others to assure them that he would not be creating more flooding issues for the area.

Ch. Rickard asked staff if we received any additional written comments, before closing the public hearing. Manager Zawila confirmed receipt of Ms. Peloso's written comments and would add them to the record.

Ch. Rickard proceeded to close the public hearing. He then opened up the meeting to commissioner deliberation.

Commissioner Majauskas did not support the request, pointed out the parcel was a natural flood plain and, if approved, would move the project forward and she was not willing to do that. She had no evidence that the request was a good idea and should be developed as being proposed. No mitigation plan existed, no evidence existed that the flooding will be exacerbated in the area, and there was concern the home would be constructed on a site that floods. The water would either have to flow to the neighbors or the sewers or to both. Hearing the petitioner offer to hold off-site discussions to review surveys and documentation, Commissioner Majauskas queried why those documents were not submitted to the commissioners prior. She needed to see the information in the packet. Agreeing with Ms. Peloso's comment about the suitability of the property, Commissioner Majauskas pointed out that not all development was good development on all properties nor did commissioners know how the utilities would be hooked up. She stated it was not just about the taxes but what it could cost the Village – more flooding, more problems and neighbors complaining – and the money the Villages received would not go far enough to take care of the problems encountered. Commissioner Majauskas believed this case was a business deal -- the land was cheap, the petitioner constructs a home, sells it and moves on. She believed a decision was premature, more information was necessary, and she would vote in opposition.

In response, Ch. Rickard explained the petitioner was not obligated to submit mitigation plans nor stormwater requirements for construction and while he understood the above views, it was not under the commission's purview and it would eventually come forward. Manager Zawila cautioned the commissioners that the documentation being referred to be subject to regulatory review, i.e., staff administratively reviews the information as it pertains to code and the requirements. The documentation before the commissioners was appropriate for the requested map amendment, based off the standards provided in the packets. It was not intentional to leave out those documents as some of the information was still being reviewed, which is typical.

Commissioner Majauskas stated she believed the petition was premature and believed it was important to know all of the information.

Regarding the seven criteria to be considered for the rezoning and specifically referring to Criteria No. 2, *the extent to which a particular zoning restriction affect property values*, Commissioner Maurer confirmed with staff that the impact should be considered under the R-4 zoning and not the R-1, to which staff stated in the affirmative.

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Commissioner Patel relayed that the concerns being voiced appeared to be relative concerns but they were outside the purview of this commission. He believed the rezoning request was reasonable.

Commissioner Rollins also concurred with Commissioner Patel's comments, appreciated the neighbors' concerns but also believed, from a Commission perspective they were not relevant to tonight's decision and the matter was straight-forward.

Commissioner Boyle, in reviewing the criteria, and in reviewing the draft motion, shared that some of the items stated were advantageous to the property itself while others were not. If the project moved forward, he believed it could impact the neighborhood, yet there was a chance it could not, and he was not sure of the commission's purview on that matter but reminded everyone of his earlier comment that the Village Council would ultimately be responsible for the annexation and zoning. He shared that it may have been one of the reasons why the site was vacant -- citing Criteria No. 5 -- due to not being suitable for residential. He saw both sides of the argument, agreed it was a difficult decision, and appreciated the petitioner's perspective in trying to minimizing the impact to the site. From the neighborhood perspective and zoning perspective it appeared to match the R-4 zoning and would fit within the zoning context.

Commissioner Dmytryszyn echoed the comments of Mr. Toth agreeing it was a challenging decision. He agreed with Commissioner Majauskas' comment, who said it well, noting that just because the neighboring properties were zoned R-4 did not mean it was right and much flooding existed. He believed having more distance between the buildings would provide better drainage in the area and should be considered. He would not support approval.

Commissioner Johnson agreed there were many issues with the property that needed to be considered. However, what the Commission was being asked was not related to the zoning. She felt the property could be rezoned to R-4.

Providing his comments, Ch. Rickard summarized that the property was complicated but when looked at strictly as a piece of property while ignoring the other information, the rezoning to R-4 was an easy decision to make because it fit the surrounding districts and closely resembled the county's zoning. He reminded the Commission this was the first step in the process, the petitioner would have to go through multiple reviews, and scrutiny to prove what was being proposed on the site. It would include the resolution of engineering issues as it relates to construction in an LPDA and satisfying other ordinances as it relates to wetland mitigation. He also pointed out that there was beautiful construction done in such areas. He also added that if the petitioner did produce such documentation he did not believe himself nor other commissioners could completely understand the documentation. From a strict zoning perspective, he supported the request.

Commissioner Majauskas reiterated that the documentation was the commission's purview and the reason the Commission existed was to provide an opinion. She emphasized that much more information needed to be considered in the decision-making other than just the rezoning.

The Chairman entertained a motion.

**COMMISSIONER JOHNSON MADE A MOTION THAT THE PLAN COMMISSION RECOMMEND TO THE VILLAGE COUNCIL APPROVAL OF 20-PLC-0027, BASED ON**

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**THE PETITIONER’S SUBMITTAL, THE STAFF REPORT AND THE TESTIMONY PRESENTED. THE PETITIONER HAS MET THE STANDARDS OF APPROVAL FOR THE ZONING MAP AMENDMENT, AS REQUIRED BY THE VILLAGE OF DOWNERS GROVE ZONING ORDINANCE AND IT IS IN THE PUBLIC INTEREST.**

**SECOND BY COMMISSIONER TOTH. ROLL CALL:**

**AYE: JOHNSON, TOTH, MAUER, PATEL, ROLLINS, RICKARD**

**NAY: BOYLE, DMYTRYSZYN, MAJAUSKAS,**

**MOTION PASSED. VOTE: 6-3**

Planning Manager Zawila noted that this matter will be on the April 13, 2021 Village Council agenda under the first reading. He asked the public to continue to use him as a resource. Manager Zawila appreciated everyone efforts in participating in the Zoom meeting and hoped to have an in-person meeting next time.

**THE MEETING WAS ADJOURNED AT 8:38 P.M. ON MOTION BY MS. JOHNSON, SECONDED BY MS. ROLLINS. MOTION PASSED BY VOICE VOTE OF 9-0.**

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