

VILLAGE OF DOWNERS GROVE  
PLAN COMMISSION MEETING  
PUBLIC HEARING

MARCH 6, 2017, 7:00 P.M.

Chairman Rickard called the March 6, 2017 meeting of the Downers Grove Plan Commission to order at 7:04 p.m. and led the Plan Commissioners and public in the recital of the Pledge of Allegiance.

**ROLL CALL:**

**PRESENT:** Chairman Rickard, Mr. Boyle, Ms. Gassen, Ms. Johnson, Mr. Quirk, Mr. Kulovany, Ms. Rollins

**ABSENT:** Ms. Hogstrom, Mr. Maurer; Ex-Officios Davenport, Livorsi, Menninga

**STAFF:** Village Senior Planner Rebecca Leitschuh and Village Planner Scott Williams

**VISITORS:** See Attachment A to the Minutes (sign-in sheets)

Chairman Rickard reviewed the protocol for the meeting and swore in those individuals who would be speaking on the following public hearings.

**PUBLIC HEARINGS**

**FILE 17-PLC-0003:** A petition seeking approval of a Planned Unit Development Amendment for the expansion of senior living options at Oak Trace. The property is zoned R-5A/PUD, Residential Attached House 5A/Planned Unit Development. The property is located on the east side of Fairview Avenue, between 65th Street and 67th Court, commonly known as 200 Village Drive, Downers Grove, IL (PIN 09-21-102-007). Brian Devlin, Petitioner; Lifespace Communities, Owner.

(Mr. Quirk recuses himself.)

Senior Planner Rebecca Leitschuh referenced the Planned Unit Development (PUD) Amendment before the commissioners for 200 Village Drive, also known as Oak Trace Senior Living. She explained that the scope of the redevelopment and proposed construction was significant enough to constitute a major amendment, which was why it was before this commission for a public hearing. Full notification of the public hearing was made. An aerial of the existing conditions followed with staff explaining that to the north was Westmont which was zoned R-4 General Residence, to the east was R-3 Single Family Detached, to the west was Downers Grove with R-1 and R-3 Single Family zoning and to the south was Darien. Ms. Leitschuh confirmed that staff did send a staff report to the City of Darien and to the Village of Westmont and spoke to representatives of those municipalities about the public hearing. No concerns were voiced by either municipality.

Per staff, the current proposal was zoned R-5A/PUD Multi-family Residential use, as identified in the village's Comprehensive Plan and Future Land Use Map, and consisted of approximately 38 to 39 acres. A 3-D rendering was referenced. The facility currently includes a skilled nursing building with 160 beds; a sheltered care facility with 72 units; an apartment complex with 218 units; and townhomes that totaled 56 units. Ms. Leitschuh walked through the various structures that were located on the campus. She stated that in 2007 the "conservation area" was released by the park district due to the owner making payment to

the park district at that time and during the first creation of the PUD. While the conservation easement had been removed, the village was requiring that an easement be placed over the existing detention pond and its confines. Photos of the various campus areas followed.

Per Ms. Leitschuh, the new redevelopment will comprise of a new four-story healthcare center which will consist of 32 new short-term rehabilitation suites, 28 memory care suites, 62 skilled nursing suites, and 66 assisted living apartments. Also planned is a new five-story residential living building with 160 apartments. The existing residential building will be renovated on the first floor mainly to connect the overall campus and to open up corridors and the courtyard. Thirteen new residential living villas are planned in different groupings.

Ms. Leitschuh stated that back in 2007 a similar size redevelopment was approved by the village but was not constructed due to the economic downturn. Today's proposal was similar in size and scope to the approved redevelopment concept. Ms. Leitschuh explained that the proposal is a multi-year and multi-phase program and is an expansion of the Oak Trace campus. It will result in the replacement of the existing nursing facility. The construction of the new assisted living and memory support assisted living apartments is licensed under the Assisted Living and Shared Housing Status. It includes construction of new residential living apartments in multiple buildings, including the five-story residential building.

Per Ms. Leitschuh, Phase I is scheduled to begin in 2017 and will include the new four-story healthcare center. The existing residences in multiplex cottages and townhomes will be demolished, the main campus drive will be redeveloped, and a new temporary entrance and parking will be constructed between the existing Healthcare Center and Residential Living buildings. A list of the Healthcare Center's amenities followed with staff stating the phase will add approximately 163 residents at full occupancy. An elevation and rendering of the Healthcare facility was referenced.

Phase II will begin in late 2018 and will include the demolition of the existing Healthcare Center building and 12 existing residences to allow for the development of a five-story Residential Living building comprising of 160 new apartments. Ms. Leitschuh summarized how the layouts of the new Residential Living Building, Healthcare Center and the existing Residential Living Buildings will be designed as a new open lawn concept to feature courtyards, scenic walks and trellises connecting the campus to the barn. A new pavilion structure will be used for public functions. A 20-foot wide fire lane will be created using grass pavers. The existing barn will remain as is. The rehab of the existing Residential Living building's first floor will take place after completion of the new Residential Living building. Phase II adds about 210 new residents allowing for 40% of couples. An elevation and rendering of same followed.

As for Phase III, Ms. Leitschuh clarified this was more or less the petitioner's tentative vision for the townhomes and should the economy change in the next decade the petitioner would return before the commission for another PUD amendment. Planned were three-story villas that include one level of parking and two levels of living apartments, with four units to a floor. The size, scope and character of these buildings will be driven by the needs and desires of the community at the time of development. Units will be constructed in clusters. Per staff, the apartments will be maintaining the setbacks of the existing townhouses. Photos of the building, conceptually, were referenced. This phase would add up to 160 residents if fully developed.

Referring to the overhead, Ms. Leitschuh referenced an overlay diagram reflecting the two different traffic patterns on-site, how residents would access their properties, and access the overall buildings on the site. Staff believed the proposal was an improvement for the overall campus because it was had more straightforward way-finding for drivers. Per staff, two of the four current access drives to Fairview would be closed.

Continuing, Ms. Leitschuh shared that current required parking for the site was 352 parking spaces and 414

were provided. In Phase I there were 389 parking spaces proposed which were more than the 279 spaces required. In Phase II there would be 555 spaces proposed over the 351 required. In Phase III there will be 752 parking spaces over the 527 required. Approximately 28 handicapped spaces were provided, above the 15 required.

A review of the site plan depicting the turning radius of an emergency vehicle followed. A copy was provided to the fire department, per Ms. Leitschuh. A diagram reflecting the service of fire suppression was also referenced on the overhead. The petitioner's landscape plan was referenced with three plans for the three different phases. Staff pointed out that the open space requirements in residential districts were different from the open space requirements in all other districts as it related to the percentage requirement. Instead, building coverage was considered. However, in its current state, 64% of the property was open space and 36% had some type of impervious surface on it including sidewalks and streets. For the final Phase III, 61.2% remained open space while 38.85% would be impervious space. Ms. Leitschuh indicated the petitioner wanted to show on its plans that a large percentage of the existing tree canopy remained. She stated the landscaping for the proposal was above what was required in the zoning ordinance for open space, quantity, and types of landscaping.

Overall, Ms. Leitschuh reported that when the future villas are constructed, they will not be built any further into the existing setback except for one which may be three feet closer although the petitioner had expressed they were agreeable to shifting the setback to comply with current setbacks.

Staff believed this was an appropriate application for a PUD to request additional signage since the site was like an institution/campus and since Village Drive is private, the petitioner would have very limited sign allowances according to strict interpretation of the sign ordinance. Ms. Leitschuh presented photos of the proposed monument sign for the main entrance on the north at Fairview (A-2). On-site signage within the campus was also noted. The grand monument sign (A-1), located at the south entrance, would be updated. Additional signage was pointed out. Additionally, only the three monument signs adjacent to Fairview Avenue would be visible from the public right-of-way. A photometric plan for the site also followed with staff noting that all boundaries met zero (0), meaning there was no light spill over to surrounding properties. Only one area (.01) spilled over which was allowed and represented current conditions.

Continuing, Ms. Leitschuh reported staff received 25 letters from Oak Trace residents, 4 letters from surrounding friends/family, another 4 letters from surrounding property owners (not the residents), and 3 phone calls. A neighborhood meeting was held by the petitioner as well as four on-site resident meetings. Ms. Leitschuh explained that in this type of application what was before the commissioners was criteria of the zoning ordinance, the subdivision ordinance and the comprehensive plan. While she well aware of the content and concern expressed in the correspondence received, she reminded the commissioners it was staff's responsibility to review the criteria, land use, zoning ordinance and determine whether the proposal met the criteria.

Reviewing the bulk standards, Ms. Leitschuh reported that in almost all of the townhomes the plan met the existing setback, which was 34 feet 6 inches (closest) to the southern property line. The future townhomes would be at 31 feet 4 inches. Building height of the existing residential building was 55 feet 10 inches and the proposed residential building would be the same height. Dwelling units per acre were briefly reviewed with staff finding that the proposed dwelling unit per acre would be 17.28 which conformed with the overall intent of the code – both in the zoning ordinance and the village's comprehensive plan. Floor area ratio was 0.8 and existing was 0.31. The townhomes would be slightly over at 0.885.

Referring to the village's Subdivision Ordinance, Ms. Leitschuh explained the ordinance had a new provision that states when new residential units are constructed, the school and park districts are given an opportunity to receive compensation (donation) in order to provide the necessary services for the increased population. Staff found that the park donation of \$51,634.98 was a condition of approval for Phase III. A

history followed on how the park donation was determined, noting that only 9 additional units were being proposed from the 2007 proposal and the donation would not take place until those 9 units were constructed in Phase III. Per staff, due to the proposal being a senior community, the village did not require a school donation.

Addressing the village's current Comprehensive Plan and the draft updated plan, the particular section under review was identical in its goals, objectives, and in identifying that particular part of the community as Multi-family. Some of the main goals from the Residential Areas Plan for this proposal included: 1) ensure quality housing stock remains a staple of the community; 2) maintain the optimal balance of housing types within the community; 3) ensure adequate buffering between residential and commercial uses; and 4) encourage a diversity of housing types, sizes and prices. Staff found that Oak Trace and Fairview Village had offered the same services in the past and the proposal continued to offer the services for seniors, which was one of the fast growing populations to meet its growing need for additional types of housing and care on-site in order for the population to remain in the same community.

Ms. Leitschuh stated that both Comprehensive Plans indicate that Multi-family is a growing market within the village and should be located along arterial streets. The proposal targets senior citizens through design, amenities, and medical support services; it establishes that the existing tree canopy is important to maintain and expand with new development; and it incorporates three of the four levels of residential modernization: renovation, expansion, and redevelopment. Furthermore, she said the plans address stormwater management for the near- and long-term. However, Ms. Leitschuh indicated that in 2007 the detention basin was redesigned and construction of the on-site stormwater services occurred. Therefore, there was no need for additional stormwater engineering.

Per Leitschuh, the zoning map amendment review and approval criteria was not relevant as the property was already zoned PUD and the changes being proposed did not require a zoning map amendment since the site was already zoned R-5A/PUD (Residential Attached House 5A/Planned Unit Development).

Staff found the proposal was consistent with both comprehensive plans, the subdivision ordinance and the park donation based on the information discussed above. The PUD overlay provided the necessary tools to redevelop the property and meet some of the main goals of the residential areas. Staff felt the proposal was a creative solution to modernize the campus with improved pedestrian circulation, etc. Staff also found that 8 of the 10 overlay district provisions and objectives found in Section 4.030 were met. The proposal was consistent with 1) the current and draft updated Comprehensive Plan(s), 2) it implemented the residential policy to provide senior living options; 3) it provided flexibility and creativity in responding to continuing changes; and 4) it encouraged a diversity of housing types and sizes on the campus. Additional benefits of the proposal followed, with staff describing how the housing needs of the growing senior population were being met by offering a variety of housing types, thereby allowing seniors to age in place and within the community.

Lastly, Ms. Leitschuh discussed that appropriate terms and conditions were being imposed on the approval which would protect the interests of the surrounding property owners and residents. The development called for taller and more dense units to be located near the center of the site while the lower buildings, which would be more in scale with adjacent residential areas, would be located around the perimeter. Public safety conditions were added which ensured emergency access and safe buildings. Additionally, this project would advance many goals and objectives laid out in several adopted documents. This standard had been met, per staff.

Staff found the proposal in compliance with the overall goals of a PUD and it was an appropriate application of a PUD. The zoning criteria under the PUD amendment were met and supported by the village's comprehensive plan.

For the petitioner, Mr. Brian Devlin with Lifespace Communities, Des Moines, Iowa, shared his PowerPoint presentation and explained that Lifespace was the parent company of Oak Trace, a non-for-profit provider of senior living community across the U.S. In 2007, Lifespace acquired Oak Trace from Fairview Baptist Home via bankruptcy. Due to the age of the Health Center and its maintenance issues, Mr. Devlin explained that the petitioner, as well as the residents, wanted a new health center. The parent company, being a larger company, could invest the money into Oak Trace and continue to provide the continued care for the growing senior population in the community. The redevelopment was critical to keeping the long-term viability of Oak Trace to attract residents.

Mr. Devlin explained the reason for the redevelopment was because Oak Trace had been operating under state waivers since 2007 and was grandfathered in under older codes, with the promise that eventually it would construct a new health center which took years of planning for senior living. It was a need-based level of living. After much review of the site and considering expansion, it became clear there was no land available on the campus to construct something that was going to cause some distraction or cause residents to relocate. A number of factors were taken into consideration before choosing the right location to locate the Health Center.

Mr. Devlin stated the first communication with residents took place in November 2016 where Phase I plans were discussed. However, he did confirm that those residents living in the cottages currently were the first ones contacted explaining that the cottages would have to be razed. In January 2017 another meeting took place to discuss the second phase plans which included the Residential Living expansion and commons. Affected residents of that phase were asked to meet with Mr. Devlin's firm in advance. The company's executive director also met with the residents of the Health Center to discuss construction logistics. There has been ongoing communication with the affected residents and Mr. Devlin emphasized that they want to work individually with each resident to try to accommodate them and make the process smooth.

Mr. Devlin reported that 28 cottages will be affected by the Health Center replacement; 27 of the cottages were occupied. Of those 27, 11 have transition agreements with Lifespace and 3 were pending agreements. There were 16 that were outstanding. Two options were available to cottage residents: 1) transfer to another apartment within the community, with expenses covered and honor their currently monthly service fees, or 2) move elsewhere with Lifespace giving the resident 100% refund of their entrance fee. An explanation followed on how entrance fees were determined.

Per Mr. Kulovany's question on how long the company had been working on the plan, Mr. Devlin estimated it was about a year and a half ago.

Mr. Michael Aronson, SAS Architects, explained his company focuses on senior living and his firm has constructed over 100 different facilities since his firm's existence. As to why the development ended up in its proposed configuration, Mr. Aronson reviewed the site plan and described those areas on the campus that could not be developed, such as the conservation easement, the pond and the two strips along the residential neighborhoods to the east and south. The front yard contained townhomes and the topography was a challenge. The barn also existed on the site. The other challenge he voiced was that construction of the new Health Center could not be built over the old Health Center because the current residents there had to remain and then be relocated when the new Health Center was completed. The sites in green were "opportunity" spaces that were for consideration.

When Phase I (new Health Center) was proposed to the southeast corner, Mr. Aronson said it was with consideration to have connectivity to the residential living so that all levels of care interacted with each other. There were also shared services – a major kitchen area, major laundry area and dining areas. The proposed Health Center will house a three-story assisted living portion to the east and a four-story portion to the west, contain short-term stay, memory support, and two skilled nursing floors. In the middle of the center will be common space, i.e., dining space, physical therapy, a chapel, activity spaces, etc. The

building has been sited with the neighbors in mind with landscaping proposed to screen the parking lots.

Under Phase II, the Residential Living portion (five stories) will be constructed where the current skilled nursing facility is located and adds parking in front of the building that surrounds a center courtyard with activity/public space. The large courtyard space will connect all three new buildings being proposed. Reviewing the final site plan, Mr. Aronson noted that the Residential Living building will be taller than 55 feet at 68 feet. The four-story portion was 60 feet in height and the three-story was less than 60 feet but close to 59 feet of the existing five-story building. He stated the stories were the same but it was the architectural elements that were causing the height increase. Renderings of the Health Center and center courtyard space were depicted.

Ms. Gassen asked for confirmation of the building heights again. Mr. Aronson stated that staff's slide indicating that the new building was at 55 feet 10 inches was not what was on the drawing and he wanted to clarify that information – although the three-story portion of the Health Center was less than the 55' feet 10" inches. The four-story portion was 60 feet (1 ft. higher). The high portions, or peaks, of the Residential Living were 68 feet. Ms. Leitschuh stated the petitioner's zoning analysis did have the information Mr. Aronson just stated. For further clarification, Mr. Aronson mentioned staff's earlier statement that the closest corner of the new villas would be 31 feet 6-inches – he thought it was revised to 34 feet 6" inches so that at no point would any of the new townhomes be closer than the existing buildings. He believed it was a drafting error on his part.

Mr. Kulovany asked for the location of the current dialysis center. Mr. Aronson stated it currently was in the skilled nursing building and only for those residents in the skilled nursing facility. He noted the skilled nursing, short-term stay were licensed by Illinois Dept. of Health while the assisted living and memory support communities were licensed by the Illinois Dept. of Aging.

Per Mr. Boyle's question, the floor area ratio (FAR) figure quoted in staff's presentation was for Phase II and Phase III. Per Mr. Aronson, the FAR for Phase I was significantly below the allowed and Phase II was also below the allowed. Phase III's FAR was based on all of the townhomes being constructed, with the FAR being .88 and the allowable being .80.

Confirming the number of new units, Mr. Aronson explained there will be 32 new units for short-term; 28 units for memory; 62 units for skilled; 66 units for assisted, and the new Residential Living (RL) space would have 160 new units. The existing RL was 218 units. Ms. Leitschuh clarified that in her zoning analysis slide, she separated the data into two categories – one was with the addition of the townhouses and the other was everything prior to the addition of the townhomes. With the addition of the large buildings, she said the proposed FAR would be 0.523 and with the addition of the villas (townhomes) the FAR would be 0.885.

Chairman Rickard opened up the meeting to public comment.

Mr. Ed Manski, stated he was the attorney representing the residents of Oak Trace whose homes were being razed. He wanted to ensure those residents whose homes were being demolished had a chance to explain what that meant to them and asked to take their comments under consideration. He stated many of those he was representing lived in Downers Grove, raised their families here, and chose to retire here. Mr. Manski stated all of the residents had contracts with Oak Trace to live in their homes they were in currently as long as they were independent. His understanding of the village's code was that the Plan Commission must consider whether the terms and conditions have been imposed to protect the interests of existing residents of the PUD. He asked how the residents could be protected when they "were being thrown out of their homes." He also clarified that the code states they must be protected and not that their interests be weighed versus the interest of the applicant. He hoped the Plan Commission would protect them. Mr. Manski stated the proposal had to be reviewed in its entirety, which included the residents' rights. And, until the

residents' contracts expired, his position of the request was that it was premature and that an appropriate condition for the project to allow it to proceed, would only be when the residents' contracts have expired and are no longer living in their homes. He believed the course of action that Oak Trace was taking was in direct violation of the contracts. He believed the best way for the commission to consider the proposal was to ask themselves what they would do as a Plan Commission if one of tonight's residents was one of their parents who had to move out of their home – consisting of a first floor, two bedroom/two bath home with garage/patio/gardens and then move into a one-bedroom apartment.

Ms. Barbara Dindia, 6653 Garden Court, stated when she contracted with Oak Trace they emphasized she could live there for the rest of her life until she was incapacitated. She chose to upgrade her home and paid extra to make her home comfortable. She has two stepchildren and does not want to become a burden to them. She hoped the commissioners would think about their future living arrangements and hoped the commissioners would not support the proposal.

Ms. Karen Kelly, 1016 Ashford Lane, Westmont, was present on behalf of her mother, Elaine Toxten (phonetic) who was unable to be present. She resides at 6668 Woodview Court, one of the garden homes to be demolished. She stated her mother moved into her garden home on January 6, 2016 from Burr Ridge where she had resided for 41 years. Ms. Kelly stated she and others installed a paver patio, provided landscaping [at her garden home] so her mother would feel more comfortable transitioning into a new environment, along with her dog. When her mother entered into the contract, Ms. Kelly stated Oak Trace already knew they would be demolishing her mother's home and told her mother nine months later. It was deliberate and deceitful on the part of Oak Trace and Lifespace Communities. She commented on her and her family's connection to Downers Grove and asked the commissioners to consider how they want to approach this situation as it will not only be a reflection of the action of Lifespace Communities but also of this village.

Ms. Patricia Riley, 6666 Woodview Court, stated she and her husband moved to Oak Trace three years ago and fell in love with the tree area and cottages. When she moved into her building, she stated there was an initial payment of \$7,000 down if the garage was going to be used, plus \$60.00 a month in addition to the rent. With the three-season porch, her gardens and the independence it gives her, she and her husband can walk the campus without feeling like it is an apartment setting. She stated she was told of this decision shortly before Thanksgiving and was told of the plan one hour before the rest of the community was told. She and husband were told they would be evicted by May 31, 2017 and the decision was "written in stone." No discussion and no options would be discussed. Originally, she said she was told by Ann Walsh, Senior V.P. of operations, there would be no more townhomes built. However, that was changed and it was 10 years down the road.

She stated that Brian (Devlin) said the plan was decided a year and a half ago. She stated that Marketing was still selling units until the middle of November. She said she was told October 16<sup>th</sup> was when the plan was put into effect and Mr. Devlin said tonight it was a year and a half ago. She believed that if the residents had been told earlier it would have been easier for the residents to cope with the situation and allow more time for Oak Trace to provide the residents with equal living arrangements. Ms. Riley said that in November residents were told there were no available apartments and there were still not enough to fill the 33 people that would be displaced by the move. She also recalled the question she had asked Oak Trace and its parent company Lifespace: with 40 acres at their disposal, was it really necessary to displace 33 elderly residents – given its mission was to enhance and improve the lives of elderly residents.

Ms. Joyce Bursloff, 6634 Beechwood Court, said she read through the letters that the residents wrote and heard the presentation today. She summarized that the residents were told mid-November that they had to be out by May 31, 2017 and it gave them less than seven months to figure out what to do. She found decisions she made quickly were bad decisions. It took her two years to decide to live at Oak Trace. Also, she said Lifespace admitted it had no plans on how to handle the residents' situations while it spent a year

and a half on planning the financials and the buildings. She said they claimed they wanted to help each person individually but knew they did not have enough two bedroom apartments available for the residents of the garden homes. They expected they would get enough apartments because residents would die. If true, they needed three months to refurbish all of the apartments before the garden residents could move in. It meant they were at their deadline point and did not have the appropriate apartments for all the residents. They said their program was set in stone and it took them five years to decide to build the new Health Center and where to locate it but thought it was fine to tell 28 units to make their decision very quickly. It was not fair and it looked like Lifespace did not care whether or not people stayed or went. She questioned how quickly could residents go and look for a home, go through the legal issues, and move in seven months.

She also questioned whether it was legal to tell the residents that they must move. Was the short time span designed to get the residents to do something before that question could be settled? Every non-Oak Trace person she discussed this matter with could not believe what Lifespaces was trying to do. In the documentation that was provided to the commissioners by Lifespace, Ms. Bursloff said the documentation mentions that Lifespace wants to keep the Downers Grove residents in Downers Grove but she pointed out that commissioners should look at the number of Downers Grove residents that were not being allowed to stay where they have contracted to stay. She stated some of the residents cannot afford to move into an apartment. She also pointed out information on Mr. Devlin's slide differed. Where his slide depicted that residents could pay at the same rate, Ms. Bursloff stated her paperwork differed and that it was only for approximately three years and then the rates would increase.

Ms. Bursloff shared that she and other residents feel they have lost their trust in Lifespace since Lifespace sent a notice to the residents and stated they had done their due diligence yet they admitted they did not have a plan for the residents of the garden homes. She asked the commissioners to not issue a permit until all issues were settled and not to allow them to proceed on their time schedule. A broken contract was serious and must be considered. She pointed out the issue was not just about 28 units in Phase I. It also involved Phase II where in two years, 12 more first floor two-bedroom units with attached garages would be demolished (she is in that group). Phase III has all remaining 16 units to be razed. Ms. Bursloff stated all contracts were being broken with the residents of the exterior units. She stated residents were given a choice when they moved but now they were removing the choice residents made. Even those residents who chose to come in a year ago were not told their units might not be available in a very short time and they may have to move to apartments they do not want. She emphasized the residents love their independence but the company was taking it away as they remove the units. They have also stalled the residents' rights to talk to them by failing to respond to written requests.

Mr. Richard Ericson, 6664 Woodview Court, stated his family moved to Downers Grove in 1957 and were active in the village through various organizations. He and his wife moved to Florida and then returned to Downers Grove to retire and live at Oak Trace because it had three levels of care and was near family. They moved into their garden home in early 2014 with new interior renovations. They specifically chose Oak Trace because of the opportunity to buy and which provided them a home where they could live for the rest of their retirement. Mr. Ericson said his wife has limited mobility and she gets much joy viewing nature and the wildlife that comes to their outside patio. Eight days prior to Thanksgiving last year they were told at their garden home group meeting that their home would be razed to make room for a new Health Center and would be evicted in June. Oak Trace's plan to evict them and their fellow residents should be troubling to the commissioners and every official in the village. The disregard of the residents' rights, well being and contracts, Oak Trace and its parent company, Lifespace, is attempting to evict them from their homes.

Mr. Ericson quoted language from a letter he received from senior vice president and general counsel of Lifespace, Jodie Hirsch: "As a 501c3, we're charged with contributing positively to society. Being accountable to society and to those we serve and showing through word and action, that we deserve the

trust of our residents and their families.” Mr. Ericson believed the commissioners could agree with the residents that Lifespace was not living up to this commitment. He asked the commissioners to not support the petitioner’s request to evict the residents from their homes and construct a new health center in its present location.

Mr. Jim Leichti, 6673 Garden Court, stated that about half a century ago he sat where the commissioners were and understood how seriously the commissioners took the responsibilities of their position. Sitting on the other side, he now knew how all those people felt that faced him. Years ago he and his wife and family lived along Prairie Avenue near Longfellow School and after 45 years their five-level home took its toll on his wife’s knees. They needed a one floor residence and so they moved to Fairview Baptist Home where the two of them lived independently in a ranch cottage, two-bedroom/2 bath home, two living rooms and a kitchen and a year-round enclosed sun porch. They have flower gardens and a number of fruit trees and a maple tree as well as a rear courtyard full of flowering trees where residents walk with their loved ones in wheel chairs and rest on the benches, etc. Mr. Leichti said it is a restful place on the campus. He spoke of the nature the residents see in the wooded areas. He noted, however, that last November, he received a note from management advising that he and his wife’s long-time home would be razed on Memorial Day.

Mr. Leichti said his contract with Lifespace, owner of Oak Trace, stated he and his wife will “never be evicted.” He further stated that a change of this magnitude will be devastating. He asked the commissioners to vote for an extensive construction delay and that the commission suggest that Lifespace find an alternative location for planned facilities or offer, at least, equivalent living arrangements to the 28 affected families.

Rev. David Bebb Jones, 6584 Willowood Court (Phase II) stated he was surprised that Mr. Devlin said that Lifespace came in 2007. He clarified that Lifespace came in August of 2011. He was on the bankruptcy committee when Fairview Village went into bankruptcy and represented unsecured creditors. Some of the other residents present were also on the same committee. He stated the bankruptcy court and judge were very clear that any persons or corporations interested in purchasing the bankrupt Fairview Village would honor the contracts of all residents. He believes Lifespace intended to do that when they purchased Fairview Village. However, what was distressing to the residents was the manner in which the decision was made and in which it was conveyed. To his knowledge, Mr. Devlin, Mr. Ericson and others did not meet with any of the residents and he was not part of the way they developed the campus. He reiterated that it was conveyed to the 28 cottage residents one hour before it was announced to the rest of the facility.

He stated he knew the residents had asked since they knew it was coming to be involved in some fashion, but the community was not involved and a decision was made and the commission was hearing from representatives of those who are affected immediately or who will be affected in two or three years. There was no concern for the sensitivity, stress or anxiety that would come to the residents or their families. From that first meeting, Mr. Bebb Jones stated they told the residents they did not have a plan but would meet individually with residents to find a way. However, he stated that when the decision was made there was no plan for what to do for the residents who had lived under contract for either the rest of their time or if there needed to be a redevelopment of equal or similar types of residence. It has also created an anxiety with the parent organization, which he was sad about. He loves living at Oak Trace and loves the people he lives with, the staff, the community and the programs. He agreed there could have been a better way of working together for all involved. He asked the commissioners not to approve the request until everyone who was impacted would have a satisfactory arrangement and to take that into consideration.

Mr. Terry Carden, attorney with Myers, Carden & Sax, representing Oak Trace, stated he had numerous communications with Mr. Manski, who represents several of the residents heard tonight. He stated he represents long-term care facilities throughout the States of Illinois and Wisconsin. He stated Lifespace does have integrity and is caring. He stated this was not the forum to litigate the issues that were raised but said the contracts that were in place were in place pursuant to the Illinois Life Care Facilities Act and they

were not leases or real estate transactions. It was a life care plan. He explained that the core of a continuing care retirement community in Illinois or any other state is the health center or the skilled nursing facility, i.e., a nursing home. It cannot operate without that component. Mr. Carden pointed out that this facility had been operating since the takeover in 2011 under waivers by IDPH, which still allowed the facility to remain with the promise that it would be redeveloped. He empathized with the residents of the garden homes but pointed out there was no farm field next to the site anymore or opportunity to purchase more property in order to construct the facility. He commended the architects for arriving at the plan in place since it was the best possible plan to address all of the issues. He encouraged the commissioners to set aside the legal issues, focus on the plan, and support the proposal.

Ms. Amy LaCroix, Regional Operations Director with Lifespace Communities, after hearing the input wanted to clarify some of the comments made. First, as to the eviction, she stated she attended the meeting that was outlined in Mr. Devlin's PowerPoint presentation which was in November. The plan was to meet with the residents one on one because there were various levels of living on the campus and they wanted to discuss with the residents their desires to either downsize or choose a higher level of living. Examples followed. Residents were offered three options: 1) Lifespace would pay for the residents' move, pack/unpack their belongings, refurbish the new apartment at Oak Trace that would include residents' upgrades either bringing it up to the same level as Oak Trace or reimburse them; 2) Equitable size – currently there were 30 vacant apartments at Oak Trace (studio to two bedrooms) with a square footage range of 900 to 1100 sq. feet. The affected garden homes in Phase I were 1150 to 1250 square feet. So far there are 7 residents with 3 who moved internally, 3 that chose to move out (an option with 100% refund) and 1 to a higher level of care. Four residents were currently pending between internal transfer and moving out.

Ms. LaCroix stated that the current garden homes in Phase I were substantially lower in their monthly fee as compared to the rest of the campus on the residential living side. Lifespace would like to honor that and so for the five years of construction for Phase I and II, the monthly fee would remain the same for the affected residents in Phase I (about 5 years). After Phase II was completed, incremental increases, for the next 5 years, would start to bring the monthly fees up closer to market value, given the investment Lifespace was making in Oak Trace -- \$70.0 Million for Phase I; Phase II \$70 to \$80 Million – over an estimated 10 year timeline. The annual rate increase would still remain in place.

Regarding the communication, Ms. LaCroix stated that currently there were 274 residential living apartments -- garden and townhomes combined -- at Oak Trace and 230 were presently occupied. She stated it would be difficult to communicate with a small group and not have that communication be given out to the larger group without some explanation, which was why the decision was made to communicate in a townhome forum, meet with the affected residents prior to the meeting, and help control the message in a smaller group as approved by her company's board of directors. The year and a half alluded to by Mr. Devlin was the due diligence, market feasibility before going before her board of directors for approval. Regarding the Health Center, she reiterated it was operating under a waiver and currently there were 105 residents being cared for and 49 in the sheltered care. Twelve residents receive dialysis. Health Center residents and the Residential Living residents could both take advantage of the dialysis center should they need it but the regulation stated that the Residential Living and the Health Center needed to be connected so that a Residential Living resident did not have to go through the Health Center to take advantage of the dialysis center.

Ms. Dorothy Danielson, 6671 Woodview Ct., stated no one has mentioned that in the residents' contract it says that they are allowed to displace us to something similar – an apartment will never be similar to what she lives in: five rooms, attached garage, a porch and beautiful gardens. She would have never moved into Oak Trace and into a apartment. She noted her former Elmhurst home was 50 years old and no one was tearing it down. The key word was “similar” and it was in the contract.

Hearing no more comments, the chairman stated the commission would take a five minute break and have Mr. Devlin return to address the comments raised and provide a closing statement.  
(The commission took a five-minute break at 9:15 p.m.; reconvened at 9:20 p.m.)

Mr. Devlin stated he wanted to touch on a comment raised, which was how long his company was planning, wherein he estimated 18 months, but he wanted to clarify that “pencil didn’t go to paper long after that.” He did not want to give anyone in the room the impression that he knew for 18 months that Lifespace was going to destroy the cottages. Secondly, he acknowledged the process had been very difficult for those that were cared for on a daily basis but explained that if nothing was done at Oak Trace the consequences could be significantly dire for more residents. He summarized the campus was purchased out of bankruptcy and there were problems with it and the plans presented today were \$150 Million Dollars’ worth of investment in the campus to sustain it. There were many residents that would benefit from the investment, including those in the room, but it was at the cost of their current homes. Furthermore, he commented that while there were some contract comments being quoted to the commission, his firm worked closely with village staff, followed rules and adhered to the items outlined in the PUD and he would hope this commission would approve the project for those reasons and he would continue to work with the residents on the other items.

Mr. Kulovany pointed out under that under paragraph E of the PUD, the commission is to protect the interests of surrounding property owners, residents and existing and future residents and to not take into consideration third-party contracts. However, due to the residents’ comments and the letters he read, he found it impossible to separate the well-being of the existing residents without the financial considerations or the considerations for their moving. Mr. Kulovany asked whether the previous contracts went away with the bankruptcy or did Lifespace enter into new contracts with the residents.

In response, Mr. Terry Carden, attorney with Myers, Carden & Sax, representing Oak Trace, explained the contracts that were with Fairview Baptist that existed prior to the bankruptcy still remained in place. Many other residents had contracts that were initiated with Lifespace and many of the contracts had language in them that dealt with the eventuality of campus redevelopment and talked about moving units.

Mr. Kulovany asked Mr. Carden if there was a definition for the word “similar” as referenced by some of the residents, wherein Mr. Carden surmised that “similar” typically is meant by square footage in the industry and for many residents in the room it would not be a satisfactory answer. Furthermore, he stated that the Life Care contract was based upon the services and not the location. In courts of review, Illinois state statute does not provide a specific right to a specific unit within the entire community because it is a continuing care retirement community. It provides for the multiple levels of care and also provides for the opportunity to move to different units within the same level of care. What Lifespace was attempting to do with every resident was to make every accommodation possible that went beyond the terms of the contract with regard to moving expenses, reimbursement and refunding of the entrance fee. With regard to any changes that were made to the property or to the unit -- the garden home -- make it equivalent as best possible in a different unit. If there was the need to move to a smaller unit and then eventually to a larger unit, based on the desires of the resident, Lifespace has been communicating specific options “along those lines.” He stated it was never going to be perfect or a one for one. However, without approving the proposed plan there would be not Health Center and without a Health Center, a CCRC could not survive.

Mr. Kulovany asked what was the typical deposit (entrance fee) for a two bedroom townhome, wherein Mr. Devlin stated it depended upon when someone purchased and the prices changed throughout, depended upon the contract type and refundability. What the charge was for today, he offered to get those figures for the commission.

As a follow-up question, Mr. Kulovany asked how frequently townhomes became available.

Ms. LaCroix stated she did not have the paperwork for the two bedrooms; however, she clarified that the entry fees for a 90% refundable studio to the townhome ranged anywhere from \$80,000 to \$500,000 at Oak Trace, based on current product. The garden and townhomes at Oak Trace stayed “fairly occupied” and she could not provide a number as to how often they become available.

Ms. Johnson said it was stated that Oak Trace tries to provide “similar accommodations in the same level of care” and asked if that was also being done for the new apartments, wherein Ms. LaCroix confirmed positively and clarified that the garden and townhomes were considered residential (or independent) living and the apartments were the same. In addition there were two other levels of living on campus which was the Health Center (skilled nursing) and Sheltered Living (assisted living).

Mr. Boyle asked to explain the difference between the 2007 approved plan and the proposed plan.

Senior Village Planner Leitschuh recalled there was another multi-story residential living building but she could not remember whether it was just apartments or was sheltered care. Some of the garden homes were remaining and some of them were proposed to be demolished.

Ms. Gassen asked if the petitioner was trying to get other property on the west side of Fairview in the 2007 petition, wherein Ms. Leitschuh said there were two parts to that PUD. The one that was approved by council was similar to the plan being proposed tonight but was for the stand-alone lot. A second part of that was not recommended and that was across the street on Fairview and it was for expanding the Oak Trace campus to the other side of Fairview which did not go through.

Hearing no other questions for the petitioner, Chairman Rickard closed the public hearing.

After reviewing the plan and listening to the testimony, Chairman Rickard believed no one objected to the proposal that was being presented as it relates to the construction, the amenities and the amendment to the PUD. However, he believed the main issue revolved around the contractual agreement between the residents and the organization that ran the project. Basing it on the PUD amendment, he had no reason to deny it but then again had no doubt there were issues that needed to be reviewed, but they were outside the purview of the Plan Commission. He agreed much commentary, from both sides, was heard but did not know if it was something the commissioners could or should be discussing/reviewing at this level.

Ms. Johnson asked for clarification and interpretation from staff regarding some wording as it relates to “the obligation to review or protect the existing residents” as it related to the comprehensive plan and private contracts, wherein Ms. Leitschuh explained that every petition that comes before the commission ends up being a private relationship between a tenant and an owner of the property which staff does not get in the middle. Contracts are not reviewed by staff, and staff has strict guidelines and case law from the state and the Supreme Court determining what staff must base decisions on. Staff relies on the zoning ordinance and comprehensive plan.

While Ms. Johnson understood staff’s explanation regarding the contracts, she pointed out that staff was quoting in the commissioners’ packets such language had to be considered by the commission and asked staff what it had in mind when that was drafted. Ms. Leitschuh stated that phrase was listed in the PUD section because a PUD is a more unique, flexible zoning tool when reviewing certain types of developments where unusual conditions exist on a site. Examples followed. Ms. Leitschuh explained that when staff is reviewing Section E of the PUD, it considers the appropriateness of a PUD versus enforcing the strict zoning district requirements, and whether the general public benefit is greater than what can be accomplished with strict R-5A zoning. She stated the proposal was already a PUD and met that criteria, i.e., it still functions as a senior living facility/continuing care facility and were not changing the proposal before the commission currently.

Mr. Kulovany inquired that if the village council approved the proposal, how long would the petitioner have to pull permits after an approval and when would they have to break ground, wherein Ms. Leitschuh (looks up timeline and reads) summarized that the petitioner would have within one year for the first permit and then one opportunity for an extension. For projects to be developed in phases, she indicated that since the petitioner put forth project timelines, staff assumed those to be agreed upon and accepted. As for those projects under litigation and what happens to the approval process, Ms. Leitschuh stated that, to her knowledge, it still remained. However, she would have to speak to the village's attorney to confirm.

Mr. Boyle, understanding that the facility was currently operating under waivers, asked staff if there was a duration to those waivers, wherein staff did not know the answer.

Mr. Kulovany further voiced that Items A through D of the PUD had been met and it met with the village's Comprehensive Plan for the open front yard. The new units were higher quality, which was a positive, and a goal of the village's Comprehensive Plan. The elderly population was also growing which matched up to the Comprehensive Plan. Lastly, he saw the proposal as drawing new residents to Downers Grove and allowing Downers Grove residents to remain in the village. However, the issue he had was considering the trees, the gardens, the fact that surface attached garages existed, and being able to walk out one's back/front yard, there were no similar properties and so he would not support the proposal. Mr. Kulovany cited his own father's residency at Fairview Village and pointed out that for those current residents who chose townhomes, they chose certain attributes and put down a significant amount of money for safekeeping with Fairview Village, later to become Oak Trace, which was a "significant vote on their part."

He did not believe the commission was protecting the existing residents – citing that it was a recommending body guided by ordinances -- and that the village council made the final decision. He also did not believe there was a good faith effort made, especially with 64% open space, no offer for temporary living of similar type residence in other properties. In walking the site, there was room to do it. He would not support.

Ms. Gassen, in reviewing the plan and what was being proposed, believed everyone agreed the proposal was good for the community and the senior citizen population, but the larger issue for the commissioners was addressing Paragraph E of the PUD and whether the commission thought terms and conditions had been imposed to protect the interests of the existing residents of the PUD. Ms. Gassen asked for staff's confirmation that when the commissioners review the proposal that they are to look at the specifics of the project and not the interim construction complications, wherein Ms. Leitschuh stated that was the criteria for reviewing.

Ms. Rollins pointed out that the commission had to also take into consideration the residents who were not present at the meeting that did see an improvement, i.e., they saw a potential improvement to a facility they live in that currently did not meet code.

The chairman entertained a motion.

**WITH RESPECT TO FILE 17-PLC-0003, MS. ROLLINS MADE A MOTION THAT THE PLAN COMMISSION RECOMMEND TO VILLAGE COUNCIL TO APPROVE THE PLANNED UNIT DEVELOPMENT AMENDMENT FOR THE OAK TRACE SENIOR LIVING COMMUNITY AT 200 VILLAGE DRIVE, SUBJECT TO STAFF'S EIGHT (8) CONDITIONS.**

**NO SECOND. MOTION DIED FOR LACK OF A SECOND.**

**WITH RESPECT TO FILE 17-PLC-0003, MS. JOHNSON MADE A MOTION THAT THE PLAN COMMISSION RECOMMEND THAT THE VILLAGE COUNCIL DENY THE PLANNED UNIT DEVELOPMENT AMENDMENT SUBJECT TO THE FOLLOWING EIGHT (8) CONDITIONS**

**LISTED IN STAFF'S REPORT:**

- 1. THE PLANNED UNIT DEVELOPMENT AMENDMENT SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT; ENGINEERING, ARCHITECTURAL AND LANDSCAPE DRAWINGS PREPARED BY SAS ARCHITECTS AND PLANNERS, DATED JANUARY 13, 2017 AND LAST REVISED ON FEBRUARY 9, 2017 EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO THE VILLAGE CODES AND ORDINANCES.**
- 2. THE HEALTHCARE CENTER AND THE NEW RESIDENTIAL LIVING BUILDING SHALL BE EQUIPPED WITH AN AUTOMATIC SUPPRESSION SYSTEM AND AN AUTOMATIC AND MANUAL FIRE ALARM SYSTEM.**
- 3. A FIRE COMMAND CENTER SHALL BE PLACED WITHIN THE DEVELOPMENT IN A LOCATION APPROVED BY THE FIRE DEPARTMENT.**
- 4. ALL FIRE DEPARTMENT CONNECTIONS SHALL BE LOCATED WITHIN 100 FEET OF FIRE HYDRANTS AND SHALL REQUIRE APPROVAL OF THE LOCATIONS AT EVERY PROJECT PHASE.**
- 5. THE INTERIOR COURTYARD SHALL HAVE A MOUNTABLE CURB AND 20-FOOT WIDE FIRE LANE IN A LOCATION APPROVED BY THE FIRE DEPARTMENT.**
- 6. UTILITY EASEMENTS FOR THE NEW WATER MAIN SHALL BE PROVIDED.**
- 7. STORMWATER EASEMENTS SHALL BE GRANTED OVER ALL STORMWATER FACILITIES, EXISTING AND PROPOSED, THAT ARE NOT CURRENTLY IN EASEMENTS.**
- 8. PRIOR TO THE BUILDING PERMIT FOR PHASE III BEING ISSUED, THE APPLICANT SHALL PROVIDE A \$51,634.98 PARK DONATION FOR NINE LIVING UNITS.**

**SECONDED BY MR. KULOVANY. ROLL CALL:**

**AYE: MS. JOHNSON, MR. KULOVANY, MR. BOYLE, MS. GASSEN**

**NAY: MS. ROLLINS, CHAIRMAN RICKARD**

**ABSTAIN: MR. QUIRK**

**MOTION TO DENY PASSED. VOTE: 4-2-1**

Ms. Leitschuh asked those commissioners who voted to deny the motion if they wanted to add something to the record. Chairman Rickard stated he felt the project was a benefit and it met the standards but the one issue that appeared to have a split was the contractual issues which was out of the commission's purview. If there was something illegal it would be determined by a court of law.

Ms. Rollins said her comments were similar and felt there may be litigation issues but it was a planning/zoning issue which she felt the petitioner met the needs and followed the zoning requirements.

**FILE 17-PLC-0004:** A petition seeking approval of a Planned Unit Development, Zoning Map Amendment, Right-of-Way Vacation, Special Use to allow a drive-through, and Final Plat of Subdivision to construct a multi-building commercial center. The properties are zoned B-3, General Services and Highway Business District. The properties are located on the northwest corner of Ogden Avenue and Main Street, commonly known as 1030, 1032, 1036, 1040, and 1048 Ogden Avenue, Downers Grove, IL (PINs 09-05-300- 002,-004, -005, and 09-05-115-009). Vequity LLC, Petitioner; Vequity LLC, Blake Horio, Trustee and Richard Bradley, Sheng-Li Wang, Owners

Village Planner Scott Williams, reviewed the site on the overhead and stated the property was located at the northwest corner of Main and Ogden and was “L-shaped.” Surrounding properties were notified based off the following boundary lines: the property lines, the alley, and right-of-way vacation area. The exterior property lines to the site were not changing -- it was the interior property lines that were triggering the plat of subdivision request. The zoning map was referenced and the surrounding properties were noted to have B-3 zoning. The zoning map amendment was being requested by the applicant due to a PUD overlay. To the north, single-family residential and multi-family apartment buildings were pointed out.

Mr. Williams described what was currently located on the site. The alley was pointed out, as were the ComEd utility lines. Staff contacted all major utilities and an easement will be placed over the footprint of the alley. The petitioner had also been in contact with ComEd regarding relocation of its utility lines. Reviewing existing conditions on the plat of survey, Mr. Williams explained that the right-of-way was not equal when following the contour of the sidewalk when going east to west across the Ogden Avenue frontage. He also pointed out that the petitioner was keeping the existing footprint up north but making changes to the south and incorporating the alley for the three new buildings proposed. The cross-access agreement was referenced and would provide access to the Jewel store to the west.

Per staff, the current five curb-cuts located on Ogden Avenue will be reduced to one cut which will align with Forest Avenue. The proposed vacated alley will become a widened curb-cut off of Main Street. The current 10 lots of record will be reduced to 3 large lots with a building on each lot.

To Mr. Quirk’s question about the reason for a PUD, Mr. Williams explained that the PUD was necessary to develop the property since there were multiple buildings as part of the property, deviations from the code being requested, shared parking being involved, and one of the buildings included three site plans being proposed. Ms. Leitschuh also added that the proposal was similar to one large campus.

The proposed plat of subdivision was depicted with Mr. Williams noting that Lot 1 was 20,289 sq. feet, Lot 2 was 16,995 sq. ft, and Lot 3 was 52,856 sq. feet. In addition to the cross access-easement with Jewel, the developer was adding another access easement across the drive aisle that traveled across the three properties. Mr. Williams stated that with B-3 zoning if there was non-residential business adjacent to non-residential business, the building side setback is zero. Pedestrian easements were also pointed out.

Because the IDOT right-of-way had to match up, Mr. Williams explained the petitioner will have to convey a strip of land (one foot) in front of the 91’ feet on the west and 16 feet wide right-of-way, to match it up and bring it in line with other properties located on Ogden Avenue.

Mr. Williams stated the “default” site plan option reflected everything that was to go on the plan including bike racks, landscaping, trash enclosure locations, etc. Currently, the petitioner had a Panda Express proposal, and the two buildings to the west were speculative. Internal pedestrians connections to the sidewalk were noted with Mr. Williams adding that the petitioner would be rebuilding the Ogden Avenue sidewalk. Pedestrian and vehicular circulation were pointed out. Panda Express will have a drive-through. Retail Buildings A and B were also referenced with staff noting that all buildings met the primary structure setbacks.

The proposed trash enclosure was located on the overhead with staff explaining it will serve the entire development and it was located 45 feet from the property line. The distance from the rear of the largest building option for Retail Building A to the rear property line was 258 feet. He described that portion that was considered a street yard and another property line was considered both a rear yard and side yard. Three monument signs were proposed and all met village code.

In reviewing the drive-throughs, Mr. Williams explained that staff’s goal was to ensure that pedestrians and vehicular traffic did not conflict, stacking lines met the minimum 10 feet width, and the stacking lanes were

marked. When adjacent to residential, Mr. Williams said the drive-through must be set back 50 feet, which these buildings did. However, 25 feet from all other lot lines was where the deviations from the code occurred in order to fit it in with the site circulation.

Reviewing Option 2 for Retail Building A, Mr. Williams stated the building was smaller with a drive-through on the western side of the building. The petitioner was looking to have a restaurant tenant to utilize the drive-through. Option 3, which was the smallest of the buildings, included a drive-through on the eastern side of the building with appropriate pedestrian crosswalks.

Elevations for the Panda Express were referenced. Mr. Williams stated the facades will be EIFS material with accent tile and a stone base. All sign requirements will be met and the building's main entrance will face Main Street. Elevations for the middle building on the site were referenced, noting materials will be various brick colored masonry with a stone base. Outdoor patios and retail signs were pointed out. Mr. Williams briefly explained the sign requirements.

A review of the landscaping plan followed. Staff reported the petitioner will provide "one hundred percent screening" adjacent to the residential area. A total of 38 trees will be planted along with maintaining some of those on-site. Internal landscaping was also planned and included landscaped islands with trees. Drive-throughs would also be screened. Mr. Williams indicated that because there were three different site plans, all civil and landscaping plans were based on the default option, without any drive-throughs on the building.

Mr. Williams summarized how the proposal met the village's comprehensive plan, specifically the D-8 Catalyst Site, citing the requirements for the catalyst site. A review of the bulk requirements followed with Mr. Williams confirming that all three buildings will meet all zoning requirements. A review of the parking lots followed as well as a delineation of the drive-throughs that did not meet the setback requirements – the Option 2 (Bldg. A - west) drive-through and the Panda Express drive-through, as well as the parking setbacks behind Lot 3, adjacent to residential.

Staff stated the sign area being requested was for 63.3 square feet for each sign on the side elevations. Staff marked those signs that did not meet code and stated that if the commission was supportive of the signs, they would have to add it as a condition to staff's recommendation. The petitioner was seeking 63 square feet of signage for the western elevation of the middle building, and the east and west elevations of Retail Building A. As an aside, Senior Planner Leitschuh stated the village recently revised its sign ordinance to bring all village signage into conformance with the current zoning ordinance. The petitioner's request was not consistent with the new sign ordinance, therefore, staff was not supportive of the petitioner's signage request.

A photometric light plan was referenced as well as an aerial view of the proposed LED lighting for the site. Dialog followed as to what was permissible at the lot lines, wherein Mr. Williams explained it varied but anything under 2 was good and the lighting differed when adjacent to residential zoning. Ms. Gassen queried staff about "the longer leg on the far north" since the lighting appeared a bit over. Mr. Williams explained that the code requires the measurement for contouring five feet into the property line which was why the number she saw was into the assumed property line of the adjacent neighbor and the figure did not assume landscaping but the applicant and neighbor, per Williams, would work on that if there were concerns. A vehicle turning exhibit was referenced for the commissioners.

Mr. Williams stated the proposal met all subdivision, plat of subdivision, the PUD overlay, and zoning map amendment standards. The special use requirements were also met and staff did not believe the use would be a detriment to the health, safety and welfare of the public. Regarding the right-of-way vacation, the two abutting owners to the south provided consent for the vacation but there were some private issues involving multiple property owners that needed to be addressed by the applicant. Because a redevelopment agreement existed, staff recommended waiving the compensation for the alley vacation (appraisal included in packets).

Mr. Quirk raised concern that this was one of the first alley vacations he had seen of a petitioner submitting their appraisal as justification for compensation, pointing out the village has had many alley vacations prior and that the village determined to be encumbered-valued property. Ms. Leitschuh interjected and stated ultimately it was the village council that determined the final decision regarding appraisals, since the village does not provide an appraisal. Commercial appraisals were to be provided by the petitioner and then reviewed by the village's legal counsel. She cited a couple of prior petitions that included appraisals which were then forwarded to council. Again, she stated that appraisals were always included in staff's report; however, the only difference was that staff had not made prior recommendations to the commission, other than to follow the appraised value in the appraisal report and recommend payment of the appraisal to council.

In summary, staff recommended approval for the request based on the conditions in staff's report.

Ms. Gassen asked for clarification regarding the building that had three different options on it. She understood it was the commission that was making a recommendation for all three options so there would be flexibility for the tenant that came in; staff concurred. As to signage, she also confirmed with Mr. Williams that staff was not recommending approval of the signage on the side of the building because the sign ordinance did not allow signage along an elevation that does not face a right-of-way; staff concurred. Per her question about a village monument sign, Mr. Williams confirmed that the original request for the monument was removed from the proposal. Lastly, Ms. Gassen asked about the parking impact of the alley vacation on the building to the west of the 7-11 building as well as the building dumpster on the south side. Ms. Gassen voiced her concern about the loss of several parking spaces while Mr. Williams believed it was more of an access issue to the dumpsters. Mr. Williams believed the applicant could best answer her questions.

Mr. Quirk asked about separation between the northern limit of the vacated alley and an area to the west, wherein Mr. Williams was not sure but explained the footprint for the vacated alley was part of the drive-through and because an easement was there, no structure could be located there; however, Mr. Quirk believed a fence could be installed; staff concurred that fencing, landscaping and pavement could be installed.

Noting a fence would be placed along the easement, Mr. Kulovany inquired if the property owner could continue to park in the alley to which Mr. Williams stated he was not sure if there would be private agreements since it was village right-of-way.

Ms. Rollins asked for clarification regarding the open space requirement because to her it looked like the petitioner could not meet it for all lots and were compensating for it on Lot 3, and 30 parking spaces were being added. She believed the landscaping could be improved, to which staff explained the applicant was not increasing the footprint of the parking lot compared to the existing. More green space was being added and parking was being reduced somewhere with landscape islands, etc. that do not currently exist. Per Williams, the petitioner was meeting the open space requirement for the overall site but the village required half of all open space to be located in the street yard between the street property line and building. Unfortunately, with the "L" shape of the site, he said it could not be done. Ms. Leitschuh explained that the applicant could address the issue but in general stated that Ogden Avenue lots were extremely shallow and have special accommodations in the zoning ordinance to allow for that. She said the net gain of open space was superior than the existing.

Mr. Boyle ask staff to discuss the dumpster issues and traffic study, wherein Mr. Williams stated he would defer to the petitioner and the traffic consultant but commented the intersection would not be expanded anytime soon. Ms. Leitschuh also believed the traffic was an improvement because the petitioner was eliminating curb cuts and channeling the on-site traffic with potential to travel to Main and to Ogden, but was limited. Traffic could also travel through Jewel to the light signal, as pointed out by the chairman.

Chairman Rickard invited the petitioner to speak.

Mr. Chris Ilekis with Vequity, the owner and developer of 1030 Ogden Avenue, introduced his team. He discussed the challenges to develop the properties, including environmental contamination, site grading (future retaining wall along the rear property line), multiple property owners and sellers involved in the transaction, and the minimal land sizes and depths of the properties that prohibited much of the functionality for the future properties, which was why he was seeking an alley vacation. In addition, multiple utility issues existed and would be moved underground. Various deed restrictions and easements existed on the properties. Examples of those followed. Mr. Ilekis believed the proposal before the commissioners closely aligned with the village's comprehensive plan for redevelopment and IDOT's vision for consolidation of the curb cuts. Of the five curb cuts on Ogden Avenue, four would be removed.

Mr. Ilekis asked the commissioners to consider the following when reviewing their proposal: 1) the proposal will significantly improve the appearance of an important entryway into the community; 2) the proposed plan provides for consolidation/removal of multiple access points; 3) cross-access is being provided between neighboring lots for better traffic flow between properties; 4) enhanced landscaping, screening, and monument signage will improve the appearance of the intersection; 5) the development is pedestrian-friendly which includes the addition of bike racks, sidewalks and sidewalk connections; 6) there is visual improvement to the intersection by relocating the utility poles; and 7) high-quality tenants and building construction will be provided with full masonry buildings with limestone bases and alternating brick colors.

Mr. Ilekis stated all of the requested dates were imperative to attracting tenants to move forward with the project and the proposal before the commission offered site plan flexibility to attract high quality tenants. He explained the building signage was requested in order to attract high quality local and national tenants which was standard for them to have two sides of signage on ends of buildings which was why the request was for a very limited sign versus a maximum allowable on the sides. Regarding access from Main Street to the Panda Express site, he stated there was an existing barrier median on Main Street and the existing alley would function as the entrance/exit for Panda Express as a right-in/right-out, as there was no way to head north unless a driver came out of the site and went to the full access point that was provided on the property for Ogden Avenue.

Mr. Ilekis said there were multiple access points throughout the property with the proposal providing two full access points on the property from 1030 to 1048 Ogden Avenue. There was the cross access easement with Jewel, providing connection between two signals – Saratoga Avenue and Main Street -- as well as the Ogden Avenue access point on both Jewel's property and the developer's, serving as the secondary access point.

Mr. Quirk asked when a decision for Site Plan A or Site Plan B would be made, wherein Mr. Ilekis stated it was tenant driven but he was close to signing a lease with Panda Express and also negotiating with other potential local and national retailers for the remaining tenants. He envisioned within the next 30 to 60 days he would have a better idea of which direction he would be moving forward. He also envisioned the building with the drive-through to be a food use.

Mr. Quirk commented that he wanted to ensure that it was not commonplace for the commission to transact right-of-ways based on an applicant's appraisal in the review process; however he believed the sign use was appropriate. He also appreciated the investment the developer was making.

Regarding Mr. Kulovany's question as to who was paying the \$250,000 cost for burying the utilities, Mr. Ilekis stated the developer was paying that amount. As for the neighbor's issue with access to the garbage dumpster, Mr. Ilekis explained he was made aware of the issue about a week or two ago and after speaking with someone tonight there were some arrangements being made but for his company it was difficult to incorporate other's trash into a project because there is a sharing agreement that was part of a shopping center. While he stated he would like to provide a solution, it was challenging. After viewing the property he said there were other areas where trash could be received and stored, i.e., to the north of the shopping center where some dumpsters exist. He was not sure of the agreement regarding that.

Chairman Rickard opened up the meeting to public comment and swore in those individuals who would be speaking on this case.

Mr. Cassa, Downers Grove Economic Development Corp. (DGEDG) shared that when he went through the comprehensive plan in 2011 and saw the catalyst sites, he recalled that the northwest corner of Ogden and Main would be an issue, citing in the past six years only one development company came close to a proposal. He described how difficult it was to market the site to other developers, with some saying it was an “obstacle course.” He pointed out the petitioner has developed in the village previously and the DGEDC made this site a high priority. Main and Ogden were the center of the village. The challenges were not only physical to the site but the developer also tried to balance the needs of the multiple stakeholders: the village, county, IDOT, tenants, owners, and others. He emphasized one of the most important reasons to move forward with the project was its impact on the corridor, east and west. He stated that staff and Vequity worked together very well and he looked forward to the project moving forward as it was an important catalyst site and a net benefit to the community.

Mr. David Henning, 150 Pierce Road, Itasca, Illinois, senior real estate manager for Jewel Osco distributed information to the commissioners (Jewel Attachment to staff report) and read it in detail. He oversees all of Jewel Osco’s real estate across 187 stores. He is excited to see the petitioner create a unified development next to his store and support the village’s objective to reduce curb-cuts in favor of cross-access. However, there were concerns with the plans submitted to the commissioners and a lack of consultation with Jewel Osco, i.e., learning about the development through the village’s legal notice. The petitioner’s invitation to the neighborhood meeting arrived at his office after the meeting took place. Mr. Henning did stop in and speak with Mr. Williams at the village’s planning office wherein Mr. Williams walked him through the plans. He also met with the petitioner on March 1<sup>st</sup> only when he (Mr. Henning) requested a face to face meeting. Discussed at the meeting he shared Jewel’s concerns as well as ideas that may get Jewel comfortable with the proposed redevelopment plans. No resolution was determined.

Jewel Osco’s concerns were as follows: 1) the cross access agreement is between the Jewel Osco property and the immediate adjacent U.S. Bank property; not the additional parcels to the east, and is a private easement not intended for the benefit of any other persons or properties, e.g., the petitioner does not have the unilateral right to connect the east parcels to the agreement; 2) the petitioner’s January 27, 2017 submission cover memo does not indicate the document was shared with the village (Jewel Attachment); 3) the traffic study did not evaluate weekend peak times which account for 40% of Jewel’s business, the development will focus on local residents, not on large weekday office employment base and peak traffic will most likely occur on weekends; 4) the development will generate an unacceptable amount of traffic on Jewel Osco’s property during PM hours. Per Mr. Henning, the traffic study states that the delay time at the Jewel Osco driveway during PM peak hours increases from 32.8 seconds to 74.6 seconds reducing the level of service from D to F. Furthermore, he read that 55 vehicles leave the cross-access driveway at the PM peak hours at the driveway, and that vehicles will most likely block incoming traffic from Ogden Avenue, creating an unacceptable safety risk. Approximately 83 vehicles enter the Jewel property at the shared access point at the PM peak hour and only 93 vehicles enter Ogden Avenue from the Jewel Osco driveway. Some may “crush up.” He said it was clear with a busy store many of the vehicles were using Jewel Osco’s property to get to Saratoga Avenue which was an unacceptable amount of traffic in front of Jewel Osco and a safety hazard to its customers. Further data followed in Mr. Henning’s letter.

Mr. Henning summarized that much of Jewel Osco’s success is predicated on convenience for its customers and the traffic study and a review of the site plan options demonstrate that the proposed development will negatively impact the convenience and safety of Jewel’s customers as well as village residents traveling on adjacent streets, which will lead them to explore other grocery store options in and outside of the community.

Per Mr. Henning, the petitioner failed to show that the proposed development complied with the village's review and approval criteria of the PUD -- *whether appropriate terms and conditions have been imposed on the approval to protect the interests of surrounding property owners and residents, existing and future residents of the PUD and the general public*, citing that the development of the plans, as presented, will significantly harm Jewel Osco's property and long-standing business.

As it relates to the requested Zoning Map Amendment - *the value to the community of the proposed use* – the proposed development does not complement Jewel Osco as it will have a deleterious affect on Jewel's business.

As it relates to the Special Use -- *the proposed use at the proposed location is necessary or desirable to provide a service or a facility that is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community* – the proposed use and the resulting traffic and parking will increase inconvenience to Jewel Osco and its customers and have a negative affect on the general welfare of the neighborhood.

Also, as it relates to the Special Use -- *the proposed use will not, in the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or be injurious to property values or improvements in the vicinity* -- the proposed use will be detrimental to health, safety and general welfare of Jewel Osco's business, its customers, and the traveling public on Ogden Avenue.

Mr. Henning stated that tenants of the petitioner's proposal will be attracted to the location because of the close proximity and cross access to Jewel Osco, which he believed the petitioner fully understood because it was marketing three separate retail developments, including Jewel Osco, as the headline (Jewel Attachment). Mr. Henning stated that given the value that his company brings to the proposal, it was only fair that Jewel be given a fair opportunity to comment to protect Jewel.

Based on the foregoing reasons, Jewel Osco requested that the case be continued until such time the petitioner is able to resolve Jewel Osco's concerns. Jewel was amenable to working with the petitioner to reach a mutual satisfactory development plan that did not negatively impact its business.

Mr. Brian Frankie, 4224 Forest Avenue, resides next to the "L" on the map (rear of parking lot) and stated it was distressing not to receive notice nor was he invited to the developer's neighborhood meeting. He did not have a chance to speak to the developer until tonight. He voiced concern about the north end of the "L" and the easement being located behind the existing parking lot. He stated in the documents presented some were inconsistent where the developer was planning to install the fence and what his landscaping plans were. He explained what the current conditions were leading to his house. He further expressed concern about trash on the development's property and the fact that the developer has moved the garbage from the two eastern sites to the property on the west and behind the building, relocating it near the residences on Forest Avenue and Haven's Court and his property. He asked why the garbage had to be in the middle of the parking lot when it could be relocated up against a building and moving it further away from the residences. Mr. Frankie voiced concern that it looked as if there was more lighting than what currently existed in the rear near his home. Regarding the two drive-throughs, he voiced concern about noise and air pollution. He voiced further concern about the development's uses and the traffic generated from them spilling over to Ogden Avenue and creating cut-through traffic into the neighborhood. Regarding earlier comments at the meeting, Mr. Frankie agreed improving the buildings at the northwest intersection were needed but "lumping in" the U.S. Bank property was unfair because it was a nice looking building.

Mr. Frankie stated he wanted to share his wife's, Martha Pike's, 4224 Forest Ave., comments. She had to leave the meeting. She voiced concern about the expedited schedule for the project approval because homeowners were notified of the February 23<sup>rd</sup> meeting and it was the first look at a project that would affect our quality of life and property values. She voiced concern about two drive-throughs and the air safety of not

only her child but other children who resided in the Haven's Court apartment building. Noise was another concern. The idea of approving several options was confusing and uncommon. She wanted to know exactly what was going into the development.

Ms. Annmarie Schuster, 4213 Forest Ave., addressing Lot 3, stated that in addition to the landscaping being installed she asked to consider installing a fence on the north side and on the east side in order to have a sound/privacy barrier which would be consistent with what was behind the Jewel Osco. It would look nice and add to the privacy.

Ms. Candy Duehana, owner of Mrs. T's Pizza at Main and Ogden, stated her concern was with the alley and trucks making deliveries to her business which, she explained, will exit onto Main Street or cut through another piece of property. She did not believe it was wise for the trucks to use the parking lot for front door deliveries because parking was limited already and no specific times existed for those deliveries to take place. In addition Candy stated her dumpster sits on the property behind her with the large office building on Haven and that owner is upset because she is no longer included in the sale of the new redevelopment and therefore does not want any dumpsters or Mrs. T's employees parking on her property. As a result, Candy stated her employees have to park in her parking lot while she loses parking spaces for the public. The delivery trucks will be accessing the parking lot also to make deliveries via her front door.

While her dumpster and grease trap could be relocated to the north end of the building, there was not much room available there. She asked the commissioners to keep the alley as part of the village property, commenting her employees do not use the alley for parking – they use the neighbor's parking lot but now that neighbor will not allow it. While she understood the developer's plans for improving Ogden Avenue and Panda Express wanting a drive-through, she stated not everyone can have everything. The alley is used significantly by others. Her dumpster is now in front of her store and is unsightly. She believes the village would not like drivers on Main or Ogden to see a dumpster sitting against a railing that separates the building and the alley. Her grease trap will be out there shortly because if her employees have to walk to the north end of the building, she now has a liability. She asked the commissioners to consider some options.

Ms. Carol Balanoff, 4221 Forest, stated that because Havens Court turns into Forest, when one drives up Forest, the view is of the parking lot and the bank building. However, when additional vehicles show up and it becomes the rear of a restaurant, it will become a problem. Many of the residents would like a fence back there. Addressing the issue of trash, Ms. Balanoff stated those residences four to five deep are constantly cleaning their yards from the Jewel, the dumpsters on Haven Court, and the 7-11. So many dumpsters are in the area that all of the dumpsters for the proposed buildings will be saturated in the same area. Viewing the site today she stated all the dumpsters were left open. She stated that if the applicant could provide more protection it would help with noise, pollution and keeping trash out of the neighborhood. She noted the village area is never cleaned up unless someone calls the village. Trash was a major concern.

Hearing no further comments the chairman invited the petitioner to respond.

Mr. Javier Milan senior consultant with KLOA, Inc. stated his firm provided the traffic study for the development and he wanted to address four issues raised: 1) regarding the study not evaluating the weekend conditions, Mr. Milan reported the weekend was not included because in general the Jewel and restaurants during lunch time will generate more traffic than during the PM peak hour. Traffic on the adjacent roads seem to be lower because there is no rush period of vehicles going to work. Saturday volume tends to be lower and for that reason it tends to even out, i.e., one increases while the other decreases and it was not necessary to evaluate it. 2) Regarding the delay increase that was raised in the report, it was one of the limitations of traffic engineering software. Mr. Milan proceeded to explain that the software views the intersection as an isolated intersection where the Ogden traffic never stops and there is never a gap in the traffic stream even though there are signals at Saratoga and at Main Street that create gaps. The analysis does not take that into account. So when the additional traffic is added the delay count does increase, as

mentioned. Mr. Milan shared that it was not uncommon but it could happen. However, he stated there were other access points to the site. 3) Regarding the cross access, Mr. Milan stated it is always good planning to either maintain or enhance cross access between businesses because if not then vehicles are making trips outside the road rather than internally. The cross access will also allow Jewel to exit onto Main Street. 4) Regarding the traffic generation from the many restaurants, Mr. Milan stated that with these types of restaurants, normally fifty percent of the trips are “pass-by” and are already on the street. He used a gas station as an example. He explained there is an interaction where customers of Jewel will travel to the restaurants and those at the restaurant will go to Jewel which reduces traffic volume. Not everything will be new to the area.

Returning, Mr. Chris Ileki with Vequity, stated he felt he was abiding by the current cross access agreement with Jewel. Vequity’s redevelopment plan included two full primary entrances at 1030 through 1048 W. Ogden Avenue. The KLOA traffic study stated the proposed development would have a very limited impact on area roadways. Jewel’s main access point was the Saratoga traffic signal, giving them another full access point. The access point that would be shared was a secondary access point. Mr. Ileki stated that Mr. Henning did mention that the two of them met two weeks ago and although he did bring up some of the solutions that were presented tonight, Mr. Ileki stated he brought up solutions that would be helpful between the properties to clean up the current easement agreement. He clarified that Jewel does not have cross access between 1030 and 1040 Ogden Avenue; they have cross access between 1048 (U.S. Bank) and Jewel. Mr. Ileki further stated that he presented, as a solution, that allowing Jewel cross access among all the properties would tie the two main intersections together – Main Street and Saratoga – allowing access for customers of both Jewel and the proposed development to have cross access to two fully signalized intersections, with other secondary full entrance on both properties. He believed the better solution was to provide full cross access which was confirmed by the comprehensive redevelopment agreement within Downers Grove, IDOT, and DuPage County Department of Transportation’s suggestions. Also, Mr. Ileki stated he proposed other solutions that would be beneficial to make the development more functional overall, which included an overall maintenance agreement between Jewel and the new development for debris, replacement/repair, snow plowing, etc. which would have made much sense. Additionally, since there was mention that generating new traffic benefited both projects, it created issues which everyone was aware of. Specifically, there was parking that aligns with Jewel’s property and he was willing to put within the leases tow language, signage, directional signage throughout the property to restrict parking that would impact Jewel. He believed his firm made the effort and were abiding by the current agreement that was in place. He asked the commission to approve the request considering the current time constraints with the contracted sellers.

Chair Rickard asked if there was opportunity to accommodate a six-foot wide strip of the alley to park a grease container and dumpster by vacating the alley and leaving just enough for the two containers to be accessed by the Mrs. T’s tenant without impeding the drive-through, Ms. Leitschuh stated that dumpsters and grease traps were not allowed to be placed in public alleyways unless through a legal license process. They could not sit in an alley but could be accessed from an alley.

Mr. Ileki believed the issue was access to the current grease trap location and the alley was being used to access the trap, which was located in the rear of the property. Ms. Candy Duehana commented that not only were the dumpster and grease traps the issue, but the various delivery trucks used the alley behind her and exited through the alley and she was not able to use the property behind the plaza but was forced to have front door deliveries. Ms. Candy clarified there was a six-foot strip of property at the rear of the building where the containers were sitting but the only way the garbage men could get to them was by driving up on the property behind her and the other owner was no longer allowing that because she was upset with the development occurring.

Mr. Kulovany stated the property owner at 1035 Havens was blocking access then. He inquired how trash was being picked up currently wherein Ms. Candy explained the trash company accesses by coming up through the 1035 Havens property to the dumpsters. Also she explained the issue with the dumpsters in the

present location was that there are multiple dumpsters placed at the north end of the building. The chairman asked whether there could be a common trash area managed by one company, citing the proposed project had many positives but it appeared to be a simple solution somewhere to be worked out. However, Ms. Candy stated that moving hot grease was a liability issue and placing a (grease) container at the north end of the building was not a good idea. She was open to another solution.

In response, Mr. Kulovany stated if the other owner did not solve the problem for Mrs. T's Pizza the vacation of the alley had nothing to do with it. Ms. Candy concurred but stated it was good access for the trucks who were sitting in the alley for 30 to 40 minutes but now they were going to be sitting in the front parking lot making deliveries. She reiterated it was an inconvenience for the public and for the business owners.

Ms. Leitschuh spoke up stating there were separate private property management issues, some of which may have been generated by what was being proposed while others were not. She believed shared parking agreements could be created to reduce the number of required parking spaces for each use, especially if one of the concerns was for limited parking for employees due to changing conditions. Also, the fence issue was raised. Leitschuh pointed out that these items could be placed as conditions.

If the project were approved as is and Mrs. T's restaurant had to house some containers, Chairman Rickard asked if the village would allow such enclosure in the front yard of Main Street, wherein Ms. Leitschuh stated containers were not allowed in the street yard and not knowing when it was originally approved, if it had been approved it would not have been allowed to have off-site storage of the grease traps – it would have had to have been on their own property.

Dialog followed by the chairman that it had never complied, which staff suspected. At the same time, Chairman Rickard did not believe it was fair to hold up this petition for something that was not necessarily their doing but it did create an issue that would have to be dealt with and was an example for some type of exception since there were no options.

It was noted by staff that the site was a catalyst site since 2011 and only one proposal for the site was received since that time. Mr. Cassa with the DGEDC came forward stating he did many small developments on Ogden Avenue which tended to have the shared trash areas and sometimes restaurants paid more because they generated more trash. It was common, especially on Ogden Avenue where there was no luxury to give every tenant its own trash area. He believed it was the responsibility of that shopping owner to provide areas for tenants' trash which he believed could be the solution by everyone sharing the cost.

Ms. Rollins asked the developer if there was consideration for a fence along the rear bordering Havens Court wherein Mr. Ilekis stated he was fine with installing a fence there but it was up to the commission to make the suggestion. He clarified that portion of the current site plan reflected increased landscaping and trees as screening for the neighbors and he did not know if a new fence was proposed and if there was an existing one today.

Planner Scott Williams stated there was no fence proposed for the property lines bordering Havens Court, and the fence is located near what is currently the rear property line of the US Bank property.

Ms. Balanoff returned and stated her concern was that there were some existing bushes in the area but were broken by people cutting through them to get to Jewel and if bushes were planted again, people would walk through them again. She believed a fence was more protective as it would block the view of the rear buildings. She reiterated that the area was on a curve and the "homes look right into that."

Ms. Rollins asked that if the fence issue was placed as a condition in the motion would the developer install it, wherein Mr. Ilekis stated there was a potential grade change and the site sat up higher than the neighborhood. Vequity did propose significant landscaping in the area for screening but if they wanted less

landscaping and more fencing, he was open to the proposal. Ms. Leitschuh suggested placing the fence as a condition for approval and if at the time of permitting there were grading changes, staff would address it with the petitioner to ensure it was with the same intent as the commission required; the chairman concurred.

Mr. Kulovany asked if the petitioner had a contingency agreement with Panda Express and whether it required a drive-through wherein Mr. Ilekis stated it does require a drive-through.

Mr. Henning, for Jewel Osco, returned and expressed his disappointment regarding the traffic consultant's comments about the conclusion not being what the case was about because it did not account for different factors. As for the comment about Saratoga being Jewel's main entry, whether it was true or not true, he stated the petitioner had no basis for which to make the claim because the intersection was not studied nor was there a study of Jewel's driveway to Saratoga Avenue. As for the access from Jewel's site through and to Main Street, it was highly circuitous and of little to no value so it did not represent a benefit to Jewel or offset the challenges and burden that would be put on Jewel's property. In addition, the towing language, signage and overture to purchase property from Jewel to park, Mr. Henning stated that Jewel values its property and parking and it was not for sale nor would it make the problem go away. Instead, it would cause his ability to be upset to go away. He asked the commission to consider what was a very well written and tightly crafted easement document and while he understood it was not the commission's job to interpret legal documents that are recorded against the properties he would continue to rely on it going forward.

Ms. Pat Gregory, stated that Mr. Henning was correct in that the document provides cross access between the Jewel property and the 1048 only. However, he was incorrect in saying that it does not give us the right to share that easement with any adjoining properties. It is common for such agreements to have that type of language but this agreement did not have that language and there was no restriction in the petitioner's ability to enter into cross-access easement agreements with 1036 and 1030 down the road.

Chairman Rickard closed the public hearing. He summarized some of the issues raised that may or may not want to be included with the motion, i.e., the signage proposed for the side walls.

Mr. Quirk was in support of the proposal but uncomfortable approving site plans in three different forms and not understanding which one. Having the two drive-throughs were very intensive for traffic and for the site but not a challenge. While he sympathized with the comments made, doing business would probably change with the development coming in. He disagreed with Jewel and believed the proposal would be valuable to them. He did not believe additional traffic was being created with the development coming in, seeing that the developer and the retailers were capturing the market. It was an overall improvement to the corner and in reviewing the standards for approval, he did not find any that he objected with.

Ms. Johnson believed the consideration for the fence should be added to the motion seeing that the residents had issues about seeing the backs of restaurants and trash. It would be located at the north end of the fence down and around Havens Court; other commissioners concurred.

Ms. Gassen asked that the lighting be a condition to ensure that it meets the ordinance. Mr. Williams stated that the average 5 feet north of the property line was between .3 and .4. Ms. Leitschuh stated the average would be taken at the property line and to Gassen's question; currently the lighting plan was not meeting the ordinance.

Mr. Kulovany agreed with the comments being voiced by fellow commissioners. Regarding the signage, he understood how it made business sense to do it, but the village just forced many business owners to comply with the sign ordinance with zero exceptions including a lawsuit that was lost by a plaintiff. He supported the project since it was a tough catalyst site. Also, this was the only proposal that came forward and there was a private property issue that needed to be resolved but it was not on the village.

As to the fencing, Mr. Boyle recommended consideration for the connection since the neighbors were using it as a path and suggested some sort of opening in the fence.

Mr. Quirk stated he was fine with the elevations stating they were appropriate and were in good taste.

The chairman stated it appeared the commissioners were in consensus for the fencing and the light level but split on the signage. Ms. Leitschuh asked that whomever makes the motion to justify why this would be different than other sign situations and why it was unique to the property, wherein Mr. Quirk stated it was "personal preference" and thought it was appropriate and in good taste.

**WITH RESPECT TO FILE 17-PLC-0004, MR. QUIRK MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR THE PUD, ZONING MAP AMENDMENT AND RIGHT OF WAY VACATION AND SPECIAL USE TO ALLOW A DRIVE-THROUGH AND FINAL PLAT OF SUBDIVISION TO CONSTRUCT A MULTI-BUILDING COMMERCIAL CENTER, SUBJECT TO STAFF'S NINE (9) CONDITIONS LISTED IN ITS STAFF REPORT, INCLUDING: 1) THE ADDITION A FENCE ALONG FOREST AVE AND HAVENS CT WHERE IT FACES AN ADJACENT RESIDENTIAL ZONING DISTRICT; AND 2) THE PETITIONER WILL GUARANTEE THAT THE AVERAGE FOOT CANDLES WILL BE, AT A MAXIMUM, 0.1 FOOT CANDLES ALONG THE RESIDENTIAL DISTRICT BOUNDARIES.**

**NO SECOND VOICED. (MOTION DIED FOR LACK OF A SECOND.)**

The chairman entertained another motion to be considered.

**WITH RESPECT TO FILE 17-PLC-0004, MS. GASSEN MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR THE PLANNED UNIT DEVELOPMENT AND ZONING MAP AMENDMENT AND RIGHT OF WAY VACATION AND SPECIAL USE TO ALLOW A DRIVE-THROUGH AND FINAL PLAT OF SUBDIVISION TO CONSTRUCT A MULTI-BUILDING COMMERCIAL CENTER, SUBJECT TO STAFF'S NINE (9) CONDITIONS LISTED IN STAFF'S REPORT, WITH THE ADDITION OF: ITEM 10) ADDING A FENCE ALONG FOREST AVE AND HAVENS CT WHERE IT FACES AN ADJACENT RESIDENTIAL ZONING DISTRICT; AND ITEM 11) THE PETITIONER WILL GUARANTEE THAT THE AVERAGE FOOT CANDLES WILL BE, AT A MAXIMUM, 0.1 FOOT CANDLES ALONG THE RESIDENTIAL DISTRICT BOUNDARIES.**

**SECONDED BY MR. KULOVANY. ROLL CALL:**

**AYE: MS. GASSEN, MR. KULOVANY, MR. BOYLE, MS. JOHNSON, MR. QUIRK,  
MS. ROLLINS, CHAIRMAN RICKARD**

**NAY: NONE**

**MOTION PASSED. VOTE: 7-0**

**THE MEETING WAS CALLED ADJOURNED BY CHAIRMAN RICKARD AT 11:10 P.M.**

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