

APPROVED 10/7/13

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING
PUBLIC HEARING

SEPTEMBER 9, 2013, 7:00 P.M.

Chairman Webster called the September 9, 2013 meeting of the Plan Commission to order at 7:00 p.m. and led the Plan Commissioners and the public in the recital of the Pledge of Allegiance.

ROLL CALL:

PRESENT: Chairman Webster, Mr. Beggs, Mr. Cozzo, Mr. Matejczyk, Mr. Quirk, Mrs. Rabatah, Mr. Rickard, Mr. Waechtler

ABSENT: Ms. Urban

STAFF PRESENT: Village Community Development Director Tom Dabareiner; Village Senior Planner Stan Popovich

VISITORS: Mr. Hank Stillwell, Rathje Woodward, 300 E. Roosevelt Road, Wheaton, IL; Ms. Mary Meyer, Regional Real Estate Manager, McDonalds, 4320 Winfield Rd., Warrenville, IL; Mr. Dan Olsen, Watermark Engineering Resources, Ltd., 2631 Ginger Woods Parkway, Aurora, IL; Mr. Rick Dolan, Area Construction Manager, McDonalds, 4320 Winfield Rd., Warrenville, IL; John Matalis, 4333 Florence Ave., Downers Grove; Ms. Kristin Panek, 4440 Lee Avenue, Downers Grove; Ms. Marge Earl, 4720 Florence Ave.; and Mr. Kirk Bishop, Duncan Associates, 212 W. Kinzie St., Chicago, IL

A brief review of the meeting's protocol followed.

APPROVAL OF THE AUGUST 5, 2013 MINUTES

THE MINUTES OF AUGUST 5, 2013 WERE APPROVED ON MOTION BY MR. MATEJCZYK, SECONDED BY MR. RICKARD. ROLL CALL:

AYE: MR. MATEJCZYK, MR. RICKARD, MR. BEGGS, MR. COZZO, MR. QUIRK, MRS. RABATAH, CHAIRMAN WEBSTER

NAY: NONE

ABSTAIN: MR. WAECHTLER

MOTION PASSED. VOTE: 7-0-1

PC 22-13 A petition seeking approval of an Alley Vacation, a Zoning Ordinance Map Amendment to rezone a portion of the property from R-4, Single Family Residential to B-3, General Services and Highway Business, a Lot Consolidation, and a Special Use for a drive-through. The property is located on the south side of Ogden Avenue approximately 180 feet east of Florence Avenue and is

commonly known as 225 Ogden Avenue, Downers Grove, IL (PINs 09-04-305-002, -003, -007, and -009). McDonald's Corporation, Petitioner and Cole Taylor Bank, Trust No. 39459, as Owner.

Chairman Webster swore in those individuals that would be speaking on the above petition.

Senior Village Planner Stan Popovich reviewed the four (4) requests before the commissioners and located the McDonalds site on the overhead map, noting it measured just under one acre in size and included a McDonalds on the site since the 1950s as well as a drive-through since the 1970s. The public alley to be vacated was pointed out with Mr. Popovich stating that the current zoning on the properties adjoining Ogden Avenue was B-3. The alley and the lot to the south were zoned R-4, Single-Family Residential.

Proposed for the site was a side-by-side drive-through, basically replacing the existing lane, which required an approved Special Use. No other improvements to the current building were planned at this time; however, with the new drive-through, six parking spaces would be lost, to a total of 49 spaces, where the zoning ordinance required 44 spaces. The alley and the southern parking lot were zoned R-4, Single-Family Residential, with the southern parcel of the parking lot being permitted as a conditional use to provide additional parking for the McDonalds.

Per Mr. Popovich, in the 1970s the drive-through was allowed as a permitted use in a commercial zoning district, but no records existed as to when the drive-through was installed on the residential zoning lot and, therefore, the proposed rezoning, vacation, and consolidation would clean that up to ensure the new drive-through was in a commercial zoning district. A review of the alley vacation followed noting it was strictly used by McDonalds and was fenced off accordingly. However, after contacting the utility companies, Mr. Popovich requested that a utility easement be placed on the entire alley since there were ComEd poles with various services on them. Some of the alleyway would be converted to green space by McDonalds.

A review of the four-lot consolidation followed, noting all four lots will be consolidated into one lot to meet the bulk standards required under the Subdivision and Zoning Ordinance. The drive-through Special Use is an allowed special use under the B-3 district. Mr. Popovich reviewed how the site met the goals of the Village's Comprehensive Plan and the Zoning Ordinance and he also explained the parking and vehicle stacking, which met Village requirements. Proposed were two new landscape islands that would reduce the impervious area.

Per staff, Fire Prevention reviewed the plans and had no concerns. Staff also spoke to two residents after proper notification of this proposal was made. Their concerns had to do with whether McDonalds was expanding into the residential neighborhood, which it was not. Mr. Popovich then reviewed the seven standards for rezoning in further detail as well as called attention to the alley vacation appraisal that was included in the commissioners' packets, i.e., \$18,000.00 for the appraisal, which staff concurred with and recommended vacating at a cost of \$18,000.00. The lot consolidation was in compliance with the Village's standards and all four standards for approval of the Special Use were met. Mr. Popovich recommended that the Plan Commission forward a positive recommendation to the Village Council with the two conditions listed in its report.

A question followed as to how McDonalds used the alley for so many years in a residential district without it being vacated; staff had the same questions and could not find any records of same. Asked if the southern property was rezoned B-3, would it prevent someone from purchasing the

property and putting a car repair shop on it, Mr. Popovich indicated it did not prevent someone purchasing the property but they would have to return to the commission for a Special Use. Additionally, the full easement over the alley and required setbacks would limit the use of the rear parcel for a building.

Continuing, Mr. Popovich pointed out the specific parking spaces that would be lost; the planned landscaping for the site; and the age and height of the fence, with Mr. Waechtler suggesting the installation of an 8-foot fence and additional landscaping to buffer any noise from the residents. Per staff, McDonalds would be using an ambient noise speaker and the signage would be changed in conformance with the Zoning Ordinance requirements but as a separate process.

On behalf of McDonalds Corporation, Attorney Henry Stillwell, 300 E. Roosevelt Rd., Wheaton, IL, appreciated staff's thorough report and was present to clarify a couple of issues and address any questions. First, Mr. Stillwell reported that the McDonalds building would not be touched in any way except to bring the operations of the facility up to the current standards of McDonalds. (Mr. Stillwell referenced a study in commissioners' packets discussing the efficiency experienced under the two-lane system at a Rosemont facility.) He further confirmed that McDonalds would be using the new speaker/low ambient technology. With respect to the alley vacation, Mr. Stillwell confirmed McDonalds was aware of including the easements across the vacated alley and was in agreement to pay the compensation amount identified in the appraisal report.

Mr. Stillwell proceeded to identify the McDonalds team for the commissioners and offered to answer commissioner questions. Per a question, Mr. Stillwell explained that once the side-by-side lanes were installed the tandem operations system would be removed. As to the 8-foot fence, he stated McDonalds had no objection to installing the fence if it was the preference of the commission and could be permitted. As to the merge of the lanes, Mr. Stillwell explained the system in greater detail, summarizing that much consideration was given to its geometric design to provide greater efficiency, safety and timing for one to pick up an order.

Mr. Rickard inquired whether there was signage or pavement markings involved in keeping the drive-through lane one lane wide at the southwest corner of the building. Mr. Stillwell indicated pavement markings were used; however, if McDonalds found that there were traffic control issues arising, operations would place a person outside, if necessary, or cones to direct traffic during peak hours so drivers could learn the traffic pattern. He noted there was a bypass lane on the outside order lane but not on the interior one.

Chairman Webster opened up the meeting to public comment.

Mr. John Matalis, 4333 Florence Ave., Downers Grove, asked how close was the southern-most boundary of the vacated alley going to be to his house and was the area going to be paved, and if so, he had concerns about water run-off. Mr. Popovich did not have exact measurements but stated that nothing was going to change as to the overall footprint of the restaurant property. The existing pavement was actually going to be reduced and filled in with landscaping.

Hearing no further comments, public comment was closed.

Mr. Stillwell appreciated the commissioners' consideration and stated he was looking forward to the continued successful use of the location and hoped the commissioners supported the proposal.

APPROVED 10/7/13

Commissioner comments followed that the proposal did address concerns about a potential backup onto Ogden Avenue and the four requests were reasonable. There was no reason to deny the petition. The Zoning Ordinance Standards were met, the proposal complied with the requirements of the alley vacation, the standards for lot consolidation, and the Special Use standards.

WITH RESPECT TO PC FILE NO. 22-13, MR. COZZO MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILALGE COUNCIL, SUBJECT TO CONDITIONS 1 AND 2 IN STAFF'S REPORT.

SECONDED BY MATEJCZYK. ROLL CALL:

AYE: MR. COZZO, MR. MATEJCZYK, MR. BEGGS, MR. QUIRK, MRS. RABATAH, MR. RICKARD, MR. WAECHTLER, CHAIRMAN WEBSTER

NAY: NONE

MOTION CARRIED. VOTE: 8-0

PC 18-13 The purpose of the request is to consider updates to Chapter 20 (Subdivision Code) and Chapter 28 (Zoning Ordinance) of the Municipal Code; Village of Downers Grove, Petitioner.

Planning Director Dabareiner introduced Mr. Kirk Bishop with Duncan Associates, consultant for this project.

Mr. Kirk Bishop, Duncan Associates, 212 W. Kinzie St., Chicago, IL reported that he will be reviewing the third in a series of modules relating to the Zoning Ordinance. Details of the chapters' contents followed along with a summary of an anticipated timeline.

Reviewing Article 4 of the Zoning Ordinance, Mr. Bishop reviewed the Special Purpose Zoning Districts calling attention to the fact that two districts existed: 1) the Downtown District and 2) the Institutional and Public District.

(A procedural discussion then followed.)

Chairman Webster invited the public to speak.

Rev. Kristin Panek, 4440 Lee Avenue, Downers Grove, said she was requesting a zoning change for religious uses from 2 acres to 1.5 acres to maintain the spirit of the zoning criteria yet allow her Flowering Hearts Center to be established. The properties at 4440 and 4436 Lee Avenue currently met the church/school zoning but it was not quite two acres. Rev. Panek explained she does teachings and blessings throughout the county and Chicago and she wanted to establish the same in her home for small groups (20 to 30 individuals). The property was surrounded by nature on three sides and was very conducive to meditation and such. Rev. Panek stated that staff did suggest that she attend this meeting since the Village was in the process of rewriting its code.

Director Dabareiner indicated that this type of proposal could be addressed through the Village's zoning board of appeals since it dealt with one lot but it was his understanding that the consultant

was close to completing the final document, possibly presenting it in November, at which time this specific issue could be addressed. Chairman Webster concurred and confirmed with Rev. Panek that her information was in the record and that staff and the consultant were aware of the issue.

Ms. Marge Earl, 4720 Florence Ave., Downers Grove, stated that a reduction in acreage was never considered as part of the comprehensive plan and the entire zoning rewrite came about after the comprehensive plan was written. She stated the zoning board does not normally pursue such zonings this way and she would have concerns about rezoning for one property and reducing the size of the property from anything less than two acres. She and Mr. Waechtler agreed that the Village wanted to leave the door open for possible exceptions.

Returning to the presentation and per Mr. Waechtler's question, Director Dabareiner explained why the acronym I.P. (for Institutional and Public District) was going to change, i.e., so there was no confusion or language that could be misinterpreted. Examples followed.

Continuing, Mr. Bishop reviewed Article 4 and addressed the map associated with the Downtown District maps, noting no boundary or regulations changes were being proposed except that the new ordinance would include a maximum (a "build to zone") setback requirement. With regard to new buildings being constructed in the DB district, the building line of the new building must be within 10 feet of the front property line over at least 80% of the lot width. This change, as Director Dabareiner recalled, also came out of the Village's pattern book. The other change, as discussed by Mr. Bishop, was for the Downtown Business area to include a new proposed minimum building height requirement as opposed to a maximum building height (32 feet), at least requiring two stories. Both changes were to enliven the pedestrian experience. A question followed regarding a footnote which addressed the abandonment of the Village's establishment of minimum dwelling unit size requirements for residential dwelling units.

Turning to the new Institutional/Public District classification, Mr. Bishop explained that this classification was created to address uses such as churches, fire stations, parks and other governmental facilities often located in residential neighborhoods, but the regulations written for residential areas did not fit well with such uses. Under the proposed classification, there were two sizes to consider: low intensity (small churches, fire station) and high intensity/PUD (campus-like uses, hospitals). Examples for both followed. Director Dabareiner also shared where these two classifications could be beneficial, i.e., District 99 and Good Samaritan Hospital. Mr. Bishop shared that such classifications were used in other municipalities and a strong precedence already existed for the public/quasi-public zoning classifications.

More to the point, however, Mr. Beggs raised the fact that if the Village was trending towards flexibility, what then, were the limits, wherein Mr. Bishop believed it was a matter of the Village having both predictability and flexibility in its code and striking a balance between the two. Director Dabareiner shared some of the challenges he currently went through when reviewing a specific parcel, such as Good Samaritan Hospital.

Ms. Marge Earl spoke up, and while she supported the institutional concept she did not understand how it would be phased in and be transparent, wherein Director Dabareiner explained it would be a procedural question with two choices: 1) consider the districts as they come up, parcel by parcel; or 2) proactively rezone properties. Ms. Earl suggested that it may be easier, faster and more transparent to do a mass change in zoning versus changing parcel by parcel.

Director Dabareiner agreed a public education process would have to take place before anything was rolled out, but once the rezoning would take place, the Plan Commission would be reviewing cases and the commission would be receiving direction from the council.

Reviewing Article 7, Parking Regulations, Mr. Bishop highlighted key changes: 1) maximum parking requirements -- these would apply to any use that has over 100 parking spaces and be subject to a maximum parking ratio of 4.5 spaces per 1,000. Per Director Dabareiner, this issue arose due to the amount of parking at the Grove Shopping Center (75th and Lemont) and the fact that it goes unused. A petitioner will now be required to show the need for that amount of parking. Continuing, Mr. Bishop referenced a table listing the minimum and maximum parking ratios and discussed the ratio for parking at swimming pools. Director Dabareiner also referenced the parking manual that he referred to for these calculations.

Interjecting the conversation, Mr. Popovich conveyed that Ms. Urban did voice surprise to see that the office ratios were lower since she saw some offices on Interstate 88 at 5 spaces per 1,000, but it was with a special use. Mr. Bishop discussed the various ways the calculation was considered but clarified that while minimum requirements needed to drop, he was not sure if maximum requirements worked in every case. Mr. Dabareiner concurred, explaining that anything larger than the 4.5 per 1,000 was a special use.

Continuing his presentation, Mr. Bishop explained that new provisions were being proposed for uses in close proximity of each other. For instance, proposed were new provisions to allow petitioners to provide motorcycle/scooter parking in lieu of some vehicular parking spaces; an incentive was provided for properties to allow for use of car-share (Zip cars) vehicles; new provisions for bicycle parking; parking to be located off-site, within certain parameters without requiring extraordinary approval; new requirements for how pedestrians circulate within large parking lots; expansion of the ordinance's drive-through parking requirements; and simplification of off-street loading requirements.

Per Mr. Popovich, Ms. Urban conveyed she supported the shared parking using the table but she had concern about the required landscaped islands every 10 stalls versus 20. Commissioner comments included that some of the provisions were seasonal -- such as the motorcycle provision -- but who would enforce the spaces? Mr. Bishop reminded the commissioners that these were options for the property owner and were not required. Additionally, Director Dabareiner stated that Public Works did review this information and what the commissioners were reviewing was inclusive of their comments.

Ms. Marge Earl returned and asked for clarification about Section 7.120(d), the ADA parking measurements, wherein staff confirmed it was a state law.

Addressing the landscaping and screening chapters, Mr. Bishop reported the largest change was the proposal of the increase in the landscaping for the interior of larger parking lots where the landscaped island increased from 120 sq. feet to 150 sq. feet and was required for every 10 stalls versus the old requirement of every 20 stalls.

In Article 8, there was a new addition of a provision that allowed for people to deviate from applicable, minimum landscaping and screening requirements through an alternative compliance

process which reduced the need for a variation from landscaping requirements. This provision addressed landscaping/screening in difficult sight/visibility situations and also addressed stormwater issues so that it remained on-site. Examples followed by Mr. Bishop. Again, Director Dabareiner reminded the commissioners that these were options.

Ms. Marge Earl returned to the podium and inquired about trees under Article 8.060(d)(2) -- shade trees should be a minimum of two inches caliper at the time of installation. She asked where the measurement was taking place on the tree. She preferred that be increased to 2.5 inches in caliper. Additionally, she preferred shrubs be under a separate category and required to be 18 inches. Mr. Bishop responded that these were existing size requirements and caliper was a defined term within the ordinance and industry.

Under Section 9.020(s), Mr. Cozzo disagreed that there were no signs containing electronic changeable copy anywhere in the Village. Mr. Waechtler commented that the logic behind the provision was that type of sign was distracting. A dialog ensued with the chairman suggesting that the provision be "rethought." Mr. Dabareiner reported that some of the concerns included the ability to call it out as a "use," such as schools.

Ms. Marge Earl raised the fact that there was a very large, changeable sign in front of Standard Market on Ogden Avenue and, while it was very readable due to its size, it was also distracting.

Returning to Non-Conformities, Mr. Bishop explained the first provision related to Non-conforming Lots. The proposed change was to allow a bit of flexibility by allowing, in a residential zoning district, the construction of a new detached single-family home on a lawfully established lot subject to meeting the other ordinance requirements. As to Non-conforming Uses, there was the option that instead of going to the zoning board, some adjustments in the non-conformity rules could be appropriate if reviewed through a non-conformity expansion provision. Examples followed. The last proposed change was to Non-conforming Structures where the zoning board had authority to approve the non-conforming structure through a non-conforming use specific procedure. Examples followed of the new procedure as well Director Dabareiner clarifying that the intention of this procedure was to give the smaller, unusual lots a chance to be used for their primary purpose of the district they were located, such as an R-1 district, and not to encourage subdividing a lot.

However, Mr. Popovich interpreted the conforming lots provision as any non-conforming lot in the residential district, as long as it met the new setback requirements, could be considered even if the lot was 30 ft. wide, wherein Director Dabareiner, at first, believed that was not allowed, through his interpretation of the provision, but later realized Mr. Popovich was correct. Mr. Bishop also confirmed Mr. Popovich's understanding of the provision.

Director Dabareiner then pointed out that if an owner owned such a remnant lot next-door, they were reducing their opportunity to expand their house by consolidating their existing lot with the remnant lot.

To that point, Mr. Waechtler raised concern that if someone wanted to build on a 30 ft. lot in a neighborhood of predominantly 100 ft. lots, the Plan Commission should review the proposal in the context of the neighborhood's character. In response, the chairman explained that it was a scenario that would be unlikely to occur. Mr. Bishop reminded the commissioners that the character of the neighborhood had to do with the creation of a new lot or to rezone to a classification that had

different requirements, not an existing legal lot. Mr. Bishop further explained it was a legal safety valve to have in the ordinance but agreed it could change the character of a 100 ft. lot neighborhood, theoretically, and the smaller lot would stand out. Mr. Waechtler emphasized that the commission had to revisit this language and identify the smaller lots. Mr. Beggs voiced his disagreement with the provision also. Asked how many lots this would affect, Mr. Popovich estimated a few off hand, but some were located in the R-4 district that were platted at 25 and 30-foot lots. He reminded the commissioners of the setback requirements that would have to be met. Mr. Beggs asked if it would make more sense to limit the provision to the R-4 district.

Mr. Dabareiner stated that he and Mr. Bishop would discuss the concerns being raised to reduce the potential burden on the zoning board but still allow use of reasonably-sized lots. He further explained that what motivated staff and the consultant when reviewing the non-conforming section of the existing ordinance was the dissatisfaction with treating non-conformities as variations to allow them to exist as opposed to what there were. As a result, the consultant laid out some standards that the zoning board could use when an applicant comes before the board seeking a variation because many of the variations were usually for an additional ten feet horizontally. He further explained that the community was basically built out and if staff wanted to encourage residents to reinvest in their homes, there was a need to expand non-conforming structures without being over-regulatory and time-consuming.

Ms. Marge Earl returned and stated that the last time the zoning board was faced with such a situation, it was for 18 inches.

However, when it was mentioned by Mr. Beggs that some builders pour the foundation incorrectly and do not want to correct the foundation due to costs, Ms. Marge Earl responded that in situations with flagrant contractors, the zoning board has told them to move the garage slab six inches.

Director Dabareiner clarified that those cases were usually when a contractor builds over the setback line, whereas the new provision was for standards that the zoning board could use for horizontal or vertical expansion in a way that met the setback requirements.

Adding to that, Ms. Marge Earl also pointed out that the provision was a new set of criteria that the zoning board could use to measure; otherwise, currently the ZBA used a very strict list of questions for a petitioner to adhere to, one of which was physical hardship and some of the petitioners did not have a physical hardship yet it was logical to continue, for example, a wall in the same line, due to aesthetics. Ms. Earl supported a different set of rules to apply to such cases.

In closing, Director Dabareiner would follow up with identifying some of the smaller lots and returning to the commission to continue the discussion on this matter. He also referenced an attachment to the draft zoning ordinance which incorporated the Downtown Business and Downtown Transition districts, the INS categories and one change to make restaurants special uses throughout because of the concerns that come up with restaurants. A question was raised whether the commission had addressed when businesses change business licenses, wherein Director Dabareiner indicated the commission had not and went on to explain the requirements under the building code that address certificates of occupancy.

Mr. Waechtler asked Mr. Bishop to address in the ordinance at his next meeting the topics of rental properties and foreclosures and how to keep the community looking nice. However,

APPROVED 10/7/13

Director Dabareiner stated those were all addressed in Chapter 7, Municipal Code. Lastly, Mr. Waechtler commented that he found it surprising that the Starbuck's location on Ogden Avenue was seeking a lessee when it had not even come before the commission. He thought it was premature.

WITH REGARDING TO PC 18-13, MR. BEGGS MOTIONED TO CONTINUE THE ABOVE PETITION TO A DATE CERTAIN, THAT DATE BEING OCTOBER 7, 2013.

SECONDED BY MR. QUIRK. ROLL CALL:

**AYE: MR. BEGGS, MR. QUIRK, MR. COZZO, MR. MATEJCZYK, MRS. RABATAH,
MR. RICKARD, MR. WAECHTLER, CHAIRMAN WEBSTER.
NAY: NONE**

MOTION CARRIED. VOTE: 8-0

Mr. Popovich reviewed the topics for next month's agenda, one of which will be the medical marijuana issue, which will be a text ordinance amendment.

THE MEETING WAS ADJOURNED AT 10:35 P.M. ON MOTION BY MR. WAECHTLER, SECONDED BY MR. COZZO. MOTION CARRIED UNANIMOUSLY BY VOICE VOTE OF 8-0.

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