

APPROVED

**VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING**

July 11, 2022, 7:00 P.M.

Chairman Rickard called the July 11, 2022 meeting of the Downers Grove Plan Commission to order at 7:00 p.m. and led the Plan Commissioners and public in the recital of the Pledge of Allegiance.

ROLL CALL:

PRESENT: Chairman Rickard, Commissioners Rector, Boyle, Toth, Roche, and Patel

ABSENT: Commissioner Dmytryszyn, Maurer

STAFF: Planning Manager Jason Zawila, Senior Planner Flora Leon, Planning Intern Lanie Hannon

OTHERS

PRESENT: Suhael Ahmed, Jameel Farooqi, Ryan Swanson, Matt Adas, Debra Zielke, Alan Zielke, David Alfano, Jim Beretta

APPROVAL OF MINUTES

Chairman Rickard entertained a motion to approve the minutes.

MINUTES OF THE JUNE 6, 2022 PLAN COMMISSION MEETING WERE APPROVED ON MOTION BY COMMISSIONER BOYLE, SECOND BY COMMISSIONER PATEL, MOTION PASSED BY VOICE VOTE OF 6-0.

PUBLIC HEARING

Chairman Rickard explained the protocol for the public hearing process and swore in those individuals that would be speaking during the public hearing.

FILE 22-PLC-0015: A PETITION SEEKING ANNEXATION AND REZONING FROM R-1, RESIDENTIAL DETACHED HOUSE 1, R-2, RESIDENTIAL DETACHED HOUSE 2. THE PROPERTY WILL BE ANNEXED WITH THE DEFAULT ZONING OF R-1, RESIDENTIAL DETACHED HOUSE 1. THE PROPERTY IS LOCATED AT THE NORTHEAST INTERSECTION OF 39TH STREET AND DOUGLAS ROAD, COMMONLY KNOWN AS 3859 DOUGLAS ROAD, DOWNERS GROVE, IL (PINS: 06-32-415-034 AND 06-32-415-035). SUHAEL & SUMAIRA AHMED, OWNER AND PETITIONER.

Petitioner, Suhael Ahmed, Naperville, Illinois, stated he appreciated the opportunity to present the petition. He noted that they had purchased the lot about a year ago and subdivided the lot into two lots. Mr. Ahmed explained that the property was located at the northeast corner of 39th Street and Douglas in unincorporated DuPage County and was zoned R4. Currently, the lots are empty and Mr. Ahmed explained that if the lots remained vacant this could become a hazard for the

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community. Next, the petitioner explained that a rezoning from R-1 to R-2 upon annexation was appropriate because of the existing R-2 zoning for nearby parcels. Mr. Ahmed noted that by annexing and rezoning the property, future construction on the lot would enhance the value of adjacent properties and increase property taxes. The petitioner concluded by stating that the construction of a new home would meet the future land use plan.

Chairman Rickard invited for any additional public comment. No additional public comment was received. Staff was invited to present.

Ms. Flora Leon, Senior Planner, summarized the request stating that the petitioner is requesting approval for a zoning map amendment. She provided a location map and noted that the subject property was located at the northeast intersection of 39th Street and Douglas Road. Ms. Leon provided photos of the existing conditions and stated that demolition of the previous residential structure had already occurred with the proper permits. She then shared a photo of the public hearing sign that was posted and noted that two phone calls were received inquiring more information about the petition. Ms. Leon provided a location map and highlighted the municipal boundary.

Ms. Leon then explained that upon annexation of the parcel, the property would come into the Village with a default zoning of R-1. Ms. Leon reminded the commission that the request in front of the Plan Commission was only for the zoning map amendment. She then provided the criteria for the zoning map amendment and noted that staff believed the criteria had been met. If the board agreed Ms. Leon indicated that a draft motion could be found on page 37 of the agenda for the board's review.

Chairman Rickard asked if the agenda packet had a typo and asked staff to confirm the rezoning was from R-1 to R-2. Planning Manager Zawila confirmed that was correct.

Commissioner Boyle asked if there was another home being proposed on Lot 2. Ms. Leon explained that the rezoning would apply to both Lot 1 and Lot 2. As such the R-2 bulk regulations would need to be met by both lots.

Chairman Rickard asked if the only items under review were the Annexation request and the Rezoning not any construction on the lots. Ms. Leon noted that the only request under the purview of the Plan Commission was the Zoning Map Amendment.

Commissioner Rector asked if Lot 2 was only 10,000 SF. Ms. Leon confirmed that was correct and noted that the area was substandard. However the original lot, included both lots, and this had been subdivided with the County already. The subdivision met the standards of the County not the Village standards since the property is currently unincorporated.

Chairman Rickard invited the petitioner to provide any closing statements.

Mr. Ahmed thanked staff for their assistance with the petition. He then explained that when the lots were subdivided with the County that was approved because the dimension met their subdivision standards.

Chairman Rickard entertained a motion

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WITH RESPECT TO FILE 22-PLC-0015 AND BASED ON THE PETITIONER'S SUBMITTAL, THE STAFF REPORT, AND THE TESTIMONY PRESENTED, COMMISSIONER RECTOR MADE A MOTION THAT THE PETITIONER HAS MET THE STANDARDS OF APPROVAL FOR THE ZONING MAP AMENDMENT AS REQUIRED BY THE VILLAGE OF DOWNERS GROVE ZONING ORDINANCE AND IS IN THE PUBLIC INTEREST AND THEREFORE, I MOVE THAT THE PLAN COMMISSION RECOMMEND TO THE VILLAGE COUNCIL APPROVAL OF 22-PLC-0015, SUBJECT TO THE CONDITIONA THAT A SIDEWALK FEE PER CHAPTER 19 WILL BE ASSESSED IN THE AMOUNT OF \$4,125.00

SECOND BY COMMISSIONER TOTH. ROLL CALL:

AYE: COMMISSIONERS RECTOR, BOYLE, TOTH, ROCHE, PATEL, AND CHAIRMAN RICKARD

NAY: NONE

MOTION PASSED. VOTE: 6-0

FILE 22-PLC-0014: A PETITION SEEKING APPROVAL OF A SPECIAL USE FOR A DRIVE-THROUGH FACILITY AND A VARIATION(S). THE PROPERTY IS CURRENTLY ZONED B-3, GENERAL SERVICES AND HIGHWAY BUSINESS. THE PROPERTY IS LOCATED ON THE SOUTH SIDE OF OGDEN AVENUE APPROXIMATELY 230 FEET WEST OF STERLING ROAD, COMMONLY KNOWN AS 621 OGDEN AVENUE, DOWNERS GROVE, IL (PIN 09-05-402-029, 030). ABYGROUPS, INC., OWNER AND ARC DESIGN RESOURCES, INC., PETITIONER.

Petitioner, Ryan Swanson, Arc Design Resources, indicated that he is the project manager for the project and has Matt Adas, assistant project manager with him this evening. They are presenting on behalf of AbyGroups and are requesting a special use with a variation for the drive through setback. Referring to the presentation screen, Mr. Swanson noted the location of the site and its placement in the Ogden Avenue Corridor.

Mr. Swanson stated that the proposed used is consistent with surrounding commercial development and as part of the site improvements, they are reducing access to the site from two access points to one. He noted that the plan will include a 3500 square foot building, with 20 parking spaces, which exceed Village Code. The site plan also include a pedestrian connection and will be designed to meet the stormwater ordinance. He then stated that the south portion of the site will be heavily landscaped and the site plan exceeds the open space requirements.

Mr. Swanson then provided overview of how traffic and circulation would work with the proposed drive through. He then summarized how the drive through met the special use standards and that Popeye's will provide a viable, successful business to the corridor on a site that has been vacant for a long time.

Mr. Swanson then explained the need for a variation for the drive through setback. He stated that although 50 feet is required they are seeking relief to provide a 34-foot setback. He then stated that the parcel size and lot depth from Ogden Avenue creates the need for the variance. Through the

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years the parcel sizes have been narrowed by right-of-way acquisition and road widening, which has narrowed the site. He further explained that they looked at additional options such as placing parking in the rear moving the site plan north, but thought that would be more of an issue with the neighbors and the car headlights that would face them in that scenario. With the variance request the site plan proposes a six foot fence and landscaping at the rear. He then concluded his presentation and asked if there were any questions.

Chairman Rickard inquired if there was any consideration for having one drive through lane on the north side that splits into two order boxes, so that the site plan can shift 15 feet north and the variance would not be needed. Mr. Swanson responded that based on the operator's experience and corporate requirements two drive through lanes are needed for the restaurant and critical to its operations. Chairman Rickard clarified his inquiry by stating that the merge point could shift to the northwest corner of the building to two lanes and it appears they would lose approximately four spaces and if this option was reviewed. Mr. Swanson again stated that this is a standard for the restaurant operations.

Commissioner Boyle inquired about how garbage operations would work on the site. Mr. Swanson explained that garbage operations are typically not during business hours and truck can maneuver counterclockwise on the site and the further explained the refuse operations. Mr. Boyle further inquired if there were any issues with fire truck operations. Mr. Swanson stated that there were no issues with the current site plan.

Commissioner Boyle further inquired about the material of the fence. Mr. Swanson stated that they do not have a material selected yet and would be opened to suggestions.

Commissioner Boyle then inquired if new sidewalks will be installed. Mr. Swanson stated that a minimum they would likely need to install sidewalks where the existing drive will be removed and review which ones do not currently meet standards.

Commissioner Rector inquired about the volume of the ordering boxes and what the corporate standard for how Popeye's handles volume control. Mr. Swanson stated that he does not know offhand the volume of the boxes, but there is so much traffic on Ogden that he would expect that ambient noise to be louder.

Commissioner Rector inquired about the hours of operations. Mr. Swanson stated that hours of operation to vary, but the window would likely be used from 10AM to midnight. Ms. Rector further stated that she thinks in the past when we have had similar special use requests for drive throughs we placed conditions to have the volume the speaker volume drop at a certain time. She further stated that it is helpful that it appears the speakers for the order boxes are pointing west and not south, which would help.

Chairman Rickard invited for any additional public comment.

Debra Zielke explained that her house faces Stanley and I am near the entrance of Dawn Place and it's a very quiet place and that he does not believe landscaping and a fence will stop the noise. She is also concerned about the headlights and the amount of parking available.

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Alan Zielke, stated that he is concerned about the smell of the cooking and when deliveries/garbage operations. He then stated further concern about development in the area and flooding that has occurred.

David Alfano, 4311 Stanley, says he supports business and the tax base as long as it is not a detriment to the neighborhood. He stated his concern for noise and that this development will impair his property value.

Deb Zelke, returned to the podium and stated that this area is lovely and quiet and is concerned about the noise, lights and smells. She is also concerned about the restaurant even able to find staff when so many other restaurants are having trouble finding employees.

Jim Beretta, lives in a cul-du-sac nearby and is concerned about the headlights and parking lot lights. He also feels the fence is not going to completely cover all noise. He further stated concern that with the relief the order box will now be closer to the residences.

Debra Zielke, returned to the podium and further stated that a lot people have invested in their homes and this would be a shame to place this right next to them.

No additional public comment was received. Staff was invited to present.

Lanie Hannon, planning intern, summarized the request stating that the petitioner is requesting approval for a special use and variation at 621 Ogden Avenue. She then referred to the presentation screen and provided details on the location and zoning. She stated that the Village did receive two phone calls regarding the petition; both inquiries requested additional information regarding the project.

Ms. Hannon then provided an overview of the project and noted on the screen that the building is centrally located. The two drive-through lanes are permitted in this zoning district with a special use permit. She then highlighted a few of the associated improvements, such as the number of approaches has been reduced to one, a pedestrian connection will be installed, and the installation of a screened trash enclosure.

Ms. Hannon provided an overview of the drive-through lane and related variance that is request. She stated that the petitioner is proposing to be 34.2 feet from the residential lot line where 50 feet is required. In light of the requested relief, the petitioner is proposing to place extensive landscaping along the rear property line, in addition to the installation of a six foot tall privacy fence.

Ms. Hannon then provided overview of the building elevations. On the presentation screen, she provided the north and south elevations for review. She stated that the proposed materials include brick, wood-grain fiber cement panel, and decorative accents. She then provided a view of the proposed east and west elevations and noted that all future signage will meet the requirements of the zoning ordinance.

Ms. Hannon concluded her presentation by stating that staff does find that the standards for approval for both the special use and variation have been met. As such, staff does recommend

approval of this petition. Should the plan commission agree, a draft motion can be found on page 10 of the agenda packet. She then stated if the Plan Commission has any questions, she would be happy to take those now.

Commissioner Patel inquired what the proposed fence would look like. Ms. Hannon stated that the petitioner has not identified the fence material yet, but it would need to be a privacy fence.

Commissioner Toth then inquired to what the intent of the 50-foot setback for a drive-through. Planning Manager Zawila stated that the setback was intended to provide a certain level of setback for drive through facility from residential property lines. That being said the Village has a variation process and in this case, the petitioner is looking to deviate from the code for an approximate 16 foot deviation, understanding that lot depth is shallower than several properties in the corridor. He then further referenced the Comprehensive Plan that Ogden Avenue is characterized as having shallow lot depths that also encourages redevelopment; the staff was supportive of the requested relief and the opportunity to request a variance for the setback.

Commissioner Toth inquired in the Village has a lighting ordinance. Mr. Zawila stated that yes, the Village has a lighting ordinance and the plans will be reviewed against this during the building permit review process, but as the Plan Commission may recall from previous meetings that the lighting ordinance does place limitation on light trespass in the form of a foot-candle measurement and requires full-shielding. Commissioner Toth further inquired if the Village had a similar ordinance for noise. Mr. Zawila stated that was correct. Lastly, Commissioner Toth, asked if the Plan Commission has placed conditions in the past on drive-through volumes. Mr. Zawila stated that was correct. If that was the desire of the Plan Commission they would need to place that condition on their recommendation as it currently is not in the drafted motion.

Commissioner Rector inquired if the Village staff look at versions of the plan where parking was in the back. Mr. Zawila confirmed that staff looked at several iterations before the one that was submitted for Plan Commission review. It appeared from staff's perspective that this version balanced the efficiency needed for this type of drive-through and moving traffic through the site and that this layout was similar to other drive-thrus that the Plan Commission has reviewed in the past.

Commissioner Boyle then inquired if there was enough parking on the site. Mr. Zawila stated that the proposal met the Village's parking requirements and consistent with past considerations. The amount of parking provided is sufficient for the site. Further discussion occurred about the potential elimination of parking to assist with the ability to remove the need for a variance.

Chairman Rickard, then stated that he struggled to understand how the variance request met certain standards. He felt that every lot on Ogden Avenue is shallow and up to this point others have come up with designs that meet the requirements and he is not sure if they have regularly granted a variance for a drive through next to residential properties. He does not feel that this is a unique circumstance. Instead he noted that this may be caused by their desire for a double drive-through; and stated that maybe the project is too large for the lot. Regarding some of the other comments against the development that came up related to headlights, noise, smell of cooking, enjoying your yard and garbage trucks and deliveries, he felt like those were things that normally go on with commercial properties. He noted that when you buy a property next to a commercial property, you have to expect some of that because it's legally allowed. He then invited the petitioner back up to respond to the questions and comments.

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Mr. Swanson first covered the comments related to parking. He stated that the amount of parking is consistent with other stores and handles the amount of customers and employees. Regarding the drive-through he reiterated that based on the operator's experience and corporate requirements two drive through lanes are needed for the restaurant and critical to its operations. The proposed fencing and landscape screening would alleviate concerns about headlights.

Mr. Swanson then addressed the sound concerns. He stated that they would work with the Village within their codes. He reiterated that based on his experience, for many years, the traffic on Ogden is going to be much louder than what you're going to hear out of these, these order boxes. He then covered lighting and stated that would meet the Village Code and LED lights are a lot easier to program and down dim to what they would need to meet Village Code.

Chairman Rickard then stated that he was hoping they could further state how they felt they met the standards for a variance for the proposed setback.

Mr. Swanson stated that if they felt that they did not meet the standards for a variance or a special use they would need to find another site. In this particular case it comes down to the site not being very deep and the property also has a notch in the bottom, that makes it an irregular shape. Based on the safety and operation of the drive through circulation and the customers the proposed site plan meet is what Popeye's is focused on for this project. He further stated that the building itself does exceed the required setback.

Chairman Rickard then noted the measurement for the drive through is intended for separation of cars idling, windows down with radios, and people talking in vehicles, essentially to provide a setback for the activity not necessarily the location of the pavement for a drive-through.

Commissioner Toth stated that as far as the special use for the drive thru, that seems like a reasonable request, but for the variance request, Mr. Tooth did not really see where the petitioner argued successfully for a need for it.

Commissioner Roche stated she would like to see the condition of the volume control put in regardless of if it's one lane or two lanes, if there's going to be a drive through that close to residential. She thought that was important, if it's something that's been done previously, it should definitely be added.

Commissioner Rector stated that they agree with other Plan Commissioners and that that the conditions for the special use had been met. She then stated they she would like the variance request removed, noting that the applicant is choosing to put the parking in the front versus in the back for aesthetic reasons. She further stated that she wished they had considered that as an option versus asking for the variance.

Commissioner Boyle stated that he did not believe he could support the variance because several of the standards had not been met and its impact it can have on the neighborhood if the variance is granted.

Commissioner Patel stated that he really would like to see the petitioner come back with a different solution to this that would not require the accommodation for that setback. He does think that the

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drive through is a good use for this real estate and she would like to see this developed with this business here.

Chairman Rickard stated they agreed with the other commissioners and that this project is appropriate for this zoning class and in that location; as a lot of these properties do have drive-thru windows. He just did not feel like the standards for a variance had been met, citing that the alleged difficulty or hardship was created by the petitioner and their need to have this proprietary drive-thru configuration. He believed that this could be redesigned, if they would vary from their corporate prototype a little bit. He stated that he would not have any problems supporting it, if it was not for the variance request.

Mr. Zawila addressed the Plan Commission to state that based on the discussion at hand the Plan Commission has two options. If the petitioner is agreeable, they can come back to the next Plan Commission meeting and review if it is possible to remove the need for the variance. However, if it is the petitioner's desire to make it out of Plan Commission this evening the Plan Commission will need to provide a recommendation on the application in front of them.

Chairman Rickard then asked the petitioner their preference.

Mr. Swanson stated they would prefer the option to review the plans to see if the variance would be necessary and return to the next Plan Commission meeting.

WITH RESPECT TO FILE 22-PLC-0014, COMMISSIONER RECTOR MADE A MOTION TO CONTINUE THE CASE UNTIL THE AUGUST 1, 2022 PLAN COMMISSION MEETING.

SECOND BY COMMISSIONER ROCHE. ROLL CALL:

AYE: COMMISSIONERS RECTOR, BOYLE, TOTH, ROCHE, PATEL, AND CHAIRMAN RICKARD

NAY: NONE

MOTION PASSED. VOTE: 6-0

Planning Manager Zawila indicated that this item would be scheduled for the August 1, 2022 Plan Commission meeting. Additionally, he noted one item was scheduled for the August 22, 2022 Plan Commission meeting.

THE MEETING WAS ADJOURNED AT 8:10 P.M. UPON MOTION BY COMMISSIONER JOHNSON. SECOND BY COMMISSIONER DMYSTRYSZYN. A VOICE VOTE FOLLOWED AND THE MOTION PASSED UNANIMOUSLY.

/s/ Village Staff
Recording Secretary
(As transcribed by MP-3 audio)

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