

Chairman Jirik called the July 1, 2003 meeting of the Plan Commission to order at 7:30 p.m.

**ROLL CALL**

**PRESENT:** Mr. Kahlke, Mr. Matejczyk, Mr. Nicholaou, , Mrs. Reynolds, Mr. Stark, Mr. Waechtler, Chairman Jirik

**ABSENT:** Mr. Griesbaum, Mr. McCormick

**STAFF**

**PRESENT** Kenneth J. Rathje, Director Planning Services  
Joseph Skach, Director Planning & Community Development  
Lori Skotterud, Redevelopment Planner  
Alice Dornan, Recording Secretary

Chairman Jirik stated the draft minutes of the June 3, 2003 meeting need to be reviewed and approved. He asked if there were any additions, deletions or corrections to the minutes. **MR. MATEJCZYK MOVED TO ACCEPT THE MINUTES OF JUNE 3, 2003 AS PRESENTED, AND MR. KAHLKE SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.**

Chairman Jirik outlined the protocol for this evening's agenda items. First, the petitioner, who is the individual proposing to do something with a particular parcel of land, will make a presentation. The petitioner will explain what he is seeking to do and how the proposal conforms to what the Village allows or does not allow.

Chairman Jirik continued, second, Village Staff will present its technical review and recommendations. The third step, the public participation portion of the hearing, is the time for those present, who desire to speak, to be heard. Chairman Jirik pointed out the proceedings are recorded in the form of minutes. He encouraged those wishing to speak to speak clearly and slowly so that detailed minutes can be provided. He explained those wishing to testify should state their name and address before beginning their testimony. Chairman Jirik asked those planning to speak to limit their comments to three minutes. He further advised that when everyone has had an opportunity to speak, people may speak for a second time as long as they do not repeat what has been said by previous speakers.

Chairman Jirik stated the final step is the Plan Commission's deliberation of the petition. Plan Commission members can and may ask questions of anyone who speaks regarding the petition so that they can fully understand an issue or concern. The Plan Commission will discuss the petitions and then make a motion to either grant approval or to deny the proposed lot reconfiguration.

**FILE NO. 1094      LOT RECONFIGURATION** – Properties are located on the east side of Roslyn Road, approximately 352.4 feet south of Chicago Avenue, commonly known as 4721 Roslyn Road, (PIN 09-09-106-023) and 4713 Roslyn Road (PIN 09-09-106-007; Nick and Ann Pancotto, Owners/Petitioners (4721 Roslyn Road) and David Drover, Owner (4713 Roslyn Road)

Chairman Jirik stated that the Plan Commission packet included a memo from the Village’s Staff Attorney as a result of an inquiry by Mr. Rathje asking for clarification of this petition. Chairman Jirik stated it is his understanding that the Plan Commission is not considering a petition to create a flag lot. This is a lot reconfiguration petition which is subject to Section 20.601(c) of the Subdivision Control Ordinance which states “if no exceptions are sought and the Plan Commission determines that such lot reconfiguration does not increase the non-conformity of the parcels involved, or increase an existing non-conformity on any individual parcel, the decision of the Plan Commission shall be final unless appealed by the Owner to the Village Council within ninety (90) days...” Chairman Jirik emphasized that the current flag lot provisions do not apply to this petition.

Chairman Jirik asked if there was a representative of the petitioner present and if so, to please come forward and give his full name and address before making his presentation.

Nick Pancotto, 4721 Roslyn Road, Downers Grove stated he owns 4721 and 4713 Roslyn Road. He explained that at the time he submitted this petition David Drover owned 4713 Roslyn Road. Mr. Pancotto indicated since then he has closed on the property. Mr. Pancotto stated he is a builder in town, and he lives at 4721 Roslyn Road (flag lot). Mr. Pancotto indicated he wants to make his yard bigger by adding the back 60 feet by 205 feet of 4713 Roslyn Road to his lot (4721 Roslyn Road). The front lot will remain at 60 feet by 200 feet. He will be able to build a very nice home on that parcel in step with what has already been built on the block.

Chairman Jirik asked Staff to make its presentation.

Mr. Rathje stated the petitioners are seeking approval of a lot reconfiguration petition involving property located at 4713 and 4721 Roslyn Road. The essence of the petition is a proposal to transfer the easterly 205 feet of the northerly parcel, 4713 Roslyn Road, to the southerly parcel, 4721 Roslyn Road.

Mr. Rathje explained that the 4713 Roslyn Road parcel has a width of 60 feet, a depth of 405 feet and an area of 24,315 square feet. This property is currently improved with a single family residence, an attached garage and two small frame sheds on the easterly portion of the property as depicted on the survey.

Mr. Rathje advised that the 4721 Roslyn Road parcel is a flag lot which was reviewed by the Plan Commission as File No. 1018 at its February 10, 1998 meeting. The Plan Commission forwarded a positive recommendation regarding this petition to the Village Council, and the Council approved the lot split creating the flag lot at its March 23, 1998

meeting with the adoption of Resolution 98-11. The flag lot has a pole section measuring 20 feet by 200 feet. The flag portion of the lot has a width of 120 feet and a depth ranging between 205.22 feet on the north and 205.36 feet on the south exclusive of the pole. The flag lot has an area of 28,634.8 square feet. Mr. Rathje noted that this property has been improved with a two story, single family frame and brick residence. The house is sited on the property in a diagonal fashion.

Mr. Rathje indicated the subject property is located within an R-4, single family zoning district. For existing lots, this zoning district has a minimum lot width requirement of 50 feet and a minimum lot area requirement of 7,500 square feet. Under Section 28-301 of the Subdivision Control Ordinance, any newly created or modified lots are subject to a minimum lot width of 75 feet, a minimum lot area of 10,500 square feet and a minimum lot depth of 140 feet.

The proposal is to transfer the easterly 60 foot by 205 foot section of the northerly lot to the southerly lot. The result would be that the northerly lot would be reduced in depth to 200.2 feet, and it will maintain a width of 60 feet. Its area will be 12,015.624 square feet.

Mr. Rathje stated the proposed modification to the lot does not have any effect on the existing net non-conformity of the lot width.

The proposed southerly lot, the flag lot, would maintain the same pole dimensions. The width of the flag portion will increase from 120 feet north to south to 180 feet north to south. The depth of the flag portion will continue at 205 feet. The area of the resulting southerly lot will increase to 40,934.8 square feet.

Mr. Rathje recalled that the small sheds currently sited on the easterly portion of the 4713 Roslyn parcel are located in a manner that would be consistent with the yard requirements of the Zoning Ordinance. There would be no necessity to obligate the petitioner to remove those sheds.

In light of modifications which were made to the provisions of the Subdivision Control Ordinance last year, Mr. Rathje explained he made an inquiry of the Legal Staff to determine if a lot reconfiguration involving a pre-existent flag lot would be regulated by the provisions of Section 20-302(d) which talks about the fact that you cannot create a flag lot by assembling lots that had not previously been lots of record. The Legal Department indicated that there is no provision of the Ordinance that would prohibit such action. Mr. Rathje acknowledged Chairman Jirik's interpretation that this petition is one over which the Plan Commission has authority. There are no variations requested or necessary, and there is no change to the net non-conformity of the lot width of the northerly parcel.

Mr. Rathje advised that the proposed modifications are ones which are consistent with development in the area. The area has some very large, deep lots and some smaller lots.

Mr. Rathje concluded the Planning Staff would recommend that the Plan Commission give due consideration to granting the proposed lot reconfiguration as requested.

As part of the public participation portion of the hearing, Chairman Jirik asked if there were any questions or comments from members of the audience.

Terry Hanson, 4525 Roslyn Road, Downers Grove asked, if this petition was approved, could the petitioner add to the current structure on the flag lot. Mr. Rathje responded that he could do an addition. He stressed that such an addition would be subject to all the normal rules and regulations.

As there were no further comments from the public, Chairman Jirik closed the public participation portion of the hearing .

Chairman Jirik next asked if there were any questions or comments from the Plan Commission members. Chairman Jirik noted if any of the members have questions regarding the Legal Department's memorandum or the language in Section 20-601(c) of the Subdivision Control Ordinance, it would be appropriate to bring them up at this time.

Mrs. Reynolds asked Mr. Hanson if he was worried about Mr. Pancotto putting an addition on to his home which is situated on the flag lot. Mr. Hanson stated he just wondered if it would be allowed. Mrs. Reynolds asked Mr. Hanson if he was aware if the current flag lot was a problem for the neighbors. Mr. Hanson commented that he has lived in the area for 15 years, and Roslyn Road is changing. Mr. Hanson noted his lot at 4525 Roslyn Road is 100 feet wide by 404 feet deep, and he might want to ask for the creation of a flag lot in the future. He pointed out that his lot is next to Mr. Johnson's lot which is the most recent flag lot approved on Roslyn Road. There is a house currently under construction on that flag lot.

Chairman Jirik emphasized that the flag lot was granted previously, and this petition is a reconfiguration of the flag lot and the parcel to the north of the flag lot.

Mr. Stark asked if there was a structure on the front lot of the flag lot at 4717 Roslyn Road. Mr. Rathje indicated there is a newer house. Mr. Pancotto stated he also built that home.

Mr. Waechtler asked if there was one or two sheds on the 4713 Roslyn Road parcel. Mr. Pancotto indicated there was one shed. Mr. Rathje stated the aerial photograph and the plat of survey showed two sheds.

Chairman Jirik advised that the Plan Commission's motion should be to either grant or to not grant the proposed lot reconfiguration. Mrs. Reynolds asked if the Plan Commission's action would be forwarded to the Village Council. Chairman Jirik emphasized that the action to be taken by the Plan Commission is not a recommendation but rather a motion to either grant or deny the lot reconfiguration.

Mr. Rathje stated if the Plan Commission would deny this petition, the petitioner would have the right to appeal the Plan Commission's action to the Village Council.

Mr. Nicholaou commented that the application states that David Drover is the owner of the 4713 Roslyn Road property. He asked if Mr. Drover was present. Mr. Pancotto explained that Mr. Drover no longer owns the property. At the time he applied for this lot reconfiguration, Mr. Drover was the owner of the property. Mr. Pancotto stated he has closed on this property. Mr. Rathje asked the petitioner to provide a letter of explanation for the file, and Mr. Pancotto agreed to provide such a letter.

As clarification, Mr. Stark asked if Mr. Pancotto owned 4713 and 4721 Roslyn Road. Mr. Pancotto responded he now owns both properties and lives at 4721 Roslyn Road. Mr. Stark asked Mr. Pancotto if he also owned 4717 Roslyn Road. Mr. Pancotto responded that he did own 4717 Roslyn Road at one time.

Mr. Waechtler asked if the Plan Commission should expect to see more of these reconfigurations of existing flag lots. Mr. Rathje pointed out that flag lots are almost always next to very deep lots. He noted it was possible.

Mr. Waechtler indicated he was concerned that somewhere down the road a reconfiguration could result in the creation of a flag lot. Mr. Rathje emphasized that cannot happen because of the way the Ordinance is now structured. A flag lot cannot be created from an assemblage of lots that did not exist as of last year.

Mr. Matejczyk stated the Plan Commission will see market forces perform exactly what is being requested with this petition. He commented that in his mind the value of the total lot at 4721 Roslyn Road increases significantly with very little decrease in the value of the lot at 4713 Roslyn Road. In his opinion, there will be requests for those kinds of adjustments within the bounds of the existing Ordinance in the future.

Mr. Rathje advised that he presented the proposed lot reconfiguration to the Fire Prevention Bureau, and in their opinion as long as another flag lot is not being created, there currently is all-purpose access to the existing flag lot.

Mr. Stark asked if the house on the 4713 Roslyn Road parcel will remain. Mr. Pancotto responded that the current house will be torn down and he will build a new house on that lot. For the record, Mr. Stark stated there are three houses on a parcel that in his mind would be better served with two houses on it. He would have rather seen the 180 foot wide lot divided into two 90 foot wide by 400 plus feet deep lots.

Mr. Waechtler asked if there was a fire hydrant relatively close to these lots. Mr. Pancotto noted the hydrant is located directly across the street. Mr. Rathje recalled that the existing flag lot was not developed under the terms of the current Ordinance, but it certainly meets the criteria.

Chairman Jirik asked if there were any further questions or comments. Hearing none, Chairman Jirik called for the motion.

**MOTION: WITH RESPECT TO FILE NO. 1094 – LOT RECONFIGURATION, MRS. REYNOLDS MOVED THAT THE PLAN COMMISSION GRANT THE REQUESTED LOT RECONFIGURATION AS THE AS THE EXISTING LOT WIDTH NET NON-CONFORMITY OF THE 4713 ROSLYN ROAD PARCEL WILL NOT BE INCREASED AND AS THE RESULTING REMAINDER WOULD EXCEED BOTH THE MINIMUM LOT AREA AND MINIMUM LOT DEPTH REQUIREMENTS AS PRESCRIBED BY SECTION 20-301 OF THE SUBDIVISION CONTROL ORDINANCE. THE PLAN COMMISSION GAVE DUE CONSIDERATION TO THE SIZE AND CONFIGURATION OF THE RESULTING 4721 ROSLYN ROAD PARCEL GIVEN THE FACT THAT THE PARCEL IS OTHERWISE CONFORMING TO ALL OF THE APPLICABLE STANDARDS FOR A FLAG LOT AND THAT THE RESULT OF THE PROPOSED CONVEYANCE OF A 60 FOOT BY 205 FOOT SECTION OF LAND FROM THE NEIGHBORING PARCEL WILL HAVE THE RESULT OF WIDENING THE "FLAG" PORTION OF THE LOT FROM 120 FEET TO 180 FEET AND WILL INCREASE THE OVERALL AREA OF THE FLAG LOT BY 12,300 SQUARE FEET TO 40,934.8 SQUARE FEET. MR. MATEJCZYK SECONDED THE MOTION.**

Chairman Jirik asked if there were any questions, comments or discussion regarding the motion. There was no response. Chairman Jirik asked for the roll call.

**ROLL CALL:**

**AYE: Mrs. Reynolds, Mr. Matejczyk, Mr. Kahlke, Mr. Nicholaou, Mr. Stark, Mr. Waechtler, Chairman Jirik**

**NAY: None**

**The motion passed unanimously.**

Chairman Jirik advised the petitioner that he will be hearing from Staff within a few weeks.

**PUBLIC HEARING: FILE NO. 1095 - ORDINANCE AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE, ZONING ORDINANCE – Amend the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals in accordance with Chapter 2 of the Municipal Code**

Chairman Jirik noted that the Plan Commission will be making a recommendation to the Village Council with regard to this petition.

Joseph Skach, Director of Planning and Community Development, said the legal notices of the public hearing for this evening's petitions were published in the Downers Grove Reporter, on Friday, June 13, 2003.

Mr. Skach said the Village Manager asked Staff to act as petitioner in this request for a text amendment which amends the powers and duties of the Zoning Commission, the Plan Commission and the Zoning Board of Appeals in accordance with Chapter 2 of the Municipal Code.

Mr. Skach noted the nature of this proposed amendment is administrative and procedural. The sole purpose is to amend certain sections of Chapter 28 of the Municipal Code so that it will be consistent with recent amendments to Chapter 2 of the Municipal Code regarding the powers and duties of the three regulatory land use bodies; the Zoning Commission, the Plan Commission and the Zoning Board of Appeals.

At their June 17, 2003 meeting, the Village Council adopted amendments to Chapter 2 of the Municipal Code which reduced the existing regulatory land use bodies from three to two. The Zoning Commission was decommissioned, and its responsibilities were delegated to the Plan Commission.

Mr. Skach explained the new structure is designed to facilitate two types of consideration of petitions:

The Plan Commission is charged to oversee, administer and shepherd the Comprehensive Plan and how subsequent development happens under that Plan. The Plan Commission will be the appropriate body to review particular types of petitions under the auspices of the Comprehensive Plan. The Plan Commission will be able to consider under a single petition various types of petitions whether they be planned developments in conjunction with special uses or in conjunction with certain and specific variations yet hear each request individually. Mr. Skach stated this will offer the Village increased control. As the Plan Commission has been having strategic planning discussions regarding specific areas within the Comprehensive Plan. There will be a currency of the Commission as to what the issues are and what are the desired outcomes.

Mr. Skach indicated the new procedure precludes, barring some very unusual circumstance, the petitioner having to go to more than one land use body. He commented this will help to streamline the process and make it more efficient. With respect to the Zoning Board of Appeals, Mr. Skach explained the Board will continue to shepherd a very critical and important function in the Village; that is, to focus on and address variations to the Zoning Ordinance. Mr. Skach stated the Zoning Board of Appeals will also hear appeals of determinations and interpretations of the Zoning Ordinance made by the Director of Planning and Community Development. Mr. Skach advised that every effort will be made to keep each Commission current on each other's activities so that both are aware of what is happening with regard to trends and types of decisions.

Mr. Skach concluded that the Planning & Community Development Staff recommends that the Plan Commission forward a positive recommendation to the Village Council regarding amending certain sections of Chapter 28 of the Municipal Code, Zoning Ordinance, to be consistent with Chapter 2 of the Municipal Code, Administration, Article IV, Boards and Commissions.

Chairman Jirik noted that there was no one present in the audience. He closed the public participation portion of the public hearing.

Chairman Jirik asked if there were any questions or comments from the Plan Commission members.

Mr. Nicholaou stated in reviewing the Staff report he noted that there was some expectation from the Village Council that the Plan Commission would become more involved in planning. He asked who would be establishing the format for this. He recalled that the Plan Commission members indicated their desire to become more involved in the planning process long before this proposed change. He asked if Staff had a format in mind that will direct the Commissioners to start doing this kind of planning.

In response to Mr. Nicholaou's first question, Mr. Skach responded that Chapter 28 of the Municipal Code-Zoning Ordinance will be the context for the Commission's powers and duties. Directly following that in Chapter 28 is the shepherding of the Comprehensive Plan. Mr. Skach pointed out that the Plan Commission is currently doing that now with its joint discussions with the Strategic Planning Subcommittee of the Economic Development Commission. Mr. Skach noted that site planning is done by petitioners. Mr. Skach clarified that the Plan Commission would not be involved in site planning as opposed to planning in the broader sense. He pointed out that neighborhood plans were developed after discussions of what types of developments could happen in certain areas. There is history and precedent for that within the Village.

Mr. Nicholaou asked whether the planning would be done in a public forum or in closed session. Mr. Skach indicated the Plan Commission would not undertake discussion in a closed forum. The Village Council has that option under very specific procedural rules.

Mr. Nicholaou stated with the additional duties proposed for the Plan Commission, it will be imperative to have more and frequent communication with the Village Council. Mr. Skach commented after the preliminary land use recommendations from the joint commissions are presented to the Council, there may be further discussions with the Council in a Workshop session.

Mr. Waechtler asked if in the future the Plan Commission may find it necessary to have workshop sessions. Mr. Skach responded that the Plan Commission has the flexibility to meet with other groups in a workshop format to talk about specific areas. He again cited the neighborhood plans as one example.

Chairman Jirik commented that this will be an exciting opportunity to engage in new endeavors that will utilize the expertise, knowledge and background of the Plan Commission members. Chairman Jirik expressed confidence that the appropriate forums will be defined in order to maximize the value of what is being asked of the Plan Commission members by the Village Council. The Plan Commission will now have the opportunity to do more than just hear petitions. He agreed with Mr. Nicholaou's comment regarding the necessity for good feedback from the Village Council so that the Plan Commission understands the Council's expectations.

Chairman Jirik asked if there were any other comments or questions. There were none.

Chairman Jirik reminded the Plan Commission members that any motion made should be in the form of a recommendation. Chairman Jirik then asked for a motion.

**MOTION: WITH RESPECT TO FILE NO. 1095, MR. NICHOLAOU MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL THAT THE COUNCIL AMEND CERTAIN PROVISIONS OF THE MUNICIPAL CODE RELATING TO THE ZONING COMMISSION, ZONING BOARD OF APPEALS AND PLAN COMMISSION AS PROPOSED BY THE LEGAL STAFF. MR KAHLKE SECONDED THE MOTION.**

Chairman Jirik asked if there were any questions or comments regarding the motion. There were none.

**ROLL CALL:**

**AYE: Mr. Nicholaou, Mr. Kahlke, Mr. Matejczyk, Mrs. Reynolds, Mr. Stark, Mr. Waechtler, Chairman Jirik**

**NAY None**

**The motion passed unanimously.**

Chairman Jirik closed the Public Hearing on File No. 1095.

**PUBLIC HEARING: FILE NO. 1096 - ORDINANCE AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE, ZONING ORDINANCE – Amend Section 28-1802(b). Authorized variations, yards**

Chairman Jirik noted the Village is the petitioner and asked Staff to make its presentation.

Mr. Skach explained that this amendment request proposes to amend the provisions of Section 28-1802 of the Zoning Ordinance, *Authorized Variations*, allowing owners or petitioners of properties in non-residential zoning districts to request variations from current required yard requirements.

Mr. Skach advised that this request is the result of and stems logically and consistently from discussions between the Plan Commission and Economic Development Commission (joint assembly) regarding updating the Future Land Use Plan and subsequent discussion on zoning related issues that will likely need to be addressed as the Village redevelops. This request also stems from other recent land use related discussion in the context of the Ogden Avenue Master Plan (OMP), and redevelopment initiatives along the Ogden Avenue corridor as well as other locations throughout the Village. Mr. Skach noted such practical difficulties as narrowness of lots, non-conventional configuration of lots and various lot reconfigurations that have developed over the years in older sections of the Village were also discussed.

Mr. Skach indicated the way the Ordinance is currently structured, there is a specific list of authorized variations. With respect to authorized yard setback variations, Section 28-1802(b) of the Zoning Ordinance currently places a limitation on the amount of a variation that a petitioner can request. This currently applies to all properties.

Mr. Skach recalled that over the past year we have been discussing the commercial districts and how to structure those commercial districts for economic success and at the same time have a positive relationship with the neighboring residents. This discussion brought out that there clearly was recognition that there are different types of parameters, constraints and needs for the residential community versus the commercial community. The residential community needs to be protected. Mr. Skach stated that is why Section 28-1802(b) of the Zoning Ordinance will remain the same with respect to residential zoning districts and will continue to limit the maximum variation to 50%.

Mr. Skach advised the Plan Commission that the Code talks about yards or what is commonly referred to as building setbacks. In the future, the Commission will probably see more discussion in terms of required yards because that is what the Code references. This is the distance between the property line and the face of the building. There is the issue of what can happen in those yards. Mr. Skach indicated as currently defined in the Code yards is an unobstructed space in the required yard.

Mr. Skach pointed out as the Code currently reads a parking area is not an authorized obstruction and would require a variation. Mr. Skach stated Staff recognized that has caused numerous difficulties in the context of requesting variations. He noted the criteria for requesting variations recognizes the ability to recognize practical difficulties or particular hardships.

As an example, Mr. Skach displayed an exhibit which showed the northwest corner of 63<sup>rd</sup> and Main Streets, the former site of the Lone Star Steakhouse. There have been discussions with several potential petitioners proposing several potential configurations of that property. Mr. Skach noted that site has been in an undeveloped state for quite some time. Mr. Skach stated the requirements laid upon this particular property creates a burden on petitioners who come in and want to put the property back into beneficial use. Mr. Skach pointed out that cars have historically been parked in what would be considered the required yard. Mr. Skach noted the proposed amendment would facilitate the ability for a petitioner to at least make the request to be able to use the area as it has been historically used. There are several other issues with regard to this parcel that may warrant a petitioner requesting consideration of certain practical difficulties.

Mr. Waechtler asked what a petitioner would need for that site that we cannot give them right now. Mr. Skach responded that the proposed amendment would allow the petitioner to request a variation for parking in the required yard. The way the Ordinance is currently structured, the required yard could not be reduced by more than one-half.

Mr. Waechtler asked if the retaining walls at that particular location caused some loss of any of the property. Mr. Skach indicated people who have looked at the possibility of redeveloping this site are verifying whether or not there is any loss.

Mr. Skach next displayed a representative site on Ogden Avenue. He noted it is not very large, and there have been several requests to put it back into beneficial use. He pointed out the requisite Ogden Avenue setbacks. In order to put this site back into productive use and respect the required yard setback, the parking lot area would have to be jogged. Mr. Skach pointed out an area like Ogden Avenue, where the development pressures are great and the cost and value of the land is high, forces petitioners and property owners to make physical arrangements that oftentimes do not make planning, engineering or economic sense.

With regard to the next slide, Mr. Skach stated, in consideration of these issues and in discussions with regard to landscaping and parking about Ogden Avenue in particular and other areas of the Village, this slide shows a potential scenario of how you can significantly green a piece of property by using trees, bushes and shrubs. The slide shows an eight foot minimum planting strip along and adjacent to rights of way consistent with other yard requirements.. Mr. Skach noted currently there are provisions in the Code for transitional yards between properties adjacent to residential and commercial districts. Mr. Skach stated the displayed example shows required parking islands with shade trees and curb bank so that there is no more than 20 spaces before a parking island is required. Mr. Skach commented that these are issues we will continue to look at because there are opportunities to significantly green a property in addition to or in conjunction with the percentages that are currently in use.

Mr. Skach stated should a petitioner come forward with a request for this type of variation to be able to allow parking in the setback, Staff would certainly work with that petitioner in terms of looking at addressing the minimum landscape and greenspace requirements based on the site but also that certain minimum are held so that we do not have a situation where blacktop meets sidewalk.

With respect to site considerations, Mr. Skach again referenced the Ogden Avenue slide which depicts a small site that has a number of overlying requirements such as landscaping. He noted that rebuilding such an old site is not unusual and in order to be able to meet setback and landscape requirements and other various Code provisions, readjustment or realignment of building location on the property may be warranted.

Mr. Skach commented that the proposed Section 28-1802(c) would allow the petitioner to make a request for a variation to the Council to reduce the side yard to be able to put commercial properties back to beneficial use.

Mr. Skach stated in consideration and deference to the original Code requirement regarding residential districts, if a commercial lot line were coincidental with residential properties, the 50% variation limitation would remain, and the yard could not be reduced

by any more than half. Mr. Skach noted currently in the downtown and other business districts a side yard is not required.

Mr. Skach indicated the two proposed refinements are to address parking and the ability to use sites productively subject to a comprehensive review by the Plan Commission and the Village Council.

Mr. Skach concluded that the Planning and Community Development Staff recommends that the Plan Commission forward a positive recommendation to the Village Council regarding amending Section 28-1802(b) Authorized Variations; yards of the Municipal Code.

Chairman Jirik thanked Mr. Skach for his presentation.

Chairman Jirik asked if there was any member of the public who wished to speak. Hearing no response, Chairman Jirik closed the public participation portion of the public hearing.

Chairman Jirik next asked if there were any questions from the Plan Commission members.

Mr. Stark stated when he sees an amendment regarding the non-residential districts, the question came to his mind would we be inviting Luxury Motor type of parking lots where every possible car that can fit on the lot will be there right up to the sidewalk, and our idea of greenspace will be iron fences and a potted plant.

Mr. Skach responded that the greenspace requirements are not proposed to be modified. Depending on the site, a principal use is required. Mr. Skach stated we will not endeavor to go in the direction Mr. Stark has suggested. Mr. Skach noted outdoor display will be given a closer look so that we do not have any loopholes.

Mr. Stark commented should we include this language we have a “may grant” this variation, and our standard is only to the extent necessary. This would be a subjective standard that the Plan Commission has to comply with when somebody seeks this type of a variation. Mr. Skach stated the current standards for variations as they are defined in the Ordinance will remain exactly the same.

Chairman Jirik pointed out the proposed change would provide the ability for an applicant to request up to the additional remaining 50%. Someone asked if that is currently in the Ordinance, and Chairman Jirik responded that the request can be from 100% down to 50%. The proposed change would allow a variation with zero setbacks if the site in question did not abut a residential property. The proposed variation would be subject to public process on a case by case basis and the nature of the application. Chairman Jirik stated if the proposed change is adopted, it would be an available but not a guaranteed relief.

Mr. Skach stated the proposed amendment endeavors to provide a balance between the best interests of the Village from an economic development aspect and public purpose of the Code in terms of protection of public health, safety and welfare.

Mr. Nicholaou referred to Mr. Rockwell's presentation to the joint EDC-Plan Commission meeting and asked if we do this, are we creating and encouraging more aesthetic development along Ogden Avenue. Mr. Nicholaou stated he perceives these proposed changes turning the Plan Commission into an architectural review committee, and commented that is not where he wants to be. He would prefer to see some type of minimum landscaping requirements that the Village wants to have created. He expressed the opinion that a petitioner should have to present some type of acceptable landscaping plan otherwise we are going to perpetuate what has occurred in the past which would not be consistent with the Plan Commission's and the Economic Development Commission's discussions.

Chairman Jirik stated if an applicant is going to propose zero yard, there are still life safety, fire prevention and aesthetic issues. He emphasized that just because something is available, does not mean it will be granted.

Mr. Nicholaou commented that the Village Council approved a streamlined Commission in order to help a builder and a developer get through the process. Mr. Nicholaou stated if we are going to grant them more space and the ability to expand, we need to give them landscape guidelines so that they do not end up coming to any Commission with a request for a variation that is 35% more than what is currently allowed, but their request does not have any greenspace.

Mr. Skach pointed out that the provisions for minimum landscaping on a site are not proposed to be altered. Landscaping requirements still have to be met irrespective of a request for a variation to allow parking in the required yard. Mr. Skach agreed with Mr. Nicholaou with respect to landscaping guidelines. He indicated that is an issue that we have been discussing. Mr. Skach commented the way the Code is currently structured in terms of straight percentages of greenspace on a lot does not address qualitative aspects that can be quantified. Turf can be installed and technically meet the requirement of greenspace as opposed to a Code that might contemplate such language as any parking lot adjacent to a public right of way shall have at a minimum an eight foot planting strip that shall include at a minimum a three foot high hedge, at a minimum a three to four inch caliper shade tree not more than 20 spaces at the end of each parking bank, a landscaped island at the end of each parking bank. Mr. Skach stated with such measures the visual increase or the "bang for the buck" would be more apparent than just straight percentages. Mr. Skach commented we may currently be missing a qualitative aspect to our landscape criteria.

Chairman Jirik asked if proposed Section 28-18092(d) opens up the possibility to request parking within any required yard. Would such a request remain in the purview of the Plan Commission to limit it to either part of the side or front yard or all of the yards on a

case by case basis. Mr. Skach agreed that the intent is to review such variation requests on a site by site basis.

Mr. Waechtler referred to Section 28-1802(e) of the current Ordinance which is a 10% increase in height. He asked if we are running into petitioners who are needing to go higher with their proposed buildings. Mr. Skach stated the height variation which is currently in Section 28-1802(c) is not being considered in this amendment.

Mr. Skach clarified that the items which are double-underlined are the only ones being added, the balance currently exist.

Mr. Nicholaou asked Mr. Skach if he could give the Plan Commission members an example of a residential property which could request up to a 50% yard variation. Mr. Skach explained while he does not have a specific example, the sensitivity to neighbors is often considered higher in residential districts. He stated a side yard is a more typical example based on the height of a residence that someone may be proposing. Currently there are specific requirements in terms of how wide the side yard has to be based on the height. Mr. Skach suggested that a builder might request such a variation to go to the five foot minimum side yard because in his opinion he cannot do a reasonable sized house and meet the current Code requirements because of the narrowness of the site.

As an example, Mr. Nicholaou cited properties on Highland Avenue and Rogers, where the back yards are literally parking lots for properties on Main Street. Mr. Nicholaou stressed that is the kind of usage the Plan Commission should not be encouraging. He gave another example of an insurance business on Main Street that has a big sign on the back of its building which abuts a residential area. Mr. Nicholaou indicated the Village should not be allowing those types of loopholes. He emphasized that as the Village works very hard to improve the aesthetics of the commercial areas, the residential areas cannot be neglected.

Mr. Skach pointed out that the concentrated business district overlay for the downtown area significantly adjusts many aspects with respect to parking, yards, etc.

Mr. Rockwell was recognized, and he stated he could give some examples; Walgreen's at Main and Ogden backs right up to residential as does Steak and Shake on Ogden Avenue.

Mr. Waechtler asked Mr. Skach if the Plan Commission recommends approval of a variation for one petitioner will that create any precedent or legal problems if a different petitioner requests the same variation on his site. Mr. Skach stated whether variation requests are called variations or exceptions as the Plan Commission is used to hearing with regard to subdivisions, they do the same thing procedurally. By their nature, variations as they are defined do not require the Commission or the Council to approve or deny one based on what they did with regard to a previous variation request even if they are similar.

Chairman Jirik noted that the Plan Commission will want to create a good record that shows the rationale for recommending a variation. The Plan Commission will not be prejudiced in any particular case to say yes or no. Each case will be heard on its own merits.

Mrs. Reynolds asked if there is any consideration being given to modifying the floor area ratio. Mr. Skach responded there has not been any discussion with regard to floor area ratios.

Chairman Jirik complimented the Commissioners on a good discussion. Chairman Jirik called for a motion.

**MOTION: WITH RESPECT TO FILE NO. 1096, MR. WAECHTLER MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL REGARDING THE PROPOSED AMENDMENT TO CHAPTER 28 OF THE MUNICIPAL CODE ZONING ORDINANCE SECTION 28-1802 VARIATIONS. MRS. REYNOLDS SECONDED THE MOTION.**

Chairman Jirik asked if there was any discussion regarding the motion or any question regarding its intent. There was no response.

**ROLL CALL:**

**AYE: Mr. Waechtler, Mrs. Reynolds, Mr. Kahlke, Mr. Matejczyk, Mr. Nicholaou, Mr. Stark, Chairman Jirik**

**NAY: None**

**The motion passed unanimously.**

Chairman Jirik stated this recommendation will be forwarded to the Village Council for further action.

Chairman Jirik closed the Public Hearing on File No. 1096

Chairman Jirik announced the next joint meeting with the Economic Development Commission will be Monday, July 14, 2003 at 7:00 p.m.

Chairman Jirik asked Staff to advise the Plan Commission members of upcoming petitions. Mr. Skach indicated future petitions could include Luxury Motors, Saab and Good Samaritan Hospital. Mr. Skach suggested the Plan Commission might want the Hospital people to chat with them in a workshop discussion format to revisit their Master Plan.

Chairman Jirik noted he will be on vacation the week of August 4<sup>th</sup> and will not be present at the August 5, 2003 Plan Commission meeting.

As there was no further business, Chairman Jirik called for a motion to adjourn. **Mr. McCormick moved to adjourn the meeting, and Mr. Nicholaou seconded the motion. The motion passed unanimously.**

The meeting adjourned at 9:15 p.m.