

Chairman Jirik called the October 18, 2004 meeting of the Plan Commission to order at 7:30 p.m.

**ROLL CALL**

**PRESENT:** Mr. Matejczyk, Mr. McCormick, Mr. Nicholaou, Mr. Quandt, Mrs. Rabatah, Mr. Waechtler, Chairman Jirik

**ABSENT:** Mr. Griesbaum, Mr. Stark

**STAFF**

**PRESENT:** Keith Sbiral, Current Development Planner  
Amanda G. Riordan, Interim Director  
Alice Dorman, Recording Secretary

Chairman Jirik indicated the first order of business is review of the August 16, 2004 draft Plan Commission minutes. He asked if there were any additions, deletions or correction to the draft minutes. **MR. WAECHTLER MOVED TO APPROVE THE PLAN COMMISSION MINUTES OF AUGUST 16, 2004 AS WRITTEN, AND MR. MATEJCZYK SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.**

For the benefit of the members of the audience, Chairman Jirik noted there are copies of the Staff Reports on the shelves on each side of the Council Chamber.

Chairman Jirik explained the purpose of the Plan Commission is to conduct public hearings in order to put together information consisting of testimony from members of the public, technical assessment by Staff and questions and comments from Plan Commission members to provide a body of information to the Mayor and the Village Council.

Chairman Jirik outlined the protocol for this evening's agenda items. As Chairman, he will call the public hearing to order. 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.

Second, Village Staff presents its technical review and recommendations. Chairman Jirik advised this presentation assesses what is being requested relative to the Ordinances, Codes and other Village requirements.

The third step, the public participation portion of the hearing, is when members of the public are afforded an opportunity to speak. Chairman Jirik further explained questions could be asked of Staff. As a matter of procedure, Staff gathers all the questions to be addressed sequentially upon completion of public comment.

Chairman Jirik pointed out the proceedings are recorded to assist in the preparation of the minutes. He encouraged those wishing to speak to come to the podium where there is a microphone, to speak clearly and slowly and state their name and address before beginning their testimony so that detailed minutes can be provided. Chairman Jirik asked anyone who testifies to remain in the Council Chambers in the event the Plan Commission members want to address specific questions to them in order to fully understand an issue or a concern.

Chairman Jirik stated the final step is the Plan Commission's deliberation of the petition. When deliberation is over, a motion is presented. Chairman Jirik explained the motion can be to either recommend approval based on the information provided, it can be to recommend approval with changes or revisions or it can be to recommend denial.

The recommendation, along with the minutes, exhibits, etc., is forwarded to the Mayor and the members of the Village Council for further processing. Chairman Jirik explained there are four items on this evening's agenda.

Chairman Jirik noted the Plan Commission would be acting in an advisory mode with regard to this evening's petitions.

**FILE NO. PC-10-04** – Petition seeking a lot split with variations – Property located on the west side of Main Street, approximately 175 feet south of 55<sup>th</sup> Street, commonly known as 5512 Main Street, Downers Grove, IL (PIN 09-17-101-030); Susan Estall, Petitioner; Susan & Martin Estall, Owners

Chairman Jirik asked if there was a representative of the petitioner present.

Susan & Martin Estall, 5512 Main Street, Downers Grove, stated they are requesting a division of their property. They initially came before the Plan Commission because they were hoping to move the Lyman House from 806 Maple Avenue to their property on Main Street to save it from being torn down. When it was determined the Lyman House would not be torn down, they decided they wanted to continue with the lot split process.

Mrs. Estall asked if she would have a chance to respond to anything that is presented or if this was their only time to speak. Chairman Jirik responded typically the Plan Commission members may ask questions, but what they look for is a presentation by the petitioner that gives a full outline of the nature of their request. If, in the Commission's judgment, there are substantive questions, they would be addressed to the petitioner.

Mrs. Estall stated they are planning to live in their current 1906 house and have a new house built next door. Mrs. Estall explained they have their own criteria for what could be built next door as they plan to live in their house long term. They want a house that is appropriate for the lot. Mrs. Estall indicated they are concerned as many people are regarding the size of homes that are being built. Mrs. Estall stated they have been talking to a developer about what they can put on that property. Mrs. Estall commented they do not want the proposed house sited behind their house, and they want it to be set back

further from the side lot line than the required five feet. Mrs. Estall indicated they want this new home to fit into the character of the neighborhood particularly next to their house. They would like to see a turn of the century style home as there are a number of homes on their block that were built around the turn of the 20<sup>th</sup> century.

Mrs. Estall acknowledged there are several issues with their lot. Mrs. Estall stated the recorded plat of survey shows the dimensions of the lot to be 120 by 300, but their plat of survey shows the dimensions a little bit smaller. Mrs. Estall indicated they did not know this was an issue until several weeks ago. Mrs. Estall submitted a final grade survey and noted even though it was prepared by the same engineering firm, the dimensions on this survey are different than the dimensions on the plat of survey. Mrs. Estall expressed her understanding that the most important survey is the recorded survey, which shows the dimensions as 120 feet by 300 feet. She said that Mrs. Riordan advised her that the difference between the surveys is three-quarters of an inch. Mrs. Estall stated the final grade survey shows the depth as 300.12 feet and the width as 119.98 feet and 119.97 feet. Mrs. Estall acknowledged their understanding that the property will have to be resurveyed.

Mrs. Estall stated there also is an issue with their pond. Mrs. Estall explained they moved their house to this location in 1998. When they purchased the property, they were told by someone in Public Works, who is no longer employed with the Village, that the pond on their property was a retention pond. When they moved the house onto this parcel, there were no requirements for them to do anything with regard to any kind of wetland. They received an occupancy permit and approximately one and one-half to two years later she came home to discover individuals on her property. When she asked who they were, she found out that it was a Public Works employee and a wetlands consultant from PRI. She asked what they were doing on the property and that was the first she ever heard of the pond potentially being a wetland. She started to recall accusations from these individuals, and the Chairman interrupted her. Chairman Jirik advised hearsay testimony is not something the Commission engages in, thus references to what someone said are not the kinds of things the Plan Commission can entertain unless you have evidence that the person actually said that or if you can produce the person to have them say it. Chairman Jirik stated an individual testifying before the Plan Commission cannot attribute words to someone who is not here to verify as it is not something the Commission can substantiate.

Mrs. Estall asked if it was alright for her to state someone came on her property, and Chairman Jirik agreed.

Mrs. Estall noted it was at that time the wetland situation began. She recalled at that point they were open to a discussion regarding the wetland. Mrs. Estall advised she thought a wetland was a swampy area with cattails. During the discussion, they learned having wetlands on their property could affect their property value and their private property rights. Mrs. Estall further advised they were aware that there was an easement on the property giving the Village the right to come on the property if they provided 24 hour notice prior to doing so. They received a letter which stated the Village wanted to

come onto their property to delineate the wetland. Mrs. Estall stated at that point they contacted a lawyer who told them that Code was not appropriate. That Code is for checking a retention pond. It is not a Code for delineating a wetland.

Mrs. Estall further advised that the Building Department granted them an initial permit to build a garage, but the process of moving and renovating the house took longer than one year. They asked for an extension to that garage permit, but it was not approved because of the issue with the pond.

Mrs. Estall indicated since that time everything has been at a standstill. They are trying to protect their private property rights. Mrs. Estall noted she has talked to different people and has learned more about wetlands than she cared to know.

Mrs. Estall advised the neighbor's property to the south is also on that retention pond. Their property has about one-eighth of the pond. The neighbors applied for a garage permit which was approved, and the garage was built.

Mrs. Estall further explained when the proposed demolition of the Lyman House came up, they figured the issue of the wetlands had been resolved because their neighbor, who was also on the pond, had obtained a building permit for their garage.

Mrs. Estall recalled dialogue with Jon Hall where he indicated the proposed location of the Lyman House should not be an issue even if the pond is delineated a wetland. Mrs. Estall noted they have had two meetings with Public Works in the last two months. In both of those meetings, there was dialogue about it being a retention pond which is what they were told when they first moved their house onto this property. Mrs. Estall stated she still believes it is a retention pond.

Mrs. Estall stated since then she has talked with Clayton Heffter, DuPage County, who oversees wetlands. She told him about the easement the Village has in order to get onto the retention pond. He advised her if she could show the Village any documents showing this easement that would be a good reason to say it is a retention pond and not a wetland. DuPage County does not have any jurisdiction over a retention pond. If it is a wetland, then the County audits the Village so the Village has to be concerned.

Mrs. Estall explained it was her understanding that Mr. Hall was going to handle all of this and obtain a determination which has not been done at this point.

Mrs. Estall stated all this background information is her explanation as to why they are not as prepared as they would like to be at this point in time. She is hoping these issues can be resolved so that they can obtain a building permit for their garage and develop the other half of the property with a nice home that would fit into the street. Mrs. Estall indicated she thought this was the last potential lot on this section of Main Street. Mrs. Estall noted behind their property there are lots that were originally platted at 120 feet and a long time ago were divided into 60 foot wide lots.

Mrs. Estall advised the Commission that the neighbors to the north and south of their property know they are going forward with this request for a lot division, and they are not opposed to it. She noted they are not here in opposition to this petition, and they will be the ones most affected by the proposed lot split.

With regard to the history of the pond, Mrs. Estall stated Mr. Heffter, DuPage County, recommended she talk to a consulting firm. Mrs. Estall advised she was finally able to talk to someone today who recommended a consulting group in Geneva who might be able to give them more information.

Mrs. Estall commented she thought the Village would have sorted out this issue by now. She acknowledged she is going to have to do more homework.

Mrs. Estall next referenced her letter which is contained in the Commission packet. This letter refers to some of the legal aspects as well as the criteria that must be met for a lot split. Mrs. Estall stated after talking with Mr. Hall, even if there is a wetland buffer the location of a house on the proposed lot would not impact the wetland because it would be on the front of the property. Mrs. Estall stated the proposed lot split meets the criteria in Section 20-601 of the Subdivision Control Ordinance.

Mrs. Estall stated their goal is to protect the back of their property. She advised the retention pond functions very well and explained there is a pipe that comes from the street and goes through the property and into the pond. When it rains, the pond fills up with runoff from the street. She noted there is piping at the rear of the pond where water flows further south.

Mrs. Estall explained she did not know what else needed to be done until just the last few weeks. In her opinion the only outstanding issue is whether the pond is a retention pond or wetlands. Mrs. Estall told the Chairman her presentation was completed and asked him if the Commission would have questions of her at this time.

Chairman Jirik explained the Commission hears Staff's report and any questions or comments from members of the audience before addressing questions to the petitioner, Staff or members of the audience.

Chairman Jirik asked Staff for its review and analysis.

Mrs. Riordan stated the subject property is located on the west side of Main Street approximately 175 feet south of 55<sup>th</sup> Street. The property is zoned R-3, Single Family Residence and is occupied by the petitioners' single family residential home located on the southern portion of the property. The petitioners are seeking to divide the 120 foot wide parcel into two approximately 60 foot wide single-family residential lots.

Mrs. Riordan advised in its existing condition the subject property is 35,944 square feet, or approximately 0.82 acres. The petitioner is proposing to divide the property as indicated and certain exceptions pertaining to the lot width requirement of each proposed resulting parcel are being requested by the petitioner.

As was noted in the Staff report and by the petitioner, Mrs. Riordan advised because there is a discrepancy between the surveyed and recorded dimension as compared to the dimension as measured in the field by the petitioner's surveyor, Staff is recommending that the petitioner, as part of any recommendation from the Plan Commission, submit a registered surveyor's confirmation that the subject property is in fact 120 feet in width and, therefore, the division will not result in any parcel that is less than 60 feet in width. Mrs. Riordan also noted legal descriptions of the proposed resulting parcels would eventually have to be prepared and recorded by the petitioner. Those legal descriptions would also have to be submitted for review. Staff is recommending that current Plats of Survey including legal descriptions of the proposed resulting lots be submitted for review prior to Council's consideration of the requested Lot Split.

With respect to the proposed Exceptions pertaining to lot width, Mrs. Riordan advised each lot would measure approximately 60 feet in width which is 20% less than the minimum requirement of 75 feet in width for all newly created parcels and for parcels in the R-3, single family residential zoning district. Mrs. Riordan noted the Staff report included a description of the lot sizes of the surrounding neighborhood, as well as an outline of the standards of approval for the Commission's consideration of the requested Exceptions.

With respect to the Public Works review of the proposed lot split as outlined in the Staff report, Mrs. Riordan advised Public Works is recommending certain conditions be satisfied prior to Council's consideration of the proposed lot split. Specifically regarding stormwater management and wetlands related issues, Public Works is making three basic recommendations :

1. That a complete stormwater submittal including a wetlands mitigation plan pertaining to the pond located on the subject property be submitted by the petitioner.
2. That a Plat of Easement be submitted by the petitioner to establish a conservation easement over the existing pond area; and
3. That the same Plat of Easement include drainage and utility easements along the side and rear property lines which is typical for lot splits and also over any existing or proposed storm sewers.

Mrs. Riordan stated, given the potential impacts of the outstanding issues related to stormwater management and wetlands, the Staff Development Team is recommending that these issues be resolved prior to the Council's consideration of the proposed Lot Split.

Should the Plan Commission wish to forward a favorable recommendation to the Village Council regarding the petitioner's proposed lot split, Mrs. Riordan indicated Staff would recommend the four conditions outlined in the Staff Report be considered

Upon conclusion of the Staff report, Mrs. Riordan noted a representative of the Stormwater management division is here this evening should there be a need to address any questions regarding that aspect of the petition.

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

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

Mr. Matejczyk stated there appears to be two basic outstanding issues before the Plan Commission can consider this petition. One of the issues is the survey, and Mr. Matejczyk noted this is a minor issue considering the size of the discrepancy. However, the wetlands/stormwater issue appears to be significant. Mr. Matejczyk questioned whether the Plan Commission can go forward with a determination without getting some answers. Chairman Jirik commented he shared those concerns. Chairman Jirik stated the Plan Commission has an obligation to do the fact finding as diligently as we can. Chairman Jirik stated it is incumbent on the Commission to have a solid command of the issues in order to provide a good package for the Mayor and Council. Chairman Jirik expressed the opinion that the width was very important. Sixty feet has certain connotations, and this particular proposal is very close to that. Not knowing the correct size of the parcel and not knowing answers to these other questions leaves open the possibility that something critical or material could come up at a later date and would not have been discussed at this hearing.

Mr. Waechtler also concurred with Mr. Matejczyk and the Chairman. Mr. Waechtler expressed concern regarding stormwater management. Mr. Waechtler recalled the petitioner has been before the Plan Commission with this lot split petition several times previously. He asked Mrs. Riordan how many times this petition has been continued. Mrs. Riordan responded the first request for a continuance was the result of not having to relocate the 806 Maple Avenue home, and a subsequent continuance was the result of a suggestion by Staff due to unresolved issues pertaining to the pond. Mr. Waechtler expressed his opinion that the petitioner has had enough time to resolve these issues. Mr. Waechtler asked Mr. Hall how long the petitioner has been working with him on these issues.

Mr. Hall, Stormwater Administrator Public Works Department, stated he did not have the timetable in front of him but acknowledged they have been talking about this for a while. The issue was originally brought up several years ago during an audit by the County. The issue went through periods of activity and inactivity. In 2001 this issue was brought to the forefront when the Village was placed on probation by DuPage County for stormwater management. The Village is committed to resolving some of the old ways of doing things. Most of the issues had to do with documentation of wetlands. The Village has been working with the consultants to resolve all these old wetlands issues off and on based on available budgeted money. Mr. Hall advised they have looked at over 100 properties in the Village and identified those that had documentation issues. In December 2002 around the time the Village was released from probation and our full waiver status with the County to enforce the Ordinance was reinstated, the Village submitted a report to the County. Mr. Hall noted beyond that point they have continued

to finish off and try to complete the old wetland audit issues. Mr. Hall advised the Estall's property is one of the more significant outstanding issues.

Mr. Hall advised since the consultant was on the Estall's property in 1999 the Village has operated under the assumption there was potentially a wetland there. Mr. Hall recalled they were not allowed to go onto the Estall's property after a certain date.

Mr. Hall stated when this lot split proposal came forward, they started working actively with the petitioner to see what could be done to resolve those old issues and finalize their report to the County. Mr. Hall noted they have made some progress. In June of this year they were allowed on the site with PRI, the consultant who did the assessment. The consultant confirmed there is a small wetland that basically rings the pond. Mr. Hall indicated they wanted to go forward on that assumption, but it was his understanding that there was some concern on the petitioner's part as to how far the Village should go and which should come first, the Plan Commission process or the resolution of these stormwater issues. Mr. Hall stated they are getting close on the stormwater issues. The consultant will have to go back onto the site one more time, and they have been trying to schedule that visit for the past week or two. Mr. Hall expressed the hope that would be accomplished fairly soon so that they can make a final judgment as to what has to be done. If it is confirmed that only the wetland buffer, the 50 foot zone around the wetland, is impacted and not the wetland itself, he did not think mitigating for that will be a very large issue. It may involve planting some additional wetland or native prairie plants around the perimeter of the pond. Mr. Hall indicated Village Staff would help with that in any way they could.

Mr. Hall stated Staff is often faced with the question of how far they should proceed through the public petition and Village Council process. Mr. Hall stated they do not want to see the lot split prior to resolving these wetland issues because then the Village's ability to resolve these issues would be diminished.

Mr. Matejczyk stated Mr. Hall's information was interesting but pointed out this is not an issue the Plan Commission can resolve. Mr. Matejczyk strongly expressed his opinion that the issue needs to be resolved outside of the Plan Commission and then the lot split petition should be presented to the Plan Commission.

Mr. Nicholaou concurred with Mr. Matejczyk and added he is also concerned about the number of 120 foot wide lots up and down and surrounding the subject property and the current tenor of the Village Council.

Chairman Jirik advised there is one other motion available to the Plan Commission which is a motion to continue to date certain given the Commission's desire for additional information. Should the petitioner chose not to present that information, the options are to direct the Plan Commission to proceed without that information or withdraw the current petition. Chairman Jirik stressed the Plan Commission needs to know whether or not there are material facts relative to this petition which have not been presented. Chairman Jirik advised that if a motion is made to continue the petition, the motion has to

be specific with regard to what the Plan Commission is looking for in terms of unanswered questions.

Mr. McCormick asked Mr. Hall, given the amount of work he would have to do with the petitioner, how long would it take to get the wetlands issue resolved.

Mr. Hall stated it is hard to estimate because it is possible that some new information could develop. Best case scenario if there are no further impacts to what they have already seen on the site, it is a matter of developing a wetland buffer mitigation plan and getting that through the approval process. Typically, that is the responsibility of the developer or the petitioner. Mr. Hall stated it will depend on the availability of the Village's consultants. Mr. Hall expressed his belief that one month would not be enough time, but it is possible to be done in two months.

Mr. McCormick noted if the Plan Commission were to continue the petition, but given the fact this petition has been continued twice already, the Commission would have to firmly state this would be the last continuation. Mr. McCormick stressed the importance of giving the petitioner and Staff enough time to get everything done.

Mr. Nicholaou asked if the Commission has to continue the petition to a date certain or could the Commission send the petition back to be completed and when all information is gathered to Staff's satisfaction, place the petition on the next agenda?

Chairman Jirik stated that could not be done. A public hearing notice has been published in the paper, established and called to order the first hearing. At that point, the process began. The petitioner has the option to withdraw their petition and start over or continue. Chairman Jirik advised if a petition is continued, it has to be to a date certain otherwise all those requirements are triggered.

Mr. Waechtler asked if a date certain means a specific date. Chairman Jirik responded it could be the next regularly scheduled Plan Commission meeting or a regularly scheduled meeting in a specified month because that can be determined with certainty.

Mr. Nicholaou stated the next regular meeting would not be fair to the applicant. Mr. Nicholaou asked Mr. Hall if 60 days was a reasonable timeframe. Mr. Hall responded it is necessary to keep in mind all of the materials that have to be prepared once they are in receipt of the information and have reviewed it. He noted two months is possible, but it would not be easy.

**MOTION: WITH RESPECT TO FILE NO. PC-10-04, MR. WAECHTLER MOVED THAT THE PLAN COMMISSION MOVE THIS PETITION TO A DATE CERTAIN, THAT DATE BEING JANUARY 17, 2005 WITH THE FOLLOWING PROVISIONS; 1) SUBMISSION OF A COMPLETE STORMWATER SUBMITTAL INCLUDING a) A WETLANDS ASSESSMENT; b) THE DELINEATION OF CONSERVATION EASEMENTS OF THE EXISTING WETLAND POND AREA; AND c) THE DELINEATION OF**

**DRAINAGE AND UTILITY EASEMENTS ON A PLAT OF EASEMENT; AND 2) SUBMISSION OF PROFESSIONALLY PREPARED PLATS OF SURVEY OF EACH PROPOSED LOT PROVIDING AND CONFIRMING THE DIMENSIONS AND LEGAL DESCRIPTIONS OF EACH PROPOSED LOT. MR. MATEJCZYK SECONDED THE MOTION.**

Chairman Jirik asked if there were any questions regarding the motion. Mr. Waechtler asked Staff if his motion covered everything that needs to be accomplished with regard to stormwater management, plats of survey, etc. Mrs. Riordan responded affirmatively, nothing that those are the things Staff would have recommended that the petitioner present before the petition would be forwarded to the Village Council.

Chairman Jirik asked if there was any further discussion, questions or clarification. Hearing none, he asked for a roll call.

**ROLL CALL:**

**AYE: Mr. Waechtler, Mr. Matejczyk, Mr. McCormick, Mr. Nicholaou, Mr. Quandt, Mrs. Rabatah, Chairman Jirik**

**NAY: None**

**The motion passed unanimously.**

Chairman Jirik explained this is a motion to continue, and the Plan Commission will pick up this petition again at its regular January meeting, January 17, 2005.

**FILE NO. PC-19-04** – Petition seeking approval of a lot split to include lot width exceptions – Property located on the east side of Cornell Avenue, approximately 515 feet north of Warren Avenue, commonly known as 4913 Cornell Avenue, Downers Grove, IL (PIN 09-07-107-014); David B. Sosin, Attorney/Petitioner; Myrna A. Dryfhout, Owner

Chairman Jirik called the Public Hearing to order and asked if there was a representative of the petitioner present.

George Arnold, 11800 S. 75<sup>th</sup> Avenue, Palos Heights, stated he is a partner with David B. Sosin in the law firm of Sosin, Lawler & Arnold. He noted Mr. Sosin could not be present this evening. Mr. Arnold advised the owner, Myrna Dryfhout, is present as is the principal of Clairmont Real Estate Group, Patrick Franz, the would-be builder for this project.

Mr. Arnold stated they are seeking a lot split of 4913 Cornell. The current lot is approximately 120 feet wide by 300 feet deep. They are proposing a lot split which would result in two lots each being approximately 60 feet wide and 300 feet deep.

Mr. Arnold addressed the criteria the Plan Commission must consider in making a decision regarding this petition.

1. The extent to which the proposed exception impacts on the value or reasonable use of surrounding properties;

Mr. Arnold noted almost all if not all of the properties on this block of Cornell are 60 feet wide. Mr. Arnold presented the Sidwell map with the petitioner's lot highlighted in pink and the other 60 foot wide lots are highlighted in yellow. Mr. Arnold stated the lot shown in white with a 120 foot width has since been split into two 60 foot wide lots. He noted this is a dramatic representation of how the proposed lot split would not impact the surrounding properties but will, in fact, become consistent with the surrounding properties.

2. Whether the exception is consistent with the trend of development in the area and the surrounding uses;

Mr. Arnold noted it is more than consistent, and it will become the exact same as the surrounding uses.

3. The characteristics of the property which support or mitigate against the granting of the exception;

Mr. Arnold stated there are several things which support the granting of this Exception. He referred to the exhibit displayed on the overhead screen and noted the existing house is set back whereas all the properties up and down the block are set forward. When this house is razed, the two new houses would be constructed in line with the other houses on the block, making this lot consistent with the rest of the block. Mr. Arnold noted the new lots would still be R-3, single family, and they would exceed the minimum square footage lot requirement by over 71%. These new lots would exceed the lot depth by 114%; the required depth is 140 feet, and the depth of these new lots would be 300 feet.

4. Whether the exception is in conformance with the general plan and spirit of this Chapter;

Mr. Arnold stated building two houses that are consistent with the rest of the neighborhood would always be in the spirit of any zoning code. It is good planning, and it makes sense.

5. Whether the exception will alter, or be consistent with, the essential character of the locality.

Mr. Arnold pointed out as Staff's exhibit and the Sidwell map demonstrate; the two new lots will be exactly consistent with the rest of the neighborhood.

Mr. Arnold submitted two letters of support from the home owners at 4921 Cornell Avenue, Erik and Maureen Kunz and 4919 Cornell Avenue, Ron and Sandra McReynolds.

Mr. Arnold again stated that the builder is present to answer any questions the Plan Commission members might have with regard to the type of houses he is proposing to construct on the two lots.

Chairman Jirik asked for Staff's presentation.

Mr. Sbiral stated this is a lot split request, and each lot will result in a 60 foot wide lot, which will require a 20% or 15 foot Exception from the 75 feet required by Code. The lot is currently zoned R-3, Single Family Residence and the proposed lots will retain the existing R-3, Single Family Residence zoning designation, which is consistent with the existing Future Land Use Map designation of Residential at 0-6 dwelling units per acre. The resulting density would be 0.41 dwelling units per acre.

Mr. Sbiral explained the subject property is approximately 36,024 square feet. The two resulting lots would each be approximately 18,015 square feet, and as the petitioner noted, both in excess of the 10,500 square foot minimum area requirement as well as in excess of the 140 foot depth. Exceptions from the minimum lot width requirement of 75 feet would be required for each proposed lot.

With respect to stormwater management, Mr. Sbiral advised that Jon Hall, Village Stormwater Engineer, is here this evening if the Plan Commission has any questions of him. Mr. Sbiral noted there were specific stormwater drainage and grading design requirements spelled out in the Public Works memo with regard to the drainage ditch in the front of the lot to convey water from the north to the south which must be implemented.

Mr. Sbiral pointed out that the Exception standards were detailed by the petitioner in his presentation. Mr. Sbiral noted the Staff Report states the existing house would have to be demolished in order to build on the two new lots, and he added that the demolition was not included in Staff's recommendation.

Mr. Sbiral pointed out there was a memo in the Plan Commission packet which outlines the lot splits over the last five years. Mr. Sbiral referenced the parcel that the petitioner pointed out on the Sidwell map and advised that lot had been split in 2002 with the same exception as this petition.

Mr. Sbiral stated should the Plan Commission decide to forward a favorable recommendation to the Village Council regarding the petitioner's Requested Action, Staff recommends the following conditions be considered:

1. Compliance with all Public Works requirements and conditions as outlined in their September 23, 2004 memorandum;

2. Any changes to the conditions represented by the Petitioner as the basis for this petition, whether those changes occur prior to or after Village approval, shall be promptly reported to the Village. Changes may require additional review of the proposed Lot Split and/or Exceptions; and
3. This recommendation is further conditioned that it is the Petitioner's obligation to maintain compliance with all applicable Federal, State, County and Village laws, ordinances, regulations, and policies.

Mr. Sbiral concluded by stating he would be pleased to answer any questions from the Plan Commission members.

Chairman Jirik asked if there was anyone in the audience who wished to speak for or against this petition.

Jerry Ronspies, 4909 Cornell Avenue, stated his home is on the north side of the property being split. Mr. Ronspies stated Cornell Avenue is on a long, sloping hill, and his home, the subject property and the McReynolds near or at the bottom of that hill. High ground is to the north. Mr. Ronspies commented drainage has always been an issue altering storms as well as sump pump discharges. Mr. Ronspies asked when these lots are developed will the Village require the builder to provide drainage systems both during and after the construction period. He indicated he had greater concern during the construction period. On a 60 foot wide lot, there are only so many places dirt can be placed on that lot. If the dirt is pushed into the narrow area where the drainage goes, it will create a dam. Mr. Ronspies indicated his lot would be known as Lake Ronspies. He emphasized his concern that during the construction period he might be deluged with water if there is not some provision for the continual flow of the water.

Mr. Ronspies stated on August 25, 2004 many of the Cornell Avenue residents attended a Village sponsored meeting where a roadside ditching project was discussed. Run-off and flooding problems were also discussed as was connecting of the ditching project and the drainage problems with the recently installed stormwater sewer on the west side of Cornell Avenue.

Mr. Ronspies indicated the Dryhout property was brought up during those discussions, and the Village indicated an easement would probably be requested as part of the lot split. Mr. Ronspies commented it appears from the Staff report that some drainage is being provided, and he thought it was going toward the front of the property. He asked for confirmation of that as well as whether or not the easement is also for drainage systems and not just utilities.

Mr. Ronspies stated there was a letter from the builder in the packet which mentioned he was planning on putting two fairly close homes with a shared drive-way down the center. Mr. Ronspies next referenced the easement survey which shows that there is a five foot easement that would be down the center on each property. Mr. Ronspies asked how there

could be a driveway and an easement in that area at the same time.

Mr. Eric Munzenmay, 4904 Lee Avenue, expressed concern about water drainage if this property is redeveloped.

Chairman Jirik asked if there was anyone else who wished to speak. There was no response, and Chairman Jirik closed the public participation portion of the public hearing.

Chairman Jirik stated if the creation of a new 75 foot wide lot does not conform to what is required for the particular zoning classification, the petitioner has the ability to seek an exception which may or may not be granted. The creation of a new lot must meet the Village Ordinances in order to maintain uniform and harmonious growth.

Chairman Jirik asked the Commission members if they wanted to next work through the stormwater questions. Several members suggested that Jon Hall address the stormwater issues. Mr. Waechtler expressed appreciation for Mr. Hall's attendance this evening and noted his explanations have been very helpful.

Mr. Nicholaou pointed out the request for a lot split is well within the confines of what the Plan Commission has recommended for approval several times in the past. Mr. Nicholaou pointed out that Mr. Ronspies brought up an issue. Mr. Nicholaou asked Mr. Hall about the shared driveway for two 3,000 square foot houses. He noted that Mr. Hall was requiring a drainage ditch on house one. Mr. Nicholaou commented he did not know if that drainage ditch would be on the north or south side of the lot. Mr. Nicholaou expressed concern that a shared driveway would cause excessive water influx if there already is an existing issue. Mr. Nicholaou expressed his opinion that this would appear to be in conflict with the drainage project Mr. Hall is requiring on these parcels.

Mr. Waechtler again asked Mr. Hall to speak to the drainage issues.

Chairman Jirik asked Mr. Hall to give an overview of the drainage issues on this parcel. By doing so, a good record will be created for the Mayor and Council.

Mr. Hall stated some of the drainage issues being discussed this evening are quite common when dealing with tear-downs and redevelopment regardless of whether or not there is a lot split, particularly if you are on the side of a hill. The water runs off the new larger roof, driveway and garage and goes down hill. Generally, a swale or a shallow ditch between the houses will be required to capture the water and convey it away from the house rather than towards the house so that the water does not go into people's window wells, garages, etc. Mr. Hall noted sometimes there are issues that are easier or more practical to address as part of a larger development, say two lots instead of one. Mr. Hall indicated that is why some of these issues are being brought up now that normally might only come up during the actual permit review later when they submit for a building permit. Mr. Hall stated there are several unique characteristics regarding this parcel. There are ditches further up Cornell to the north. In some areas the ditch is not well defined; in some areas basically the water just sheet drains. There is not really a

ditch. The water flows over driveways, yards, etc. It does not have a well-defined route which is why the Village has been considering providing more substantial ditches here for the past several years.

Mr. Hall explained some residents raised concerns about ditching. Some residents would like to see curbs and gutters put in, but there is such significant costs associated with such a project that Public Works is not sure that is realistic at this point. Mr. Hall noted the southern end of the ditching project would roughly coincide with this project. A storm sewer was installed several years ago on the west side of Cornell that carries the water from the low area of the road and gets it over the hump south of there and down to the storm sewer along Warren Avenue. Mr. Hall stated that should solve some of the drainage problems in the area. If people who have rear yard or side yard drainage problems can put in their own drain pipe and connect to the storm sewer. Before there was no where along the road deep enough to connect to, and now there is.

Mr. Hall stated if they put a ditch in on the east side of the road in front of this house on Cornell, they would also have to run a culvert or storm sewer across the road to drain that ditch over to the Village storm sewer on the west side. Mr. Hall indicated that would be a part of the ditching project if it should go forward; however, if this lot split were to go forward prior to the Village completing the ditching project, the owner would still have to meet the requirements of not negatively affecting any neighbors. Mr. Hall indicated on a preliminary review it appears that some of that ditch may be necessary to do that. Mr. Hall explained all of those details would be worked out when they bring in their plans for more detailed stormwater permit review. Mr. Hall stated if that is the case, it would be required with the first house to be built. They have to ditch in front of both houses even if it is a different builder.

With regard to stormwater, Mr. Hall advised there is offsite flow to the north onto and through the site, and there is the anticipated development on the site. There will be larger roofs and more impervious and less pervious areas so there will be more runoff from the property. Mr. Hall stated that is not directly noticeable unless there already is an existing problem or a flat area off site. That being the case, the Village is very sensitive to that scenario and is very careful when they do the stormwater permit reviews that there is no noticeable impact to the residents off-site. Mr. Hall expressed the opinion that is something that is feasible to do on this site provided there is an adequate public drainage system in the right of way. Further review may show that the developer may have to put in an additional storm drain to the rear or side yard. He noted that is not uncommon.

With respect to the driveway between the houses, Mr. Hall stated it is not just a stormwater issue. Mr. Hall advised he has not yet seen anything in Village Code expressly barring shared driveways as far as stormwater, right of way or engineering permits are concerned. Mr. Hall indicated they would generally discourage it if there is another way to serve the property. A shared driveway can create issues with regard to common maintenance. He noted it is not practical in some cases, but it has worked for some people in the Village. Mr. Hall explained there would be a swale typically along that property line. As the water is coming down the property line, a driveway may end

up acting as a swale so the driveway would have to have a dip in the middle of it. At some point the water would have to drain off to the side, or there would have to be some kind of inlet or grade structure in the middle of the driveway.

Mr. Hall asked if there were any further questions.

With respect to the preconstruction ditches, Mr. Nicholaou asked if those ditches would abate Mr. Ronspies' concerns. Mr. Hall responded it is hard to say as far as during construction. The Village would encourage the builder to do the grading that is necessary as early on in the project as possible so that could potentially help. Mr. Hall advised silt fences are required all around the property to make sure that dirt is not pushed over the property line, and construction equipment does not inadvertently cross over the property line. Mr. Hall commented he does not have the exact grading of the whole area but generally the flow is from northwest to southeast. It would take damming of a substantial area of the north property line to cause a problem to the north.

Mr. Nicholaou asked if we made an assumption that both holes were dug at the same time which would not be uncommon, what would happen to the lot. Mr. Hall responded digging the holes themselves is not usually going to hurt or increase the run-off from the rest of the property as long as the excavated material is not placed somewhere where it could dam up the water. Mr. Hall stated what sometimes happens is that those excavations fill with water particularly if there is a higher ground water table, and the builder has to pump that out during construction. Mr. Hall acknowledged he has seen that here and there in the Village. The builder has to make sure they pump to an adequate location that is not negatively affecting somebody. They might have to pump across the street to the new storm sewer, or they might have to pump to a ditch further down the hill. Mr. Hall further advised when the contractor is pumping water from the site, the water has to be filtered. If there is sediment or other dirt in the water, it must be filtered out to the highest degree possible.

Mr. Waechtler referenced Mr. Hall's report where he stated window wells and other obstructions to flow should generally be avoided in the side yards. Mr. Waechtler asked what other obstructions to flow might be a problem. Mr. Hall stated chimneys are not always a problem, but sometime they do not touch the ground so grading can be done beneath them. A real problem is if they want to put a stoop for a side yard door. Mr. Hall stated he did not know if a stoop would be permitted in this particular case. Mr. Hall indicated window wells make it harder to drain and create a good swale and also if it is not graded properly could create a problem for the house itself. Mr. Hall commented those are the kinds of things Public Works looks at very closely during the normal stormwater building permit review phase. Mr. Hall noted these are issues that come up with a lot of teardowns whether or not there is a lot split involved.

Mr. McCormick asked Mr. Ronspies if the Sievers' lot split further north, which occurred in 2002, have any adverse affect on stormwater in the neighborhood. Mr. Ronspies noted the Sievers project was on the west side of the street. Mr. Ronspies noted he built his house 15 years ago, and he pumped a lot of water out when his foundation was being

dug. The water was going back in as fast as it was being pumped out. Mr. Ronspies recalled as a result Mrs. Dryfhout's front yard was flooded. He suspected it could probably happen going farther south on the McReynolds' property during this construction phase. In response to Mr. McCormick's question, Mr. Ronspies stated there was not a problem there because they barely scratched the clay area; they went down two to three feet, and then they built up around the house. Mr. Ronspies pointed out that house sits up three feet higher than his house. Mr. Ronspies indicated he did not think that house was built by Sievers but rather a different construction company.

Mr. Waechtler asked Mr. Ronspies if his house was higher than the two proposed lots, and Mr. Ronspies stated his house was higher.

Mr. Waechtler reiterated each lot width exception request heard by the Plan Commission stands on its own merits not necessarily just lot width. Mr. Waechtler stated he did not want anyone in the audience or even the petitioner to leave here this evening with the idea that just because it meets a certain lot width or there is an exception the Plan Commission can make, it is a slam dunk. There are other issues that come up regarding lot splits, and some of those issues have risen tonight.

Chairman Jirik emphasized each petition is judged on its own merits, and the Plan Commission does not look for a particular number value; it is all of the issues as they pertain to the lot split request.

Chairman Jirik referred back to the discussion about the easement and the driveway. He noted no concept was developed, but the Commission members expressed some general questions. Chairman Jirik stated as shown on the site plan the driveway is shown as a "U" shape around one lot. He commented if the concern is great enough, the "U" shape could be around both lots or the developer could make it a "Ten" and put it all on one edge, but that would constrain the developable area of that particular lot.

Mrs. Rabatah commented she thought Mr. Hall had stated there would be a ditch or swale within the driveway itself. Mrs. Rabatah stated she was not clear as to how that would work.

Mr. Waechtler asked if the driveway is indeed planned to be a shared driveway. Chairman Jirik invited Mr. Hall back to the podium to address these questions.

Mr. Hall stated he did not know to what degree the specific layout of the site is part of the Plan Commission's purview. Mr. Hall advised the drainage issues would be reviewed at the time of building permit review. Mr. Hall stated to date they have not received any permit applications. They would receive such permit applications after the lot split is approved by the Village Council.

Chairman Jirik indicated the Commission's purview is to draw a line, but the site plan shows the drainage all on the one lot. He asked Staff to again display the site plan on the overhead screen. Mr. McCormick commented he thought the same thing at first. He

further advised that there are two surveys in the packet; one for each lot. He asked Staff to verify that there would be easements on both lots. Mr. Sbiral confirmed there would be easements on both lots.

Mr. Nicholaou acknowledged that discussing a shared driveway may or may not be within the Commission's purview. He asked the Chairman for permission to speak further on the shared driveway concept. The Chairman agreed. Mr. Nicholaou stated he has a problem with a shared driveway. In an area that has a number newly constructed houses on 60 foot wide lots, he asked why is there a necessity to have a shared driveway. He wondered if the reason was so that three car garages could be built.

Mr. Sbiral stated he was not sure that the petitioner was proposing to have a shared driveway.

Chairman Jirik re-emphasized that the Plan Commission's purview was to draw the line dividing the parcel. Concern should be focused on whether there is a drainage easement. Mr. Arnold, the petitioner's attorney, stated the developer is not married to a shared driveway. Mr. Arnold noted, if construction plans showing a shared driveway were not approved by the Stormwater Engineer, the plans would be modified. Mr. Arnold stated if the Plan Commission indicated they did not want a shared driveway regardless of whether or not it would be allowed as part of a stormwater permit review, he believed the developer would be fine with such a decision.

Mr. Franz, Clairmont Real Estate Group, explained when you begin this process you have to take a target and aim at it. The Village has reviewed these preliminary plans several times and asked for revisions. Mr. Franz stated initially a shared driveway was a simple idea that was generated by his own aesthetic desire. Mr. Franz stated he would like to have the garages in back rather than in front. Mr. Franz explained he preferred a lot of curb appeal rather than a lot of garage. He noted the phrase shared driveway may be a bit of a misnomer. The idea was to have two 10 foot wide driveways abutted so it would look like one 20 foot wide driveway. He thought that would handle different issues should there be some in perpetuity as the homes are bought by other individuals as the years go by. Each lot would have its own 10 foot wide section. Mr. Franz advised they do not have plans as yet and he recognized that any plans submitted would be carefully examined with regard to stormwater issues. If this lot split is approved by Council, he will present plans he believes will be acceptable to the Village and to the market. Mr. Franz noted he has been schooled in the Hinsdale University of Stormwater Management. He commented that it is onerous, but the last few years it has worked very well. Mr. Franz explained what his company does is renovation, most of it historical as well as room additions. He stated this type of work is actually trickier because the general idea is that you do not want to wreck the entire landscaping to achieve something, so the question is how do you put in an addition and not screw up the neighbor's drainage. Mr. Franz indicated he is one of the few builders that have been able to work with that and stay on top of it and not flood people during construction and certainly not after construction.

For the record, Mr. Nicholaou asked if he had heard Mr. Franz state his preliminary plans call for the garages to be in the back at a three car level. Mr. Nicholaou stated if that is the case, he does not have a problem with a shared driveway personally. Mr. Nicholaou stated his conception of a shared driveway was that a three car garage would be placed on each of the lots with a lot of concrete. Mr. Nicholaou expressed his opinion that such a plan would not be consistent with the neighborhood.

Mr. Franz stated such a plan would look lousy, and there would be no reason to do that.

Chairman Jirik again emphasized to the Plan Commission members all they are considering is a recommendation to either approve or deny or recommend changes to add a line that creates two lots. This does not confer any approval or prejudice in either way regarding how driveways are or where they are located. That is a permitting issue. Whatever would occur at that stage has to be in conformance with what it takes to do the development.

Mr. Waechtler asked Mr. Franz if his firm had built anything in the Downers Grove area.

Mr. Franz responded he has done a lot of renovation, but he has not built anything new.

Mr. Matejczyk indicated he knew this neighborhood fairly well because he lives near by and walks through this neighborhood regularly. Mr. Matejczyk stated he was comfortable that this lot split is in agreement with the rest of the neighborhood. Any original stormwater concerns he had have been satisfied with this evening's testimony.

Chairman Jirik stated if there were no further questions or comments, he would entertain a motion.

**MOTION: WITH RESPECT TO FILE NO. PC-19-04, THE PROPOSED LOT SPLIT OF 4913 CORNELL AVENUE, DOWNERS GROVE, MR. MCCORMICK MOVED TO FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL REGARDING THE PETITIONER'S REQUESTED ACTION SUBJECT TO THE CONDITIONS OUTLINED IN THE STAFF REPORT.**

- 1. COMPLIANCE WITH ALL THE PUBLIC WORKS REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED SEPTEMBER 23, 2004, COPY OF WHICH IS INCORPORATED INTO THIS MOTION BY REFERENCE;**
- 2. ANY CHANGES TO THE CONDITIONS REPRESENTED BY THE PETITIONER AS A BASIS FOR THIS PETITION, WHETHER THOSE CHANGES OCCUR PRIOR TO OR AFTER VILLAGE APPROVAL, SHALL BE PROMPTLY REPORTED TO THE VILLAGE AS SUCH CHANGES MAY REQUIRE ADDITIONAL REVIEW OF THE PROPOSED LOT SPLIT AND/OR EXCEPTIONS;**

- 3. THIS RECOMMENDATION IS FURTHER CONDITIONED THAT IT IS THE PETITIONER'S OBLIGATION TO MAINTAIN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, COUNTY AND VILLAGE LAWS, ORDINANCES, REGULATIONS AND POLICIES.**

**MR. NICHOLAOU SECONDED THE MOTION.**

Chairman Jirik asked if there were any additions, deletions or corrections to the motion. Mr. Waechtler indicated he thought he heard Staff say that there is a provision that the existing house is to be razed.

Mr. Sbiral acknowledged that he had said that, but it would be a part of existing Code and does not have to be included in the motion. After further discussion, the Commission members agreed to add this to the motion.

**REVISED MOTION: WITH RESPECT TO FILE NO. PC-19-04, THE PROPOSED LOT SPLIT OF 4913 CORNELL AVENUE, DOWNERS GROVE, MR. MCCORMICK MOVED TO FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL REGARDING THE PETITION'S REQUESTED ACTION SUBJECT TO THE CONDITIONS OUTLINED IN THE STAFF REPORT.**

- 1. COMPLIANCE WITH ALL THE PUBLIC WORKS REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED SEPTEMBER 23, 2004, COPY OF WHICH IS INCORPORATED INTO THIS MOTION BY REFERENCE;**
- 2. ANY CHANGES TO THE CONDITIONS REPRESENTED BY THE PETITIONER AS A BASIS FOR THIS PETITION, WHETHER THOSE CHANGES OCCUR PRIOR TO OR AFTER VILLAGE APPROVAL, SHALL BE PROMPTLY REPORTED TO THE VILLAGE AS SUCH CHANGES MAY REQUIRE ADDITIONAL REVIEW OF THE PROPOSED LOT SPLIT AND/OR EXCEPTIONS;**
- 3. THIS RECOMMENDATION IS FURTHER CONDITIONED THAT IT IS THE PETITIONER'S OBLIGATION TO MAINTAIN COMPLIANCE WITH ALL THE APPLICABLE FEDERAL, STATE, COUNTY AND VILLAGE LAWS, ORDINANCES, REGULATIONS, AND POLICIES;**
- 4. DEMOLITION OF EXISTING HOUSE PRIOR TO THE ISSUANCE OF ANY BUILDING PERMITS.**

**MR. NICHOLAOU SECONDED THE MOTION.**

Chairman Jirik observed this petition is making this lot become consistent with the neighborhood. It is inconsistent in its current state. If this lot split is approved by the

Village Council, the newly created lots would be wholly consistent with virtually every other lot in the neighborhood. Chairman Jirik emphasized 60 foot wide lots are highly consistent in the most absolute sense. He apologized for not making this observation before the motion. The Plan Commission members agreed with his observation.

Chairman Jirik called for the vote.

**ROLL CALL:**

**AYE: Mr. McCormick, Mr. Nicholaou, Mr. Matejczyk, Mr. Quandt, Mrs. Rabatah, Mr. Waechtler, Chairman Jirik**

**NAY: None**

**The motion passed unanimously.**

**FILE NO. PC-20-04** – Petition seeking approval of a Special Use for a drive-up banking facility for a proposed bank – Property located at the southeast corner of Ogden Avenue and Sterling Road, commonly known as 535 Ogden Avenue, Downers Grove, IL (PIN 09-05-403-001, 09-05-403-018); Patrick J. Williams, Attorney/Petitioner; Downers Grove National Bank Trust #67-5, Owner

Chairman Jirik asked if a representative of the petitioner was present.

Patrick Williams, 115 W. 55<sup>th</sup> Street, Clarendon Hills, Illinois stated he is an attorney with the law firm of Connolly, Ekl & Williams and is the attorney for MidAmerica Bank. Mr. Williams pointed out MidAmerica is already a part of the community with a branch bank location at 7531 Lemont Road, and their loan center operates out of the Corridors III facility off Warrenville Road.

Mr. Williams stated 535 Ogden Avenue is currently the site of Stadtler Heating and Plumbing. Mr. Williams noted the current site is in need of work, and there is an industrial look to that section of Ogden Avenue which does not conform to the Ogden Avenue Master Plan. The bank's proposed development will dramatically change both the existing site as well as the impression of the surrounding area.

Mr. Williams indicated the current zoning is B-3. They are requesting a Special Use to operate a five-lane drive-through as part of the branch bank facility. Mr. Williams presented a color rendering of the proposed building which shows the roof lines, colors of the brick, windows, etc. He also brought a model depicting what the structure is proposed to look like.

Mr. Williams noted there is an emphasis with regard to access and curb cuts on Ogden Avenue. He distributed copies of recent photographs of the existing building showing the site on Ogden Avenue from the east, the west and facing south. These photographs show some of the concerns as to why the Village is pursuing redevelopment along Ogden

Avenue. Mr. Williams stated the proposed project would have a right-in right-out along Ogden Avenue rather than the existing continuous curb cut. He noted they have been working with the Illinois Department of Transportation and are in the process of finalizing this configuration. Another access point is along Sterling Road at the southern-most portion of the site, which will allow traffic to utilize Sterling Road for purposes of ingress-egress from the site without backing up along Sterling Road.

Mr. Williams stated the proposed structure is approximately 3,900 square feet. It will conform to the bulk requirements of the Village's Zoning Ordinance in terms of the approximately  $\frac{3}{4}$  of an acre site.

With respect to landscaping, Mr. Williams stated MidAmerica is proposing approximately 23% of the site be landscaped, which exceeds the minimum Village requirements by an additional 13%.

With respect to traffic and the traffic flow on the site, Mr. Williams noted with the drive-through lanes the traffic is directed in a counter clock-wise fashion around the facility. He explained one of the reasons for the drive-through facility is the convenience it offers the bank's customers; people are looking to use a drive-through aspect. According to the bank's studies, approximately 85% of the bank's business is allocated to drive-up customers with the remaining 15% being walk-in customers. Mr. Williams noted the significance from a traffic flow standpoint is that with a counter clock-wise flow, the traffic is directed around the building and then back out onto Ogden Avenue. This type of flow will minimize the potential for residential impact. In terms of people attempting to use the residential area as a by-pass or a means of getting back to a traffic light, Mr. Williams pointed out in this particular area there is no available traffic light within proximity of the site. The cut-through is blocked one block west of Fairview Avenue. With respect to lighting, Mr. Williams stated the lighting fixtures, which have been designed for the site, are designed to illuminate only the site, and according to the completed lighting study, the 0.1 foot-candles at the residential property line has been met.

Mr. Williams noted this is not a site that would be visited by loud delivery vehicles. The bank generally uses panel-type or pick-up trucks for delivery of their necessary paper products and materials.

With respect to the residential area, Mr. Williams explained significant grading is being proposed that will require a retaining wall to be constructed along the south residential boundary line. The retaining wall in conjunction with a new board on board fence will minimize both sound and light intrusion into the residential area to the south.

Mr. Williams stated the proposed project does not involve any loudspeakers or broadcast equipment. There will be an intercom system, but the system is designed so the customer can speak with the teller, and the business of the customer is not announced to the community.

With respect to the landscape design shown on the overhead screen and the colored rendering on display, Mr. Williams noted the landscaping has been designed to not only accentuate the site but the area as well. Mr. Williams stated they are attempting to create aesthetic appeal along Ogden Avenue. Mr. Williams pointed out the current building is somewhat of an eyesore. He further explained, while Stadtler is a valuable member of the community, the bank's proposed project will be dramatically different and significantly more appealing.

With regard to the specific parameters for approval of a Special Use, Mr. Williams stated "the proposed use at this location is necessary and desirable to provide a service and a facility that is in the interest of public convenience and will contribute to the general welfare of the neighborhood and the community." The facility, a retail branch bank, will offer the significant convenience of drive-through lanes. He said the way people shop today, the way they buy gas, the way they look to quickly get in and out of even oil change places is significant to the way communities and banks specifically operate. This will provide a valuable cost savings service to the community. Mr. Williams stated the development of the site would provide a valuable addition to this specific area of Ogden Avenue.

Mr. Williams stated the second standard is "the use will not under the circumstances of this particular case be detrimental to the health, safety, morals or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity." Mr. Williams stated this branch would be MidAmerica's 72<sup>nd</sup> or 73<sup>rd</sup> branch in the Chicago area including the recent acquisitions in the Milwaukee area. Mid-America is a bank that is committed to the communities in which they operate, and they are committed to the people of the communities. The way the traffic is being generated around the site to minimize impact in the residential area is indicative of their commitment to being both a good neighbor and a neighbor that is respectful of the rights of the other residents and the other businesses.

Mr. Williams next addressed the third standard which states "that the proposed use will comply with the regulations specified in this Zoning Ordinance for the district in which the proposed use is to be located or will comply with any variation(s) authorized pursuant to Section 28-1802". Mr. Williams stated the Special Use is specifically provided for in the Village Ordinance. The current zoning allows for the construction of the bank. The Special Use is strictly limited to the five drive-through lanes. The work that Mid-America has done with the architect, the engineers, the traffic planners and the fine Downers Grove staff has been invaluable in ensuring compliance with these regulations.

Mr. Williams addressed the last standard which states "that it is one of the Special Uses specifically listed for the district in which it is to be located". Mr. Williams noted under the B-3 zoning classification the Special Use of a drive-through lane is specifically designated according to the Zoning Ordinance.

Mr. Williams concluded by expressing the belief that Mid-America Bank has met each of the requirements for the awarding of a Special Use, and he asked for the Plan Commission's favorable recommendation to allow them to go forward with this project.

Chairman Jirik asked Staff to make its technical review.

Mrs. Riordan noted the petitioner did an excellent job of thoroughly explaining their petition, so she will focus on the zoning related issues noting the property is zoned B-3, General Services and Highway Business.

With respect to the proposed site plan, Mrs. Riordan stated the petitioner is proposing significant grading work to accommodate the proposed facility as well as stormwater management, although on-site stormwater detention is not specifically required because the site is less than one acre in size.

Mrs. Riordan advised no variations are being requested with respect to the proposed petition. All parking and structure related setbacks for both Ogden Avenue and Sterling Road would be satisfied or exceeded.

Mr. Riordan stated the landscape requirement of 10% of the overall site area is being more than doubled with approximately 23% of the site being reserved in landscaped green space as outlined by the petitioner.

Floor area ratio requirements are proposed to be met as are the height requirements for the B-3 zoning district. Mrs. Riordan referred the Plan Commission members to Page Two of the Staff Report where there is a thorough outline of the setback requirements and proposed conditions.

With regard to parking, Mrs. Riordan stated the petitioner is proposing 18 spaces including one handicap accessible required space, which exceeds the Code requirement of ten spaces.

Mrs. Riordan advised the proposed loading space on the south side of the building is not strictly required by Code but is being proposed by the petitioner. Although not strictly regulated per Code, the petitioner has also addressed site lighting with a proposed lighting plan indicating shielded fixtures and low lighting levels to again avoid any potential negative impacts on the adjacent residential uses to the south.

Mrs. Riordan indicated the petitioner thoroughly detailed their proposed operations as well as their proposed building design.

Mrs. Riordan explained, absent having the petitioner obtain approval from IDOT with respect to the proposed right-in, right out access onto Ogden Avenue, Public Works and Stormwater Management have no outstanding issues pertaining to the proposed Special Use. Certain permitting procedural requirements have been outlined for the petitioner, which must be satisfied prior to the issuance of construction permits.

The Fire Prevention Division of the Fire Department has also reviewed the proposed plans and has no outstanding issues regarding the proposed Special Use.

With respect to proposed signage, Mrs. Riordan stated the petitioner has been advised of the sign moratorium that currently limits wall mounted and freestanding signage, and is aware that these provisions may be modified in the future as discussions regarding the sign regulations progress at a Staff and Committee level and then to a text amendment with respect to the Zoning Ordinance.

Mrs. Riordan concluded the Staff Development Team recommends that the Plan Commission consider forwarding a favorable recommendation to the Village Council with respect to the petitioner's Requested Action, subject to the four conditions outlined in the Staff Report.

Chairman Jirik moved on to public participation and asked if there was anyone in the audience who wished to speak.

Roger and Julie Lommatzsch, 4335 Sterling Road, stated their home is three houses to the south of the proposed site. They agreed with the bank's attorney that the new bank would be a marked improvement over what is currently on the site. Mr. & Mrs. Lommatzsch stated their concern is the traffic pattern on Sterling Road. Mr. Lommatzsch pointed out the entrance-exit on Sterling is proposed to be located on the most southerly portion of the bank's property. Mr. Lommatzsch expressed his belief that the traffic flow from the site will go south. He noted between the hours of 3:30 and 6:30 p.m. Sterling Road does become a cut-through. Ogden Avenue backs up, people turn right and go south on Sterling Road, pick up Sherman and go east to catch Fairview, thus avoiding the traffic light at Fairview and Ogden. Mr. Lommatzsch expressed his opinion that if Ogden Avenue is backed up at 5:00 p.m. customers will come out the drive through, come around the west side of the property, exit onto Sterling and proceed south, thus avoiding all that Ogden Avenue traffic.

Mr. Lommatzsch pointed out in addition to the existing commercial property; there is a strip center on the west side of Ogden Avenue and Sterling Road. There is traffic on Sterling Road from the ice cream parlor, particularly in the summer, because people do not want to exit out onto Ogden Avenue so they exit onto Sterling Road and proceed south. Mr. Lommatzsch stated the same situation is true for the customers of the auto parts store, plus their delivery trucks. The Army Surplus store is also in that strip mall and their customers tend to do the same thing when leaving that store.

Mr. Lommatzsch asked if anyone has looked at the possibility of closing Sterling Road as was done for Walgreens at Ogden and Highland Avenues as well as Papa John's Pizza. Mr. Lommatzsch expressed the belief that there is a no right turn northbound at the Speedway gas station on the north side of Ogden Avenue at Lindley Avenue. He asked if the criteria utilized in these situations were applied to the possible closing of Sterling Road.

Mrs. Lommatzsch stated the petitioner's attorney indicated 85% of their customers are going to be drive-through, which just means that all of that traffic will come down Sterling Road. She disagreed that the only customers using Sterling Road would be the bank's customers who live on Sterling Road. She stressed Sterling Road is the busiest cut-through street during rush hour, and the bank will complicate that situation. If Sterling Road was closed off, cars would have to exit and go north on Sterling to Ogden Avenue. Mr. Lommatzsch expressed his belief that such closure would not impede the bank's plan to have traffic exit onto Ogden Avenue. He stated he thought such a plan would be beneficial to both the residential and commercial neighborhood.

Mr. Lommatzsch pointed out there are six homes on Sterling Road, and he expressed his belief that not all of the people who go up and down Sterling Road live on Sterling Road.

Todd Chapin, 526 Sherman Street, agreed that between 3:30 and 6:00 p.m. Sterling Road is a bypass. Drivers also cut through on Douglas Road to the east to avoid the intersection of Fairview and Ogden Avenues. Mr. Chapin stated if customers are going to turn right onto Sterling once they see traffic backed up on Sterling past the ice cream parlor, they will turn left and proceed south and make the necessary adjustments to get back onto Ogden Avenue. Mr. Chapin noted because Douglas is a through street, it cannot be blocked off. Sterling is only one block long south of Ogden. Mr. Chapin advised there are 15-20 kids living in that one block area. Currently the Stadtler and the CarQuest trucks zip down Sterling, but they know there are a number of children residing on that block. Mr. Chapin stated people who use the drive-through banking facility are usually in a hurry, and they do not want to wait for a break in traffic on Ogden Avenue. Mr. Chapin advised between 7:00 and 9:00 a.m. no one will be successful in making a left hand turn onto Ogden Avenue. Instead, customers will proceed south on Sterling just as the late afternoon customers will do in order to avoid the traffic from the lighted intersection of Fairview and Ogden Avenues. He agreed there are a number of closed streets on Ogden Avenue primarily to address all the issues with cut-through traffic. Mr. Chapin stated drivers cut through at all times of the day not just during peak traffic times. He noted Sterling Road currently is in disrepair and expressed the opinion that curbs and gutters would be an improvement if the street were to remain open. Mr. Chapin concluded by stating as a parent he wants the traffic situation to be addressed.

Donna Chapin, 526 Sherman Street, stated they know Sterling Road is a cut-through because they have seen it ever since they moved into the neighborhood ten years ago. Stadtler is a business whose customers generally do not drive in and out of their facility. Stadtler goes to their customers' homes. A bank will bring more traffic to Sterling Road because you cannot safely turn left onto Ogden Avenue. Mrs. Chapin pointed out at Steak and Shake no right turns into the neighborhood are allowed. She asked if that could be looked at for Sterling Road or the possibility of blocking off Sterling Road south of Ogden as it is not a through street. Mrs. Chapin stated such a close would only affect the ten families who live there.

Chairman Jirik asked if there were any further questions or comments from members of the audience. Hearing none, he closed the public participation portion of the public hearing.

Chairman Jirik next asked for questions or comments from the Plan Commission members.

Mr. Matejczyk asked the petitioner if it would be onerous to make the driveway on Sterling Road an entrance only.

Daniel Brinkman, Gewalt Hamilton Associates, suggested instead of inbound only, an adjustment or reconfiguration of that access so that it prohibits traffic from entering or exiting to the south could be done. It would still be two-way traffic, but the driveway on Sterling Road would be curved and adjusted similarly to but not as extreme as the way it would be done on Ogden Avenue so that you can only make a left turn into the site off of Sterling Road and only make a right turn out from the site. Mr. Brinkman agreed with the residents that making left turns onto Ogden Avenue is difficult but no more difficult than a number of locations along Ogden Avenue. Mr. Brinkman stated to prohibit outbound movements to Sterling Road would essentially require all traffic leaving the bank to proceed eastbound and in his opinion that would be limiting the bank's customer base and also limiting the convenience the bank is looking to provide for its customers at this location.

Mr. Matejczyk asked Mr. Brinkman if he was saying there could be a no left turn sign. Mr. Brinkman responded it could be done a number of ways; with a no left turn sign that would rely on enforcement and the moral fortitude of the patrons, or the driveway could physically be designed with the south side of the access having a much tighter radius than it does now and that it be signed appropriately.

With respect to the cut-through volumes, Mr. Brinkman stated in reviewing the existing traffic volumes on Sterling and having driven the neighborhood, he concurred that there is an existing cut-through problem in terms of the volume of traffic during peak hours on both Sterling and Sherman. He noted we are not talking about the amount of traffic volume taxing the roadway or making it over capacity in any way.

Mr. Nicholaou asked Mr. Brinkman if the petitioner heeded his suggestion and the Village at a later date, outside of the purview of this Commission, decided to block off the street as they did at Ogden and Highland Avenues, would the street closure affect the bank at all. Mr. Nicholaou expressed his opinion that customers could still exit out on Sterling Road and make a left-turn onto Ogden Avenue. Mr. Brinkman agreed. Mr. Nicholaou stated his only concern with regard to this petition was adding traffic to the neighborhood.

Mr. Waechtler asked Mr. Brinkman if he was suggesting a right-in, right-out like what is proposed for Ogden Avenue. Mr. Brinkman responded he was suggesting a left-in, right-out and adjusting the geometrics of the axis so a right turn could not be made into the

bank site off of Sterling nor could you physically make a left turn out of the bank site onto Sterling Road.

Chairman Jirik explained to a member of the audience who wished to speak that the public participation portion of the hearing had been closed. He further advised that the Plan Commission currently is discussing a variety of techniques to direct the traffic.

Chairman Jirik asked if there were any further questions or comments from the Plan Commission members. There was no response, and Chairman Jirik indicated he had one question with regard to the landscaping. He questioned if a customer came into the bank property off of Ogden Avenue to use the drive-through and then came around the building would the light splash onto the neighboring residents' homes. He wanted to know if six foot tall plantings were sufficient to block that light.

Mr. Williams stated there is going to be significant grading to flatten the site. He advised one of the architects, Eric Luedtke from Smith & Stephens Architects, is present to answer any questions. He added that a retaining wall will be constructed along the south property line with a fence on top of that retaining wall. There will be a sound and light barrier by virtue of both the fencing and the retaining wall.

Mr. Williams then introduced Benedict Bussman, who was one of the site engineers specifically involved with the landscaping. Mr. Bussman asked the Chairman to clarify his question. Chairman Jirik stated he wanted to be sure there was sufficient barrier to prevent light spill-over into the residential neighborhood from vehicles using the drive-through lanes. Mr. Bussman advised there is a slight grade difference in that area, and the bank parking lot will be a few feet lower than the property line, plus there will be a six foot board-on-board fence, plus an arborvitae hedge, which will be installed at a six foot height.

Mrs. Rabatah asked if the difference in the retaining wall grade to the grade on the north side would be about two feet, and Mr. Bussman agreed. He explained as you move further toward the east, the wall becomes higher. He noted the retaining wall is on the south, east and west sides of the lot.

Chairman Jirik asked if the height from the top of the fence to the base of the retaining wall would be greater than six feet. Mr. Bussman clarified the area that the Chairman was referring to does not have a retaining wall. He indicated the fence height would be six feet and noted there is a slight grade difference because the lot is lower than the property line at that point.

Chairman Jirik commented regarding the six foot arborvitae, his concern is light spilling into the residential neighborhood. He asked whether this was considered with regard to the types of plantings selected. Mr. Bussman acknowledged it was part of his consideration as well as to screen the parking lot. He noted he did not want the residents to the north looking out from their front yard into the bank parking lot.

Chairman Jirik asked Mrs. Riordan if the Village has sufficient enforceability to maintain adequate maintenance of the buffer. Mrs. Riordan responded affirmatively and noted if the arborvitae or evergreen species at the southern tip of the driveway were to die or not be effective as a screen, the Village has the ability to enforce the concept of providing an adequate screen. She did note, however, that behind that 25 foot setback line, the petitioner is proposing a fence along the southerly property line. She asked the petitioner's representative to verify the height of that portion of the fence. Mr. Williams responded they proposed a six foot fence, but they could go to a higher fence if it is allowed. Mrs. Riordan clarified the requirement is six feet in height. Mr. Williams further explained the fence would be a board on board cedar fence. Mr. Williams noted this would be in contrast to the chain link fence that exists along the southern property line as well as the rest of the site.

Chairman Jirik stated there is some potential risk to the viability of the fence as well as the evergreen screening and stressed that the Village would want the fence and screening kept in good condition. Chairman Jirik noted this was not an element in the Staff Report, but he wanted this issue to be emphasized. He also indicated he was not sure whether it would be better to go with eight foot arborvitae but acknowledged he did not know if that was possible.

Mr. Nicholaou asked if the retention wall could be built higher. Chairman Jirik stated the retention wall is being done for grading purposes. He asked Mr. Bussman if eight foot arborvitae could be substituted for six foot arborvitae, and Mr. Bussman responded that eight foot arborvitae are readily available.

Mr. Waechtler pointed out the Forester had no comment in the Public Works report and recommended the petitioner re-review the planting selections with the Village Forester to determine if there was enough density with the arborvitae to accomplish the necessary screening. Chairman Jirik agreed.

With regard to the landscape plan, Mr. Nicholaou commented three members of the Plan Commission have had a significant amount of conversation regarding signage on Ogden Avenue. They have been discussing lines of sight with regard to signage. He cautioned the landscape architect that the shrubbery by the entrance and exit onto Ogden Avenue be set back appropriately to make sure the line of sight is there upon entering and exiting. Mr. Nicholaou stressed the line of sight exiting the bank will be needed both left and right. Mr. Nicholaou asked the architect if the anticipated shrubbery as shown would be almost at the sidewalk line. Mr. Bussman responded there is a five foot wide sidewalk. Mr. Bussman further advised that the planting materials are proposed to be perennials and low shrubs.

Mr. Waechtler agreed the lines of sight are extremely important anywhere along Ogden Avenue. Mr. Waechtler stressed that the Plan Commission members were not nitpicking. He recognized the work that had been put into this plan and acknowledged that it has a lot of merit.

With regard to handicap accessible parking, Mr. Waechtler stated there are going to be 18 parking spaces, but only one of the 18 parking spaces will be for handicap parking. He asked Staff how many are required, and Mrs. Riordan responded one handicapped parking space is required for up to 25 parking spaces. Mr. Waechtler asked the petitioner to at least consider adding one additional handicapped accessible space.

With regard to hours of operation, Mr. Waechtler asked if the ATM would be operating 24 hours a day. Mr. Williams explained the drive-through lane closest to the building will be the only ATM lane, and it would be available 24 hours a day. The bank hours Monday through Friday are 7:00 a.m. to 7:00 p.m., Saturday 7:00 a.m. to 2:00 p.m. and Sunday hours differ between branches. This branch could be 10:00 a.m. to 2:00 p.m. Mr. Waechtler stated the fact that the ATM machine is operating 24 hours a day reiterates the concern for the shielding of the residential neighborhood.

In response to the expressed concerns, Mr. Williams stated Mid-America has always been neighbor friendly. Mr. Williams advised he has been involved in other situations where the bank has reconstructed fences along neighboring property lines to accommodate neighbor requests. Mr. Williams stated they are not trying to create a residential fortress with a high fence and landscaping that may not be appealing to the neighbors. Mid-America has maintained all of its sites to the highest level, both in terms of its bank structures as well as its landscaping. Mr. Williams stated Mid-America is very willing to work the neighbors and residents who have concerns about traffic flow and traffic patterns as well as the appearance of its site and how that site will affect the neighboring community.

Mr. Williams advised that Mr. Tom Meyers, Senior Vice President of Mid-America bank is present this evening to answer any questions as well as to take back feed-back to the powers that be to address the issues brought forward this evening.

As there was no further discussion, Chairman Jirik called for the motion.

**MOTION: WITH RESPECT TO FILE NO. PC-20-04, SPECIAL USE FOR A DRIVE-THROUGH COMPONENT TO A PROPOSED BANK, MR. MATEJCZYK MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL WITH RESPECT TO THE PETITIONER'S REQUESTED ACTION SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. INSTALLATION OF SIGNAGE AND CURB CONFIGURATIONS TO PROHIBIT LEFT TURNS FROM THE SUBJECT PROPERTY ONTO STERLING ROAD;**
- 2. COMPLIANCE WITH ALL PUBLIC WORKS REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED AUGUST 16, 2004;**

3. **COMPLIANCE WITH ALL FIRE PREVENTION DIVISION REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED JULY 17, 2004;**
4. **ANY CHANGES TO THE CONDITIONS REPRESENTED BY THE PETITIONER AS THE BASIS FOR THIS PETITION WHETHER THOSE CHANGES OCCUR PRIOR TO OR AFTER VILLAGE APPROVAL SHALL BE PROMPTLY REPORTED TO THE VILLAGE. CHANGES MAY REQUIRE ADDITIONAL REVIEW OF THE SPECIAL USE;**
5. **IT IS THE PETITIONER'S OBLIGATION TO MAINTAIN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, COUNTY AND VILLAGE LAWS, ORDINANCES, REGULATIONS AND POLICIES. MR. NICHOLAOU SECONDED THE MOTION.**

Mr. Waechtler asked the Chairman if it was necessary to mention anything about the landscaping screening that was addressed. Chairman Jirik indicated it could be done if it was the pleasure of the Commission. Chairman Jirik noted given that there could be traffic at the ATM throughout the night, the southerly border to the residential district should have strict attention paid to the necessary screening. He recalled while an eight-foot fence could not be constructed, eight-foot trees could be planted. He suggested the Village Forester should select the type of tree so as to further the goal of light screening year round. Everyone agreed to amend the motion to add this language. Chairman Jirik stated the motion captured the concept of the angular driveway to foster the right-in, right-out movement. He recalled he did not hear any objection to a sign that would say right turn to strengthen the message. There was no objection from the Plan Commission members to further amending the motion to include this language.

**AMENDED MOTION:**

**MOTION: WITH RESPECT TO FILE NO. PC-20-04, SPECIAL USE FOR A DRIVE-THROUGH COMPONENT TO A PROPOSED BANK, MR. MATEJCZYK MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL WITH RESPECT TO THE PETITIONER'S REQUESTED ACTION SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **INSTALLATION OF SIGNAGE AND CURB CONFIGURATIONS TO PROHIBIT LEFT TURNS FROM THE SUBJECT PROPERTY ONTO STERLING ROAD;**
2. **COMPLIANCE WITH ALL PUBLIC WORKS REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED AUGUST 16, 2004;**

3. **COMPLIANCE WITH ALL FIRE PREVENTION DIVISION REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED JULY 17, 2004;**
4. **COORDINATION WITH THE VILLAGE FORESTER REGARDING THE SELECTION OF PLANT MATERIALS TO PROVIDE AN EIGHT FOOT TALL LANDSCAPE SCREEN TO THE SOUTH OF THE MAIN DRIVEWAY ON SITE;**
5. **ANY CHANGES TO THE CONDITIONS REPRESENTED BY THE PETITIONER AS THE BASIS FOR THIS PETITION WHETHER THOSE CHANGES OCCUR PRIOR TO OUR AFTER VILLAGE APPROVAL SHALL BE PROMPTLY REPORTED TO THE VILLAGE. CHANGES MAY REQUIRE ADDITIONAL REVIEW OF THE SPECIAL USE;**
6. **IT IS THE PETITIONER'S OBLIGATION TO MAINTAIN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, COUNTY AND VILLAGE LAWS, ORDINANCES, REGULATIONS AND POLICIES.**

**MR. NICHOLAOU SECONDED THE MOTION.**

**ROLL CALL:**

**AYE: Mr. Matejczyk, Mr. Nicholaou, Mr. McCormick, Mr. Quandt, Mrs. Rabatah, Mr. Waechtler, Chairman Jirik**

**NAY: None**

**The motion passed unanimously.**

Chairman Jirik advised this is a recommendation and further action by the Village Council will be scheduled in the later part of November. For those who wish to follow the further review of this petition, the Council Workshop Agenda is available on cable TV, published in the newspaper in the Village Corner, is available on the Website or Staff can be contacted for the exact date.

**FILE NO. PC-21-04** – Petition to consider modifications to the existing zoning regulations pertaining but not limited to, requiring Special Use approval for vehicle sales/vehicle service establishments and possible minimum lot size requirements; Village of Downers Grove, Petitioner

Mr. Sbiral noted attached to this evening's Staff Report is a copy of the Staff Report the Plan Commission members received at the Strategic Planning Committee Meeting on October 4, 2004. In that particular report, Staff outlined all the changes to the text of the

Zoning Ordinance related to automobile uses in each Section of the Zoning Ordinance. Language that is going to be deleted is struck, new language is double underlined. Staff created a consistent definition for auto repair and automobile dealership, which combines all of the former uses that were similar to automobile dealership. It includes motorcycles, all-terrain vehicles, cars, buses, and vans. These definitions were gleaned and tinkered with to fit Downers Grove, but they basically come from standard planning definitions that are used across the country. Staff then looked each district and applied those new definitions. For instance, in B-2, General Retail Business, where currently it is permitted to have automobile sales and automobile services as long as it is inside a building, Staff kept all three uses and made them Special Uses as long as they are inside of a building. In B-3, General Service and Highway Business, Staff took all three permitted uses and made them Special Uses and specifically listed them in the Ordinance. In O-R-M, Office-Research-Manufacturing, which is the gateway area to Ogden Avenue on the west side of the Village, motor vehicle repair is permitted. Staff made automobile repair the standard definition the Special Use. In M-1, Manufacturing, again sales and services is permitted and then motor vehicle repair major is also permitted. The standard definitions were used, and they have all been changed to require Special Use approval.

Mr. Sbiral explained the uses allowed in any given Zoning District really would not change; they will utilize standardized definitions and will require Special Use approval. The last few changes in the Staff Report were made to bring things up to date with the standard definitions implemented in several other sections in the Ordinance that are pertinent.

Working backwards from the specific changes, Mr. Sbiral explained why the changes were made. Mr. Sbiral recalled the discussion at the October 4, 2004 Strategic Planning meeting. The proposed Amendment is a result of concern both from Strategic Planning, Council members and discussions with the community that there currently are aesthetic issues, site circulation issues and specific functional issues with automobile dealerships. Some of them primarily deal with small sites and some are simply inherent to automobile dealerships. Mr. Sbiral stated during this review, Staff looked at implementing a site size restriction, say, two or two and one half acres to fix these problems. Staff felt a size restriction alone probably would not fix the perceived problems; it would just result in bigger dealerships that had many of the same issues.

Mr. Sbiral indicated there are really two components to this issue. Part of it is Code Enforcement. Many of the dealerships that are often talked about now are parking cars in the setback, do not have enough landscaping and have signs which do not meet Code. Mr. Sbiral stressed it is a combination of the Village being able to have the Staff and the ability to have some overview when one of these dealerships start up or modifies their dealership and then, in addition to having that overview, having the tools to utilize upon review.

Mr. Sbiral stated this first step in the process would essentially give the Village immediate review so that no additional dealerships are able to start up without such review to make sure that any particular site is able to conform to the Ordinance. The Plan

Commission will review these petitions, and the Village Council will have the final say with regard to these petitions.

Mr. Sbiral advised the second follow-up portion of this project is that Staff will eventually need to look at green space requirements, parking lot standards and site circulation standards. For example, do drive-throughs need stacking regulations, etc, how do we deal with auto body shops, how do we deal with cars in inventory versus regular parking spaces. A complete review will have to be done of all of the functional characteristics in our Zoning Ordinance.

Through Strategic Planning discussions as well as Staff discussions, it was agreed that it is important to get this first part implemented as quickly as possible, in order to allow the Village to enforce the existing Code in a more efficient way and slow down the dealerships that start up overnight and leave town overnight.

Mr. Sbiral advised the draft minutes of the October 4<sup>th</sup> Strategic Planning meeting would be available before this petition goes to Council.

Mr. Sbiral concluded by stating he would be happy to answer any questions from the Plan Commission.

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

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

Mr. Nicholaou commented it his view and the view of several others on the Sign Sub-Committee that this petition needs to be quickly presented to the Village Council. The Sign Sub-Committee wrestled with Ogden Avenue and came to the conclusion they could not do signs on Ogden Avenue without a number of things being in place, and this petition is one of them because they all work part and parcel together. They found a great degree of difficulty in redoing the existing Sign Ordinance with regard to Ogden Avenue. The Sign Sub-Committee will be submitting a letter to the Village Council outlining this as one of two or three other ingredients needed to make a revised Sign Ordinance work.

Mr. Waechtler referred to the Staff Report and specifically the Staff Analysis section where it states "In the longer term, the Village is working toward minimizing curb-cuts, additional landscaping, improved quality of landscaping, traffic calming and consolidation of smaller tracts of land into larger, better-planned sites through further Code amendments". Mr. Waechtler stated he would like to add the words "and signage in keeping with the revised Sign Ordinance". He asked if that would be appropriate. He next referred to Page Two of the Staff Report Item No. 3 and asked if "and signage in keeping with the revised Sign Ordinance" could also be added. Mr. Waechtler asked Mr. Nicholaou if he was in agreement with these two additions to the Staff Report. Mr.

Nicholaou responded he did not have a problem because the Ogden Avenue Master Plan is being mentioned in the memo the Sign Sub-Committee is forwarding to the Village Council. Mr. Nicholaou commented the more often the Council sees reference to the proposed Sign Ordinance the better. Mr. Waechtler again asked Staff if they had a problem with these two additions.

Mr. Waechtler next asked if any Plan Commission member had a problem with the acreage issue. Mr. Nicholaou explained for the two newer members when this was first discussed in the joint Strategic Planning meetings everyone thought two acres would work. As the Committee studied it, the realization came that it was not a cure-all. In fact, it could be more of a problem than a cure. Staff has done a superb job on the Special Use criteria, and that is the way to go. Mr. Nicholaou noted there would be some parcels that will be an acre and one-half or an acre and three-quarters that will turn out to be wonderful car dealerships if the Village controls the green space, etc. Mr. Nicholaou noted the Stadtler Heating site, on which Mid-America Bank is going to build a bank, could have been the site of a very nice medium-sized car dealership with the right kind of landscaping, etc. Mr. Nicholaou concluded by stating the Village should not use acreage as a constraint. With a Special Use, the Plan Commission and the Village Council can say yes or no as these petitions present themselves.

Chairman Jirik asked for the rationale of B-2 to be completely in a building and the rest not. He was concerned about a possible constitutional challenge. Mrs. Riordan expressed her belief that it stems from the historical context of the B-2 zoning district in Downers Grove, which is predominantly located in our downtown area. She thought there had been an existing car sales facility on Main Street many years ago. The Plan Commission members acknowledged a location at Main and Rogers and at Main and Grove. Mrs. Riordan stated the context of the Ordinance was that if it was completely within a building; i.e., there was no outside inventory or storage of vehicles, it was appropriate for the B-2 zoning District in recognition of those existing uses.

Mr. Sbiral noted currently the Village would not want massive inventory on the exterior of a lot downtown.

Chairman Jirik clarified this proposal does not prohibit automobile dealers in the B-2 zoning district, but because of the nature of the B-2 district, it adds an additional requirement that it be wholly within an enclosed building.

Mrs. Riordan recalled the repair of the component was part of a text amendment to the Zoning Ordinance in the 1999 to say that automobile repair service shops could also be allowed by Special Use in the B-2 zoning district but wholly within an enclosed building. She noted the automobile repair shop at the corner of Washington and Rogers was able to expand their facility under that provision.

Mr. Sbiral stated in formulating these changes Staff tried to make sure they did not take away any rights from any zoning district that currently exist nor give any rights to any

zoning district that do not exist but just changed the existing automobile uses from Permitted Uses to a listed Special Use and creating common definitions.

Chairman Jirik recalled at the joint meetings there was the question after the Special Use regulations are approved, how are the existing businesses affected? He noted there are some implications for any business owner. Does the Special Use run with the land, would it be the province of the current owner, would it be neither but rather any physical change that would activate the trigger? As long as you did not change anything, you could have different owners but the same sign, etc. Chairman Jirik asked Staff to summarize where we came out on this issue.

Mr. Sbiral responded right now every car dealership that exists would essentially get a Special Use by prior existence. The Special Use would then run with the land. If they made any significant change to the property, they would have to petition for a Special Use Amendment and that would for all intents and purposes turn the Special Use by prior existence into a current Special Use. Any place that currently is not a car dealership would have to go through the petition process to obtain a Special Use. If any current car dealership closed for 18 months, the Special Use by prior existence would be void.

Mr. Nicholaou asked if Staff had addressed the gateway problem. Mr. Sbiral indicated that issue has not yet been addressed, but this petition takes one step towards improving gateways in that no additional problem dealerships will be allowed to start up.

Chairman Jirik emphasized that it is a physical change or modification that triggers any action and questioned if it would be tracked through the building permit system. Mrs. Riordan agreed. Mr. McCormick stated it has nothing to do with change of ownership. Mrs. Riordan advised historically the Special Use provisions of the Zoning Ordinance do not in any way tie themselves to the ownership of the property. Mr. Nicholaou commented hopefully this would spur them on to do the other mechanisms previously discussed.

Chairman Jirik stated business generates value, but the business itself has some value. If you create too much uncertainty about the ability to transfer a compliant business to someone else because the entire Special Use has to be revisited, Chairman Jirik stated he could see that having a detrimental affect on a business. There are other constitutional issues that only the Village Attorney can comment on as to how to manage this issue. We do not want to punish those businesses that are doing well but at the same time encourage the things we want to see corrected. Chairman Jirik asked what if a business owner wanted to give the business to a family member. With this change, the Special Use would no longer be valid. A petition for a current Special Use would have to be applied for, and we cannot predict the outcome. Chairman Jirik acknowledged his example was fairly draconian, but we would not want to tend towards that because it could be viewed as a disincentive.

Mr. Waechtler and Mr. Nicholaou acknowledged that the Chairman had made an important point. Chairman Jirik noted in certain cases there is a “taking” and if you

create this uncertainty to perpetuate the business, it could give someone an opportunity to pursue a claim against the Village for devaluing the business. Chairman Jirik stressed this discussion is within the Village Attorney's province.

Mr. Sbiral stated one of the things the Strategic Planning Committee recommended to Staff was to look into this issue. There are multiple ways to implement non-conforming rules. The non-conforming rules in the Ordinance will have to be looked at, but that will take considerably more time working with the Legal Department before we start to move something like this forward.

Mr. McCormick noted right now we are just scratching the surface, but we are taking some steps to start working on cleaning up the Village. Chairman Jirik stated a Special Use triggered by a building permit is significantly farther than we are right now.

As there were no further questions or comments, Chairman Jirik called for a motion.

**MOTION: WITH RESPECT TO FILE NO. PC-21-04, ZONING ORDINANCE AMENDMENT, MR. MCCORMICK MOVED THAT THE PLAN COMMISSION FORWARD A POSTIVE RECOMMENDATION TO THE VILLAGE COUNCIL FOR THE PROPOSED AMENDMENTS TO CHAPTER 28 OF THE ZONING ORDINANCE AS NOTED IN THE PACKET. MRS. RABATAH SECONDED THE MOTION.**

**ROLL CALL:**

**AYE: Mr. McCormick, Mrs. Rabatah, Mr. Matejczyk, Mr. Nicholaou, Mr. Quandt, Mr. Waechtler, Chairman Jirik**

**NAY: None**

**The motion passed unanimously.**

As there was no further business, Chairman Jirik called for a motion to adjourn.

**MR. WAECHTLER MOVED TO ADJOURN THE MEETING, AND MR. QUANDT SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.**

The meeting adjourned at 10:20 p.m.