

APPROVED

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING, DECEMBER 12, 2005, 7:30 P.M.

Chairman Jirik called the December 12, 2005 meeting of the Plan Commission to order at 7:30 p.m. and asked for a roll call:

PRESENT: Chairman Jirik, Mr. Beggs, Mrs. Hamernik, Mr. Matejczyk, Mr. Waechtler, Mr. Webster

ABSENT: Mrs. Rabatah

STAFF

PRESENT: Keith Sbiral, Director of Planning; Planners Angela Clark, Jeff O'Brien and Lori Sommers; Mike Millette, Asst. Director of Public Works; and Alice Dornan, Recording Secretary

SEPTEMBER 26, 2005 MINUTES: MINUTES WERE APPROVED ON MOTION BY MR. WAECHTLER, SECONDED BY MR. MATEJCZYK.

ROLL CALL:

AYES: MR. WAECHTLER, MR. MATEJCZYK, MR. WEBSTER, CHAIRMAN JIRIK

NAYS: NONE

ABSTAIN: MR. BEGGS, MS. HAMERNIK

MOTION PASSED. VOTE: 4-0-2

OCTOBER 3, 2005 MINUTES: MINUTES WERE APPROVED ON MOTION BY MR. MATEJCZYK, SECONDED BY MR. WEBSTER.

ROLL CALL:

AYES: MR. MATEJCZYK, MR. WEBSTER, MR. WAECHTLER, CHAIRMAN JIRIK

NAYS: NONE

ABSTAIN: MR. BEGGS, MRS. HAMERNIK

MOTION PASSED. VOTE: 4-0-2

OCTOBER 17, 2005 MINUTES: MINUTES WERE APPROVED ON MOTION BY MR. WEBSTER, SECONDED BY MR. WAECHTLER.

ROLL CALL:

AYES: MR. WEBSTER, MR. WAECHTLER, MR. MATEJCZYK, CHAIRMAN JIRIK

NAYS: NONE

ABSTAIN: MR. BEGGS, MRS. HAMERNIK

MOTION PASSED. VOTE: 4-0-2

Chairman Jirik reviewed the protocol for the meeting.

FILE NO. PC-24-05 - Petition seeking approval of a Lot Split to include lot width exceptions. Property located on the west side of Main Street, approximately 435 feet south of 55th Street, commonly known as 5532 Main Street, Downers Grove, IL (PIN 09-17-101-032); James F. Russ, Jr., Attorney/Petitioner; William Haider/Owner.

Chairman Jirik swore in those individuals wishing to speak on File No. PC-24-05.

Staff planner, Ms. Clark, read her report as it pertains to the subject property, calling to attention that the petitioner was seeking to divide the property into two equally sized parcels of 60 feet in width. If the petition is approved, the existing residential structure will be demolished, and one new single-family residence would be constructed on each resulting lot. The proposed lot split would result in conformance with the Future Land Use Map of 0 to 6 dwelling units per acre in the R-1 through R-4 zoning classifications. Ms. Clark stated she advised the Petitioner of the code-required criteria in relation to the subject petition as well as the recent Council discussions regarding lot split requests and the Community Dialogue discussions. The petitioner has elected to proceed with the request and has submitted a project summary to further address these criteria.

Per staff, there were significant issues with regard to the proposed lot width exceptions considering that several large lots remained on the west side of Main Street adjacent to the subject property, and whether the 60-foot lots were consistent with the trend of development in the area. Staff recommended approval pending the following four conditions:

1. Removal or relocation of the existing residential structure to a conforming location prior to recording the Lot Split;
2. Approval of Public Works requirements and conditions as outlined in their memorandum dated March 4, 2005 prior to construction permitting;
3. 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; and
4. It is the Petitioner's obligation to maintain compliance with all applicable Federal, State, County and Village laws, ordinances, regulations, and policies.

No comments followed from the commissioners.

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Mr. James F. Russ, Jr., 4915 Main Street, Downers Grove, IL, attorney for the petitioner, stated his request was for two lots (60 feet x 299 feet) with lot areas running approximately 17,000 sq. feet. While the minimum lot width requirement is 75 feet and 140 feet in depth for a minimum lot area, the minimum area will be exceeded by approximately 7,000 sq. feet per lot, or 1.5 times the area required under the Subdivision Control Ordinance. With regard to the lot width, he noted the Plan Commission was allowed to approve up to 50% reduction, and the request is similar to other requests, which were allowed in the Village of Downers Grove in different areas. Mr. Russ reviewed the four criteria, which the Plan Commission was to consider in discussing the requested exception.

Mr. Russ closed by emphasizing the fact that the proposed lots are substantially in conformance with the lots to the west and south and that the depth and area exceeds minimum requirements. Chairman Jirik opened up the discussion to the commissioners.

Per a question, Mr. Russ stated the proposed parcels did not have any wetland issues. Mr. Beggs inquired about the discussions that took place at the Council meeting regarding lot splits, wherein Mr. Sbiral discussed the conversations that took place at Council levels over the past years. Mr. Waechtler recalled the conversations focused on the character of the neighborhood and the predominant lots sizes in the neighborhood.

Backing up his request, Mr. Russ explained an area located in the northwest section west of Lee Street and south of Prairie developed similarly, where the predominant division of the lots was initially 125 foot wide but were reduced and developed into 60 ft. wide lots, which was consistent with the area. The proposed request fell under the same scenario.

Ms. Hamernik asked if the mix of lots in the area was due to annexation in two different zoning districts, wherein Mr. Russ explained the R-4 zoning district at the time of lot development allowed for a 50 foot minimum lot on the east side of the street and then the subdivision ordinance followed, with the 50 foot lots being grandfathered in as non-conforming lots.

Chairman Jirik opened up the discussion to the public:

Ms. Kim Born, 5522 Main Street, Downers Grove, expressed concern about additional traffic to the area with two lots and the traffic accidents she has witnessed over the years. She expressed concern about stormwater running into her backyard pond from the two lots.

Mr. Gordon Goodman, 5834 Middaugh Ave., Downers Grove, believed larger lots along Main Street were appropriate and important. He noted he did not hear any evidence of a particular hardship or practical difficulty and was not supportive of the request. While the petitioner's attorney addressed the four criteria to grant an exception, Mr. Goodman called attention to the fact that the petitioner's attorney neglected to add a fifth criteria which was whether the exception was in conformance with the general plan and spirit of the Ordinance chapter. He indicated it was not in character or conformance.

Discussion followed on the history of lots within the Village, what truly existed and how an exception was justified. Mr. Sbiral stated staff's position was that there was a difference between Carpenter Street and Main Street in the overall function of the streets.

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Mr. Goodman proceeded to respond to Mr. Beggs' question on justifying the exception, explaining one must research the Ordinance adopted by the Village and ask whether a particular hardship or practical difficulty existed to grant the exception. It was not a property right to have 60 ft. wide lots.

Mr. Kenneth Mungan, 5558 Main Street, Downers Grove, asked for staff to review its list of concerns with the development of the lot, as stated in the report. Mr. Sbiral explained staff felt the subject request was not consistent with the surrounding neighborhood lots and a 20% variance where no hardship was spelled out was a concern. Mr. Mungan asked Mr. Russ if his client owned the 135-foot lot to the south, wherein Mr. Russ stated he did not know but offered to find out. Mr. Mungan pointed out his lot on the map. Addressing the trend of development, Mr. Mungan commented on the two most recently developed lots, which are 80 feet in width and appear to be the trend in his neighborhood. He believed the proposal did have an impact on the reasonable use of the surrounding properties since accidents have occurred, and the requested exception would impact safety. He believed the proposal did not meet the trend of the area and did not meet the spirit of the Ordinance.

Mrs. Gretchen Mungan, 5558 Main Street, Downers Grove, stated she knew of four neighbors who did not support the split for 60-foot wide lots. She expressed concern about her child's safety and the neighbors' safety when pulling out of their driveways quickly to get on the road.

Mr. Martin Estall, 5512 Main Street, Downers Grove, resides two lots north of the subject property. He was not opposed to the lot split but did have concerns about sump pump connections to the Main Street stormwater line that feeds directly into his backyard.

Chairman Jirik closed the public participation portion of the meeting and opened up the discussion to the commissioners.

Per Ms. Hamernik's question, the speed limit in the area was 35 MPH.

Mr. Russ closed by explaining that the hardship in this matter was denying the petition. By denying the request, the Plan Commission was requiring the owner to maintain a property that was twice as deep and one and one-half times the minimum lot area size that was required of anyone developing a parcel in the Village. He noted the property north of the train tracks was developed as 50-foot wide lots the same as the east side of Main Street. The 60-foot wide lots were more consistent with how Main Street was developed. He asked the Plan Commission support the request. Discussion among the commissioners followed. Mr. Matejczyk believed the commission had to view not just the single parcel in isolation but the five lots that would be impacted by the decision. In reviewing the aerial, he found it difficult to view five lots as a neighborhood and agreed the lots were not the norm. He believed the lot would be difficult to develop considering its size and the value of the land and would become a burden.

Mr. Webster pointed out the newest developed lots near the subject parcel but called attention to the fact that 60-foot widths were the majority on the block. However, Mr. Waechter disagreed, noting of the 14 lots on the west side of Main Street, five were 60 feet and the remaining were over 60 feet. Of the 24 lots on the east side of Main Street, three were 50 feet, and lots over 60 feet represented 66.7% of the block.

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Chairman Jirik, in reviewing the subject property, viewed Main Street and Carpenter as different neighborhoods. By his own calculations, two-thirds had greater or conforming properties of 75 feet. Should the request be approved, then the lots would represent a 50/50 split.

After discussing the matter, Mr. Beggs believed under the statute there was good reason for the petitioner to make the request and viewed the neighborhood as a changing neighborhood with no specific direction, of which time would tell.

Mr. Waechtler inquired whether all stormwater and wetlands information was provided to staff, wherein Mr. Sbiral explained on this particular request, the Public Works Department and staff did review the parcel. Since there were no specific wetland issues, then that specific information is not required until permitting time.

Regarding the resident's concern about sump pump water being directed to his pond, Mr. Sbiral explained the developer would be held to the same standards whereby water cannot be released off its site. Those issues would not be addressed until a structure was proposed for the site by the developer.

Ms. Hamernik also agreed the subject parcel was an "island", and a larger lot surrounded by smaller lots was a hardship. However, in reviewing the lots over 75 feet in width, the Plan Commission, by not granting the request, was not hampering development necessarily because another option existed.

Mr. Waechtler discussed if the exception were approved, the village would set a precedent and other requests would most likely follow.

Chairman Jirik provided his own input as to the number of existing lot widths greater than 75 feet and those of 60 feet wide, and the fact that he was uncomfortable leaning toward the 60-foot wide lot.

MOTION: WITH RESPECT TO FILE NO. PC-24-05, MR. MATEJCZYK MOVED THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL BASED UPON STAFF'S RECOMMENDATIONS SUBJECT TO THE FOLLOWING CONDITIONS:

- 1) REMOVAL OR RELOCATION OF THE EXISTING RESIDENTIAL STRUCTURE TO A CONFORMING LOCATION PRIOR TO RECORDING THE LOT SPLIT;**
- 2) APPROVAL OF PUBLIC WORKS REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED MARCH 4, 2005 PRIOR TO CONSTRUCTION PERMITTING;**
- 3) 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; AND**
- 4) IT IS THE PETITIONER'S OBLIGATION TO MAINTAIN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, COUNTY AND VILLAGE LAWS, ORDINANCES, REGULATIONS, AND POLICIES.**

THE MOTION WAS SECONDED BY MR. BEGGS.

ROLL CALL:

AYE: MR. MATEJCZYK, MR. BEGGS, MR. WEBSTER

NAY: MS. HAMERNIK, MR. WAECHTLER, CHAIRMAN JIRIK

MOTION FAILED. VOTE: 3-3

Chairman Jirik asked whether more information was necessary to debate the issue. The consensus of the Plan Commission was to move forward. Mr. Sbiral stated the above petition would be on the Village Council Workshop Agenda on January 10, 2006 and questions should be directed to Angela Clark, Planner, at (630) 434-5531.

FILE NO. PC-25-05 (continued from 10/3/05 meeting) – Petition seeking approval of the Final Plat of Nelson Meadows Subdivision with exceptions from Code. Property located on the east side of Brookbank Road, north of Jefferson Avenue and west of Carpenter Street, commonly known as 5737 Brookbank Road, Downers Grove, IL (PIN 09-17-108-015); Joel Andersen Homes, Ltd., Petitioner; Joel Andersen, Owner

Chairman Jirik confirmed with Ms. Hamernik and Mr. Beggs that they read the minutes and staff reports regarding this petition, to which both answered affirmatively.

Chairman Jirik went over where the Commission was in the process for this petition with Mr. Sbiral explaining that staff did note the responses to the Plan Commission comments and staff's modified recommendation. No significant changes were made to the plans since the last meeting with only a few modifications to the plans to address previous recommendations in staff's report. Staff planner, Mr. Jeff O'Brien, stated at the October 3, 2005 meeting, staff was asked to research the sidewalk gap on Brookbank Road and the lack of extension of that sidewalk on the east side of Brookbank Road north to Blanchard Street. He noted it was a dead-end section of sidewalk and the development of the Nelson Meadows sidewalk would include the addition on the east side of the new street along the entire frontage of the subdivision. Mr. O'Brien explained how the sidewalk matrix would be updated with this new development. He clarified that the staff report should have stated that work along the south property line would remain five feet from the tree trunks, not the roots. Mr. O'Brien also explained that the proposed building on Lot 8 would be above the high water level of the detention pond. He noted staff continued to recommend that Lot 8 be eliminated from the plans and that the detention area should be on a separate out lot. Mr. O'Brien stated that staff was not opposed to mountable curbs. Staff, however, was recommending approval with the five conditions listed in its staff reported dated December 5, 2005. Lastly, Mr. O'Brien called attention to the fact that a letter from Ms. Alice Strelau, 5611 Brookbank Rd., Downers Grove, was on the dais for each commissioner.

As to whether the public comment portion of the meeting should be reopened to address any new changes to the plans, Mr. O'Brien responded that the changes the public would be able to comment on included the widened right-of-way of Jefferson Avenue from 33 feet on the previous submitted plans to 35 feet; the addition of the walking path through the detention area on Lot 8; the addition of

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two catch basins on Brookbank Road and the photometric plan. As to the detention pond, it was moved a couple feet to the north to accommodate the walking path.

Mr. Sbiral cautioned Chairman Jirik on how much of the meeting needed to be re-opened since much of the information and issues were discussed at the last meeting. He advised the Chairman that there should be a rebuttal of previous testimony from the petitioner. Chairman Jirik stated the public participation would be reopened for new information only and cross-examined in one streamlined process at the end.

Mr. Ken Rathje, Rathje Consulting Services, 412 Chicago Avenue, Downers Grove, stated all of the items were discussed earlier, specifically the withdrawn request for a right-of-way with dedication of 33 feet. It was revised to a 35-foot dedication. As to the streetlights, the petitioner through Mr. Hartjes would be providing a revised photometric plan. Public Works has since commented and the petitioner needs to make some adjustments. There was no longer a request for a variation. Per Mr. Rathje, final engineering was adjusted appropriately between the time the Plan Commission recommendation was sent forward regarding the subdivision and the time the Village engineer certified the engineering. Similarly, with the catch basins, there was no departure from the standards; only a minor adjustment was made as it relates to stormwater flow. The petitioner at the prior meeting agreed to the five-foot walking path, and it was agreed that a pipe rail barrier would be installed between the north edge of the walking path and the detention area, voluntarily. Chairman Jirik reopened the public participation portion of the meeting regarding the new changes.

Mr. Tom Sisul, 5120 Main Street, Downers Grove, the attorney for the residents, had no objections. He confirmed his discussions with staff last week and was pleased about the 35-foot dedication on Jefferson Street. The five-foot path was welcomed; however, the slopes appeared to be dangerous for children, and the pipe rail was an inadequate safety precaution.

Mr. Mike Kelch, 5729 Carpenter, Downers Grove, asked about lighting on Carpenter, wherein staff recommended lighting be placed on Carpenter and at the height of the wall and its specific location.

Chairman Jirik swore in Mr. Brad Hartjes, C. M. LaVoie & Associates, 1050 W. Rt. 126, Plainfield, IL.

Mr. Hartjes explained there was no wall along Carpenter. The wall was along the south property line and would not be seen from the south.

Mr. Mark Cronin, 1117 Jefferson St., Downers Grove, asked questions about the maintenance of the railing, would it be the responsibility of the owner of Lot 8 or the homeowners association.

Mr. Cronin inquired as to on-street parking on Jefferson and who would be paying for a new plat of survey of his property since his driveway would be reconfigured as part of this project. Mr. Sbiral stated the property lines were not changing, and the right-of-way would remain in the configurations. Because the street layout and Mr. Cronin's driveway would change, Mr. Sbiral stated it was the petitioner's responsibility to speak to Mr. Cronin to make the necessary arrangements. Chairman Jirik also added that because the property under Mr. Cronin's ownership would remain dimensionally unchanged, there was no concern about the sidewalk since it was on village property.

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Mr. Jim Mazer, 5800 Carpenter St., Downers Grove, pointed out his property on the map and inquired about the location of the wall and detention pond in relationship to the walnut trees. He inquired about the use of limestone for the walking path, stating he preferred mulch, wherein Mr. Hartjes explained the western portion of the wall was a few feet further away, and the wall would be located ten feet from the property line. Mr. Hartjes explained that after discussing the limestone material with staff, staff did not see the six inches of limestone as an issue.

Chairman Jirik swore in Ms. Gail VanGorp Mazer, 5800 Carpenter St., Downers Grove. Ms. VanGorp Mazer asked if a report existed from the Village Forester on the limestone recommendation. She share her discussions with representatives from the Morton Arboretum and a privately hired arborist who agreed that placing a new limestone path near mature walnut trees would cause stress to the trees versus using mulch. In addition, her understanding was that there was never any intention of putting Jefferson all the way through to Carpenter. She asked for clearer delineation of the distances from the property line and the sidewalk in the report and the current fencing. Mr. O'Brien proceeded to point out the location of the trees in relation to the path, property lines, etc.

Mr. Gordon Goodman, 5834 Middaugh Ave., Downers Grove, expressed concern about over-digging.

Mr. John Schofield, 1025 Jefferson St., Downers Grove, voiced comments about the Jefferson right-of-way withdrawal. He inquired as to why the parkway was 12 feet wide walking east on the north side of Jefferson only to narrow at the corner of Nelson Court and then widen around the cul-de-sac. He asked for consistency. Mr. Sbiral responded and clarified the building line was not supposed to be on Lot 4 and was in error.

Chairman Jirik closed the public participation portion of the meeting.

Chairman Jirik asked for petitioner comments.

Mr. Kenneth Rathje, 412 Chicago Avenue, provided a rebuttal to the comments and questions. Addressing sidewalk installation, he stated Section 19-14.1 of the Municipal Code requires the payment of fees to the village when sidewalks are not constructed. Because funds would be collected under the provision, he would hope that the Village would utilize those funds for the construction of sidewalks south of the dead-end section of Brookbank and south of Blanchard. Regarding stop sign installation, it was the responsibility of the Parking and Traffic Commission to review. Regarding lighting, after speaking with the Public Works department, two additional streetlights would be required along Carpenter and one more light in the Brookbank/Jefferson area. Mr. Rathje stated the petitioner agreed with staff as to the relocation of the water main to the west side of Brookbank. Continuing, Mr. Rathje hoped that the Commission would support the request for an exception for a rolled curb in the cul-de-sac.

Regarding the prior discussion about street design, Mr. Rathje referenced Neighborhood Plan Ordinance #2324, dated June 11, 1979, and Spohn's Third Resubdivision (1973) and the future development plans for the subject neighborhood, which was to reduce or eliminate the dead-ending of Jefferson. However, in referencing the May 8, 1979 Plan Commission meeting, Mr. Rathje pointed out a different approach was taken whereby narrative-type guidelines were established for the roadway system, leaving the street system up to the developer(s). He called attention to the fact

that there was a preference in the neighborhood that Jefferson not be extended through to Carpenter, and there was an option to extend Brookbank through from Jefferson to Blanchard and then making improvements to Jefferson. He referenced how Mr. Cronin's 1988 lot split played into the Nelson property, stating what was being proposed was very much anticipated in the adoption of the Neighborhood Plan, as well as the concepts that went into getting a lot split.

Mr. Rathje confirmed the elimination of the previously suggested variation for the north half of Jefferson. He stated the petitioner's plan had consistent right-of-ways with respect to Carpenter. He continued to discuss lot depth issues and setback matters, stating he was pleased that staff was supporting the application of the Subdivision Control Ordinance and Zoning Ordinance as written and requiring the underlying R-3 zoning district's 30 ft. setback as being appropriate for this subdivision. Addressing the walnut trees, he was of the understanding that the trees would be fine as long as construction activity occurred five feet away from the trunks. He reminded the commissioners that the petitioner was willing to install a chain link fence on his side of the property line prior to any construction. Mr. Rathje then confirmed the tree locations relative to the property line: Tree 1, 7.25 feet; Tree 2, 6.15 feet; Tree 3, 5.82 feet; Tree 4, 4.65 feet; Tree 5, 5.76 feet; Tree 6, 5.23 feet; Tree 7, 4.90 feet; Tree 8, 4.67 feet; Tree 9, 4.27 feet; and Tree 10, 5.18 feet. Next followed the tree locations relative to the retaining wall/over dig: Tree 2, 28.36 feet; Tree 3, 21.37 feet; Tree 4, 17.80 feet; Tree 5, 16.10 feet; Tree 6, 12.84 feet; Tree 7, 10.33 feet; Tree 8, 8.80 feet; Tree 9, 5.74 feet; and Tree 10, 8.30 feet from the over-dig. He continued to discuss his conversation with Mr. Chuck Stewart with Urban Forestry Management, who indicated that the black walnuts were "excellent candidates" to deal with construction activities. Should there be infringement into the root zone, then the practice of root thinning and crown pruning was recommended.

Mr. Rathje stated because the trees were a private property matter, Mr. Anderson agreed to work with the two neighbors outside of any participation with the Village. He stated Mr. Russ would be contacting the two neighbors to confirm their willingness to work on this matter. Regarding the walking path to be installed, Mr. Rathje found staff's use of the words "in lieu of" in its report was misleading, noting the petitioner was not trading the path for a street connection to Jefferson. In addition, the petitioner was open to either a limestone or a mulch walkway. As to the pipe railing along the detention area, Mr. Rathje pointed out pipe railings were very common for separating pedestrians from water places. He proceeded to list pipe railing locations. As to having a buildable lot (Lot 8) in conjunction with a detention basin, Mr. Rathje listed other developments that had stormwater detention on a building lot. He also noted in the staff report, staff's reference to Municipal Code, Chapter 26, Section 26-94 regarding the separation of the detention area from a buildable lot and the placement on an out lot.

Lastly, Mr. Rathje stated the petitioner's engineer was not suggesting the developer develop a lot which was not buildable. Instead, he referenced the Village's Stormwater Policy Resolution 98-57 in the petitioner's favor. He reiterated no provision in the Code existed that prohibited a developer from having a lot combined with stormwater detention.

Mr. James F. Russ, Jr., 4915 Main Street, petitioner's attorney, closed by asking the Commission to recognize the petitioner's proof and reproof of its engineering, design, and exceptions, etc. for the project and asked for support, noting appropriate consultants and experts reviewed the request.

Chairman Jirik opened up the discussion to the commissioners and staff.

Mr. Sbiral stated some of Mr. Rathje's testimony was misleading as to Code interpretation for Lot 8.

Per Mr. Matejczyk's question, Mr. Mike Millette, Assistant Director of Public Works, stated staff did not recommend that Banchory Woods be constructed the way it is being proposed. Instead, the detention pond there was recommended to be an out lot with the rationale being that it would be a huge financial burden for an individual homeowner should a significant failure occur in the future. Therefore, it was written in the Ordinance to be held in some sort of a "trust" to deliberately spread the financial burden.

Mr. Sbiral explained if the detention lot were separated, it would be created as a stormwater easement. However, Lot 8 by itself, Mr. O'Brien explained, would not meet the lot requirements due to lot depth and width. Mr. Hartjes confirmed if the detention portion of Lot 8 became an out lot, the buildable portion north of it would not meet the requirements, and the site would have to be reworked differently.

Ms. Hamernik asked the specifics as to how a detention pond works when one person owns it and who maintains it, wherein Mr. Hartjes explained the differences between personal ownership and homeowners' association ownership, noting the Village maintains the pipes whether the private owner or the association maintains the detention pond. However, Mr. Millette further clarified the Village's role in maintaining and repairing private detention ponds. Mr. Millette responded that there are examples of both methods in various DuPage County communities. Examples of detention failure within the village followed, noting Lacey Creek was one of the failures. Mr. Millette explained eventually detention ponds will fail. However, newer ponds do have retaining walls due to higher surrounding density. As to Mr. Beggs' question, the developer, Mr. Joel Anderson, would maintain the pond up until the lot was sold.

From his perspective, Mr. Webster understood that the Village did nothing with the detention pond until there was a problem, wherein Mr. Millette concurred. As to the petitioner's interpretation of Code as it relates to Lot 8, Mr. Sbiral referred to Page 8 of staff's report regarding the 100 Year Flood elevation and stated staff's position did not change with regard to Lot 8.

Chairman Jirik inquired whether any standard document existed whereby additional granting of access between the homeowners association and maintaining the lot dimensions to satisfy both issues, wherein, Mr. Sbiral stated it would be up to the petitioner's engineer to fit it accordingly.

Per Mr. Sbiral, staff had no issue having 11 homes on the subject property. From Mr. Sbiral's understanding of Mr. Rathje's last comments, the petitioner did have plenty of area to move the house on Lot 8 and/or to eliminate all of the exceptions and reconfigure the lots.

Chairman Jirik voiced his concerns about the walnut tree roots intruding onto private property, calling attention to the fact that it could be interpreted as a "taking" of the petitioner's land and depriving them of the valid use of their property, noting the petitioner was not seeking any recourse against the owners of the trees and was very cooperative in this matter. Mr. Matejczyk concurred. Chairman Jirik also expressed his personal annoyance with roll curbs and suggested to cut the driveways better.

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Mr. Matejczyk suggested granting an easement to the homeowners' association, if possible, given that the overall layout of the project was good, and it would be redundant for the petitioner to start over again. Chairman Jirik was open to the suggestion in order to create a win-win situation. Mr. Russ, attorney for the petitioner, agreed to explore the suggestion.

Mr. Webster asked for the specific description of the easement, wherein Mr. Russ stated it would be a stormwater access/detention easement with specific limitations placed on it. Mr. Webster was in favor of directing the subject stormwater detention easement to a specific entity, such as a homeowner's association. Mrs. Hamernik noted, then, that the only change to staff's recommendation was under Recommendation 1.a.

Per Mr. Matejczyk's question as to who would draft such a document, Mr. Sbiral responded the Village Attorney would work in cooperation with the petitioner. Mr. Russ concurred.

MOTION: WITH RESPECT TO FILE NO. PC-25-05, MR. MATEJCZYK MOVED THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION TO THE VILLAGE COUNCIL SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. SEVEN (7) SETS OF A REVISED FINAL PLAT OF SUBDIVISION AND ENGINEERING PLANS SHALL BE SUBMITTED TO THE DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT WITH THE FOLLOWING MODIFICATIONS:**
 - a. THAT LOT 8 INCLUDE THE DETENTION AREA AND A RESIDENTIAL STRUCTURE. PRIOR TO GOING TO VILLAGE COUNCIL, THE PETITIONER AND VILLAGE ATTORNEY SHALL COLLABORATE TO DEFINE ALTERNATIVE MEANS TO ACCOMPLISH SUCH SITUATION, SUCH AS A HOMEOWNER'S ASSOCIATION THAT WOULD BE THE PERMANENT BENEFACTOR OF A STORMWATER DETENTION EASEMENT ON LOT 8 THAT WOULD PRESERVE THE BUILD-ABILITY OF LOT 8. SUCH HOMEOWNERS ASSOCIATION DOCUMENTS SHALL BE PRESENTED TO STAFF FOR REVIEW AND APPROVAL;**
 - b. THE PAYMENT OF A FEE-IN-LIEU OF INSTALLING A PUBLIC SIDEWALK ON THE WEST SIDE OF CARPENTER STREET ADJACENT TO LOTS 8, 9, 10, AND 11 SHALL BE MADE TO THE VILLAGE OF DOWNERS GROVE.**
 - c. THE PROPOSED EIGHT (8) INCH WATER MAIN ALONG THE SOUTH PROPERTY LINE SHALL BE MODIFIED TO MINIMIZE NEGATIVE IMPACTS TO THE TREES ON THE ADJACENT PROPERTY. APPROPRIATE PRESERVATION MEASURES SHALL BE UTILIZED TO ENSURE THE LONG-TERM HEALTH OF THE TREES.**
 - d. A PHOTOMETRIC PLAN WITH STREET LIGHTS ON CARPENTER STREET SHALL BE PROVIDED INDICATING LIGHT LEVELS.**
 - e. INDICATE WHERE THE NEW PARKWAY TREES WILL BE PLANTED OR INDICATE THAT THE VILLAGE OF DOWNERS GROVE WILL DO THE PLANTING.**

- f. COMPLIANCE WITH ALL OTHER TECHNICAL ISSUES OUTLINED IN THE PUBLIC WORKS MEMORANDUM DATED OCTOBER 28, 2005.**
- 2. COMPLIANCE WITH ALL FIRE PREVENTION DIVISION REQUIREMENTS AND CONDITIONS AS OUTLINED IN THEIR MEMORANDUM DATED AUGUST 23, 2005;**
- 3. PAYMENTS OF SCHOOL AND PARK DISTRICT DONATIONS OF \$11,091.08 TO DISTRICT 58; \$6,897.60 TO DISTRICT 99 AND \$22,708.01 TO THE PARK DISTRICT (GRAND TOTAL OF \$40,696.69) PAYABLE TO THE VILLAGE OF DOWNERS GROVE.**
- 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 SUBDIVISION AND/OR EXCEPTIONS; AND**
- 5. IT IS THE PETITIONER'S OBLIGATION TO MAINTAIN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, COUNTY AND VILLAGE LAWS, ORDINANCES, REGULATIONS, AND POLICIES.**

THE MOTION WAS SECONDED BY MS. HAMERNIK.

ROLL CALL:

AYE: MR. MATEJCZYK, MS. HAMERNIK, MR. WAECHTLER, MR. WEBSTER, CHAIRMAN JIRIK

NAY: MR. BEGGS

MOTION PASSED. VOTE: 5-1

Mr. Beggs stated he voted against the motion because he was not in favor of placing responsibility on the Village.

Mr. Sbiral advised this petition would be heard at the January 10, 2006 Village Council Workshop agenda. Any questions should be directed to Jeff O'Brien, Planner, (630) 434-5520.

FILE NO. PC-31-05 - Petition seeking Rezoning from R-1 Single Family Residential to B-3 General Services and Highway Business. The property is located on south side of Ogden Avenue approximately 36 feet from Cross Street, commonly known as 2449 Ogden Avenue, Downers Grove, IL. Edward and Marcella Wonsowski, Petitioners. Downer Grove National Bank Trust # 7244, Owner.

Chairman Jirik swore in those who would be speaking on behalf of File No. PC 31-05.

APPROVED

Mrs. Lori Sommers reviewed her staff report, noting the subject property (under one-half acre) was annexed into the Village on March 21, 1988 and was zoned R-1 at that time and allowed the existing commercial use to be grandfathered in. The petitioner was seeking to sell his property since he was retiring and was seeking to rezone the parcel to the B-3 zoning district, General Services and Highway Business. Per staff, the request was consistent with the Future Land Use Map and was consistent with the goals of the Ogden Avenue Master Plan and Implementation Strategy to increase commercial uses and the depth of commercial properties which fronted Ogden Avenue. Currently, a structure with garage existed on the site and no sidewalks existed. In the future, staff recommended that sidewalks be installed. Also, because three curb cuts existed along Ogden Avenue, staff recommended that two of the cuts be removed in the future. Staff recommended that the Plan Commission forward a favorable recommendation and Findings of Fact to the Village Council, subject to staff's three conditions in its report.

No questions followed from the commissioners.

Chairman Jirik opened the meeting up to the public:

Mr. Richard Tarulis, with Brooks, Adams and Tarulis, 101 N. Washington, Naperville, attorney for the petitioners, introduced the petitioners' two sons. He briefly discussed the simple rezoning of the subject property so that the petitioners could resell their property. The parcel was placed on the market with interested parties seeking commercial zoning.

No further comments followed from the public.

Mr. Tarulis thanked Village staff for their assistance and cooperation in this process.

Mr. Waechtler believed the zoning on this property had been long overlooked.

MOTION: WITH RESPECT TO FILE NO. PC-31-05, MR. WAECHTLER MOVED THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION, INCLUDING THE FINDINGS OF FACT, TO THE VILLAGE COUNCIL SUBJECT TO THE FOLLOWING CONDITIONS:

- 1. 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;**
- 2. IT IS THE PETITIONER'S OBLIGATION TO MAINTAIN COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE, COUNTY AND VILLAGE LAWS, ORDINANCES, REGULATIONS, AND POLICIES; AND**
- 3. FURTHER, THOUGH NOT PART OF A REDEVELOPMENT PETITION STAFF RECOMMENDS THE PETITIONER BE ADVISED THAT UPON REDEVELOPMENT OF THE PROPERTY THE FOLLOWING ITEMS WILL BE REVIEWED AND REQUIRED: INSTALLATION OF SIDEWALK AND REMOVAL OF AT LEAST TWO CURB CUTS ALONG OGDEN AVENUE.**

THE MOTION WAS SECONDED BY MR. WEBSTER.

ROLL CALL:

**AYE: MR. WAECHTLER, MR. WEBSTER, MR. BEGGS, MS. HAMERNIK,
MR. MATEJCZYK, CHAIRMAN JIRIK**

NAY: NONE

MOTION PASSED. VOTE: 6-0

OTHER BUSINESS:

Chairman Jirik welcomed new members, Ms. Hamernik and Mr. Beggs. Both members introduced themselves and provided brief personal backgrounds.

Mr. Sbiral announced the next regularly scheduled meeting would be Monday, January 9, 2006, and Chairman Jirik discussed the possibility of training workshops on a future Saturday morning.

Mr. Waechtler suggested, as the Village Council recites the Pledge of Allegiance at the beginning of its meetings, the Plan Commission should do the same.

Mr. Sbiral asked the Recording Secretary to e-mail the Plan Commission members regarding their availability to attend a special Plan Commission meeting on Monday, January 23, 2006 to continue the Public Hearing on the proposed changes to the residential zoning regulations.

Lastly, Mr. Sbiral announced his resignation and subsequent move to the Village of Brookfield where he will serve as Assistant Village Manager effective the beginning of 2006. He thanked those members who served on the Plan Commission and conveyed that the Village had the best planning staff currently at this meeting. Chairman Jirik and members also thanked Mr. Sbiral for his service, support and knowledge provided to the Plan Commission and the Village.

The meeting adjourned at 11:45 p.m. on motion by Ms. Hamernik, seconded by Mr. Webster.

Motion carried unanimously by voice vote of 6-0.

/s/ Celeste K. Weilandt
Celeste K. Weilandt
(As transcribed by tape)