

**VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
APRIL 9, 2013 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
Zoning Ordinance Text Amendment - Fences	✓ Resolution Ordinance Motion Discussion Only	Tom Dabareiner, AICP Community Development Director

SYNOPSIS

An ordinance has been prepared adopting an amendment to the fence provisions of the Zoning Ordinance as it relates to fences in the front yard of a non-residential use located within a residential zoning district.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 include *Strong and Diverse Local Economy* and *Exceptional Municipal Services*.

FISCAL IMPACT

N/A

UPDATE & RECOMMENDATION

This item was discussed at the April 2, 2013 Village Council meeting. The Council requested additional information on the ratio of open to closed fence area. Increasing the 1:2 ratio of open to closed area for fencing located in a front yard which is taller than 4 feet in height will be researched in the course of the zoning ordinance amendment process which is recently underway. The District 99 proposed fence is 5:1 with a 3-3/4 inch opening (school codes allow a maximum 4" opening), so it will far exceed the current 1:2 requirement. Staff recommends approval on the April 9, 2013 Active Agenda.

BACKGROUND

Community High School District 99 is requesting a text amendment to Section 28.1301 (Fences) of the Zoning Ordinance. The proposed amendment would permit properties used for non-residential uses (e.g. schools, churches, etc.) that are located in a residential zoning district to construct a six-foot tall open design fence in the front yard. The petitioner is proposing to add the following language to Section 28.1301(g) of the Zoning Ordinance:

- (iv) For non-residential uses in residential districts, fences of no more than six (6) feet in height are permitted when the subject lot is a multi-frontage lot that contains a parking lot without a structure. Such fence shall be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property and have an open design. All other landscaping and screening requirements contained in Article XIV shall still apply.

As proposed, a non-residential use in a residential zoning district could have a six-foot open design fence in the front yard if the following three tests are met:

- 1) the property has multiple frontages;
- 2) the property contains a parking lot without a building or structure; and
- 3) the property has at least one frontage immediately adjacent to an arterial street or immediately adjacent to a non-residentially zoned property.

Based on the standards above, there are only three instances where a parcel would meet the proposed criteria:

- Downers Grove North High School parking lot at the northeast corner of Grant and Main Streets.
- St. Mary of Gostyn parking lot at the southwest corner of Fairview and Prairie Avenues.
- Ebersold Park parking lot at the southwest corner of 59th and Main Streets.

The majority of non-residential uses located in residential zoning districts do not have multiple frontages or have both a parking lot and a building or structure located on the same parcel. Additionally, there are few non-residential uses on residentially zoned parcels that are immediately adjacent to non-residentially zoned property. There are only 10 arterial streets in the Village which reduces the pool of potential properties able benefit from this amendment.

The options available to this petitioner are limited in the Zoning Ordinance. The current fence regulations make no distinction between non-residential uses and residential uses located within a residential zoning district. The proposed amendment would create this distinction for fences only. Additionally, the Zoning Ordinance does not include a separate institutional zoning classification.

The proposed fence revisions will have little to no impact on adjacent residentially zoned properties as the increased height must be located on the non-residential sides only. The open design element of the proposed amendment is consistent with the current fence regulations. Additionally, a six-foot tall fence may deter people from crossing busy arterial streets mid-block.

The Plan Commission reviewed the proposed amendment at their March 4, 2013 meeting. The Commission found that the amendment did not impact the intent or goals of the fence regulations and would not affect adjacent residential uses. Some members agreed that it filled a small gap in the regulations. The Plan Commission found the proposed modification would be beneficial and unanimously recommended approval of the amendment. Staff concurs with the Plan Commission's recommendation.

ATTACHMENTS

Ordinance

Staff Report with attachments dated March 4, 2013

Draft Minutes of the Plan Commission Hearing dated March 4, 2013

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Community Development **DATE:** April 9, 2013
(Name)

RECOMMENDATION FROM: n/a **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

STEPS NEEDED TO IMPLEMENT ACTION:

- Ordinance
- Resolution
- Motion
- Other

Motion to adopt "AN ORDINANCE AMENDING FENCE PROVISIONS FOR NON-RESIDENTIAL USES IN A RESIDENCE DISTRICT", as presented.

SUMMARY OF ITEM:

This ordinance will amend fence provisions for non-residential uses in a residence district.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

**AN ORDINANCE AMENDING FENCE PROVISIONS
FOR NON-RESIDENTIAL USES IN A RESIDENCE DISTRICT**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by shading/underline; deletions by ~~strikeout~~):

Section 1. That Section 28.1301. is hereby amended to read as follows:

28.1301. Fences.

(a) Fences, including walls and plants in the nature of a fence, shall be erected in conformance with the requirements of this section.

(b) It shall be unlawful to erect or alter any fence within the Village unless a permit has been issued by the Director. A written petition for such permit shall be filed with the Director and fee paid, in conformance with this Zoning Ordinance. A fence permit issued under this section shall be valid for a term of six (6) months.

(c) *Impairment of public protection services and vision obstruction prohibited.* No fence shall be constructed in any yard which, by nature of the material used for its construction, its design or its location, would impair public protection services or would impair public safety by obstructing the vision of persons using the street, sidewalks, or driveways on or adjacent to such yard.

(d) *Structural elements.* All fences shall be constructed so that structural elements, if any, are located on the side of the fence facing toward the property on which the fence is constructed.

(e) *Open design fences.* Open design fences shall be constructed in such a manner that no vertical member shall exceed a width of six inches, and the ratio of open area to closed shall be 1:2, with the open area distributed uniformly over the entire fence surface.

(f) *Electrified or barbed wire fences.* No electrified or barbed wire fence shall be erected in any zoning district except that such fences may be erected in the business and manufacturing district by variation granted pursuant to Article XV of this Zoning Ordinance.

(g) *Residence district regulations.* In residence districts, the following are allowed:

(1) *Front and side yards abutting streets.* In front yards and side yards abutting a street:

(i) Open-design fences of no more than four (4) feet in height are permitted within required front yards and on corner lots within required side yards abutting streets.

(ii) Chain link and woven mesh fences are not permitted, except that chain link fences, including those which are anodized or vinyl-clad, constructed without slats, are permitted within the yard area on corner lots where the side of any principal structure located on such lot faces a street, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided, that such fence shall not exceed four (4) feet in height.

(iii) Fences or walls of no more than six (6) feet in height are permitted within the yard area on corner lots where the side of any principal structure located on such lot faces a street if the rear of the structure faces the rear of a structure which is located on an adjacent corner lot, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided that, if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.

(iv) For non-residential uses in residential districts, fences of no more than six (6) feet in height are permitted when the subject lot is a multi-frontage lot that contains a parking lot without

Fence

a structure. Such fence shall be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property and have an open design. All other landscaping and screening requirements contained in Article XIV shall still apply.

(2) In all other yards:

(i) Fences or walls of no more than six (6) feet in height are permitted within the required side or rear yard; provided, however, that on double frontage lots, where the rear of any principal structure located thereon faces a street, the yard on such frontage shall be considered a rear yard, subject to the provisions of this paragraph except that if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.

(ii) On corner lots with three sides abutting a street, fences or walls of no more than six (6) feet in height are permitted within any yard area except that area where the front of any principal structure located on such lot faces a street, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided that, if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.

(h) In business and manufacturing districts, the following are allowed:

(1) In front yards and side yards abutting a street, open-design fences of no more than eight (8) feet in height are permitted.

(2) In rear yards and side yards not abutting a street, fences or walls of no more than eight (8) feet in height are permitted.

(3) In front yards of properties fronting on Douglas Road between Rogers Street on the north and Maple Avenue on the south, chain link fences of no more than eight (8) feet in height are permitted on Douglas Road frontage.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

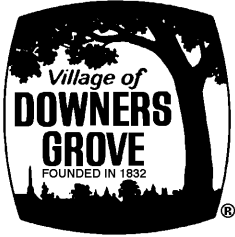
Mayor

Passed:

Published:

Attest: _____

Village Clerk



**VILLAGE OF DOWNERS GROVE
REPORT FOR THE PLAN COMMISSION
MARCH 4, 2013 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
PC 04-13 Zoning Ordinance Text Amendment – Fences	Zoning Ordinance Text Amendment	Stan Popovich, AICP Planner

REQUEST

The proposed amendment will modify the Village’s fence regulations as it relates to the construction of a fence in the front yard for non-residential uses located within residential zoning districts.

NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

APPLICANT: Community High School District 99
6301 Springside Avenue
Downers Grove, IL 60516

ANALYSIS

SUBMITTALS

This report is based on the following documents, which are on file with the Department of Community Development:

1. Application/Petition for Public Hearing
2. Zoning Ordinance
3. Proposed Amendment

PROJECT DESCRIPTION

Community High School District 99 (CHSD) is requesting review of a text amendment to the Zoning Ordinance’s fence regulations. Specifically, CHSD is requesting the front yard fence regulations be modified for non-residential uses located in residential zoning districts. The proposed amendment would permit properties used for non-residential uses (e.g. schools, churches, etc.) that are located in a residential zoning district to construct a six-foot tall open design fence in the front yard. The six-foot fence would only be allowed when:

- 1) the property has multiple frontages;
- 2) the property contains a parking lot without a building or structure; and
- 3) the property has at least one frontage immediately adjacent to an arterial street or immediately adjacent to a non-residentially zoned property.

In these cases, the taller fence would be allowed around the perimeter of the parking lot adjacent to the arterial street and/or the non-residential zoning property. All other frontages would be limited to the existing four-foot all open design fence regulations.

Specifically, the petitioner is proposing to add the following language to Section 28.1301(g) of the Zoning Ordinance:

- (iv) For non-residential uses in residential districts, fences of no more than six (6) feet in height are permitted when the subject lot is a multi-frontage lot that contains a parking lot without a structure. Such fence shall be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property and have an open design. All other landscaping and screening requirements contained in Article XIV shall still apply.

The current fence ordinance makes no distinction between non-residential uses and residential uses located within a residential zoning district. Currently, all uses in a residential zoning district must follow the same fence standards which permit a maximum four-foot tall open design fence in all front and side yards abutting a street. The proposed amendment would create a distinction between non-residential uses and residential uses.

The amendment has a three-step test to allow a six-foot tall open design fence in the front yard that will limit applicability. The first step is that the parcel must have multiple frontages along a right-of-way. The second test is that a parking lot and no other structures or buildings can be located on the parcel. If the parcel passes the first two tests, a six-foot tall open design fence could only be located immediately adjacent to an arterial street and/or immediately adjacent to a non-residentially zoned parcel. In all other front yards, a four-foot tall open design fence would remain the maximum allowed. All of the other provisions of the fence regulations would remain unchanged.

PUBLIC COMMENT

No public comments have been received to at this time.

FINDINGS OF FACT

Staff reviewed the proposed changes and researched the impact that the amendment would have on existing non-residential uses in residential zoning districts. For a non-residential use to qualify for a six-foot tall open design fence in the front yard there is a three step test. These tests limit the number of properties affected by the proposed amendment. The first step is that the parcel would have to have multiple frontages. The second step is that the parcel would have to contain only a parking lot without other structures or buildings being located on the same parcel. These two requirements eliminate the majority of non-residential uses located in residential zoning districts as the majority of these uses do not have multiple frontage and have both a parking lot and a building or structure located on the same parcel.

The third test is the location of the allowable six-foot open design fence. The six-foot tall open design fence would only be permitted immediately adjacent to an arterial street and/or immediately adjacent to a non-residentially zoned property. The following 10 streets are the only current arterial streets in the Village with residential zoning districts abutting the right-of-way (It should be noted that the list of arterial streets could possibly, but unlikely, change in the future either through addition or subtraction):

- 31st Street
- Maple Avenue
- 55th Street
- 63rd Street
- 75th Street
- Fairview Avenue
- Main Street
- Highland Avenue (North of 39th Street)
- Woodward Avenue (South of 63rd Street)
- Belmont Road

The majority of the residentially zoned parcels on these arterial streets contain residential uses or non-residential uses where the parking lot is located on the same parcel as the primary building or other structure so they would not qualify under the proposed amendment. The amendment would also permit a six-foot tall open design fence to be located across the street from a non-residentially zoned property. There are few non-residential uses on residentially zoned parcels that are immediately adjacent to a non-residentially zoned property.

In reviewing the applicability of the regulations, there are only three instances where a parking lot is or could be located on a lot of record and meet the proposed criteria for the installation of a six-foot tall open design fence.

- The Downers Grove North High School parking lot at the northeast corner of Main Street and Grant Street. A six-foot tall open design fence would be permitted along the Main Street and Sherman Street sides of the parking lot.
- The St. Mary of Gostyn parking lot at the southwest corner of Fairview Avenue and Prairie Avenue. A six-foot tall open design fence would be permitted along the perimeter of the parking lot facing Fairview Avenue.
- The Ebersold Park parking lot. Ebersold Park is at the southwest corner of 59th Street and Main Street. A six-foot tall open design fence would be permitted adjacent to the parking lot along Main Street.

The proposed fence revisions will have little to no impact on adjacent residentially zoned properties as only three properties would be impacted. The open design element of the proposed amendment is consistent with the current fence regulations. The additional two feet of height will assist in separating non-residential uses from residential uses. Additionally, the six-foot fence may prevent people from crossing busy arterial streets mid-block.

RECOMMENDATIONS

The proposed text amendment provides a minor change for fences of non-residential uses located in residential zoning districts and recognizes the unique situation of non-residential uses located in residentially zoned districts. The amendment will allow the petitioner to have the ability to provide a taller barrier between a parking lot and a busy arterial street. As such, staff recommends the Plan Commission make a positive recommendation to the Village Council to amend the fence regulations as noted above.

Staff Report Approved By:

Tom Dabareiner, AICP
Director of Community Development

TD:sp
-att

Additions are indicated by shading/underline; deletions by ~~strikeout~~

Section 28.1301. Fences.

- (a) Fences, including walls and plants in the nature of a fence, shall be erected in conformance with the requirements of this section.
- (b) It shall be unlawful to erect or alter any fence within the Village unless a permit has been issued by the Director. A written petition for such permit shall be filed with the Director and fee paid, in conformance with this Zoning Ordinance. A fence permit issued under this section shall be valid for a term of six (6) months.
- (c) *Impairment of public protection services and vision obstruction prohibited.* No fence shall be constructed in any yard which, by nature of the material used for its construction, its design or its location, would impair public protection services or would impair public safety by obstructing the vision of persons using the street, sidewalks, or driveways on or adjacent to such yard.
- (d) *Structural elements.* All fences shall be constructed so that structural elements, if any, are located on the side of the fence facing toward the property on which the fence is constructed.
- (e) *Open design fences.* Open design fences shall be constructed in such a manner that no vertical member shall exceed a width of six inches, and the ratio of open area to closed shall be 1:2, with the open area distributed uniformly over the entire fence surface.
- (f) *Electrified or barbed wire fences.* No electrified or barbed wire fence shall be erected in any zoning district except that such fences may be erected in the business and manufacturing district by variation granted pursuant to Article XV of this Zoning Ordinance.
- (g) *Residence district regulations.* In residence districts, the following are allowed:
 - (1) *Front and side yards abutting streets.* In front yards and side yards abutting a street:
 - (i) Open-design fences of no more than four (4) feet in height are permitted within required front yards and on corner lots within required side yards abutting streets.
 - (ii) Chain link and woven mesh fences are not permitted, except that chain link fences, including those which are anodized or vinyl-clad, constructed without slats, are permitted within the yard area on corner lots where the side of any principal structure located on such lot faces a street, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided, that such fence shall not exceed four (4) feet in height.
 - (iii) Fences or walls of no more than six (6) feet in height are permitted within the yard area on corner lots where the side of any principal structure located on such lot faces a street if the rear of the structure faces the rear of a structure which is located on an adjacent corner lot, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided that, if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.
 - ~~(iv) For non-residential uses in residential districts, fences of no more than six (6) feet in height are permitted when the subject lot is a multi-frontage lot that contains a parking lot without a structure. Such fence shall be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property and have an open design. All other landscaping and screening requirements contained in Article XIV shall still apply.~~
 - (2) In all other yards:
 - (i) Fences or walls of no more than six (6) feet in height are permitted within the required side or rear yard; provided, however, that on double frontage lots, where the rear of any principal structure located thereon faces a street, the yard on such frontage shall be considered a rear yard, subject to the provisions of this paragraph except that if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway,

and lines connecting points fifteen (15) feet from the intersection thereof.

- (ii) On corner lots with three sides abutting a street, fences or walls of no more than six (6) feet in height are permitted within any yard area except that area where the front of any principal structure located on such lot faces a street, provided that such fence shall be located only in the area from the rear line of the structure to the rear lot line, and further provided that, if a driveway passes through such yard or within fifteen (15) feet of such yard on the nearest adjacent lot, the fence shall be constructed in such manner as to provide triangular vision clearance areas formed by the lot lines, the driveway, and lines connecting points fifteen (15) feet from the intersection thereof.
- (h) In business and manufacturing districts, the following are allowed:
 - (1) In front yards and side yards abutting a street, open-design fences of no more than eight (8) feet in height are permitted.
 - (2) In rear yards and side yards not abutting a street, fences or walls of no more than eight (8) feet in height are permitted.
 - (3) In front yards of properties fronting on Douglas Road between Rogers Street on the north and Maple Avenue on the south, chain link fences of no more than eight (8) feet in height are permitted on Douglas Road frontage.

(Ord. 4492, Amended, 04/01/2003; 4069, Enacted, 10/05/1998)



20 N. Wacker Drive, Ste 1660
Chicago, Illinois 60606-2903
T 312 984 6400 F 312 984 6444

15010 S. Ravinia Avenue, Ste 10
Orland Park, Illinois 60462-5353
T 708 349 3888 F 708 349 1506

312 984 6424
kthenn@ktjlaw.com

www.ktjlaw.com

February 12, 2013

Via email: jobrien@downers.us
and U.S. Mail

Mr. Jeff O'Brien
Planning Manager
Village of Downers Grove
801 Burlington Avenue
Downers Grove, Illinois 60515

Re: Community High School District 99's Application for Text Amendment

Dear Mr. O'Brien:

This letter is written as part of the School District's Application for a text amendment to Section 28.1301 of the Zoning Ordinance. Martin Schack from the School District delivered the completed one-page Application along with the application fee in the amount of \$463 to the Village on Friday, February 8, 2013.

The School District is seeking a text amendment to Section 28.1301 to allow for open design fences of a maximum of six feet in height in the front yards of multi-frontage lots that contain parking lots without a structure that are provided for non-residential uses in a residential district. The text amendment allows for fences only along arterial streets or adjacent to non-residentially zoned property, and it does not require that fences be installed. The amendment also provides that all other landscaping and screening requirements for parking lots that are contained in Article XIV still apply.

The text amendment to add a new subparagraph (iv) to Section 28.1301(g) is as follows:

(iv) For non-residential uses in residential districts, fences of no more than six (6) feet in height are permitted when the subject lot is a multi-frontage lot that contains a parking lot without a structure. Such fence shall be constructed along the parking lot perimeter immediately adjacent to an arterial street or non-residentially zoned property and have an open design. All other landscaping and screening requirements contained in Article XIV shall still apply.

There are some parking lots within the Village that are deemed to have four front yards because they are multi-frontage lots and do not contain a structure. In the Zoning

February 12, 2013

Ordinance, the definition of "front lot line" does not specifically address multi-frontage lots; it provides that the boundary of a lot abutting on a street is a front lot line. The Ordinance provides for differentiation of the front lot line for a corner lot, but not for a multi-frontage lot. Based on the definitions of "yard" and "front lot line," multi-frontage lots without a structure have been deemed to have four front yards. Therefore, such multi-frontage lots are limited to the fence height provisions for front yards only. Those fence provisions do not provide flexibility to allow for higher fences for parking lots without a structure that border arterial streets or non-residentially zoned properties.

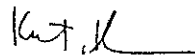
Multi-frontage lots without a structure are rare within the Village. According to Village staff, there are a total of nine multi-frontage lots without structures, including both of the School District's parking lots at Downers Grove North High School. This proposed text amendment is narrowly written and will impact only those lots.

Allowing higher fences for non-residential uses in residential districts along arterial streets or bordering non-residentially zoned property is consistent with the allowance of higher fences in business and manufacturing districts. In those districts, fences are permitted up to eight (8) feet in height. In addition, in residential districts, fences of six (6) feet in height are permitted in rear yards and side yards not bordering a street as well as side and rear yards of corner lots. Higher fences adjacent to arterial streets and non-residentially zoned property will not have a negative impact on adjacent properties. Moreover, allowing a higher fence along an arterial street will increase public health, safety and welfare by allowing the fence to guide ingress and egress from the parking lot. In addition, a higher fence along non-residentially zoned property will allow for additional screening and will be beneficial to neighboring businesses.

As we discussed, this matter will be placed on the Plan Commission's agenda for March 4, 2013. Please contact me if you have any questions or need any additional information.

Very truly yours,

KLEIN, THORPE AND JENKINS, LTD.



Kathleen T. Henn

KTH/an

cc: Martin W. Schack, Director of Physical Plant & Operations (via email: MSchack@csd99.org and U.S. Mail)
Tom Dabareiner, Director of Community Development (via email: tdabareiner@downers.us and U.S. Mail)

DRAFT

VILLAGE OF DOWNERS GROVE
PLAN COMMISSION MEETING
PUBLIC HEARING

MARCH 4, 2013, 7:00 P.M.

Chairman Hose called the March 4, 2013 meeting of the Plan Commission to order at 7:00 p.m. and led the Plan Commissioners and the public in the recital of the Pledge of Allegiance.

ROLL CALL:

PRESENT: Chairman Hose, Mr. Beggs, Mr. Cozzo, Mr. Matejczyk, Mr. Quirk, Mrs. Rabatah, Ms. Urban, Mr. Webster

ABSENT: Mr. Waechtler

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

VISITORS: Mr. Marty Schack, Community High School District 99, 6301 Springside Avenue, Downers Grove; Ms. Kathie Henn with Klein, Thorpe & Jenkins, Ltd., 20 N. Wacker Drive, Suite 1660, Chicago, IL; Ms. Marge Earl, 4720 Florence Avenue, Downers Grove

APPROVAL OF THE JANUARY 28, 2013 MINUTES

A correction was noted on Page 5, first paragraph, second line: reference "63rd Street"; Page 11, first paragraph, seventh line: remove the words "picks parts from autos" and insert "picks auto parts from his yard;" and Page 10, first full paragraph, seventh line: delete the word "talked".

THE JANUARY 28, 2013 MINUTES WERE APPROVED, WITH CORRECTIONS, ON MOTION BY MR. BEGGS, SECONDED BY MRS. RABATAH. MOTION CARRIED BY VOICE VOTE OF 8-0.

APPROVAL OF THE FEBRUARY 4, 2013 MINUTES

A correction was noted on Page 2, first full paragraph, third line: revise to read, "two new parkway trees are required in 'the' Woodward Avenue parkway."

THE FEBRUARY 4, 2013 MINUTES WERE APPROVED, WITH NOTED CORRECTION, ON MOTION BY MR. COZZO, SECONDED BY MR. WEBSTER. MOTION CARRIED BY VOICE VOTE OF 8-0.

Chairman Hose reviewed the meeting's protocol.

DRAFT

PC 04-13 A petition seeking a text amendment to Article XIII of Chapter 28 of the Municipal Code. The purpose of the request is to amend certain fence provisions in residential districts. Community School District 99, Petitioner.

Village Planner, Mr. Stan Popovich, summarized that the petition before the commissioners was a text amendment request to change the regulations relating to front yard fencing for non-residential uses in residential zoning districts. He specifically noted the exact text amendment language is shown in staff's report (page 2) and attached to the staff report. In summary, the change would allow certain non-residential uses located in residential zoning districts the ability to have a six-foot open design fence in a front yard where currently only four-foot open design fences are allowed.

Mr. Popovich reported that the text amendment creates a three-part test of where a six-foot tall fence could be installed. The three parts are: 1) the property must have multiple frontages; 2) a parking lot and no other structures or buildings could be located on the parcel; and 3) the fence can only be located on a frontage immediately adjacent to an arterial street and/or adjacent to a non-residentially zoned property. A four-foot (or under) open design fence would still be allowed in all other front yards and all other provisions of the fence regulations would remain unchanged.

Mr. Popovich referenced staff's report listing the three parcels that would be affected, if the text amendment were approved, to have the six-foot tall fence: 1) Downers Grove North High School; 2) St. Mary of Gostyn property; and 3) Ebersold Park. He pointed out where the proposed fences could be located.

In reviewing the proposal, Mr. Popovich believed there was little to no impact on adjacent residential properties; the open design element was similar to what was currently allowed; the additional two feet in height would not adversely affect adjacent properties; and, in some instances, would stop pedestrians from making a mid-block crossing of the street. Staff believed the request was unique and, based on its findings, believed the Plan Commission should forward a positive recommendation to the Village Council.

Per a question, Mr. Popovich added that the petitioner did seek a variance for a six-foot tall open design fence for the Downers Grove North High School parking lot. The variance was denied by the Zoning Board of Appeals because the board did not believe it was a unique condition. Other examples followed by staff on how the fence requirements for front yards would apply to various situations, i.e., swimming pools (not permitted in front yards), athletic fields, etc.

If the amendment were granted, Mr. Popovich confirmed that future requests that do not meet the three criteria would require a variance. The variation request would be heard by the Zoning Board of Appeals. Additionally, it was brought up that only North High School raised this issue and not the two other entities -- St. Mary's church or the Park District for Ebersold Park. Concern was raised that the request appeared to benefit one specific party, wherein Mr. Popovich explained that the amendment benefitted the public good by channeling the pedestrians to locations where the Village wanted the pedestrians to cross streets and would keep them safe from arterial streets that had higher speed traffic.

Asked if there would be design standards that existed with the new amendment, Mr. Popovich explained that chain-link fences were already prohibited in front yards and would remain as such, but the design would be any open design fences, such as picket fences (plastic or cedar) or wrought

DRAFT

iron type fences. Visibility for the proposal was considered and did require a vision triangle to be done which applied to residential uses on residentially-zoning properties. Staff believed the current regulations do a very good job regulating vision and types of fencing permitted in the front yard.

Chairman Hose invited the petitioner to present their petition.

Ms. Kathie Henn, with Klein, Thorpe & Jenkins, Ltd., 20 N. Wacker Drive, Suite 1660, Chicago, IL introduced herself and acknowledged that she was appearing on behalf of Community High School District 99. Also introduced was Mr. Martin Schack, Director of Physical Plant & Operations, Community High School District 99. Ms. Henn discussed that the District was seeking an amendment to the fence provisions, specifically, to address multi-frontage lots, with the intent to allow the school district and the two above-mentioned properties to construct an open design fence up to six feet in height in the two limited circumstances, as explained previously by staff, i.e., along an arterial street or immediately adjacent to non-residential properties. The text amendment was limited to non-residential uses in residential districts.

Per Ms. Henn, staff and she worked collaboratively to draft the proposed language in order to address the situation at the school district. Due to the denial of the school district's variance by the Zoning Board, the school district engaged staff in how to proceed next, wherein staff recommended a text amendment. Ms. Henn reiterated that the proposal was purposely written to be strict. The proposal was consistent with the provisions that permit taller fences in business and manufacturing districts where fences up to eight feet are allowed and, in residential districts where fences up to six feet in height are allowed in a rear and side yard that does not border a street and along side and rear yards of certain corner lots.

The proposal was a unique situation, as cited by Ms. Henn, in that a parking lot existed that did not have a structure on it. It presented a safety hazard to pedestrians (as seen by Mr. Schack) trying to cross mid-block and this was what the district was trying to avoid. Ms. Henn believed there would be no negative impact with the amendment being put into place and it would provide safety by directing pedestrian traffic to areas that were safer to cross while providing additional screening next to non-residential property. It would not negatively impact any neighboring residential properties.

In response to Mrs. Rabatah's question regarding the benefit of the extra two feet, Ms. Henn stated it provided for additional screening and allowed to safely direct pedestrians, as discussed above, and deter students from jumping the fence.

When asked if there were many pedestrians hopping four-foot fences that would lead the Village to believe that the six-foot fence would be significantly safer, Ms. Henn responded that she believed the six-foot fence was safer than the four-foot fence, keeping in mind, that at the high school location, the Village was dealing with high school age students that may not make the same decisions as adults, i.e., where to cross a street or whether or not to jump a fence. However, she understood that the revision would not prevent all pedestrians from crossing mid-block, but the amendment would decrease such activity.

Ms. Urban confirmed with Mr. Schack that the height of the proposed fence would be the same as the six-foot fence across the street to the west, near the athletic field. Mr. Scheck responded that the design of the fence will mimic a wrought iron fence but will be constructed of painted steel with an

DRAFT

open design, such as the fence across Main Street. The fence's intent was not to be aesthetic, as Ms. Urban had inquired, but instead, a safety feature for students and spectators, as explained by Mr. Schack. Furthermore, Mr. Schack pointed out that the existing construction fence on site has funneled the cut-through pedestrians up to the Grant Street light, which was a positive. Otherwise, he stated, drivers cannot see pedestrians crossing mid-block until driving over the hill on the south end of Main Street, which is a safety concern.

Mr. Matejczyk inquired that if the district should, at some future point, install a parking control device for the parking lot, would the school district be prohibited from doing that or would the fence have to return to four feet. Mr. Popovich explained that if there was a structure proposed to be built and the six-foot open design fence existed, the fence would have to be modified to conform with the Zoning Ordinance. Ms. Henn also added that it depended upon which way the structure faced and a determination of which "yard" was which. The case was unique because there was no existing structure.

Asked if the district experienced any issues with anyone scaling the existing six-foot fence on the west side of the site, Mr. Schack stated "not to my knowledge" and commented on the fine job it was doing directing pedestrians to the sidewalk. He believed the proposed fence on the east side would duplicate the same activity.

Chairman Hose opened up the meeting to public comment and swore in those individuals who would be speaking on this matter.

Ms. Marge Earl, 4720 Florence Avenue, Downers Grove, asked if there will be sufficient sight triangles for the six-foot fence since there were no sight triangles proposed in the original proposal. She also asked if the Village or school received complaints about the existing eight-foot fence.

Community Development Director, Mr. Tom Dabareiner, stated the Village had no formal submittal but that it would have to comply with the sight triangle requirements which would be on the southeast corner of the Sherman and Main Streets. As to complaints, he stated he was aware of one complaint received by the Community Development Department that related to sight issues and a driver having difficulty seeing across the chain link southward along Main Street and the driver having to pull out further than he was comfortable with the northbound traffic.

Ms. Earl asked if the sight triangle would be larger for an eight-foot fence versus a six-foot fence, wherein Mr. Popovich stated they would be the same.

Hearing no further comments, the chairman closed public comment.

The petitioner had no closing statement.

Returning to staff, Mr. Popovich explained that the Zoning Ordinance, as currently written, offered no differentiation between non-residential uses and residential uses in residential zoning districts as it pertained to fences. Additionally, the ordinance did not differentiate between institutional types of uses with specific zoning regulations for these types of uses, i.e., churches, universities, village halls, etc., where unique regulations could be placed on them. Examples followed. Mr. Popovich also mentioned the fact that staff may be looking at institutional use classifications in the future.

DRAFT

Mr. Dabareiner, raised the point that staff's concern was that it did not want to get into a position where the Village was "creating walls" off of arterial roads and sending a wrong message to the public.

Asked if staff anticipated any similar petitions coming before this commission, Mr. Popovich stated he had not heard of any requests from businesses for a similar change.

Mr. Matejczyk voiced concern about the amendment being site specific and he felt it should be handled by the Village's zoning board.

Mr. Cozzo, in response, believed that if the proposal had merit, it was a matter of either granting an exception or returning it and reviewing the rule to see if it applies in the particular case and, if not, then the recourse was to modify the rule. He believed the proposal was unique, citing that the language was drafted specifically for the proposal, because granting the exception was more difficult than modifying the text. He was fine with modifying the text for this specific proposal. He believed a safety concern did exist, explaining that any time young students can be deterred from making a poor decision, it is a positive.

Dialog followed by Mr. Dabareiner regarding the high standards required under the Zoning Board of Appeals and meeting those high standards, which were intentional. Furthermore, he explained that if the Village's Zoning Ordinance included an institutional use rather than grouping all of the institutional uses in the residential district, staff would not be in the position to write such a narrowly-defined text amendment for a residential district that applied only in certain circumstances.

Ms. Urban supported the safety aspect of the fence and the "channeling" that it provided but said she struggled with the two extra feet safety challenge. She believed the proposal was well presented by staff and she did not have concerns about the other two properties mentioned earlier.

Mr. Quirk also believed the six-foot construction fence height was important because a four-foot fence was readily accessible and did not deter an adolescent. He understood that the school district's reason to have it was for safety purposes, given the amount of people that venture across the street at the location. He supported the proposal.

Mr. Webster believed the text amendment was a creative zoning solution to a gap and believed the use of the parcels were specific to an institution. Also, the verbiage was antiquated in the zoning ordinance but the text was narrowly written for that reason.

WITH RESPECT TO FILE PC 04-13, MR. BEGGS MADE A MOTION THAT THE PLAN COMMISSION MAKE A POSITIVE RECOMMENDATION AND FORWARD THE MATTER TO THE VILLAGE COUNCIL.

SECONDED BY MR. WEBSTER.

ROLL CALL:

DRAFT

**AYE: MR. BEGGS, MR. WEBSTER, MR. COZZO, MR. MATEJCZYK, MR. QUIRIK,
MRS. RABATAH, MS. URBAN, CHAIRMAN HOSE**

NAY: NONE

MOTION CARRIED. VOTE: 8-0

Mr. Dabareiner announced that tomorrow night the Village Council votes on the contract with the consultant who will be working on the Zoning Ordinance re-write and the Subdivision Ordinance re-write, which he expects will come before the Plan Commission. The timelines for these re-writes were briefly discussed. Mr. Beggs cautioned staff about bringing the rewrites in piece-meal to the commissioners and said to focus on the larger perspective.

**THE MEETING WAS ADJOURNED AT 8:00 P.M. ON MOTION BY MRS. RABATAH,
SECONDED BY MS. URBAN. MOTION CARRIED BY VOICE VOTE OF 8-0.**

/s/ Celeste K. Weilandt

Celeste K. Weilandt

(As transcribed by MP-3 audio)