

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL WORKSHOP  
MARCH 11, 2008 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
Flag Lots	Resolution ✓Ordinance Motion Discussion Only	Tom Dabareiner, AICP Community Development Director

**SYNOPSIS**

Discussion of the Village’s flag lot regulations in response to the 120-day flag lot moratorium.

**STRATEGIC PLAN ALIGNMENT**

The Five Year Plan and Goals for 2007-2012 identified *Preservation of Our Residential and Neighborhood Character*. Supporting these goals are the objectives *Continuing Reinvestment in the Neighborhoods* and *Safe and Secure Neighborhoods*.

**FISCAL IMPACT**

N/A.

**UPDATE & RECOMMENDATION**

At the March 11, 2008 Workshop Meeting several questions were raised regarding the status of the existing flag lots. Staff researched these lots and found that of the fourteen (14) existing flag lots developments, all of the front lots have been improved and twelve (12) of the flag lots are improved with a house. Two (2) flag lots remain undeveloped.

The nonconforming status of the lots will permit re-construction of any existing buildings provided all new construction conforms to Village development standards. The statement regarding existing flag lots becoming “legal nonconforming” will not render them unbuildable. Eliminating flag lots will not impact an owner’s ability to sell and/or improve an existing flag lot. Rather, the proposed ordinance prohibits the creation of new flag lots. This proposal will not lead to encumbrances placed on existing flag lots at the time of sale. If an owner wishes to create a conforming lot from an existing flag lot, they may go through the lot consolidation process.

Staff recommends the Village Council approve a text amendment to the Subdivision Ordinance that eliminates flag lot development. Alternatively, if the Council wishes to seek more public input, staff recommends the draft ordinance be remanded to the Plan Commission for a public hearing.

**BACKGROUND**

The Village Council considered a flag lot petition at 4516 Roslyn Road on November 13 and 20, 2007 and denied the application. The Council approved a 120-day flag lot moratorium and directed staff to consider revisions to the current flag lot regulations.

Flag lots create situations where a single-family house is located immediately behind another single-family house. The rear house gains street access through a narrow strip of land. This layout of residential development creates emergency serviceability issues, does not enhance the character of the residential neighborhood and creates a disjointed pattern of development which may negatively impact the surrounding property owners.

Flag lots are treated as an exception to the Subdivision Ordinance and may be created if they meet the standards defined in Sections 20.302 and 20.602. Staff reviewed existing Village mapping and found 81 lots within the Village that would meet the current lot width and depth requirements for flag lot development. The lots tend to be clustered with the largest cluster occurring near Roslyn Road and Florence Avenue south of Ogden Avenue. The second largest cluster is around the intersection of Elmore Avenue and Lee Avenue. A complete parcel list and map are attached.

As noted in Section 20.302, flag lots may be created if a flag lot would make it possible to better utilize an irregularly shaped parcel. Of the 81 potential lots, none of them are irregularly shaped. They are primarily large rectangular properties with direct access to a street.

The current exception standards, Section 20.602, require practical difficulties or particular hardships to be in place for the development of flag lots. Staff does not believe any of the 81 parcels exhibits practical difficulties or hardships which would allow for the creation of a flag lot. All 81 lots have direct access to a right-of-way and are rectangular shaped.

Another exception standard requires the exception to be consistent with the trend of development in the area and the surrounding uses. Staff does not believe the trend of development in the Village is the creation of flag lots. Since the Council's revision to the Flag Lot Ordinance in 1992, eleven (11) flag lots were approved, the last one in April 2002. Since that time, there have been two flag lot petitions. One petition, 3700 Woodland Lane, was withdrawn after not receiving a positive recommendation from the Plan Commission while the second, 4516 Roslyn Road, was denied by the Village Council. The creation of eleven flag lots in fifteen years and none since 2002 is not a trend; in fact, the trend may be to not support flag lot development.

The Village's predominant residential development pattern is to construct homes side by side. There is a diversity of lot sizes throughout the Village which leads to a diversity of home sizes. The trend is to build the variety of houses side by side, not one behind the other, which is the case with flag lot development. The neighboring communities of Darien, Lisle, Lombard, Naperville, Westmont, Wheaton, and Woodridge do not allow flag lot development. Only unincorporated DuPage County and the Village of Oakbrook allow flag lot development.

Based on Village Council discussions at the November 20, 2007 meeting and good planning practice, staff recommends eliminating flag lots from the Subdivision Ordinance. Staff has prepared a draft ordinance that eliminates flag lots from the Subdivision Ordinance. The proposed amendment modifies Section 20.101, Definitions, to provide a concise definition of a flag lot and removes the front lot definition. The amendment deletes Section 20.302, Flag Lots, from the Subdivision Ordinance. A new item under Section 20.301, Lot Dimensions, notes flag lot development is prohibited with all existing flag lots becoming legal non-conforming.

If the Village Council determines further discussions regarding flag lots is needed, this issue should be remanded to the Plan Commission for a public hearing regarding the staff proposed text amendment.



Flag Lots

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING FLAG LOT PROVISIONS**

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 20.101. is hereby amended to read as follows:**

**20.101. Definitions.**

Wherever any term is used in this Chapter, it shall have the same meaning as defined in Chapters 1 and 28, unless otherwise defined in this Chapter.

**Chapter:** Chapter 20 of the Downers Grove Municipal Code.

**Code:** The Downers Grove Municipal Code, as now or hereafter amended.

**Construction security:** A letter of credit or other security required under this Chapter to guarantee timely and proper completion of all public improvements.

**County parcel:** A Parcel located outside the corporate limits, but within the planning jurisdiction, of the Village.

**County plat:** A final subdivision plat of a County parcel.

**Director:** The Downers Grove Senior Director of Community Development and Planning, or such person's designee.

**Land division:** Any change in the boundary or partition lines of a parcel.

**Exempt land division:** The following land divisions or conveyances of property which are exempt from the requirements of this Chapter: (1) A land division into parcels of 5 acres or more in size which does not involve any new streets or easements of access: (2) The conveyance of parcels of land or interests therein for use as a right of way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access and which does not create any additional lots: (3) The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use and which does not create any additional lots: (4) Conveyances made to correct descriptions in prior conveyances.

**Engineering documents:** Plans, designs and specifications for public improvements required under the provisions of this Code, including but not limited to such documents, plans, designs, studies and other information or items reasonably required by the Village Engineer, to ensure compliance with applicable codes and laws. Until approved by the Village Engineer, the engineering documents shall be considered preliminary. After approval by the Village Engineer, the engineering documents shall be considered final.

**Flag lot:** ~~A lot whose area and dimensions, some distance back from the street right of way, meet all requirements of this Chapter and which has some frontage on a public street, and has access to a public street via a private drive or lane (which shall be known as the "pole"), but which lacks the minimal frontage required in this Chapter.~~ A parcel of land, whose area and dimensions meet all the requirements of this Chapter, in which access from the public right-of-way to the land is a narrow, extended portion of the parcel which does not meet the minimum lot width as required by this ordinance.

~~**Front lot:** A lot which abuts and is created at the same time as a flag lot, and which meets the minimal frontage required in this Chapter.~~

**Guarantee security:** A letter of credit or other security as required under this Chapter, and posted at the time a required public improvement is transferred to, and accepted by, the Village or other public body, to guarantee that such public improvement has been properly constructed.

**Lot:** A parcel, or portion thereof, in a subdivision or a plat of land, separated from other parcels or portions by description, as on a subdivision of record or survey map, or by metes and

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bounds for the purpose of sale or lease to, or separate use of, another.

**Lot reconfiguration:** An exchange of land between adjoining or contiguous parcels, located within the corporate limits of the Village, which changes the boundaries of the existing lots, but does not create an additional lot and which does not qualify as a subdivision or an exempt land division.

**Lot split:** Any conveyance of real property located within the corporate limits of the Village which results in a land division but which does not qualify as a subdivision, a lot reconfiguration or an exempt land division pursuant to the requirements of this Chapter.

**Net Non-Conformity:** The relative degree to which all the parcels or lots involved in a lot reconfiguration are, or are not, in conformance with the standards for zoning lots within the zoning district in which the property is located as compared before and after a lot reconfiguration.

**Owner:** The fee title holders of property, including such fee holders' designees and agents.

**Parcel:** An identified tract of contiguous real property.

**Petitioner:** The Owner of a parcel seeking approval under this Chapter and any other party identified as the petitioner in a petition filed under this Chapter.

**Plat:** A plat of subdivision as required under this Chapter.

**Plat Act:** The Illinois Plat Act (765 ILCS 205/0.01 et seq.) as enacted or hereafter amended.

**Plan Commission:** The Downers Grove Plan Commission, as now or hereafter configured and appointed.

**Planning jurisdiction:** That area located within the corporate limits of the Village and that unincorporated area surrounding the Village but within the authority of the Village Council for planning and subdivision approval pursuant to State law or a boundary line agreement with a neighboring municipality.

**Public improvement cost estimate:** The estimate of costs of public improvements within a subdivision upon which the engineering review fee and engineering inspection fees are based. The preliminary public improvement cost estimate is the estimate of costs based upon the preliminary engineering documents. The final public improvement cost estimate is the estimate of costs based upon the approved final engineering documents.

**Subdivision:** Any development for which a plat of subdivision or Village approval is required or authorized pursuant to the Plat Act. This may include, but is not limited to, land divisions or the establishment or dedication of a road, highway, street or alley through a tract of land, regardless of area.

**Subdivision Ordinance:** Chapter 20 of the Downers Grove Municipal Code.

**Village Engineer:** The Downers Grove Village Engineer, or such person's designee.

**Village Manager:** The Downers Grove Village Manager, or such person's designee.

**Zoning Ordinance:** The Downers Grove Zoning Ordinance as now or hereafter enacted.

### **Section 2. That Section 20.301. is hereby amended to read as follows:**

#### **20.301. Lot Dimensions.**

(a) Except as provided herein, lot dimensions shall conform to the requirements of the underlying zoning district.

(b) Lots located in an area serviced by sanitary sewers shall have a minimum lot width of seventy-five feet and a minimum area of ten thousand, five hundred square feet, or shall meet the lot width and area requirements of the underlying zoning district, whichever is greater.

(c) Lots located in an area not serviced by sanitary sewers, shall have a minimum lot width of one hundred fifty feet and a minimum area of forty thousand square feet, or shall meet the lot width and area requirements of the underlying zoning district, whichever is greater.

(d) The lot lines along the boundaries of watercourses shall be aligned with such watercourse when practicable and feasible. When such alignment is not practicable and feasible, easements along watercourses shall be provided in accordance with the requirements as established by the Director and Village Engineer.

(e) Residential lot dimensions shall conform to the following:

(1) Lots which front on cul-de-sacs, turn-arounds or curved streets shall have a minimum

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frontage of forty feet. Provided, the width of the lot at the building setback line shall be no less than the width required by the zoning district.

(2) Minimum depth shall be one hundred forty feet, except as herein otherwise provided.

(3) Whenever exceptions in the minimum frontage or minimum depths are permitted, no reduction in the minimum lot area shall be permitted.

(f) Business lot dimensions shall conform to the following:

(1) Minimum frontage shall be fifty feet.

(2) Lots which front on cul-de-sacs, turn-arounds or curved streets shall have a minimum frontage of thirty-five feet provided the width of the lot at the building setback line shall be no less than fifty feet, if not otherwise regulated by the Zoning Ordinance.

(3) Minimum depths shall be one hundred and forty feet.

(g) Industrial and manufacturing lots shall have a minimum frontage of one hundred feet.

(h) Minimums provided herein shall not include any area dedicated for street, roadway or alley purposes.

(i) Outside the Village, the minimum widths, depths and areas of any subdivided lot shall be not less than the minimum widths, depths and areas specified by the zoning ordinance of DuPage County for the district in which such lots are located.

(j) The creation of flag lots as defined in Section 20.101 shall not be permitted. All flag lots created prior to March 18, 2008 shall be deemed legal non-conforming.

### **Section 3. That Section 20.302. is hereby amended to read as follows:**

#### **20.302. Flag Lots.**

##### Reserved.

~~(a) A flag lot may be created as part of a lot split, a lot reconfiguration, or a subdivision where it is determined that the use of a flag lot would make it possible to better utilize irregularly shaped properties.~~

~~(b) A petition for a flag lot shall be processed as an exception as provided in this Chapter.~~

~~(c) A flag lot and the resulting front lot shall meet the following requirements:~~

~~(1) The pole of the flag lot shall be no less than twenty feet wide.~~

~~(2) An access corridor, including a paved surface not less than ten feet in width, shall be maintained along the length of the pole. No encroachments shall be permitted within this access corridor which would interfere with emergency vehicle access.~~

~~(3) The minimum depth of the flag lot, exclusive of the pole, shall be at least one hundred sixty five feet deep and the lot size shall comply with the provisions of Section 20-301.~~

~~(4) The front yard setback shall be measured from a line parallel to the street, where the lot meets the minimum width of the underlying zoning district.~~

~~(5) The address of the flag lot must be clearly displayed within three feet of the property line adjacent to the public street, and shall be designed and maintained to clearly differentiate the flag lot from the adjacent property.~~

~~(6) The front lot shall comply with the requirements of this Chapter including minimum lot area, depth and width.~~

~~(7) In the event that there is no fire hydrant located within 60 feet of the front property line of the pole section of the flag lot, a fire hydrant must be installed at the Petitioner's expense. If a new hydrant is required, it must be operational prior to issuance of an occupancy permit. The Fire Department may, in its discretion, permit the Petitioner to install a dry system standpipe on the flag lot property instead of requiring a new hydrant to be installed.~~

~~(d) A flag lot petition may be considered only on a single parcel of land which was legally in existence as of October 15, 2002 and which is not less than one hundred (100) feet in lot width and three hundred five (305) feet in lot depth.~~

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~~\_\_\_\_\_ (e) No exceptions shall be permitted from the provisions of this section for any flag lot or front lot.~~

**Section 4.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 5.** 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