

**VILLAGE OF DOWNERS GROVE**  
**REPORT FOR THE VILLAGE COUNCIL WORKSHOP**  
**OCTOBER 13, 2009 AGENDA**

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

**SYNOPSIS**

An ordinance has been prepared amending Chapter 28, Zoning Ordinance, Article XII, Nonconforming Structures, Lots and Uses. The proposed amendment corrects a previous omission with regard to lot splits legally created prior to May 16, 2006.

**STRATEGIC PLAN ALIGNMENT**

The Five Year Plan and Goals for 2008-2013 identified *Exceptional Municipal Government*. Supporting this goal is the objective *Top Quality Core Services Responsive to Current and Future Community and Citizen Needs*.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval on the October 20, 2009 active agenda.

**BACKGROUND**

Staff is proposing to modify the nonconforming lot provisions of the Zoning Ordinance as they relate to legally created lot splits granted prior to May 16, 2006. The amendment is a clean-up due to a drafting oversight that was made during the amendment of the Village's residential zoning provisions. The original residential zoning amendment was approved by the Village Council on May 16, 2006 and went into effect in September 2006.

The amendment of the residential zoning regulations included a provision that all new development only occurs on a "lot of record." The text of the Zoning Ordinance goes on to define a lot of record as a parcel of land created through the recording of a plat of subdivision. Throughout the past 30 years the Village has approved numerous residential and commercial lot splits. The 2006 zoning amendments essentially rendered these lots unbuildable because they are not technically "lots of record." The lots and existing improvements could remain, but if new buildings are proposed for these properties they cannot be completed without re-subdividing the property through a plat of subdivision. It was not the Village's intention to render parcels created through the lot split process unbuildable. Rather, the Village was attempting to prevent developments that spanned all or portions of multiple lots.

The proposed text amendment will make all parcels created legally through the lot split process legal nonconforming. As such, the lots would be buildable provided they meet certain size requirements. The specific text of the proposed amendment is attached.

The Plan Commission considered the amendment at its September 14, 2009, meeting. The Commission noted that the amendments were minor and would make improvements in the Village's enforcement of the Zoning Ordinance. The Plan Commission recommended that language be added to the text to clarify the intent of the amendment and unanimously recommended approval of the amendment. Staff concurs with the Plan Commission's recommendation.

**ATTACHMENTS**

Ordinance

Staff Report dated September 14, 2009

Draft Minutes of the Plan Commission Hearing dated September 14, 2009

# Lot Splits

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

## AN ORDINANCE AMENDING NON-CONFORMING 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 28.1203. is hereby amended to read as follows:**

#### **28.1203. Nonconforming lots.**

(a) A lawful nonconforming lot or parcel which does not meet the requirements for minimum lot width and area may be utilized for a permitted use provided:

i. The lot area and lot width are not less than seventy-five percent (75%) of the minimums required in the zoning district; or,

ii. The lot width is not less than fifty (50) feet and the lot area is not less than seven thousand five hundred (7,500) square feet.

(b) A lawful improved nonconforming lot or parcel which cannot meet the requirements of subsection (a) hereof, may be utilized for a permitted use, so long as the amount, quantity or degree of any existing nonconformity is not increased, and no new nonconformity is created. Such improvement may be repaired, rebuilt, replaced or restored to the extent of its original lawful nonconforming development provided such work is diligently pursued and the amount, quantity or degree of any existing nonconformity is not increased, and no new nonconformity is created.

(c) All flag lots created prior to March 18, 2008 shall be deemed legal non-conforming lots. In addition to the above, legal non-conforming flag lots shall meet the minimum following requirements:

~~(i)~~ the pole of the flag lot shall be no less than twenty (20) feet wide;

~~(ii)~~ an access corridor, including a paved surface not less than ten (10) 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;

~~(iii)~~ 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; (iv) 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; (v) in the event that there is no fire hydrant located within sixty (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) All lots created by lot split prior to May 16, 2006 may be improved provided any such improvement complies with the bulk regulations for the particular zoning district in which the lot is located and provided that:

i. The lot area and lot width are not less than seventy-five percent (75%) of the minimums required in the zoning district; or,

ii. The lot width is not less than fifty (50) feet and the lot area is not less than seven thousand five hundred (7,500) square feet.

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

Lot Splits

**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.

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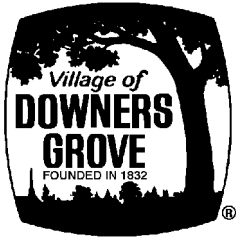
Mayor

Passed:

Published:

Attest: \_\_\_\_\_

Village Clerk



**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE PLAN COMMISSION  
SEPTEMBER 14, 2009 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
PC 20-09 Zoning Ordinance Text Amendment	Zoning Ordinance Text Amendment	Jeff O'Brien, AICP Planning Manager

**REQUEST**

The proposed amendment will modify the Village’s nonconforming lot provisions as they relate to lot splits legally created prior to May 16, 2006. Specifically, the amendment will grant legal nonconforming status to all lot splits granted by the Village prior to the aforementioned date. The purpose of the change is to correct a drafting oversight from the 2006 amendment to the Zoning Ordinance’s residential regulations.

**NOTICE**

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

**GENERAL INFORMATION**

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**APPLICANT:** Village of Downers Grove  
801 Burlington Avenue  
Downers Grove, IL 60515

**ANALYSIS**

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**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**

The Village is requesting review of a text amendment to the Zoning Ordinance. Specifically, the staff is proposing to modify the nonconforming lot provisions as they relate to legally created lot splits granted prior to May 16, 2006. The amendment is a clean-up due to a drafting oversight that was made during the re-write of the Village’s residential zoning provisions. The original residential zoning re-write was approved by the Village Council on May 16, 2006 and went into effect in September 2006.

The re-write of the residential zoning regulations included a provision that all new development only occurs on a “lot of record.” The text of the Zoning Ordinance goes on to define a lot of record as a parcel of land created through the recording of a plat of subdivision. Under the Illinois Plat Act, lot splits are exempt minor divisions of land. That is, they do not require a plat of subdivision. However, the Plat Act goes on to state that municipalities may set up formal approval procedures. When the Village adopted its subdivision regulations, the lot split process was set up. Once a lot split is approved by the Village, an approval letter or resolution (if exceptions are

requested) with the new parcels' legal descriptions is provided to the applicant and recorded with the County Recorder instead of a plat of subdivision.

Throughout the past 30 years the Village has approved numerous residential and commercial lot splits. The 2006 zoning amendments essentially rendered these lots unbuildable because they are not technically "lots of record." The lots and existing improvements could remain, but if new buildings are proposed for these properties they cannot be completed without re-subdividing the property through a plat of subdivision. It was not the Village's intention to render parcels created through the lot split process unbuildable. Rather, the Village was attempting to prevent developments that spanned all or portions of multiple lots.

The proposed text amendment will make all parcels created legally through the lot split process legal nonconforming. As such, the lots would be buildable provided they meet certain size requirements. The specific text of the proposed amendment is attached.

#### **PUBLIC COMMENT**

*No comments have been received at this time.*

#### **FINDINGS OF FACT**

The amendments are meant to correct a previous drafting error. The change would not impact the overall intent of the Village's lot of record provisions that were part of the 2006 re-write of the residential zoning requirements. The amendment will enhance the Strategic Plan's goals of preserving the character of the Village's neighborhoods. Staff believes the proposed amendment is necessary to clarify the intent of the Zoning Ordinance and protect previous Village actions.

#### **RECOMMENDATIONS**

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The proposed Text Amendment affects parcels created through the Village's lot split process prior to May 16, 2006. The proposed change enables the owners of properties created through a lot split to make improvements to their homes and businesses. The amendment is consistent with the original intent of the updated residential regulations and is consistent with the Strategic Plan goals of maintaining the character of the Village's neighborhoods. As such, staff recommends the Plan Commission make a positive recommendation to the Village Council.

Staff Report Approved By:

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Tom Dabareiner, AICP  
Director of Community Development

TD:jwo  
-att

**PC 20-09** A petition seeking an Amendment to Chapter 28 of the Municipal Code Zoning Ordinance Section 28.1203 Nonconforming Lots to amend the nonconforming lot provisions as they relate to legally created lot splits prior to May 16, 2006; Village of Downers Grove, Petitioner

Mr. O'Brien, discussed that the Village is requesting a review of a text amendment to the Zoning Ordinance, which relates to the nonconforming lot provisions. In May 2006, Mr. O'Brien explained the Village eliminated the zoning lot concept because it was causing issues when constructing new homes. In its place was created the "lot of record" concept which the Village's ordinance allows to be created under a plat of subdivision and filed with the DuPage County Recorder's Office. The change, however, effectively made all prior approved lot splits unbuildable without some further action by the Plan Commission and Village Council.

In essence, Mr. O'Brien explained that the Village was creating a "clean-up amendment" that will add language to the non-conforming lots provision in the zoning ordinance. The amendment will permit any lot legally created through the lot split process prior to May 16, 2006 to be improved, provided they conform to the village's minimum lot standard (50 feet wide or 7,500 sq. feet).

Mr. Waetchler asked if the change would affect to the character of neighborhoods. Mr. O'Brien explained this would not allow the creation of any new lots, but rather allow existing lots to be improved. He clarified that issue was initially raised through a sales transaction in the Ellsworth Industrial Park area. Mr. O'Brien did not recall any other similar matter arising recently and believed this was the first time since the 2006 residential amendments. Other clarifications to questions followed by staff. Mr. O'Brien summarized that the revision was basically a "grandfather clause" for lots created by the lot split process. However, he suggested adding language that clarified that "all lots created by lot splits prior to May 16, 2006, shall be buildable provided they meet the bulk characteristics of the zoning district." Mr. Beggs asked about publication requirements. Chairman Jirik believed the concept was duly published and that staff and the Commission were adding clarifying language.

Per Mr. Waechtler's question about owners who have a 50-foot wide buildable lot and how the proposed amendment would affect those owners. Mr. O'Brien explained that if an owner had two 50 foot wide lots of record next to each other, the owner could sell and improve both lots individually.

Chairman Jirik opened up the meeting to public comment. No comments were received. The Chairman closed public comments

**WITH RESPECT TO PC 20-09, MR. BEGGS MADE A MOTION THAT THE PLAN COMMISSION FORWARD A POSITIVE RECOMMENDATION WITH REGARD TO THE TEXT AMENDMENT ASSOCIATED WITH FILE #PC 20-09, WITH THE FOLLOWING MODIFICATION:**

**INSERT THE PHRASE “MAY BE IMPROVED PROVIDED ANY SUCH IMPROVEMENT COMPLIES WITH THE BULK REGULATIONS FOR THE PARTICULAR ZONING DISTRICT IN WHICH THE LOT IS LOCATED AND PROVIDED” AFTER “MAY 16, 2006” AND BEFORE SUBPARAGRAPH “i.” THE MOTION WAS SECONDED BY MR. WAECHTLER.**

**ROLL CALL:**

**AYE: MR. BEGGS, MR. WAECHTLER, MR. COZZO, MR. MATEJCZYK,  
MRS. RABATAH, MR. WEBSTER, CHAIRMAN JIRIK**

**NAY: NONE**

**MOTION CARRIED. VOTE: 7-0**