

**DOWNERS GROVE LIQUOR COMMISSION  
VILLAGE HALL COUNCIL CHAMBERS  
801 BURLINGTON AVENUE  
Thursday, January 6, 2022**

**I. CALL TO ORDER**

Chairman Strelau called the January 6, 2022 Liquor Commission meeting to order at 6:30 p.m.

**II. ROLL CALL**

**PRESENT:** Mr. Johnson, Mr. Meta (6:03), Ms. Rutledge, Mr. Shah, Chairman Strelau

**ABSENT:** Mr. Krusenoski

**STAFF:** Carol Kuchynka, Liaison to the Liquor Commission, Village Attorney Enza Petrarca

**OTHERS:** Kartik Patel, Yogesh Patel, Court Reporter

**III. APPROVAL OF MINUTES**

Chairman Strelau asked for approval of the minutes for the December 2, 2021 Liquor Commission meeting and asked members if there were any corrections, changes or additions.

Hearing no changes, corrections or additions, the December 2, 2021 minutes of the Liquor Commission meeting were approved as written.

Chairman Strelau reminded those present that this evening's meeting was being recorded on Village-owned equipment. Staff was present to keep minutes for the record.

**IV. REQUEST FOR CHANGE IN FLOOR PLAN/OPERATION/OWNERSHIP**

Chairman Strelau made the following statements:

"The next order of business is to conduct a public hearing for a request of floor plan change/focus of operation and ownership change. For the benefit of all present, I would like to state that this Commission does not determine the granting or denial of the issuance of any license. We may, at the end of each hearing, make a finding or recommendation with respect to the application. If necessary, the Commission may adjourn a hearing to a later date in order to have benefit of further information."

"At the conclusion of the hearing, the Commission will summarize its findings and determine any recommendations it wishes to make to the Liquor Commissioner."

"The Liquor Commissioner, who is the Mayor of Downers Grove, will, pursuant to Section 3-12 of the Ordinance, render decisions regarding issuance of available liquor licenses within 60 days."

"Hearings by this Commission are held according to the following format: 1) reading of information pertinent to the application, 2) comments from the applicant, 3) discussion by the Commission, 4) comments from staff, 5) comments from the public, and 6) motion and finding by the Commission."

**Corner Pantry – 4240 Main**

Chairman Strelau stated that the next order of business was Pragat, LLC d/b/a Corner Pantry located at 4240 Main Street who was requesting a floor plan change/focus of operation and change in ownership for their existing Class “P-1”, full alcohol, off- premise consumption liquor license.

Chairman Strelau asked that any individual(s) representing the applicant step forward and be seated. She asked that any individual(s) giving testimony, state and spell their name for the record, indicate their affiliation with the establishment and be sworn in by the court reporter.

Mr. Kartik Patel and Mr. Yogesh Patel were sworn in by the court reporter.

Kartik Patel stated that they are requesting a floor plan change and change in ownership. He added that he is the managing member holding 51% ownership in the LLC. He stated that the two other current members of the LLC did not care to invest any further and wanted to relinquish their stock in the corporation. He stated that Yogesh Patel has offered a partnership and purchase of 49% of the remaining stock. Kartik stated that Yogesh has liquor handling experience.

Kartik Patel stated that 25% of the selling space is currently devoted to liquor inventory. He stated that they are proposing a change to increase the space for liquor inventory to 70%. Kartik Patel stated that this location may not survive without this change in floor plan and focus of operation.

Mr. Johnson asked Kartik and Yogesh if they were related. They replied no and noted that they only have Patel as a common last name.

Mr. Johnson asked Kartik how long he has held the license in Downers Grove. Kartik replied 2 ½ years.

Mr. Johnson asked Kartik if the location had any violations. Kartik replied no.

Mr. Johnson asked Kartik if mostly family will be working at the location. Kartik replied that Minesh, who is a close friend, has been and will continue to work for him.

Mr. Johnson asked Kartik to explain the operation of the Cash Register Express software. Kartik replied that this POS (point of sale) system is approved in all 50 states and is used to scan identification cards. He stated that liquor sales cannot be authorized without scanning the ID.

Mr. Johnson asked if a customer were to be 20 years old and came in with their father’s driver’s license, how the sale would be stopped. Kartik replied that they would first ask for the ID and then check the appearance of the customer. He stated that he also looks at the birthday for the approximate age of the customer. He added that if they do not match, he refuses the sale.

Ms. Rutledge had no questions.

Mr. Meta asked Yogesh if he will be working at the store. Yogesh replied yes. He added that he currently owns two licensed gas stations in McHenry and is opening a liquor store in Johnsburg. He stated that he has 7 years of experience.

Mr. Meta asked with all the other locations how often Yogesh will work. Yogesh replied he will work at Corner Pantry part-time and noted that he has partners at the other locations that work which will free time for him to be present in Downers Grove.

Mr. Meta stated that the risk for selling to minors is great. He encouraged them to use this opportunity to fully train employees and reiterate the importance of proper liquor sales and be certain that employees continue to follow the rules.

Mr. Shah had no questions.

Chairman Strelau asked how many employees they have. Kartik replied three - he, Minesh and Jordan are working at the location now and noted that they are all BASSET trained.

Chairman Strelau asked how many employees they plan to have should their requests be approved. Kartik replied Yogesh will be joining them part time. He stated that as business grows, they will hire more employees.

Chairman Strelau referred back to their cash register scanning system. She recalled Kartik saying that a sale will not go through without the ID being scanned. She asked if she would be able to purchase without an ID as she is clearly over 21. Kartik replied they generally card anyone appearing under the age of 50. Yogesh and Kartik stated that if there was no ID provided, however, the sale would be denied. He added that employees are instructed to refuse the sale if no ID is presented.

Chairman Strelau referred to the floor plan submittal and asked for clarification. She noted the shelving rows in the store. She stated that the final plan shows dotted lines around the aisles. Kartik replied that the rows with open sides will be stocked with liquor. Chairman Strelau asked if the shelving units have changed. Kartik replied no, only their content.

Chairman Strelau stated that even as sophisticated as the ID checking system is, it matters how they convey the importance of carding and proper liquor sales to employees. She reminded them with more liquor inventory, comes more responsibility. She wished them luck.

Chairman Strelau asked staff for recommendations or comments pertinent to this request. Ms. Kuchynka replied that issuance of the license is contingent upon receipt of satisfactory background checks and receipt of the stock purchase agreement.

Chairman Strelau asked for comments from the public. There were none.

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of their approval" or "denial" with respect to their request for focus of operation/floor plan change.

**MR. META MOVED TO APPROVE THE FOCUS OF OPERATION/FLOOR PLAN CHANGE REQUEST OF PRAGAT, LLC LOCATED AT 4240 MAIN STREET. MR. JOHNSON SECONDED.**

**VOTE:**

**Aye:** Mr. Meta, Mr. Johnson, Mr. Shah, Chairman Strelau

**Nay:** None

**Abstain:** Ms. Rutledge

**MOTION CARRIED: 4:0:1**

Hearing the testimony given in this case, Chairman Strelau asked for a recommendation from the Commission concerning its finding of their approval" or "denial" with respect to their request for change in ownership.

**MR. JOHNSON MOVED TO APPROVE THE CHANGE IN OWNERSHIP REQUEST OF PRAGAT, LLC LOCATED AT 4240 MAIN STREET. MR. META SECONDED.**

**VOTE:**

**Aye:** Mr. Johnson, Mr. Meta, Mr. Shah, Chairman Strelau

**Nay:** None

**Abstain:** Ms. Rutledge

**MOTION CARRIED: 4:0:1**

**V. NEW BUSINESS**

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any new business.

Ms. Kuchynka was uncertain of a February meeting and would let the Commission know.

**VI. OLD BUSINESS**

Chairman Strelau asked if there was any discussion, update from staff or comments from the Commission regarding any old business.

Ms. Kuchynka referred to the past month end report for December.

Ms. Kuchynka advised of the Mayor's intent to issue licenses to those applicants before the Commission in December.

Ms. Kuchynka stated that she included a current list of liquor license holders. She added that the liquor license classification chart was also updated.

Ms. Kuchynka stated that the Village is at the limit of the "P-1", full alcohol, off-premise consumption license with the recently issued licenses going to the three gas stations.

Chairman Strelau asked if the Village would wait for someone to ask for a "P-1" license class to be added. Ms. Petrarca replied yes. She added that they could be put on a waiting list until one becomes available. Ms. Kuchynka noted that there are plenty of "P-2", beer and wine only, off-premise consumption licenses.

**VII. COMMENTS FROM THE PUBLIC**

There were none.

## VIII. ADJOURNMENT

Concluding business for the evening, Chairman Strelau called for a motion to adjourn.

Mr. Johnson moved to adjourn the January 6, 2022 meeting. The meeting was adjourned by acclamation at 6:50 p.m.

APPROVED

VILLAGE OF DOWNERS GROVE  
PLAN COMMISSION MEETING

January 10, 2022, 7:00 P.M.

Chairman Pro tem Chair Rector called the January 10, 2022 meeting of the Downers Grove Plan Commission to order at 7:00 p.m. and led the Plan Commissioners and public in the recital of the Pledge of Allegiance.

**ROLL CALL:**

**PRESENT:** Chairman Pro Tem Rector, Commissioners Boyle, Dmytryszyn, Johnson, Patel, Roche, Toth

**ABSENT:** Chairman Rickard, Commissioner Maurer

**STAFF:** Community Development Director Stan Popovich and Senior Planner Flora Leon

**OTHERS**

**PRESENT:** Cathy Mahoney, Chester Tom, Joe Chiczewski, Marshall Schmitt, Richard DeMink, Lynn Leo, Gina Leo, Audrey Kapovich, John Kapovich, Steve Vogrin, Kathy Olson, Pam Johnson, Irene Hogstrom, Troy Hawkins, Amy Seynost, Robert Kovacevic, Irene Ambrogne, Louis Ambrogne, Lorelai Harkins, Jeff Heller.

**APPROVAL OF MINUTES**

The Commission welcomed Molly Roche to the Plan Commission, who then offered an introduction for herself. Commissioner Dmytryszyn asked the minutes reflect that Chairman Rickard was present. Chairman Pro tem Rector entertained a motion to approve the minutes with this revision.

**MINUTES OF THE NOVEMBER 1, 2021 PLAN COMMISSION MEETING WERE APPROVED ON MOTION BY COMMISSIONER DMYTRYSZYN, SECOND BY COMMISSIONER JOHNSON, MOTION PASSED BY VOICE VOTE OF 7-0.**

**PUBLIC HEARING**

Chairman Pro tem Rector explained the protocol for the public hearing process and swore in those individuals that would be speaking during the public hearing.

**FILE 21-PLC-0022: A PETITION SEEKING APPROVAL OF A FINAL PLAT OF SUBDIVISION TO SUBDIVIDE THE EXISTING PROPERTY INTO SIX SINGLE FAMILY RESIDENTIAL LOTS AND ONE OUTLOT FOR STORMWATER DETENTION. THE PROPERTY IS ZONED R-5A, RESIDENTIAL DETACHED HOUSE 5A. THE PROPERTY IS LOCATED ON THE EAST SIDE OF DUNHAM ROAD, APPROXIMATELY 120 FEET NORTH OF CRYSTAL STREET, COMMONLY KNOWN**

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### **AS 7135 DUNHAM ROAD, DOWNERS GROVE, IL (PIN 09-29-100-004). JOHN AND AUDREY KAPOVICH, PETITIONER AND OWNER.**

Petitioner, John Kapovich, 6831 Osage Avenue Downers Grove, IL 60516, explained that he and his wife purchased this property to subdivide it for their family. Mr. Kapovich noted that his daughters would likely take lots 3 and 4 and the other four lots would be sold off to the public. He then invited his engineer to explain the proposal in detail.

Joe Chiczewski, ESI Consultants Naperville, IL introduced the existing conditions of 7135 Dunham Road. He noted that the property ran from Dunham Road towards Matthias Road. He then explained that the existing home would be demolished and six new homes would be constructed. Mr. Chiczewski highlighted a small dedication along Dunham Road to clean up the sidewalk and the connection that is missing along Matthias Road. He then noted that two of the six lots were slightly smaller and that there would be access to the outlot. Finally, the outlot would serve as detention and it has been designed to comply with the Stormwater Ordinance.

Pro Tem Chair Rector requested more information on the outlot. Mr. Chiczewski explained that the outlot would capture surface water. He also noted that best management practices includes detention held in some stone that would add pervious area. When the outlot reaches an overflow spot it would have normal flow that would go out and that gets restricted. Once the water gets higher up it would flow overtop that, it go out through a storm sewer that would tie into another storm sewer that is just adjacent to this property, and there is permission to tie into this storm sewer. Mr. Chiczewski confirmed that the outlot would be dry most of the time.

Pro Tem Chair Rector asked if all six homes would be included in the HOA that would manage the outlot. Mr. Chiczewski confirmed Pro Tem Chair Rector's understanding was correct.

Commissioner Boyle inquired about the existing zoning for the lots. Mr. Chiczewski deferred to Senior Planner Flora Leon. Senior Planner Flora Ramirez noted that the lots were zoned Residential Detached House R-5A. Mr. Chiczewski added that the subdivision as designed met all of the minimum dimensional requirements in the Subdivision Ordinance. Commissioner Boyle agreed and noted that no variances were requested with this petition.

Commissioner Johnson asked what would occur if approval for the proposed storm sewer connection to the north were not received. Mr. Chiczewski shared that approval to connect the storm sewer to the north has been received. He also noted that original the case was scheduled for December of 2021 but was postponed to ensure the approval for the northern connection was received.

Chairman Pro tem Rector invited public comment.

Steve Vogrin, 7121 Matthias Road, indicated that his property was adjacent to proposed lot 5. Mr. Vogrin asked where the stormwater runoff for lots 5 and 6 would go.

Lorelai Harkins, 1130 Crystal Avenue Downers Grove, IL, asked why the two fire hydrants on Matthias Road were being removed with this proposal. Additionally, Ms. Harkins asked about proposed street lighting.

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Jeff Heller, 1025 Claremont Drive Downers Grove, IL, President of the Hidden Pines Estates Townhomes Association, explained his concerns about drainage for lots 5 and 6. Additionally, there are concerns over the proposed heights and setbacks for the new structures. Finally, Mr. Heller shared that there is an old tree straddling the property line for the new development.

Chester Tom, 7205 Matthias Road Downers Grove, IL, congratulated and thanked the Plan Commission for promoting projects that enhance this area and that are cohesive. Mr. Tom then asked if the property included drainage provisions for the properties located to the south. Additionally, he asked if the new development took into account the detention area to the south. Specifically, Mr. Tom wanted to know if the new detention area accounted for the existing drainage patterns and provided sufficient volume for the properties to the south. Finally, Mr. Tom suggested that the construction entrance should be coming from the west on Dunham Road. He noted that there was already a curb cut and driveway on that property to minimize the impact on existing residents.

Chairman Pro tem Rector invited the petitioner to answer any questions from the public.

Mr. Chiczewski explained that the development had been designed to adhere with the Stormwater Ordinance. In terms of Matthias Road, there has been enhanced drainage to pick up any extra stormwater runoff. Mr. Chiczewski also noted that there were plans to protect the large tree by lot 5, however additional tree assessments would be required to ensure the tree is in good health to keep. He also noted that the plan incorporated the existing drainage patterns from the south by providing a flow through. Mr. Chiczewski also clarified that there was no proposal to eliminate fire hydrants. Finally, Mr. Chiczewski noted that both Matthias and Dunham Road would be resurfaced once the work is completed.

Commissioner Dmytryszyn noted that members of the public were interested in understanding the water run off for lots 5 and 6. Mr. Chiczewski explained that runoff on lots 5 and 6 is detained on site and then sent to Matthias Road and it is then diverted into the stormwater outlot.

Commissioner Dmytryszyn asked for confirmation that everything on lots 5 and 6 drains toward the west. Mr. Chiczewski confirmed Commissioner Dmytryszyn's understanding was correct. Commissioner Dmytryszyn asked if the future owner of lot 5 could choose to do something else with the tree as part of the construction process.

Mr. Chiczewski shared that he was not aware of the existing conditions of the tree. The proposed plans show protection for the elm tree. He explained that if the proposal was approved, the improvement on Matthias Road and the outlot could occur as early as this spring. After that, each lot would have to come back with their own building permit. At the time the building permit comes through then you would have to see what the condition of the tree is at that time.

Chairman Pro tem Rector noted that the public had also asked questions about the construction entrance. Mr. Chiczewski noted that access is needed on both sides of the lot. He mentioned that they could continue to work with staff to determine what is preferred. Access is needed to build out Matthias Road and this is the area where the bulk of the construction will occur.



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Ms. Flora Leon, Senior Planner, summarized the request before the commissioners, presented the existing conditions of the area, and said the entire property would be split into 6 lots 1 detention outlot. She then provided existing photos of the site noting that the public hearing noticing requirements were completed. As such, Ms. Leon shared that two emails were received after the Plan Commission report was posted. These two email could be found on the dais for review. Ms. Leon offered to address questions from the public and emails as she worked through the proposed site plan. She then provided the subdivision plan and confirmed the dimensional requirements were being met for all of the proposed parcels. The outlot does provide access for future maintenance to the detention area. She then explained that on Dunham Road there would be a 5-foot dedication to ensure the width of the right-of-way matches the existing dimension on Dunham Road to the north and south of the property. Concerning Matthias Road the proposal includes completion of this road with the required improvements that include sidewalks, lighting, and curb and gutter.

Ms. Leon noted that the petition was limited to the subdivision request and that stormwater is later reviewed during the building permit phase. However, staff wanted to include a stormwater explanation to address some to the public's concerns. Ms. Leon noted that this proposal was an improvement because the water is currently flowing north unrestricted. Additionally, the detention area to the north was designed to handle volume coming from 7135 Dunham Road. Concerning the detention area to the south of the development, there is an existing inlet and the water flows north. The proposed grading will accounts for this and redirects this water towards the outlot.

Commissioner Dmytryszyn appreciated the stormwater explanation as it helped him support the petition for approval.

Commissioner Boyle echoed the comments and noted that the proposal was residential and did not have any request for variances.

Commissioner Patel expressed support for the project as an overall improvement to the area.

Commissioner Toth asked if they were only assessing the subdivision of the lot. If the project moved forward then it would have to go through the stormwater and building permits. Chairman Pro tem Rector confirm that was correct. Commissioner Toth explained he saw no reason not to move forward.

Commissioner Johnson noted that she had no additional comments.

**WITH RESPECT TO FILE 21-PLC-0022 AND BASED ON THE PETITIONER'S SUBMITTAL, THE STAFF REPORT, THE TESTIMONY PRESENTED, AND HAVING MET THE STANDARDS OF APPROVAL FOR A FINAL PLAT OF SUBDIVISION AS REQUIRED BY THE VILLAGE OF DOWNERS GROVE ZONING AND SUBDIVISION ORDINANCES AND IS IN THE PUBLIC INTEREST, COMMISSIONER DMYTRYSZYN MADE A MOTION THAT THE PLAN COMMISSION RECOMMEND TO THE VILLAGE COUNCIL APPROVAL OF 21-PLC-0022, SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. THE FINAL PLAT OF SUBDIVISION SHALL SUBSTANTIALLY CONFORM TO THE FINAL PLAT OF SUBDIVISION FOR THE KAPOVICH SUBDIVISION**

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**PREPARED BY ESI CONSULTANTS, LTD, DATED OCTOBER 18<sup>TH</sup>, 2021 LAST REVISED ON NOVEMBER 22, 2021, EXCEPT AS SUCH PLANS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES AND ORDINANCES.**

- 2. A SPECIAL SERVICE AREA SHALL BE ESTABLISHED AND RECORDED TO ENSURE ADEQUATE MAINTENANCE OF THE STORMWATER DETENTION AREA PRIOR TO ISSUANCE OF ANY OCCUPANCY PERMITS.**
- 3. THE HOMEOWNERS ASSOCIATION DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS DOCUMENT FOR THE SUBDIVISION SHALL BE RECORDED WITH THE PLAT OF SUBDIVISION.**
- 4. THE PETITIONER SHALL PAY \$120,507.20 (\$56,412.95 FOR THE PARK DISTRICT, \$43,621.20 FOR SCHOOL DISTRICT 58 AND \$20,473.05 FOR SCHOOL DISTRICT 99) TO THE VILLAGE PRIOR TO EXECUTING THE FINAL PLAT OF SUBDIVISION.**
- 5. UPON INSTALLATION OF SANITARY SERVICES FOR LOTS 3, 4, 5 AND 6, THE PETITIONER SHALL GRIND AND RESURFACE THE ENTIRE WIDTH OF MATTHIAS ROAD IN FRONT OF THIS DEVELOPMENT BEFORE THE RELEASE OF A CERTIFICATE OF OCCUPANCY FOR ANY HOME SITE ON MATTHIAS ROAD. ALTERNATIVELY, THE SANITARY SERVICES SHALL BE CONSTRUCTED BEFORE THE SURFACE COURSE IS CONSTRUCTED ON MATTHIAS ROAD.**
- 6. THE PETITIONER SHALL INSTALL SIDEWALKS FOR THE ENTIRE SUBDIVISION BEFORE THE RELEASE OF THE FIRST HOME SITE BUILDING PERMIT.**
- 7. THE CONSTRUCTION ENTRANCE MUST BE PLACED AT THE SOUTH END OF THE EXTENDED MATTHIAS ROAD SO CONSTRUCTION TRAFFIC ENTERS FROM CRYSTAL AVENUE, NOT FROM THE NORTH.**
- 8. WRITTEN PERMISSION FROM THE SUBDIVISION TO THE NORTH OR SOUTH AND THE HOMEOWNER TO TIE INTO THEIR STORM SEWER WILL BE REQUIRED. IF PERMISSION CANNOT BE GRANTED THE STORMWATER FACILITY WILL BE REDESIGNED WITHIN THE BOUNDARIES OF THE SUBJECT PROPERTY TO MEET THE VILLAGE'S STORMWATER ORDINANCE. IF A REDESIGN IS NECESSARY, THE PETITIONER WILL BE REQUIRED TO CONNECT TO THE EXISTING VILLAGE STORM SEWER ON DUNHAM ROAD, AS APPROVED BY THE VILLAGE. AN EASEMENT WOULD BE REQUIRED FOR THE PIPE FROM THE OUTLET CONTROL STRUCTURE TO THE DUNHAM ROAD RIGHT-OF-WAY.**
- 9. A PERMIT WILL BE REQUIRED FROM IEPA FOR THE NEW WATER MAIN. A COPY OF THE PERMIT MUST BE PROVIDED TO THE VILLAGE BEFORE ANY BUILDING PERMITS WILL BE ISSUED.**
- 10. A PERMIT WILL BE REQUIRED FROM THE DUPAGE COUNTY HEALTH DEPARTMENT FOR THE REMOVAL OF THE EXISTING SEPTIC TANK.**
- 11. NEW WATER SERVICES ALONG DUNHAM ROAD SHALL BE DIRECTIONALLY BORED.**
- 12. NO OBSTRUCTIONS INCLUDING LANDSCAPING, TREES, FENCES, OR IMPROVEMENTS OF ANY KIND EXCEPT GRASS SHALL BE PERMITTED WITHIN THE 12.35-FOOT STORMWATER AND DRAINAGE EASEMENT (THE NORTHERN MOST SEVEN FEET ALONG LOT 1 AND THE WESTERNMOST 5.35 FEET OF OUTLOT A).**

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- 13. THE PLAN DOES NOT SHOW ANY PATIOS, DECKS, POOLS. THE ALLOWABLE IMPERVIOUS FOR EACH LOT IN THE FUTURE WILL BE DETERMINED BY THE IMPERVIOUS AREA USED FOR THE SITE RUNOFF STORAGE CALCULATIONS.**
- 14. THE VILLAGE WILL CHARGE \$580 PER PROPOSED TREE IN THE RIGHT-OF-WAY, AND THE VILLAGE WILL PLANT THE TREES. BASED ON VILLAGE CODE SECTION 20.401(A)(8) TWELVE (12) TREES WILL BE REQUIRED. THE PETITIONER SHALL PAY \$6,960 FOR PARKWAY TREES PRIOR TO THE ISSUANCE OF ANY PERMITS. .**

**SECOND BY COMMISSIONER PATEL. ROLL CALL:**

**AYE: COMMISSIONERS BOYLE, DMYTRYSZYN, JOHNSON, PATEL, ROCHE, TOTH, RECTOR**

**NAY: NONE**

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

**FILE 21-PLC-0028: A PETITION SEEKING MULTIPLE TEXT AMENDMENTS TO VARIOUS ARTICLES WITHIN CHAPTER 28 (ZONING ORDINANCE) OF THE MUNICIPAL CODE. VILLAGE OF DOWNERS GROVE, PETITIONER**

Community Development Director Popovich explained the text amendments were broken into two categories: 1) new regulations including donation drop boxes and 2) minor modifications to the zoning ordinance. The text amendments appear in front of the Plan Commission about every 12 to 18 months, with the last time in September 2020.

Director Popovich then reviewed the proposed text amendments related to donation boxes. Currently, donation boxes are prohibited in the Village. There have been some recent challenges to donation box prohibition, as the courts have found that donation drop boxes are a form of charitable solicitation that are protected under the First Amendment. The proposed amendments allow these donation boxes to be located in various commercial districts and institutional districts. He then highlighted the location requirements and enforcement provisions.

Next, Director Popovich addressed the second category of amendments. Over time and through practice, staff has identified code sections where further clarification and minor adjustments in language would prove useful to both the practitioner and residents. A summary of the proposed amendments and their changes followed which included: clarifying provisions that apply to nonconforming lots; added a definition for buildings that are attached to a principal structure; added provisions limiting one carport per lot in R zoning district; clarified provisions regarding building-mounted solar energy systems; added drive aisles as an exception when paving within setbacks for fueling stations; added provisions for telecommunication tower height in the Downtown and Institutional Zoning Districts; added provisions for electrical vehicle parking; clarified a provision regarding the width of a driveway on the private and public side of the lot line; added a provision regarding nonconforming driveways; added a provision for hammerheads associated with driveways off an arterial road; modified provisions regarding open-design fences; clarified provisions regarding nonconforming lots; clarified provisions regarding nonconforming structures; added provisions referencing compliance with the Downtown Design Guidelines; added provisions

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referencing compliance with the Downtown Design Guidelines and the Comprehensive Plan; removed setback requirements in the DB and DC districts when it comes to architectural building features, dog house or dog run, steps, retaining walls, and yard features; clarified setback requirements for driveways and uncovered walk; and added provisions for vegetable gardens.

Director Popovich commented that the proposed text amendments met the standards as provided in the Zoning Ordinance and are in conformity with the policy and intent of the Comprehensive Plan. The proposed text amendments also corrects errors or inconsistencies in the zoning ordinance, or meets the challenge of a changing condition or is necessary to implement established policy. Staff recommended that the Plan Commission provide a positive recommendation to the Village Council and welcomed any questions.

Pro Tem Chair Rector sought clarification on the 5% requirements for parking spaces for electric vehicle parking and how that would work for smaller lots. Staff commented that this may be difficult for smaller lots to achieve, but could see this working for larger shopping centers, dealerships or large developments. This was an attempt to encourage people to provide these spaces as the world turns to more electric vehicles.

Pro Tem Chair Rector opened up the meeting to public discussion.

Marshall Schmitt, 4923 Seeley, stated he was engaged by Plan Smart 58, which is a community organization dedicated to preserving the integrity of the village and he is speaking both on his individual behalf and on behalf of Plan Smart tonight. First, he led with an objection to the five minute restriction on what he will say tonight. As a matter of background he offered that McNaughton Development is the contractor purchaser of Longfellow property, who wants to build 12 homes on the property. He stated that the position of the Village throughout the bidding process was that because the lots are platted as 12 different lots that can have 12 homes built on the property. He opined that the current language of the section that the staff is proposing to amend prohibits this. He alleges that the existing ordinance indicates that if you have conforming or non-conforming lots that are adjacent, you have to consolidate the lots to meet the 75-foot requirement. He claimed that the requirement was established to make it easier to control stormwater. He stated that he challenged the interpretation of the Village Attorney and Village Manager and said it is inconsistent with what is in the ordinance and asked to provide examples.

Mr. Schmitt continued and commented that the provided language is inconsistent with the Comprehensive Plan. He stated that the nonconforming section is intended to provide a grandfathering mechanism. He stated that if someone owns the house on a 60 foot lot and it's impossible for them to build on it because they do not own the adjoining lot, they may construct on the lot. He further argued that this was not the intent of the ordinance, meaning that if a developer comes in and buys a piece of property that has been used for almost 100 years, in a different way the homes must meet the 75 foot requirements. He further commented that the proposed text amendment does not meet the standards as presented in the staff report and referenced various sections in the Comprehensive Plan. Returning to the proposed text amendment, he commented that the amendment would destroy the use that is on the property and the Village is trying to fix a mistake. He closed his comments stating the Plan Commission needs to take into account the context of the neighborhood when you revise the zoning ordinance and asked that the Plan Commission reject the recommendation of the staff.

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Pam Johnson, 4833 Montgomery Avenue, commented that she would like the Plan Commission to recommend that the Village Council does not approve the amendments related to non-conforming lots. Her concerns included that this is hastily changing the code to enable the proposed development of the Longfellow Property; it's not responsible governing; and that changing the code will have unknown and potentially drastic effects on the long term future of Downers Grove. The Longfellow Property was designated as a historically significant property and has served as the center of the community.

Pro Tem Chair Rector reminded everyone that today's proceeding is about the text amendments and not any particular single property and that there are other forums for some of these Longfellow comments. However, if the public has text amendments comments the Plan Commission would like to continue to hear them.

Lynn Leo, 4828 Montgomery, commented that she is concerned how quickly the sale, development and the planning for the Longfellow site has been pushed through with little or no community input. The proposed 12 homes is not as important as a solution that benefits all citizens of Downers Grove.

Terry Mahoney, 4832 Montgomery, disagrees with the characterization that this amendment is a minor clarification and modification to the Zoning Ordinance. Homes sites that are 50 feet or 60 feet were common for the homes built in the 1920s. The current zoning code requires when two or more contiguous non-conforming lots are held in common ownership, they must be consolidated in order to be conforming. That's clearly the situation on the Longfellow property. The proposed text amendment is not consistent with the Villages long-term plan and the area already has stormwater issues.

Irene Hogstrom, 1232 Gilbert, also disagrees with the characterization that this a minor clarification and modification to the Zoning Ordinance. The proposed amendments are proposed to accommodate the redevelopment of the Longfellow property. She commented that she served on the Comprehensive Plan Committee, and they were adamant to preserving the 75-foot lot width.

David Rose, who lives in the area, commented that if the Village of Downers Grove professes to have a goal of environmental sustainability, why environmental sustainability is not something that factors into everything that comes before the Plan Commission.

Troy Hawkins, 4824 Seeley Avenue, agrees with the others that commented and these are not minor text amendment changes.

Richard DeMink, 4904 Seeley Avenue, was not in support of the petition and that the Plan Commission should recommend rejection of the text amendments as it is not in line with the 75 foot requirement.

Director Popovich commented staff still considers that the text amendments related to non-conforming clarifies the language and reflects current practices by staff.

An inquiry was made by the Commission on why the proposed wording for the non-conforming lots was proposed. Director Popovich commented that it has been common practice for some time when a building is constructed over a common lot line, consolidation is required. However, if someone owns two lots they can build on each lot as long as it meets the setbacks, because that is the lot of

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record that was created for the plat of subdivision regardless of the time period. As a follow up, an inquiry was made regarding when one would have to meet the 75 foot standard. Staff responded that with a new subdivision, similar to the one that was heard earlier this evening, the 75 foot requirement would need to be met.

Pro Tem Rector inquired if we have any examples that help illustrate past practices. Director Popovich provided an example on the presentation screen for 540 Prairie Avenue. An objection was made from the audience regarding the information presented. This example demonstrated when a lot consolidation was required, because a new home was constructed over the common lot line. It was clarified by a member of the Plan Commission that this would not change anything that would come before the Plan Commission or Village Council. Staff commented this would not change current practices.

Commissioner Boyle inquired about the need for the amendment after the example that was shown. It was commented by staff that it is a clarifying amendment, again demonstrating that consolidation is only required when a structure is constructed over a property or when setbacks cannot be met.

A member of the Plan Commission commented that there have been several comments related to Longfellow and what the other appropriate forums may be for that. It was commented again that these text amendments deal with the whole community and not one particular neighborhood. Village Council meets on a regular basis and there is information available on the Village's website on how to contact them.

Pro Tem Rector then closed the public comment portion of the meeting to allow Plan Commission deliberation.

Commissioner Boyle appreciated the clarification on the vegetable garden. Regarding the non-conforming lot text amendments, he stated that would like a little more time to review.

Commissioner Patel was comfortable with the other text amendments, but the one related to non-conforming lots; he stated that he was not quite comfortable yet to what has been presented. Director Popovich offered two additional examples which included properties located at Sherman and Maple, and 4913 and 4915 Cornell. An objection was made from the audience regarding the information presented. The first example demonstrated that the original owner was the Downers Grove Park District, which previously had a structure on the subject property and sold to a private developer. The Village issued a permit for one of the legal non-conforming lots. The second example on Cornell demonstrated two legal lots of record that previously had one house constructed over the lot line. The two lots were sold to a developer, the home was demolished, and two homes were built in its place. The examples demonstrate how the Village has consistently applied the non-conforming section of the code. A question came from the audience requesting copies of the examples. In response to a Plan Commission inquiry, Director Popovich explained how the administrative process works for the Village in regards to lot consolidation. He further clarified that lots that are two lots of record can come in for a building permit and there is no additional process.

Commissioner Boyle further commented that he still feels uncomfortable and based on the amounts of questions around the text amendment for non-conforming lots he would like more time to look at, but if staff is looking for a recommendation tonight, he does not believe he will be able to offer a positive recommendation.

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Pro Tem Rector does feel that if this has been our practice, then we are not changing our practice and this is consistent with how these lots have been treated in the past. Discussion then followed on the how the text amendments could be voted and recommended. It was decided that the recommendation should be separated into two motions.

**BASED ON THE PETITIONER'S SUBMITTAL, THE STAFF REPORT, AND THE TESTIMONY PRESENTED, I FIND THAT THE PETITIONER HAS MET THE STANDARDS OF APPROVAL FOR A ZONING TEXT AMENDMENT AS REQUIRED BY THE VILLAGE OF DOWNERS GROVE ZONING ORDINANCE AND IS IN THE PUBLIC INTEREST AND THEREFORE, DMYTRYSZYN MOVED THAT THE PLAN COMMISSION RECOMMEND TO THE VILLAGE COUNCIL APPROVAL OF 21-PLC-0028 REGARDING THE PROPOSED AMENDMENTS TO ARTICLES 2, 6, 7, 10, 11, 12, 14 AND 15 OF THE ZONING ORDINANCE, *WITH THE EXCEPTION OF SECTION 28.11.020(b)***

**SECOND BY COMMISSIONER PATEL. ROLL CALL:**

**AYE: COMMISSIONERS BOYLE, DMYTRYSZYN, JOHNSON, PATEL, ROCHE, TOTH, RECTOR  
NAY: NONE**

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

**BASED ON THE PETITIONER'S SUBMITTAL, THE STAFF REPORT, AND THE TESTIMONY PRESENTED, I FIND THAT THE PETITIONER HAS MET THE STANDARDS OF APPROVAL FOR A ZONING TEXT AMENDMENT AS REQUIRED BY THE VILLAGE OF DOWNERS GROVE ZONING ORDINANCE AND IS IN THE PUBLIC INTEREST AND THEREFORE, DMYTRYSZYN MOVED THAT THE PLAN COMMISSION RECOMMEND TO THE VILLAGE COUNCIL APPROVAL OF 21-PLC-0028 REGARDING THE PROPOSED AMENDMENTS TO SECTION 28.11.020(b) OF THE VILLAGE CODE**

**SECOND BY COMMISSIONER PATEL. ROLL CALL:**

**AYE: COMMISSIONERS JOHNSON, ROCHE, TOTH, RECTOR  
NAY: BOYLE, DMYTRYSZYN, PATEL**

**MOTION PASSED. VOTE: 4-3**

**THE MEETING WAS ADJOURNED AT 8:47 P.M. UPON MOTION BY COMMISSIONER BOYLE. SECOND BY COMMISSIONER DMYTRYSZYN. A VOICE VOTE FOLLOWED AND THE MOTION PASSED UNANIMOUSLY.**

/s/ Village Staff  
Recording Secretary  
(As transcribed by MP-3 audio)