

**Village of Lemont**  
**Planning and Zoning Commission**  
Regular Meeting of June 21, 2017

A meeting of the Planning and Zoning Commission for the Village of Lemont was held at 6:30 p.m. on Wednesday, June 21, 2017 in the second floor Board Room of the Village Hall, 418 Main Street, Lemont, Illinois.

**I. CALL TO ORDER**

**A. Pledge of Allegiance**

Chairman Spinelli called the meeting to order at 6:35 p.m. He then led the Pledge of Allegiance.

**B. Verify Quorum**

Upon roll call the following were:

Present: Forzley, McGleam, Zolecki, Spinelli

Absent: Cunningham, Glomp, Plahm

Village Planner Heather Valone, Village Trustee Ron Stapleton, and Village Attorney Andrew Paine were also present.

**C. Approval of Minutes: April 19, 2017 Meeting**

Commissioner Zolecki made a motion, seconded by Commissioner McGleam to approve the minutes from the April 19, 2017 meeting with no changes. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

**II. CHAIRMAN'S COMMENTS**

Chairman Spinelli welcomed Commissioner Forzley to the Planning and Zoning Commission. He then stated if anyone in the audience is present this evening for case 17-06 Kotlin Annexation, Rezoning and Preliminary Plat it will not be heard tonight due to incorrect public notice. It will most likely be on the next regularly scheduled meeting. The neighbors within 250 ft. who were noticed for this meeting date will be noticed again via letter and the sign will be updated on the property for public notice.

At 6:37 Commissioner Glomp entered the meeting. Chairman Spinelli welcomed him also to the Planning and Zoning Commission.

Chairman Spinelli then asked everyone in the audience to please stand and raise his/her right hand. He then administered the oath. He then asked for the schedule to be rearranged to hear the New Avenue Annexation and Rezoning first, then the Wend Fence Variation and last will be the Derby Pines Subdivision and Variation.

### **III. PUBLIC HEARINGS**

#### **A. 17-07 16360 NEW AVENUE ANNEXATION AND REZONING**

Chairman Spinelli called for a motion to open the public hearing for Case 17-07.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to open the public hearing for Case 17-07. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

#### **Staff Presentation**

Mrs. Valone, Village Planner for Lemont, stated John Antonopoulos, acting on behalf of the owners, is seeking annexation to the Village of Lemont and Rezoning to R-4 Single-Family Detached Residential District. Staff is recommending approval with conditions. The applicant is requesting the Annexation and Rezoning to allow construction of one single-family home on a 77 foot wide 15,400 square foot lot of record. The applicant is also looking to connect to the Village utilities.

In 2001, the Village entered into a Pre-Annexation Agreement with the previous property owner. At that time, this property was not eligible for annexation; however, the Village needed an easement across the property to extend some utilities so at that time they entered into a Pre-Annexation Agreement. It had certain requirements for the Village and certain requirements for the property owner once the property came into the Village. The property is now eligible for Annexation, but she will discuss some of the items from the Pre-Annexation agreement.

Mrs. Valone said in the 2001 agreement the Village was required to provide utilities and to allow the rezoning to the R-4 Single-Family Detached District. The property owner in the agreement was required to connect utilities, install those connections, pay a recapture fee on connection to the water utilities, construct a sidewalk, and install parkway trees per the UDO. Staff finds the rezoning meets all the standards for rezonings. The proposed development is consistent with the goals of Lemont 2030 Plan. Additionally, the rezoning to R-4 is consistent with the surrounding land uses. Staff is recommending approval with the following conditions:

1. The applicant will confirm, in writing, that they will comply with the required installation of sidewalk and parkway per UDO 17.26.110 and 17.26.120 at time of building permit.

2. Confirm, in writing, that they will comply with the required installation of parkway trees per UDO table 17.020-01 at time of building permit.
3. The applicant must obtain a jurisdictional determination for the marsh area in the south of the property and obtain permits, if needed, prior to the submission of an application for a building permit.
4. All outstanding comments from the Village Engineer must be addressed prior to final approval.

Chairman Spinelli asked if any of the Commissioners had any questions for staff at this time. None responded. He then asked if the applicant wanted to make a presentation.

### **Applicant Presentation**

John Antonopoulos, Attorney for the property owner, said the owner plans on building a single-family home. The applicant is in agreement with all of the conditions.

Chairman Spinelli asked if the applicant had a potential timeline that they may want to start this construction.

Mr. Antonopoulos stated the owner is ready to go with plans.

Chairman Spinelli asked if anyone had any questions for the applicant. None responded. He then asked if there was anyone in the audience that wanted to ask questions or make comments in regards to this public hearing.

### **Public Comment**

None

Chairman Spinelli then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to close the public hearing for Case 17-07. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

### **Plan Commission Discussion**

Chairman Spinelli asked if the Commission had any further comments or questions. None responded. He then called for a motion for recommendation.

### **Plan Commission Recommendation**

Commissioner Zolecki made a motion, seconded by Commission McGleam to recommend to the Mayor and Board of Trustees approval of Case 17-07 16360 New Avenue Annexation and Rezoning with the following conditions:

1. The applicant will confirm, in writing, that they will comply with the required installation of sidewalk and parkway per UDO 17.26.110 and 17.26.120 at time of building permit.
2. Confirm, in writing, that they will comply with the required installation of parkway trees per UDO table 17.020-01 at time of building permit.
3. The applicant must obtain a jurisdictional determination for the marsh area in the south of the property and obtain permits, if needed, prior to the submission of an application for a building permit.
4. All outstanding comments from the Village Engineer must be addressed prior to final approval.

A roll call vote was taken:

*Ayes: Zolecki, McGleam, Forzley, Glomp, Spinelli*

*Nays: None*

*Motion passed*

#### **B. 17-04 – 2 W. WEND FENCE VARIATION**

Chairman Spinelli asked anyone who entered the meeting after the first swearing in to please stand and raise his/her right hand. He then administered the oath again. He then called for a motion to open the public hearing for Case 17-04.

Commissioner McGleam made a motion, seconded by Commission Forzley to open the public hearing for Case 17-04. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

#### **Staff Presentation**

Mrs. Valone said Steffanie and Kate Davis, owners of the subject property, are requesting approval for a variation per the UDO section 17.12.030. the requested variation is to allow construction of a six-foot vinyl fence in a corner side yard. Staff is recommending approval with conditions.

The subject property is zoned R-4 Single-Family Detached. Per the UDO, this zoning classification has a corner side setback of 25 feet from the property line. The UDO also requires fences to observe the 25 foot setback if they are greater than four feet in height and are not open in design.

Mrs. Valone stated the applicant applied for a permit in June of 2016. At that time, the Village was also modifying its regulations to allow fences in the corner side yard as long as they were 25 feet from the back of the street curb, no greater than four feet in height, and they were considered open in design (i.e. picket fence or rod iron

fence). Staff reviewed the application and contacted the contractor on the permit, as the proposed location of the fence was indicated inside the corner side yard setback. However, the proposed fence was a material of a privacy fence and over four feet. The contractor had indicated that they were utilizing a different material to meet code in the sections the corner side yard setback. In an effort to expedite the permit, staff indicated that the material would need to be updated in writing to show that they were going to meet code before the permit was issued. Unfortunately, it was never submitted and the permit was issued with error on it.

Staff received complaints after the fence was installed. Staff then reviewed the permit to determine what the current status was for that permit. At that time, it was found that the final inspection was not called for the fence. Staff reached out and scheduled a final inspection for December 21, 2016. At the time of the inspection, it was discovered that the fence was still incorrectly placed based on the submitted permit application. She showed on the overhead the proposed placement of the fence and what was approved. Then showed where the fence was actually placed. Staff did contact the homeowner and the contractor at that time. The contractor submitted a letter on December 22<sup>nd</sup> indicating that the location of the fence would be corrected to meet code by April 1<sup>st</sup> when the weather was warmer. Thus, as the fence was required to be moved regardless, staff indicated that it would need to meet the 25 foot setback not the 17.5 feet. At that time the applicant indicated that it could not be relocated to the corner side yard setback 25 feet due to the existing location of mature trees. The applicant then made the request for the variation that you see before you.

Mrs. Valone said in the staff report she did indicate originally in the posted staff report that there was additional information that was needed for this application to fully determine the location of the trees. To obtain this additional information, and to avoid any continuance of this case, she conducted an in-person field inspection to determine if there were any issues with the trees and any other obstructions that might be in the way. What she had found was that the fence was still four and half feet off of the sidewalk, which is the same location in December. There is a cement block retaining wall that was not mentioned in the permit that runs along the corner side setback. There is a very large bush that is further into the corner side setback from the retaining wall. A minor change is one of the trees that was indicated in the submittals was slightly misplaced.

However, the applicants current placement is still only four and half feet off of the sidewalk. However, with the retaining wall, the bush and the two mature trees requiring them to put the fence along the corner side setback would require the applicant to remove the retaining wall and bush. Staff has changed the recommendation, to recommend a six foot fence variation. The six foot variation would bring it more into compliance with the UDO, additionally it would avoid the removal of some of the mature trees, the retaining wall and the mature bush. This was also provided to the applicant today after staff was able to formalize their findings. The six feet would be from the red line which is the building setback. From

the actual home itself, which sits further back than the setback, it would be seven feet and seven inches.

Mrs. Valone stated the UDO does require the applicant to demonstrate consistency with all three of the variations standards contained. Although, staff finds not all standards are essentially met they are still recommending approval of the variation with the condition that it is only a six foot encroachment into the corner side yard. She showed on the overhead where the fence would be moved.

Chairman Spinelli asked when the fence company was informed that they had to resubmit the material or fence style, did it ever occur to them.

Mrs. Valone said they were notified prior to the issuance of the permit. However, it was staff's error to not catch it at time of issuance.

Chairman Spinelli asked if the trees that are on the drawing are the ones that staff had measured.

Mrs. Valone stated correct. The placement of the trees that the applicant had put on were relatively correct. They were correct with three of the four placements.

Commissioner Forzley asked if they are still requesting the privacy fence.

Mrs. Valone said that is correct.

Chairman Spinelli asked if staff had any conversations with the applicant in regards to staff's drawing.

Mrs. Valone stated it was provided to the applicant late in the day today and she has not had any conversations.

Chairman Spinelli asked if there were any more questions for staff. None responded. He then asked the applicant to come up and make a presentation.

### **Applicant Presentation**

Steffanie Davis, applicant, said her and Kate Davis currently own the property at 2 W. Wend Street. In June of 2016, they had applied for a permit through the Village for a six foot vinyl privacy fence. As stated in staff's presentation, it seems the Village was in the process of making amendments to the corner lot ordinances. Approximately two weeks later she received a phone call from the Village stating that the permit was approved and was available for pick up. In that phone conversation, as well as at the time of pick up there was no discussion that the approval had conditions or notes. Please reference the application in staff's packet showing a stamp of approval and a stamp of approved as noted. As you can see on the application of permit there are no notes regarding the fence. According to page three of the packet,

it states that the contractor agreed to meet code requirements through a phone call. The contractor has stated to them no such agreement was made with him and the Village. There has been no documentation to prove this discussion or agreement took place.

After following proper channels and obtaining their permit they had taken that as confirmation that they could have the fence installed on their property. The contractor installed the fence the third week of July 2016. The materials matched what was included on their permit application. The contractor, at the time of installation, stated he was going to put it at 24 feet so they could have more of their yard. The contractor said they just needed to make sure that their fence was 20 feet from the curb. The fence was installed 24 feet from the home and not at the 17 feet as approved on the permit. On or around March 2017, eight months after completion, she arrived home to find JULIE on her property. After inquiring about why they were there, they stated they were marking the property to have the fence moved. She contacted the contractor, who stated that the Village contacted him and that he was going to have to move the fence to the 17 feet from the home. She stated she then spoke with the inspector who did the final inspection and was told the fence was not at the approved 17 feet and to call and speak to Heather Valone.

Mrs. Davis said she spoke with Mrs. Valone who told them they could not keep the fence at the 17 feet. The fence could only extend two feet from the home if they wanted to keep the six feet vinyl. If they wanted to go to the 17 feet it would have to be at the four feet height and see through due to safety reasons. When she contacted the contractor, he said he would not change the materials of the fence and he would not remove trees or landscaping to put the fence at the two feet from the home. At this time she spoke to many Village employees and a lawyer to get this situation resolved. As a Lemont resident, they are the only ones suffering consequences for the Village's mistakes. The Village has waived all variations fees due to this mistake with apologies, but they have still instilled legal fees, the cost of sending out letters to all of their neighbors and a very embarrassing sign. They had to endure a very public proceeding at no fault of their own. If the variation is not approved they will endure more hardship and fencing material that was purchased will be useless causing a major monetary loss for them. Moving the fence past the approved 17 feet after a year will bring further cost to them by having to remove trees, landscaping and bushes. The fence as it stands causes no safety or environmental issues. The neighbor at 1 Meghan Lane has stated he has no issues with their fence. They have received 2 letters and the Village has received one letter stating that they have no issues with their fence. The mailing to 36 residents has received no complaints back that they know of, they have the support of their surrounding community and they are asking that they approve the variation request to leave the fence at the approved 17 feet.

She understands the Village's desire to follow ordinances; however this was caused by an oversight through a process and no malicious intent on their part. They have

paid dearly already for the oversight and miscommunication. She thanked the Commission and stated she appreciates their time.

Chairman Spinelli said the permit that was issued was incorrect and the Village has acknowledged that. The approval at the 17 feet from the house with the solid 6 foot fence should have not been issued but it was. The problem is if the contractor had installed it right, where the permit had been issued then they would not be here today. He assumes that the contractor took it upon himself to move the fence further away from the house and closer to the street. At one point, the Village never allowed any fence in a side corner yard. Recently over the past four to five years they have been bending a little on that rule and as staff had indicated to them it would have to be a four foot open style fence. Since they have changed the rules they have had many residents come in asking for the full six foot privacy fence and they would get denied. The issue in front of us is that they have a permit that was incorrectly issued, but the fence was not installed accordingly to the permit. The fence was supposed to be installed 17 feet off of the house, but was installed at 24 feet off the house. He understands that they have incurred cost. If the contractor took it upon himself to install it in the wrong location then it is on him if the variation does not get approved. They are looking at a variation request that affects the entire community.

Chairman Spinelli asked if they had a chance to look at Mrs. Valone's drawing from today.

Mrs. Davis stated she did not.

Chairman Spinelli said according to the drawing they would have to move the fence approximately 18 feet from the current location. This would still require a variance because it is a six foot fence in the side yard. He believes that there are two choices. The first is if they want to maintain the six foot tall fence, it would have to go back to the 25 foot side yard setback. Or they have a four foot tall open fence. The last possible choice would be to move it to the six foot variation, that staff has shown, which places it at about seven feet off the house.

Commissioner McGleam asked if staff could describe the intent of the side yard setback.

Mrs. Valone stated that whichever way the house is facing is the front and the side of the home, which is facing another street, is called a corner side yard. The intent of pushing things 25 feet back is to provide a clean line of sight for those driving, and provide consistency with the homes that do face the street to the side of your home.

Commissioner Zolecki asked if the fence was placed at the 17 feet would it have impacted any of the trees on the site.

Mrs. Davis said it would have been right at the trees.



Chairman Spinelli stated what should have occurred is that the contractor should have called the Village stating that it could not be installed at the 17 feet because of the trees and asked how it could be resolved.

Commissioner Zolecki asked if the applicant has been in contact with the contractor recently.

Mrs. Davis said she contacted the contractor when JULIE was on their property.

Commissioner Zolecki asked if they are still standing by their December 22<sup>nd</sup> letter.

Mrs. Davis stated when she had talked to him he had agreed to move the fence to the 17 feet.

Commissioner Zolecki asked if there would be any impact if the applicant moved the fence to what was permitted.

Mrs. Davis said the fence would go on the outside of the trees so there would be no impact.

Commissioner McGleam asked if the landscaping was done before or after the fence.

Mrs. Davis stated the landscaping was there when she bought the property. Precedence was brought up by the Chairman, but she feels every case is different based on facts. In regards to safety, there are parkway trees right before the stop sign. She feels the fence does not impede that.

Chairman Spinelli asked if there were any further questions for the applicant from the Commission. None responded. He then asked if there was anyone in the audience that would like to speak.

### **Public Comment**

Mrs. Valone stated they did receive an email today at 4:41 p.m. from the resident at 3 Wend Street. It is from Kevin Cliff, who stated that they are concerned about setting precedence. They do sit on their front porch and do not want their view obstructed by a privacy fence. They feel that the setbacks and standards really need to be adhered to. He feels relocating the fence seems the most sensible thing to do. This letter will be submitted as part of the packet.

Kathy Baldwin, 31 W. Wend, said she feels that these homeowners did everything right. They purchased a fence from a reputable company and submitted very detail information on a vinyl six foot fence. When they received their permit they displayed it properly in the window and had the fence installed. They did not receive any further contact from the contractor or the Village for several months. Now they are being told to throw out expensive fence pieces and install a fence in the middle of a

landscape island. The trees have been there for a long time. This would be very costly for them and in her mind it would be unnecessary. She has been a resident of Lemont for 27 years and feels there is no safety issue. The neighbors are not upset about the way it looks. The variance should be approved for where the Village approved it.

Chairman Spinelli asked if there was anyone else in the audience that wanted to comment in regards to this public hearing. None responded. He then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to close the public hearing for Case 17-04. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

### **Plan Commission Discussion**

Chairman Spinelli said he can't support keeping the fence where it is at when it is six feet high. If the contractor would have called the Village before taking it upon himself to move the fence then they would not be sitting here today. A fence needs to be positioned in such a way to help with the public safety especially with kids riding their bikes on sidewalks. If you look back at any of the cases that he has heard he has always been an advocate in regards to that. His opinion is if it remains at six feet in height it should go back to no closer than the six foot variance that staff has indicated on the drawing.

Commissioner Zolecki stated the contractor opened the door. If the contractor would have put it in at what the Village approved we would not be talking about this. He feels that they should not be holding the resident accountable for the contractor's error.

Commissioner Forzley said he feels the resident did do their due diligence. These circumstances are beyond their control. He does not have a problem with them putting the fence at the 17 feet without any cost to them especially after what they incurred.

Commissioner McGleam stated the biggest issue he has is the aesthetic of that fence being that far into the side yard setback. It changes the character of the street. Had it been an ornamental fence he would not feel that way.

Commissioner Glomp said he agrees with moving the fence back to what was approved. He asked about adding landscaping to help with the aesthetics.

Chairman Spinelli stated if they wanted to add landscaping they could do that.

A member of the audience asked to make a comment.

Chairman Spinelli called for a motion to reopen the public hearing for Case 17-04.

Commissioner Zolecki made a motion, seconded by Commissioner McGleam to reopen the public hearing for Case 17-04. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Mrs. Lenz, 27 Wend Street, said the fence can be landscaped where it is if there is an issue with the aesthetics.

Chairman Spinelli called for a motion to close the public hearing for Case 17-04.

Commissioner McGleam made a motion, seconded by Commissioner Forzley to close the public hearing for Case 17-04. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

### **Plan Commission Recommendation**

Chairman Spinelli asked if there were any further comments or questions. None responded. He then called for a motion for recommendation.

Commissioner Forzley made a motion, seconded by Commissioner Zolecki to recommend to the Mayor and Board of Trustees approval of Case 17-04, 2 W. Wend Street, at the 17 feet 6 inches which was permitted. A roll call vote was taken:

*Ayes: Zolecki, Forzley, Glomp*

*Nays: McGleam, Spinelli*

*Motion denied*

### **C. 17-05 DERBY PINES SUBDIVISION AND VARIATIONS**

Chairman Spinelli called for a motion to open the public hearing for Case 17-05.

Commissioner McGleam made a motion, seconded by Commissioner Forzley to open the public hearing for Case 17-05. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

### **Staff Presentation**

Mrs. Valone said Frank Caruso of C3 Development, LLC, is acting on behalf of the property owner GSI Properties, LLC. They are requesting a preliminary plat approval for an eight lot single-family subdivision. Also, requesting approval of variations to the Lemont Unified Development Ordinance (UDO). The variations that they are seeking are for the length of cul-de-sac and right-of-way (ROW), parkway size, and water main looping requirements. The subject property is currently zoned partly R-4 and partly R-1. Due to the confusion the applicant will be submitting an application to rezone the entire property at the next meeting. The property is currently surrounded by mostly R-4 zoning.

The applicant is proposing an eight lot subdivision and they meet all the requirements for the R-4 District. They are seeking no variations for the R-4 District. The variations that they are seeking have nothing to do with the R-4 Zoning. The subject property was annexed into the Village in 1998. The annexation agreement allowed the use of the property to remain agriculture until such time as it developed. The property was improved at that time with a single-family home, detached garage, and a utility shed.

Mrs. Valone stated the first variation they are requesting is to reduce the size of the parkway from 12 feet to 10 feet. Staff finds that the applicant can select parkway trees that can fit in this slightly reduced area, and that the deviation is acceptable. The next variation that they are asking for is pavement width and ROW requirements. The code requires a minimum pavement width for streets as two different requirements. The UDO appendix references 30 feet and inside the text of the code it references 27 feet pavement width. Additionally, the code requires 66 feet of ROW. The applicant is currently looking to use the 27 feet pavement width. They are only seeking a reduction to 60 feet for the ROW. Since the UDO has two conflicting different standards, staff does not have an issue with them asking for 27 feet since there are only eight homes. With the reduced parkway and the size of the street being proposed the 60 foot ROW would be more fitting for this area.

The next variation they are asking for is the length of the cul-de-sac. Code requires the maximum length of a cul-de-sac to be 300 linear feet. The applicant is requesting a 384 feet long cul-de-sac. She showed on the overhead where the length of the cul-de-sac starts. Additionally, the applicant is looking to be relieved from the requirement of the code's definition of looping a water main. It does require looping from two separate sources. As the applicant is surrounded by a private subdivision that he cannot make connections to, he would propose from one single source, looping it up through the cul-de-sac and bring it back down to the same source. It would still provide a loop and keep the water moving, however it is not from a secondary source so it requires a variation.

Mrs. Valone said staff reviewed the submittal and finds all the variation requests meet the standards for granting variations. The development is consistent with the future land use designation per Comprehensive Plan. The application proposes to meet the standards for R-4 Districts. The Village Arborist did review the plans and did

conduct a site visit. He does need additional information on the existing trees. He has objections with not being provided this information. However, trees are not removed until the site development permit is issued so there is still time to get this additional information. The Village Engineer reviewed the application and generally approves of the plans. He did provide comments and there are some items that need to be addressed but they can be addressed prior to the site development permit. The Fire Marshall has no issues with the proposed development.

The UDO requires that the applicant demonstrates consistency with all three variation standards contained in the UDO. Staff finds that they are all substantially met. Although, the property may vary slightly from the UDO standards for water main looping, ROW, cul-de-sac, and parkway, the proposed variation do not alter the essential character of the neighborhood. Additionally, the proposed subdivision will achieve the goals of the Comprehensive Plans. Staff is recommending approval with the following conditions:

1. The applicant must submit an application for a rezoning of the subject property for the next regularly scheduled PZC meeting.
2. Address any outstanding concerns from the Village Arborist.
3. Address any outstanding concerns from the Village Engineer.

Chairman Spinelli stated the portion of Pete Dye Drive, which is east of the subject property, is an outlot.

Mrs. Valone said this is correct. Pete Dye Drive is a private street, additionally the water utilities lie south of it in an outlot are private. There are no utility easements for access.

Chairman Spinelli stated the plat has been confirmed that there is no public utility easement on that outlot.

Mrs. Valone said that is correct.

Chairman Spinelli stated he has had discussion with the Public Works Director and he is concerned. The Village owns and maintains a water main and public sanitary sewer within this property and they do not have an easement. This needs to get fixed somehow in the future. He asked for staff to investigate this matter. As far as the water main looping, where the proposed engineering is connecting to the water main there is a separation to the two connection points. There should be a new valve inserted between the two connection points so that Public Works can shut down the valve to force water through this loop on Caruso Court which will improve the water quality for these eight homes. He asked staff to have the Village Engineer comment in regards to this.

Commissioner McGleam said he had read all of the Village Engineer's comments and he did make comments in regards to the water main and the valves but he does not see whether or not he approves the design concept.

Mrs. Valone stated he has not raised any objections to it.

Chairman Spinelli said with the addition of the valve he is recommending it will definitely correct any stagnant water. He asked if there were any further questions for staff at this time. None responded. He then asked if the applicant wanted to make a presentation.

### **Applicant Presentation**

Frank Caruso, C3 Development, LLC, stated there was a letter that had been circulated around that is in staff's packet. The letter is from Ruffled Feathers attorney and it states some falsehoods about them wanting to annex Derby Pines into Ruffled Feathers. This is not an interest of theirs and is false. The problem is with adding the utilities. He has reached out to management company for Ruffled Feathers who said he had to formerly put a letter together which would be sent to Ruffled Feathers Board. What he was looking for was a very simple sanitary tap in 15 feet behind his property. It would not tear up any asphalt or concrete. In his letter he gave his assurance that he would provide any kind of bond and he would access from his property. The response after six weeks was they were not interested. There is also water, which was discussed, that is Village water that nobody has access to. He decided to loop the water after talking with the engineers. Any kind of sanitary or water tap in on Derby Pines the Village will have full access. He wanted to make it clear that they never wanted to be part of Ruffled Feathers.

Chairman Spinelli said there is a request for a reduced ROW. He noticed on subdivision plat that he has added an additional 15 foot public utility easement behind the ROW. With 60 feet they are potentially granting 90 foot of area that can be used for utilities. He asked what size of sidewalk they are proposing.

Mr. Caruso stated five feet.

Chairman Spinelli asked if this was a proposed sidewalk that is running north/south on Derby.

Trevor Murphy, Manhard Consulting, said it is an eight foot proposed sidewalk that will run along Derby Road.

Chairman Spinelli asked if there were any lane configuration changes proposed for Derby.

Mr. Murphy stated that they are not proposing any lane configuration changes to Derby.

Chairman Spinelli asked if there were any further questions for the applicant. None responded. He stated he will then open it up for public comment.

## **Public Comment**

Charles Keough, attorney for the property owners association for Ruffled Feathers, said the owners of Ruffled Feathers have some concerns about this development. Until the plan was posted online there has been very little information shared with the board and the owners with what was intended here. He has had little time to assess this information. There is a density issue that concerns the owners; secondly there has been no traffic study. This is a fast moving road and with this addition of a curb cut off Derby Road creates some issues for the owners and the public to be aware of. The boring of the sanitary line in front of the guard house is not really clear as to whether an easement is going to be required. From what they see of the plans there intends to be a detention at the southeast portion of the property that looks to be draining into the golf course. They are not sure if an easement is going to be required there for the road that Ruffled Feathers own. Without a lot of information these are the concerns of Ruffled Feathers.

Chairman Spinelli stated he can answer some of their questions. In regards to the sanitary sewer that is proposed to come across the residential entrance at Ruffled Feathers is being proposed in the public ROW of Derby Road, so there is no easement required. The storm water connection according to the Title Survey that was completed for this parcel, it indicates there is a storm drain that was put in on this property by Ruffled Feathers. It appears to be placed in the lowest part of the property to collect that water. Illinois drainage law requires people downstream of an uphill property have to take that water. The connection that was already provided to their storm sewer is on this parcel that gives them the right to make that connection which is actually better for Ruffled Feathers. If the connection is actually disconnected by Ruffled Feathers or somehow legally blocked, they will get water over land instead of in the pipes. Whoever builds this will need to comply with not only Lemont's storm water code but also MWRD's storm water ordinances. There are a lot rules that they are going to have follow to get this built. In regards to traffic, Derby Road is an obviously north/south collection that a lot of people use. He does not feel that eight homes is going to increase traffic that much. The Commission had just received their packet around the same time as it was provided online.

Mr. Keough said the neighbors of Ruffled Feathers could have been more supportive if they were provided with more information as to what was intended here.

Chairman Spinelli stated there are deadlines for submittal to the Village. The Village then has to go through a process and it becomes public knowledge when it is posted.

Mrs. Valone said it is posted in the paper, a sign is put up and then the letters were mailed stating that the application has been filled. Anyone can then come down to the Village Hall and see what is being proposed with no appointment necessary any time during business hours.

Chairman Spinelli stated they are not trying to hide anything. The process that occurs from the time the application has been filed to the time that the Commission gets their packet, staff is working daily to get the packet ready and out to the public. Once the public notice goes up and out there are paper copies at the Village Hall to be reviewed.

Mr. Keough said he is not suggesting anything. The biggest concern is the storm water management. They are not here to say that they are going to stop the free flow of water to where it is going. There is much more impervious water there so they would just want more information as to how it will all work out.

Chairman Spinelli stated not knowing the engineer that designed Ruffled Feathers, but because there was a storm sewer that was brought to this property, the assumption would be that storm line was meant to handle the runoff from this property as it sits today. Once this property gets developed the water that is coming there will now be restricted and reduced. Based on the ordinance they cannot just have an open pipe from that pond go directly into this pipe or into the ground. They will be restricting it and going at a slower rate. So if Ruffled Feathers is experiencing ponding or overflow of water into the street from this property, when this gets developed and the ponds are complete that ponding will be eliminated because of the restrictions that they have to follow.

Mr. Keough said they are more concerned about the downstream effect on the golf course.

Chairman Spinelli stated the engineer for Ruffled Feathers should have designed the storm sewer in the Ruffled Feathers detention basins to be excepting this five acre parcel as a natural condition. They will be reducing the velocity of water coming to them. There will be more water leaving the site but it will be at a much slower rate. They are only at the preliminary stages and everything still has to be finalized in the final stages.

Matt Alagna, 19 Ruffled Feathers Drive, said eight homes on five acres in regards to traffic he does not see an issue with that. He stated there is more of a traffic issue on Ruffled Feathers Drive than there is on Derby. He is not sure about the issue with them tapping into the water. If he put his home on the market today he would never get what he put into his home. He is excited that they are building million dollar homes next to them.

Christine Budz, resident of Ruffled Feathers, stated she is concerned about storm water and the impact to Derby Bridge. Any time there is a storm it gets flooded and they have to take a different route. She asked if this development would have any additional impact to the flooding under that bridge.

Chairman Spinelli said the drawings he has does not go south of the residential entrance to Ruffled Feathers. This development has a detention basin and that is



where the storm water connection will be made to an existing storm sewer. As long as that pond connects to the pipe, this pond should not have any negative impact to the underpass at Derby Road.

Donna Nowobilski, resident of Ruffled Feathers, asked if their connection to the front gate would be blocked during the construction of the water or sewer. Also, will there be an issue with parking in the subdivision when people have parties. She is concerned about people parking on Derby.

Chairman Spinelli stated they are only asking for a minor reduction in regards to the width of the pavement for the cul-de-sac. Because the lots are large in width there will be a lot of green space between driveways. They are not asking for reduced setbacks so cars can actually park on their driveways. The only way it will be an issue is if all eight homes are having a party. In regards to the construction, they cannot shut down their entrance completely. If they do open cut the sewer for the installation they have to maintain access in and out of the property.

Mr. Murphy said the sewer installation would be to put it under ground so they would not have to rip up any pavement and they are not impacting that entrance.

Chairman Spinelli asked if that can be done while traffic is live going in and out of that entrance.

Mr. Murphy stated he believes so. In regards to the cul-de-sac, the Fire code is actually more stringent than the Village code. The cul-de-sac is four feet wider than what is in the Village code.

Bill Gregor said he lives on Derby Road in unincorporated Lemont. He does not have an objection to this. His objection is more for the traffic that comes from the golf course. There is no sign announcing the entrance so he gets a lot of people turning around in his driveway. They reduced the speed limit to 35 mph but the school buses still do 55 mph. He does not feel that eight houses are going to impact the area. He feels this project will enhance the area.

Chairman Spinelli asked if there was anyone else that wanted to speak in regards to this public hearing. None responded. He then called for a motion to close the public hearing.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to close the public hearing for Case 17-06. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

### **Plan Commission Discussion**

Chairman Spinelli said he would just like to say that he does not have an objection to the reduced ROW width. The developer is proposing an additional 15 feet easement on each side of the ROW ultimately giving 90 feet of area, which is not impacting the front yard setbacks. The developer is also not asking for any variances to the R-4 Zoning. He asked if there were any further comments. None responded. He then called for a motion for recommendation.

### **Plan Commission Recommendation**

Commissioner McGleam made a motion, seconded by Commission Forzley to recommend to the Mayor and Board of Trustees approval of Case 17-05 Derby Pines Preliminary Plat and Variations, with the following conditions:

1. The applicant submit an application for a rezoning of the subject property for the next regularly scheduled PZC meeting.
2. Address any outstanding concerns from the Village Arborist.
3. Address any outstanding concerns from the Village Engineer.
4. Add additional a valve to the water main loop.

A roll call vote was taken:

*Ayes: McGleam, Zolecki, Forzley, Glomp, Spinelli*

*Nays: None*

*Motion passed*

Commissioner McGleam made a motion, seconded by Commissioner Forzley to authorize the Chairman to approve the Findings of Fact for Case 17-05 as prepared by staff. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

Chairman Spinelli then called for a motion for the Findings of Fact for Case 17-04 and 17-07.

Commissioner McGleam made a motion, seconded by Commissioner Zolecki to authorize the Chairman to approve the Findings of Fact for Case 17-04 and Case 17-07 as prepared by staff. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

## **IV. ACTION ITEMS**

None

## **V. GENERAL DISCUSSION**

### **A. Updated from Village Board**

Mrs. Valone said the UDO Amendments were approved by the Village Board. This included variations to allow government entities more flexibility erect signs. There were some minor changes to staff titles and those who had ability to enforce the UDO. There were some minor corrections to the code. She talked about the new emails for each of the Commissioners.

Discussion continued in regards to the new emails and what they are used for.

Chairman Spinelli asked if the public hearing sign from Vistancia be removed.

Mrs. Valone stated she is working on getting that removed.

## **VI. AUDIENCE PARTICIPATION**

None

## **VII. ADJOURNMENT**

Chairman Spinelli called for a motion to adjourn the meeting.

Commissioner Forzley made a motion, seconded by Commissioner Glomp to adjourn the meeting. A voice vote was taken:

*Ayes: All*

*Nays: None*

*Motion passed*

*Minutes prepared by Peggy Halper*