

Village of Lemont
Planning and Zoning Commission
Regular Meeting of March 16, 2016

A meeting of the Planning and Zoning Commission for the Village of Lemont was held at 6:30 p.m. on Wednesday, March 16, 2016 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 6:30 p.m. He then led the Pledge of Allegiance.

B. Verify Quorum

Upon roll call the following were:

Present: Kwasneski, Maher, McGleam, Sanderson, Zolecki, Spinelli

Absent: None

Village Planner Heather Valone, and Village Trustee Ron Stapleton, Fire Chief George Rimbo, and Fire Marshall Dan Tholotowsky were also present.

C. Approval of Minutes from the February 17, 2016 Meeting

Commissioner Maher made a motion, seconded by Commissioner Sanderson to approve the minutes for the February 17, 2016 meeting with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN'S COMMENTS

Chairman Spinelli greeted the audience. He then asked everyone in audience to stand and raise his/her right hand. He then administered the oath.

III. PUBLIC HEARINGS

A. 16-01 Fox Meadows Rezoning and Preliminary PUD continued

Chairman Spinelli asked for staff to make their presentation.

Staff Presentation

Ms. Valone stated Mike Ford, from Tempo Developments Inc., is the contract purchaser of the subject property has requested a rezoning from R-5 single-family attached residential district to R-4 single-family detached residential district. Also, a preliminary planned unit development (PUD) approval for 28 single-family home subdivision. This application was continued from the February 17th PZC meeting. She said she would cover this in two parts first being the rezoning and second the PUD.

Ms. Valone said staff is recommending approval of the rezoning. The property was originally entitled for an assisted living skilled care facility known as Paradise Park in 2008. The property was annexed into the Village with an annexation agreement and a preliminary PUD approval for the property. The property was rezoned at that time to R-5 single-family attached district. The project never progressed further and PUD approval has expired. However, the annexation agreement is still in effect and restricts the type of R-5 development to a senior assisted living facility. The annexation agreement included the site plans for Paradise Park, which were shown on the overhead. This means only a senior living facility with the same plan as depicted in the annexation agreement could be developed on the property. The annexation agreement for the property also stipulates requirements for a \$20,000 toward the instillation of a traffic light at 131st and Parker Road. Staff finds the proposed rezoning to R-4 is more appropriate for the subject site then the existing R-5 zoning as it is more compatible with the surrounding land uses and the Lemont 2030 Comprehensive Plan.

Ms. Valone stated she will now go over the PUD. While staff generally supports the proposed PUD, there are several outstanding items. The proposed development is consistent with the Conventional Neighborhood Future Land Use District as described by the Lemont 2030 Plan. The plan indicated for this property, its density is 2.88 dwelling units per acre and the open spaces are proposed to be private yards. It provides sidewalks for pedestrian circulation within the subdivision and connecting to Kettering across Parker Road. Overall the site design is logical and straightforward, the overall site is irregular shape with no constraining surrounding issues. The detention pond acts as a buffer between the proposed homes and the intersection of 131st and Parker Road. There are only three lots that are going to border Parker Road and only three lots that board 131st Street. Two points of access are proposed, which is a right-in/right-out along Parker and second is a full access further south of the first access point. Staff generally approves of the road layout.

The proposed interior side setbacks are consistent to previously approved developments. The applicant is proposing an interior side setback of 10 feet. The applicant is proposing a range of lot sizes as well. The applicant is proposing nine lots that are less than 10,000 square feet and these lots are placed on the interior of the subdivision rather than the exterior to avoid incapability with the larger neighboring properties to the east and south. The majority of proposed lots are 10,000 square feet to just under 12,500 square feet. The developments average lot size is about 11,000 square feet. While the developments minimum lot size is smaller than most

previously approved developments its average lot sizes is similar to other previously approved developments.

Ms. Valone said staff is concerned with Lot 5 due to the proposed 30 foot conservation easement, also known as a wetland buffer. Lot 5's total lot area is just under 1,600 square feet. However, the wetland conservation easement covers about 25% of the total lot (shown on the overhead). In addition to the conservation easement a required public drainage easement will cover an additional 7.5 feet of the lot. Staff had superimposed three of the four proposed lots on Lot 5 to determine the available rear yard available for accessory structures, given the large area that is covered by the easements. The two largest models would have no remaining rear yard and the largest would not fit within the setbacks and easements. Therefore staff recommends that lot 5 be eliminated and lots 5 – 8 be redistributed accordingly.

The applicant submitted a wetlands report that delineates the area of wetlands on the subject property. There are two existing wetlands on the property; wetland #1 is located in the northwest corner of the property, and wetland #2 is located near the south edge of the property, on proposed lots 14-16. The applicant's wetland report indicates that the wetlands are low quality. The preliminary site plan shows the proposed detention pond overlapping wetland #1. The Army Corps of Engineers (USACE) has claimed jurisdiction of wetland #1 and indicated that the applicant has not applied for a pre-application meeting. Wetland #2 has not yet been reviewed for jurisdictional determination from either USACE or MWRD. However the wetland report indicates that the wetland is low quality and less than 0.1 acre. Therefore, wetland #2 will most likely be allowed to be modified per MWRD Watershed Management Ordinance.

Ms. Valone stated additionally, there are two off-site potential wetlands near lots 10-12 and 4-6. She showed on the overhead where the wetlands are located. The applicant has included a conservation easement along the rear of these lots to achieve a 50 foot buffer from the high water mark of the wetlands. The off-site wetlands have not been reviewed by USACE or MWRD. The inclusion of the conservation easement should satisfy any regulatory requirements if the wetlands are ruled jurisdictional by either authority. However, since the last report that was submitted for the February 17th PZC meeting, the applicant has indicated his desire to remove the conservation easements indicated on the current site plan, to avoid the elimination of lot 5, as recommended by staff. The applicant asserts that the off-site potential wetlands are in fact stormwater detention facilities and therefore the conservation easement is unnecessary. However, the applicant has not confirmed the status of the off-site wetlands through either USACE or MWRD.

At this time, staff has limited comments from either outside agency with declared or potential jurisdiction over the affected wetlands. It is therefore difficult for staff to provide a recommendation as to whether the proposed impacts to wetland #1 or the off-site potential wetlands are suitable. The USACE East Permits and Enforcement Section Chief Kathy Chernich informed staff that at this time it is unknown what

portion of wetland #1 could be mitigated or “banked” off-site or what portion of the wetland would be required to remain on-site. The requirements of USACE and/or MWRD could have significant implications for the proposed site plan, including the site’s only stormwater detention facility. Thus, at this time staff recommends that the applicant complete pre-application or concept plan review meetings with both USACE and MWRD to, at a minimum, received some preliminary feedback related to the wetlands.

Ms. Valone said the Village Engineer commented that there needs to be at least a 15 foot total easement along the storm sewer lots behind 13-16 and between lots 16, 17, 20, 21, 28 and 29. Also, the street light locations along Parker need to be adjusted. Additionally, the applicant proposes storm sewer locations inside the conservation easement area. If the conservation easements remain, these utilities will need to be revised to avoid the easements on lots 12-10 and 4-6. The drainage easements for these lots also need to be relocated outside of the conservation easement.

The applicant submitted an existing tree survey that indicates only 31% of the trees on the subject property are in average or good condition. Of those trees only four are not being preserved. This requires the applicant to mitigate. The applicant has provided a landscape plan that meets tree mitigation requirement and the remaining landscape standards in the UDO. However, the engineering plans indicate that a significant portion of the trees being preserved are located in the rear utility easements of lots 9-4. Preservation of these trees will require the applicant to directional bore the utilities. The applicant has not indicated how the utilities will be installed, the applicant needs to submit additional information on the preservation efforts for these trees or submit a plan to mitigate their removal. The Village Arborist commented that there are inconsistencies in the existing tree survey. The applicant has not provided a plan showing the existing trees superimposed on the grading and utilities. Additionally, there are inconsistencies between the site plan and the landscape plan and all these issues do need to be resolved.

Ms. Valone stated the applicant has proposed a product book containing four models for the single-family homes. The modes are the same as the applicant is currently constructing in the Birch Path Subdivision. The applicant is also proposing that all models will have a minimum of three foot brick or stone on all first floor elevations. However, a product book with only four models in a 28-home subdivision will not meet the proximity standards of the UDO. The product book should be revised to meet these standards and it should also be revised to remove all models where the garage protrudes more than 10 feet from the plane of the front façade of the homes as required by the UDO. Staff recommends the applicant either withhold formal submittal of a product book until final PUD application, or remove the product book from the PUD entirely and simply comply with UDO requirements for anti-monotony.

Staff also additionally proposes the following conditions to regulate the appearance of the homes:

1. No more than 33% (or 10 homes) shall have three-car front load garage. Three-car front loaded garages shall be prohibited on lots 17-21 and 24-28.
2. A minimum of 30% of the single family units shall have masonry extending from grade to the top of first story to integrate with surrounding existing homes.
3. Single family detached units constructed with less than 25% masonry on all elevations shall be subject to additional façade requirements as outline in staff's report.
4. Brick and stone veneer shall be anchored veneer.
5. When a single family detached unit includes masonry on at least 40% of the front elevation, such masonry shall be extended to all elevations of the single family detached unit at the same height as is present on the front elevation.
6. All siding shall be cement fiber board or comparable product.

Ms. Valone said the Fire Marshall generally approves of the plans, the majority of his comments relate to items that are determined during site development permitting. In summary the proposed development complies with most requirements of the UDO; it also conforms to the policy guidance of the Lemont 2030 Comprehensive Plan. Therefore staff supports the request for rezoning to R-4. Staff also generally recommends approval of the proposed PUD, with the stipulations noted throughout the staff memo. However, there are outstanding questions and issues that have potential to have significant impact on the design of the site. Therefore, staff recommends the applicant address Lot 5 and Conservation issues. If the applicant intends to eliminate the conservation easements from the property and retain Lot 5, then staff recommends that the applicant complete a concept plan review with MWRD prior to the PZC advancing the application to the Committee of the Whole. If the applicant intends to leave the conservation easements in the site plan, then the applicant must revise the storm sewer locations and drainage easement outside of the conservation easements on lots 10-12 and 4-6. Lastly, consolidate lot 5 into lots 6-8.

There are also some general issues that the applicant needs to address. They are:

1. Comply with the Building Design as noted in the staff report and the presentation.
2. Revise plans to implement the cross walk across Parker Road for access to the park site planned in Kettering.
3. Revise the existing tree survey and landscape plan as noted by the Village Arborist.
4. Submit a tree preservation plan as noted by the Village Arborist.
5. Complete a pre-application meeting with USACE.
6. Revise the street name Wooded Path to Wooded Lane or Wooded Drive.
7. Revise the engineering Plans to address the Village Engineer's comments relating the stormwater route easements for lots 13-17, 20, 21, 28 and 29.
8. Address any other remaining outstanding items as noted by the Village Arborist and Engineer.

Ms. Valone stated this would conclude staff's presentation.

Chairman Spinelli asked if the applicant was provided with this information.

Ms. Valone said the applicant was provided with staff's report that was presented last month, which has the bulk of the conditions staff had already indicated. In the packet there was highlighted yellow sections. Those are the significant changes from the report from last month. Additionally, the applicant was provided the packet with this staff report at the same time Friday when the Commission received theirs.

Chairman Spinelli stated all the comments that she went through in the staff report, does she have a guess as to what percentage of those were from the February meeting.

Ms. Valone said the applicant has had a number of iterations of comments so when Mr. Ford first submitted his application there was some items that needed to be cleaned up, which was back in January. In January the hearing was continued because of lack of information on the wetlands and he was provided comments before that meeting as well. Then Mr. Ford was provided with the February comments which the bulk of them are illustrated here as well. The only items that are different are the conservation easements on lot 5. The applicant was aware that staff was always recommending it, but in the staff report staff is just stipulating that if he wishes to remove them then he needs to go through MWRD. He has had about four iterations of comments, some have been worked in plans and the ones that are remaining are the ones that have not.

Chairman Spinelli stated the reason why he is bringing this up is because there are significant amount of issues that are listed in the staff report that the applicant has known about since January. Now we are here at the March meeting and the majority of the comments have not been addressed which he has had for over a month. He asked if there was any communication between staff and the developer as to whether he said he was going to do it or not. He does not want to waste their time, or the residents time and even the applicant's time.

Ms. Valone said when an application for PUD comes in it needs to be submitted about 35 days before the hearing. If it is a continued case they get a few extra days for submitting information. The applicant for this past month would have needed to submit additional information around the 28th or 29th of February to include any of the new information in the staff report. The deadline came and he did not indicate that he wanted submit any new materials. There was only one new material that was submitted since the February staff report. It was attachment 5, which is an Endcap letter where the consultant claims that the offsite wetlands are detention ponds rather than wetlands. That was the only information that was submitted between the release of the February comments and this meeting.

Chairman Spinelli asked if that comment about the wetlands came from their consultant and not from a regulatory agency.

Ms. Valone stated that is correct and it was a reaction to the February 12th staff report.

Commissioner Sanderson said in regards to the letter from Encap, they do know wetlands. It states in the first line, "The above referenced project contains two wetlands that are likely under the jurisdiction of the USACE.

Ms. Valone stated wetland #1 has had a jurisdictional determination done and USACE has claimed jurisdiction. The applicant has submitted a second jurisdictional for both wetlands and is still waiting for a response. Additionally, in the staff report it notes stated that staff also sent out the packet to the Village's Ecologist and unfortunately he was not able to comment prior to the posting of the staff report. She said he did stipulate late that there is not enough information to make a recommendation to the Village in regarding to the existing wetlands on the site or requirements for avoidance. He asked if USACE claimed jurisdiction of wetland #1. He is relatively confident that there will be some sort of permitting requirement that they will need to go through, but he strongly recommends that a pre-application meeting be scheduled. Additionally he says that although wetland #2 is under a 1/10th of an acre and will likely be able to be modified, if USACE doesn't take jurisdiction then MWRD will and will probably be permitted based on their policy. However, they would have to review it for jurisdictional determination.

Chairman Spinelli said his concern is that the lots are tight and they are squeezing lots in there to get the most buildable. There are two possible jurisdictional areas that will significantly impact this layout, if additional buffers are required, or if they say it is a high quality wetland and can't touch it. Then you will not be able to put stormwater detention basin over the top of it. He knows that every applicant has the ability to submit stuff but he feels like their wasting their time until meetings occur with USACE. He is concerned that if the developer has not had these meetings yet then they are here to soon.

Chairman Spinelli asked if there were any further questions for staff. None responded. He then asked if the applicant wanted to make a presentation.

Applicant Presentation

George Arnold, attorney for Tempo Development, introduced who else he brought with him tonight. In regards to the Chairman's question about the long list of conditions from the original staff report, he did have a conversation with staff when they received that original list. He had talked with his client to make sure those conditions would be able to be met without problem on their part. There were two that they wanted to discuss with the Plan Commission. The two were the removal of lot 5 and the limitation on front loaded three car garages. Other than that they were fine with meeting all the other conditions and felt fine with going before the Commission in February.

Mr. Arnold said in regards to the wetlands and getting the USACE designation before they move forward with the Commission, they hired Encap who spoke to the USACE

and they analyzed the wetlands, which the report is in staff's packet. They determined on their expertise that wetland #2 was very small and both are not high quality. From the conversation that they had with USACE, they said there was a high likelihood that Encap was correct and they would be able to do what they needed to do to bank or mitigate to allow this to be used for their detention. It was based on that consultation with their expert, their examination and conversation with USACE that they felt prepared to go forward. He agrees that they do not want to waste their time or their own time or money. That is the basis as to why they felt prepared to move forward. It is nice to have everything to move forward, but with his experience often times the application with USACE and the municipality does move concurrently. The process for the USACE can take a long time like a month, so it is not unusual for it to move concurrently. Most of his clients will do this at their own risk, but they usually have hired a qualified consultant giving them their professional opinion that they will be able to do this.

Chairman Spinelli stated in the second paragraph of the letter it discusses that they may be non-jurisdictional by the USACE and that MWRD may have jurisdiction. He asked what is their status of their pre-application with them.

Mr. Arnold said his client has set a consultation with MWRD. His client had asked Encap why they hadn't schedule a meeting with MWRD. Encap stated based on their experience this wasn't the type of complicated project or wetlands that needed a concept review. They said it was done when there is more significant issues involving the quality of wetlands.

Chairman Spinelli stated when you speak to any of the MWRD employees it is highly suggested that there is a pre-application meeting.

Mr. Arnold said he wants to clarify that it is for the larger wetland because the one wetland is extremely small. He would like to discuss what their position is with lot 5. He then passed out a blow-up of lot 5. They had asked their project engineer to layout a building footprint of at least one of the models. He stated Ms. Valone was correct when she overlaid the models that she had and only one or two fit. The applicant will be providing additional models. The one shown on the blow-up is about a 2,100 square foot house that would fit on it. There is about 30 feet of open area, but you can't build on it. He understands that staff is concerned that someone is going to want to put a shed in there. However, their buyer is going to know going in that they can't do that. There are plenty of people that don't mind and do not like to have anything there. It's not a small back yard it is 30 feet to the conservation easement and that will all be open area. What they would like to do is keep the conservation easement, which takes one of the issues off the table as far as getting the USACE to comment on the off-site detentions. They would like to keep lot 5 with the idea that yes they can fit a regular home on there, with the understanding that the homeowner will be restricted. The homeowner or buyer will know this and it will be up to them whether to buy it or not.

Chairman Spinelli asked if with these homes is there going to be an option to have a concrete patio or deck.

Mr. Arnold stated there is an option if it fits.

Chairman Spinelli asked staff if decks or patios are allowed to be placed over or within a utility easement.

Ms. Valone said within the utility easement they could request special permission, they have to sign a waiver, however it is not allowed on a conservation easement. Additionally, the three models that staff superimposed were three of the four that were submitted. If the model being presented by Mr. Arnold was not presented then staff was not able to overlay it. Since they are building in Birch Path, staff wanted to find out how popular the three models are and they are some of their most popular.

Chairman Spinelli stated the Village Engineer is requiring additional utility easement outside of the conservation easement. Whatever it is leaves them with a 20 foot backyard. They have been down this path before with various developers where they ask if their houses will fit on these lots and every time he has been told yes. Every single time he has had to have a special consideration because their most popular house doesn't fit or their sales staff screws up. He said he does not want this lot to come back if this moves forward, because he is tired of being told that ever house fits.

Mr. Arnold said he agrees with him. There are a couple of ways they could handle this, one being they can make a condition in the deck.

Chairman Spinelli stated his issue is they are shown one thing, staff has the other lots and they don't fit or only the house fits without a patio. He does not want this developer or any developer coming back asking for forgiveness because they have a buyer. He would rather have a house than an open lot, but knowing that this will barely work at this stage of the game it would make sense to eliminate lot 5.

Mr. Arnold said if the house fits and someone wants to buy that house then it should be fine.

Commissioner Sanderson asked if they had a front elevation on that house in their packet.

Mr. Arnold said staff requested three more models and that was what they were going to do.

Commissioner Sanderson asked again if they had that house in their packet.

Mr. Arnold stated no. In terms if it is going to fit, it is just the footprint.

Commissioner Sanderson said it is not just the footprint.

Ms. Valone stated first there is all the models will meet the UDO and the second is that additional models, along the lines of 8 to 10, be submitted to meet proximity standards in the UDO as well.

Mr. Arnold said they are not looking for a variance from that. The part he wanted to discuss is the front load three-car garage. They agree with the whole thing in general.

Chairman Spinelli asked if their engineer had address any of the comments with the Village Engineer from the February 9th letter. There are 11 comments in the letter.

Mike Ford, Design Tech Engineer, stated the only ones that weren't addressed were the side yard easements. They were showing five yard easements and ten in the rear, but those are easily addressed to seven and half on side yards for utilities.

Chairman Spinelli said by increasing those easement how is that going to affect your requested ten foot side yard setbacks.

Mr. Ford stated the home would meet the ten foot side yard setbacks.

Chairman Spinelli said his concern would be is you're going to have a spread footing on the home and it will be 18 inches to two feet outside the face of foundation. So if you foundation is ten feet to the side yard then your edge of the footing will be eight feet to the property line. If your easement is at seven and half, then he hopes there will be some type of trench stabilization through those side yard utility easements because it could compromise those foundations.

Mr. Ford stated he does not think that every model is going to max out to the ten foot setback. They have not done a lot fit analysis for each lot and model yet.

Chairman Spinelli said he would strongly suggest that he would assume that he will be maxed out on every lot that is adjacent to a utility easement. Provisions should be made in their engineering to protect those homes.

Commissioner Zolecki stated regarding the monotony issue the applicant is electing to remove the product book and comply with UDO and additional staff requirements with the exception that they are contesting the three-car garages.

Mr. Arnold said they could do either one, whichever staff or the Commission prefers. Either way though he will have additional models for him to look at or they will meet the requirements. He stated they are asking for the restriction on the front loaded three-car garages not be placed for a couple of reasons. Whether it is two or three cars, you can have two three-car garages and they look totally different. Many home owner when they are deciding on where to place their home on the lot, once they learn that a side load takes up more of their back yard and requires more concrete they want the front load. They feel they can accomplish the anti-monotony without

limiting homeowner's options in terms of how they would like to utilize the lot they are about to purchase and keep more open space and utility for the back yard.

Commissioner Sanderson asked what are they asking for.

Mr. Arnold stated they would prefer to have no restrictions. They are not saying they would not build side loaded if the buyers want it, but would rather not have that restriction. It was his understanding that it was not a coded restriction.

Ms. Valone said it is not in the UDO, but typically for most of the PUD's there is a higher level of building and façade appearance is required to mitigate some of the variations that they ask for in the PUD. So typically they require a portion of the houses, usually about a third, side loads to prevent a number of the homes appearing as just garage doors. Additionally, when you have a three car garage that is additional area more area appearing as garage doors than façade. The applicant is also requesting a reduced right-of-way which means these homes are going to be more visible and you are going to see more garages if they don't restrict the number of three car and side load.

Commissioner Sanderson stated staff asked for a third and the counter is zero.

Mr. Arnold said the look is in the eye of the beholder and you can disagree with him. His point is that in his opinion you can accomplish the anti-monotony without restricting only having 10 three-car front loaded garages.

Chairman Spinelli asked if code had changed in regards to allowing three-car wide driveway at the right-of-way line.

Ms. Valone stated that the right-of-way it still needs to be 22 feet but it is able to increase and expand up to a maximum of 32 feet. It is based on the size of the garage, so if someone has a 16 foot wide garage door then their driveway could be the max of 20 feet with two feet on either side of the door. For three car garages the code was amended to a max of 32 feet because people need an extra foot or two to get in/out of their vehicle.

Commissioner McGleam asked for staff to go over the masonry requirements for this PUD.

Ms. Valone said the applicant is proposing a three foot minimum of brick or stone just as he has done in Birch Path. However, staff is additionally requiring that a third of them have not just a three foot of brick but the whole first story be brick on all four sides. Staff had conducted a survey in the existing areas and determined that in the surrounding area a third of the homes have first story brick requirements. So this requirement is proposed to meet what already exists in the surrounding area.

Mr. Arnold stated they agree to that condition.

Chairman Spinelli asked if there were any more questions for the applicant from the Commission. None responded. He then asked if there was anyone in the audience that wanted to speak in regards to this public hearing.

Public Comment

George Rimbo, Fire Chief, said staff had received their comments. What he would like to make not of is that it appears on some of the drawings is that some of the hydrants might be spaced more than 300 feet. He wants to make sure that they stay at 300 feet.

Chairman Spinelli asked if the Fire Department required that hydrants be placed at lot lines, so they don't end up to close to a lot or driveway.

Chief Rimbo said it is not required but it is good engineering practice.

Gary Lapinski stated he would like to make a few comments regarding wetland #1. The jurisdictional determination by the USACE was made in January of last year. As the Chairman had stated, any plan needs to be submitted to the USACE. Once there is a plan submitted then there is a public notice made. He also wanted to provide the members of the Commission with some information under the Clean Water Act with respect to wetland avoidance and minimization. He feels it would be important to wait until there are comments from USACE or before there are actions made to approve this project.

Chairman Spinelli said this is just for preliminary plat approval and is not for final engineering or building permits. They will have to comply with USACE restrictions along with MWRD restrictions prior to getting final approval to proceed this project.

Mr. Lapinski stated if the USACE comes back and says this can't be mitigated then that changes the entire stormwater management for the project.

Chairman Spinelli said if this proceeds and they get approval on the preliminary plat and USACE states they have to change things then they have to come back through this entire process again to change the site plan. That is why he started off the meeting stating there were a lot of outstanding issues.

David Mullin, 13200 Silver Fox Drive, stated although he is not a citizen of Lemont he does pay taxes and believes his say is important as any citizen of Lemont. He agrees with the Chairman regarding density. He moved to Lemont Township in '92 or '93 which is along the eastern boarder of this subdivision. He is glad to see that this is the most sane proposal in the last 23 years he has lived here. All of the citizens that surround the previous approved plan were appalled of the approval that was given by the Village Board, when this Commission unanimously turned down the plan. He hopes that whatever this Commission votes it will hold great weight with

whoever pulls the strings after they are done making their decision. The main issues for them is density because the surrounding properties are about 40,000 square feet. Everything around this, besides Kettering, has ¾ to acre lots. They want to see as big of a lot as possible. Being under Lemont there are different codes from when they built their home and the 12,500 square feet is not as bad as the 8,000 square feet. He completely agrees with taking lot 5 out and spreading things out a little more. Drainage is his next issue. There was a lot of discussion in regards to off-site retention. If he is correct with what he saw it would be the pond behind Bruce Kipley's home.

Chairman Spinelli said this subdivision will have its own detention basin.

Mr. Mullin asked what were they talking about with the off-site detention.

Chairman Spinelli stated that would be off-site mitigation.

Mr. Mullin asked where is it located.

Chairman Spinelli said that is between the developer and the USACE.

Mr. Mullin stated he saw a drawing on the overhead for off-site retention and he wondered if it was the two ponds that are in their subdivision. The two ponds currently except water from their subdivision and the one next to them.

Chairman Spinelli said they are not using it for stormwater management. The existing basins are higher than this property and they drain towards this property. This property must except that water by State drainage law.

Mr. Mullin stated Earl's pond is lower than most of this property and that is the pond to the south.

Chairman Spinelli said it may be lower but if those ponds drain to this property then the developer and his engineer must make provisions to accept that off-site water.

Mr. Mullin stated another issue was whether or not those off-site retention ponds are under the jurisdiction of the USACE and is it clear that it is under their jurisdiction.

Ms. Valone said what the confusion is with these off-site ponds is that they are labeled in some resource utility maps as being a wetland. In the applicants original wetland report it gives an actual type that they believe it is . The question is are they manmade and are they a wetland. If they are manmade retention than it is different and whether they are manmade wetland or a normal wetland it could still fall under the jurisdiction of the USACE or MWRD.

Mr. Mullin stated the reason he asks is for his neighbor because there is concern about that pond being able to accept any more water. It already has issue excepting

their water and the subdivision next to them. Cook County did make some changes within the last five years to divert some of the water and it did help a lot. He has issue with drainage because his land abuts this also. The way the farmer has dissed the land over the years there is a hill that drains water into his property now. Obviously they are going to have to grade things properly, but he does not know what is going to happen with that east side. His neighbor is concerned about that pond there and if there are any little kids in the neighborhood. His neighbor is concerned that he is responsible for their safety. He is concerned about people coming into his backyard and vandalizing his property.

Mr. Mullin said he is concerned about what is going to happen to the east side of the property that currently abuts the residential. The south side is not as big of an issue because there is only one home. Lighting is another issue because they do not know what kind of lighting will be there. There are no street lights in their subdivision currently. In regards to the tree preservation, there is a large row of trees along the east side and he hopes that they will look at all of those before they cut anything down. Many of those trees have been planted by the current residents and now they are 20 to 30 years old. He had asked about access to the pond from the houses in the far east corner in particular lot 5 which was asked to be eliminated. He asked if this Commission ultimately approve a plan or reject does it go before the Village Board for final approval.

Chairman Spinelli stated yes it does.

Mr. Mullin asked if their vote holds any weight.

Chairman Spinelli said that is something that you will have to discuss with the Village Board.

Chairman Spinelli stated to answer a few of your questions, the developer will have to take care of their drainage and they will also have to accept any off-site drainage that is coming on to them. The legality of the pond access, that property owner is going to have to speak to an attorney. He cannot comment on the legality of that. As far as street lights, they will have to comply with Lemont's standards. It will adjacent to the street and not in rear yards so he should be shielded by the houses alone from light coming on to their back yard.

Mr. Mullin said staff is wanting eight design styles of homes, his subdivision is the oldest in the area. They want the homes that are around them to look nice. The ones in Kettering are nice but a little dense. He thanked the Commission for their time.

Matt Cunningham, 13205 Silver Fox Drive, stated he wanted to reiterate what Mr. Mullin had stated in regards to drainage. Their houses have been there for 30 plus years. The subdivision behind them was built in 2005, and he is trying to figure out why after a rain like the other day his yard ends up like a swamp. It has trouble draining through his yard onto the street and into the existing off-site pond. He does

not have an engineering degree or a sexton, but there is a hill that is higher than the existing property. He does not see how that pond on the eastern side is going to drain into these other two proposed areas. He understands that it is required that they do this but he wants to make sure it is on record that he is concerned about this.

Chairman Spinelli said when the final engineering plans are submitted to the Village, the Village engineer will review those. The applicant has to comply with the conditions and any problems that the engineer finds in regards to drainage.

Chairman Spinelli asked if there was anyone else that wanted to come up and speak or comment in regards to this public hearing. None responded. He then asked if the applicant wanted to come back up.

Mr. Arnold stated this is a public hearing and he wanted to point out to make sure it was on record that the first gentleman, Gary Lapinski, is the main reason as to why they got continued in February. He is a citizen of the Country and can come up and talk about whatever he wants, but there is a little conflict of interest. Mr. Lapinski is a broker and has another party with himself interested in buying the property out from under them. He certainly has a right to be here, but just want to make sure it is part of the record. In closing, they do appreciate their hard work and the work of staff and would ask for their approval of the recommendations that they have made.

Chairman Spinelli asked if there was anyone else that wanted to speak in regards to this public hearing. None responded. He said he is not sure they should close the public hearing or leave it open for continuance until some of these issues are resolved. The developer has submitted this plan and has had opportunities to make changes if they wanted to. He is not sure if it would be a benefit to anyone if they postponed this.

None of the Commissioners wanted to continue the hearing.

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

Commissioner McGleam made a motion, seconded by Commissioner Kwasneski to close the public hear for Case 16-01. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Plan Commission Discussion

Chairman Spinelli said he has some comments regarding the site plan. These would be recommendations that should be considered by the Village Board.

1. The property corners at lot 16, 22, 23, 28 need to have a radius or corner clip (similar to lot 17). The reduced right-of-way is causing the public sidewalk to be too close to the curb line and that is a public safety hazard.

2. He wants the back to curb distance verified that it is 30 feet.
3. The 60 foot right of way request, if this moves forward, have a minimum of five feet utility easement be placed on the properties on the interior right-of-way to ultimately give you a 70 foot area for utilities and roadway. He feels the parkway area between sidewalk and curb will be too narrow to place storm sewer, sanitary sewer, water main and water services. This additional easement on the front of the lots will allow the water services and boxes to be placed on the property. It will allow public works legal access to turn off the water if they had to.
4. The placement of the right-in/right-out, so called pork chop, should be adjusted in towards the subdivision to allow for future widening of Parker Road. If there is any lane changes for signals at 131st and Parker that restricted island will conflict with lane widening.
5. In regards to easement and setbacks that are shown on the lot easement plan that was on the site plan, the rear yard easement should be a 15 foot minimum or whatever the Village engineer recommends. Currently it is drawn at 10 feet. As far as the side yard easements there should be a 15 foot total easement centered on the lot line for any sewer that is less than 10 feet in depth. When you have a sewer that is greater than 10 feet deep or shallower than 20 feet deep there should be a total of 20 foot wide easement centered on the lot line.
6. It does not appear that the detention setback from right-of-way apply with State Statue. A detention basin must be ten feet plus one and half times the depth away from a public right-of-way.
7. At one point the drawings that the Commission did receive showed a landscape plan with a Phase I and a Phase II. As the Village engineer indicated, the proposed detention basin, outlot A, is located in Phase II. There are no provisions in the drawing to provide a utility easement during Phase I for the construction of that basin that will benefit this entire subdivision. Also, there is a sanitary sewer proposed that leaves Phase I through Phase II to make a sewer connection and again there are no provisions shown to provide easements now through Phase II.

He understands that these are preliminary engineering plans that were provided, but there are multiple utility conflicts shown on this drawing between storm sewer, sanitary sewer, and water main. These items need to be corrected during final engineering. There is also a sanitary sewer manhole shown at the corner of lot 23 and that sewer is only approximately six feet deep which is way too shallow for water main separation and needs to be adjusted. Also, there appears to be a flood route easement between lots 14 and 15, 18 and 19, and 26 and 27 which be a minimum of 20 feet wide. He stated that is all he has on the engineering site plan.

Commissioner Sanderson said he would like to discuss lot 5 and the side load garages. In regards to the side load garages, they just had a developer recently come through and wanted the same thing. He does not want to leave this up to them to choose. He agrees with Chairman Spinelli in regards to the fact that the buyer will supposedly know that they can't build a deck on lot 5 and then they are coming in asking for variance. He would rather put another condition on there if they don't agree with staff on the 30% on side load garages.

Discussion continued as to what they required for the last subdivision.

Chairman Spinelli asked staff if there are any restrictions on lots 16, 17, and 28 for non-access to Parker Road.

Ms. Valone stated there are not.

Chairman Spinelli said that needs to be made a condition. There should be a non-access easement adjacent to the right-of-way of Parker Road across any lots that are adjacent to Parker Road and 131st Street.

Ms. Valone stated along 131st Street that back up to those lots there is a 20 foot landscaping easement so those are already accounted for.

Chairman Spinelli said it should be made a landscape and non-access easement for those lots. It should not list lot numbers because those can change. It should state any lot adjacent to Parker Road or 131st Street.

Commissioner Sanderson stated staff's recommendation for side load garages is a 1/3 of them.

Commissioner McGleam said they should look to see if that is even achievable.

Chairman Spinelli stated there are going to additional homes submitted so it will be developer's problem to achieve that. If you went with 25% that would mean seven homes based on the current lot count. He asked staff if the restriction was only on three car garages for side load or did it include two car garages.

Ms. Valone said the side load did not restrict three. If they put a three car garage as a side load then staff would not have an issue. The issue was the front load three car garages because a significant portion of the façade would be garage doors rather than the house façade.

Chairman Spinelli stated he would be concerned that a three car side loaded garage is going to push this house deeper into the rear yard. They are trying to avoid garages sticking out too far in front, now we are pushing the house back beyond the other houses too far.

Discussion continued as to which lots could have a side loaded garage and what percentage would be acceptable.

Chairman Spinelli asked if everyone agreed to 7 homes, or 25%, be side-loaded garages. All Commissioners agreed.

Chairman Spinelli said in regards to lot 5, he was very vocal about it at the beginning of the meeting.

Commissioner Maher stated they should exclude lot 5 and let them come back. Staff's recommendation is that lot 5 is not buildable and they have not received anything back stating otherwise. They should come back once they have gotten their work done that they should have been doing beforehand.

Commissioner McGleam asked what was staff's recommendation in regards to lot 5.

Ms. Valone said staff is stating that if the applicant wishes to remove the conservation easements and have lot 5 remain that it not be advanced from PZC tonight. They would revisit those conservation easements and get all the documentation in order to say if they are wetlands or manmade retention ponds and then come back before the Commission. If the applicant is willing to leave the conservation easements and lose lot 5 then they need to revise the storm sewers and drainage out of the easement areas.

Commissioner Sanderson stated they knew there was an issue there and some of it falls back on the conversations that they had with Encap. There are a number of things here that he feels could have got cleared up over the last month or two and it puts them in a bad situation. He thinks it could be a good lot, but he doesn't understand why it didn't cleared up.

Commissioner Maher said based on the drawing he is not comfortable saying that they won't have someone come in not wanting a porch. Experience has shown that every subdivision that they have done that with has come in for a variance. Even if they tell them that they can't they could always tell the owner to just go in and ask for a variance. Even with the same developer on his previous subdivision they had come back in asking for variances. It was a reasonable request that staff made that wasn't fulfilled so they should honor the request and let the applicant go do their due diligence and then come back.

Commissioner Kwasneski stated he agrees with Commissioner Maher.

Chairman Spinelli said they will have the opportunity to prove to the Village Board that they have more than one house or they can actually show a footprint of the foundations that fit. He asked if there was anything else that they wanted to discuss.

Commissioner McGleam stated he wanted to point out in staff's recommendation for lot 5 there are two options. He asked if they were going to support staff's recommendation then it would be that option 2 with a and b.

Commissioners agreed.

Chairman Spinelli called for a motion for a recommendation to the Village Board.

Plan Commission Recommendation

Commissioner Maher made a motion, seconded by Commissioner Sanderson to recommend to the Mayor and Village Board approval of the requested rezoning from the R-5 Single-Family Attached District to the R-4 Single-Family Detached District.

A roll call vote was taken:

Ayes: Kwasneski, McGleam, Sanderson, Maher, Zolecki, Spinelli

Nays: None

Motion passed

Commissioner Sanderson made a motion, Seconded by Commissioner McGleam to recommend to the Mayor and Village Board approval of the Preliminary PUD for Fox Meadows with the following conditions from staff:

1. Consolidate lot 5 into lots 6-8.
2. Comply with the Building Design conditions as noted in staff's report
3. Revise plans to implement the cross walk across Parker Road for access to the park site planned in Kettering.
4. Revise the existing tree survey and landscape plan as noted by the Village Arborist.
5. Submit a tree preservation plan as noted by the Village Arborist.
6. Complete a pre-application meeting with USACE.
7. Revise the street name Wooded Path to Wooded Lane or Wooded Drive.
8. Revise the engineering plans to address the Village Engineer's comments relating the stormwater route easements for lots 13-17, 20, 21, 28 and 29.
9. Address any other remaining outstanding items as noted by the Village Arborist and Engineer.

And include the following conditions from the Commission:

1. Lots 16-22, 23, and 28 as submitted need to have a radius property line or a clipped corner to allow proper clearances in relationship to the sidewalk and street.
2. The roadway distance needs to be confirmed that it is 30 feet from the back to curb to back to curb.
3. The 60 foot right of way request must have a five foot public utility easement on each side for a total of 70 feet and it must start at the property lines.
4. The pork chop for the right-in/right-out entrance off of Parker Road needs to be looked at to allow for future widening of Parker Road.
5. The rear yard easement should be a 15 foot minimum. Currently it is drawn at 10 feet. As far as the side yard easements there should be a 15 foot total easement centered on the lot line for any sewer that is less than 10 feet in depth. When there is a sewer that is greater than 10 feet deep or shallower than 20 feet deep there should be a total of 20 foot wide easement centered on the lot line.
6. The detention setback must be ten feet plus one and half times the depth away from a public right-of-way.

7. The easements required because of the phasing of the project need to allow for the construction of potential piping and utilities that may go through private property.
8. The flood route easement needs to a minimum of 20 feet unless there is other engineering provided that proves otherwise.
9. There needs to be a non-access easement to Parker Road and 131st on any lots adjacent to those two streets.
10. The side load garage requirements should be a minimum of seven lots and developer should determine which lots are side load by Final PUD.
11. A minimum of 30% of the single-family units shall have masonry extending from grade to the top of the first story on all elevations.
12. Single-family detached units constructed with less than 25% masonry on all elevations shall be subject to the following additional requirements:
 - A. All windows shall include trim that is at least 3” wide.
 - B. Window shutters shall be no less than half the width of the adjacent window. Shutters of the same size, make, shape, and color must be uniformly installed on both sides of the window.
 - C. When the front elevation of a home includes a cornice, trim board/belt course, lintel, eave bracket, or other similar ornamentation, such ornamentation shall be present on all elevation of the home, unless determined by the Planning and Economic Development director, in writing, that such ornamentation need not be present.
13. Brick and stone veneer shall be anchored veneer. Adhered brick and stone veneer systems shall not be permitted, except adhered natural stone veneer shall be permitted for porch columns.
14. When a single-family detached unit includes masonry on at least 40% of the front elevation, such masonry shall be extended to all elevations of the single-family detached unit at the same height as is present on the front elevation.
15. Siding shall be cement fiber board, LP Smart Side or a comparable product of similar style and quality as approved by the Village Planning and Economic Development Director.

A voice vote was taken:

Ayes: Sanderson, McGleam, Kwasneski, Maher, Zolecki, Spinelli

Nays: None

Motion passed

Commissioner Kwasneski made a motion, seconded by Commissioner Maher to authorize the Chairman to approve the Findings of Fact for Case 16-01 as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

B. 16-03 480 5th Street Variations and Resubdivision

Chairman Spinelli called for a motion to open the public hearing for Case 16-03.

Commissioner McGleam made a motion, seconded by Commissioner Kwasneski to open the public hearing for Case 16-03. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Staff Presentation

Mrs. Valone stated tonight the Commission is just making a recommendation for the variations. If they make a recommendation for the variations and it gets approved by the Village Board the plat of resubdivision would have to come back through. She said she wanted to make sure that the Commission understood that it was a dual process.

She said William Brennan, owner of the property located 480 5th Street is requesting variations from the Lemont Unified Development Ordinance. The purpose of the requested zoning entitlements are to allow for a subdivision of a single existing property into two 87.5 feet wide and 10,800 square foot single-family lots. Staff is recommending approval with conditions. The property is part of the Becker's subdivision from 1880 and is zoned R-4. This zoning classification requires a minimum lot size of 12,500 square feet and minimum lot width of 90 feet. The applicant applied to develop the lot in 2003 with a similar proposal, the application was denied by the Village Board, which raised concerns over the proposed size of the lots without a road right-of-way dedication to the Village. The neighboring property owners from the east side of 5th Street also commented that 5th Street is a private road for which access to the east lots was granted through private road and right-of-way easements in 1890.

Mrs. Valone stated the Becker subdivision created 77 lots from 4th Street to 6th Street. She showed on the overhead an aerial view of the area. At that time, the subject site was part of a larger site known as lot 43. A subsequent subdivision has created the current lot configuration for the subject property and the neighboring properties to the south. The original plat showed the location of 5th Street along the east property of lots 77-72. The recorded documentation does not indicate why the location of 5th Street changed from its originally planned location to its current configuration. She showed on the overhead where it was originally plotted and where it currently exists.

The subject site only has access from 5th Street. It is staff's understanding that the subject site was once a "flag lot" with a small access to McCarthy, but the owner developed that separate piece of property that extended to McCarthy to that piece of property years ago. She showed on the overhead the flag lot she was talking about.

Fifth Street is not a dedicated right-of-way. Easements were granted to the homeowners of the properties on the east side of 5th Street by recorded document numbers. The applicant will need to secure an easement to the subject site, either through easement agreement among the owners of neighboring properties or declaratory judgement by a court, to ensure access to the site from 5th Street. Staff recommends that the applicant secure such access prior to ordinance approval.

Mrs. Valone said the applicant is requesting variations for utility connections, minimum lot size, lot area, and sidewalk requirements. Currently the properties along 5th Street north of McCarthy Road are serviced by a sanitary sewer underneath 5th Street and well water. The closest water main to the subject property is 275 feet west along 4th street. The properties along 5th Street do not have public utility easements. The applicant has provided a cost estimate of \$73, 244 to bring the water utilities to the two proposed lots from 4th Street with no easements. The applicant is requesting that a waiver be granted to allow the properties to remain on well water as the cost and the lack of public utility easements create a significant hardship. As 5th Street is located within a private easement, the applicant may need to take additional steps to connect to the existing sewer system similar to their requirement for access.

Mrs. Valone stated the applicant is requesting a variation from the minimum lot size and he is looking for two lots at about roughly 10,800 square feet. The proposed lot sizes are a 15% variation from the UDO as defined by minimum lot size. The applicant is proposing to dedicate 15 feet of each proposed lot to the Village for public right-of-way. Therefore, staff finds this deviation acceptable due to the dedication and restraints of the property. The applicant is also requesting a variation from the 90 feet minimum lot width. The proposed lot width is a request for a 3% variation from the minimum 90 feet. Staff finds this deviation acceptable. Additionally, the applicant is looking for a variation from parkway width and sidewalk requirements. The applicant is also requesting a waiver from the requirement to construct sidewalks as the surrounding properties do not have them. Staff finds this deviation acceptable only as a lot split because 5th is not dedicated right-of-way for the entire length.

Mrs. Valone said the UDO states the variation must be consistent with three standards to be approved. The first is that the variation is in harmony with the general purpose and intent of the UDO. The proposed lots will not alter the established character of the residential area. Subject property is proposed to be single-family lots that are wider than the lots along the east side of 5th Street. The proposed lots are smaller in size to the neighboring properties, however when viewed from the road the new lots will not appear smaller due to the wider lot width. The average width of the lots along the east side of 5th Street is 66 feet. The narrower and smaller proposed lots will fit the established neighborhood better than the standard R-4 requirements. Additionally the subject property is classified in the Comprehensive 2030 Plan as infill residential. The goal of the infill residential is construction of new home sites on remaining vacant lots in the area that are consistent with the established character of the neighborhood. The proposal would develop the vacant lot, although it does not fully meet the R-4 standards it is consistent with the neighborhood.

The second condition is that the plight of the owner is due to unique circumstances, and thus strict enforcement of the UDO would result in practical difficulties or impose exceptional hardships due to the special and unique conditions that are not generally found on other properties in the same zoning district. The subject property is surrounded by existing lots that do not meet all the standards defined in the UDO for R-4 properties. The property is land locked and thus restricted by the narrower surrounding existing lots. The average lot in the surrounding area has a width of 66 feet and the proposed lots have a width of 87.5 feet. The proposed lots are similar in size to the lots to the west and south. The proposed lots will not appear smaller from the street when compared to the much more narrow properties along the east side of 5th Street. The applicant could have developed the property as a flag lot, however a flag lot design would have been in conflict with the UDO restriction to avoid irregular shape lots.

Mrs. Valone said the original Becker Subdivision platted 5th Street along the east side of lot 72-77. The platted road was proposed to allow access to lots 72-77, instead it was constructed along the west side. Had the original placement of 5th Street been along the east side, it is unlikely that lot 43 would have been split into the configuration seen today. The subject property will not be detrimental to public welfare or injurious to other properties or improvements. The applicant is proposing single-family lots in an established single-family neighborhood. The applicant is proposing to dedicate 15 feet of the front portion of the property for a public right-of-way increasing the width of the road in front of the proposed lots to improve access along 5th Street. The creation of two lots rather than one mitigates the size of any proposed homes. If the property was developed as only a single lot shown it could be significantly larger than the surrounding properties. Alternatively, the two proposed lots have smaller building envelopes thus ensuring future homes constructed on the subject site would be less out of scale when compare to the existing homes. Additionally the variations will increase the safety of incoming and outgoing traffic by widening a portion of the existing road.

Mrs. Valone stated as noted, the subject property is not serviced by municipal water and no fire hydrants are located on 5th Street. Lack of fire suppression via fire hydrants is detrimental to public safety in a community. However, notwithstanding access issues, the site is a lot of record and could be developed with one single-family home. Two homes versus one home on the subject site is not a substantial increase in risk to public safety, given that none of the homes on 5th Street have access to fire hydrants and those homes are situated closer to one another than the proposed development.

The third and final variation standard is that the variation will not alter the essential character of the locality and will not be a substantial detriment to adjacent property. The variation will not alter the essential character of the local area as the proposal is for two single-family homes, which is consistent with surrounding land uses. Additionally the surrounding lots do not conform to the standard R-4 standards. The proposed lot sizes are smaller than the surrounding properties however, the proposed lots are more

consistent with the surrounding lot widths. Additionally, the proposed lot will achieve the goals of the Lemont 2030 Comprehensive Plan.

Mrs. Valone said the UDO requires that the applicant demonstrate consistency with all three of the variation standards, and staff finds that all are substantially met. Staff recommends approval of the variations. Although the property will vary slightly from the standard R-4 requirements in the UDO, the proposed variations will be more consistent with the surrounding single-family homes that currently do not meet the minimum lot width standards required in the UDO. However, staff's condition to approval is prior to ordinance approval, the applicant shall resolve the outstanding issues related to roadway and utility access. She stated this would conclude staff's presentation.

Chairman Spinelli asked what the current width of the roadway was.

Mrs. Valone stated it varies. There are some portions that are 15 and there are some that are 20.

Chairman Spinelli asked what the current access easement width was.

Mrs. Valone said it is the private access easements that were granted in 1890 which ranges in feet from 20 to 33 feet.

Chairman Spinelli asked if there has been any discussion with Cook County Health about these properties that are within proximity to public water. Usually the Health Department requires connection to the water main if they are within a certain distance.

Mrs. Valone stated that is correct. In the State Plumbing Code there used to be a local amendment that said if utilities were not adjacent, and that would be determined based on cost (economic hardship) and adjacency. This was reviewed by the plumbing inspector and the Village engineer, both find that 275 feet through non-easement areas was a hardship. The Village engineer also commented that based on his experience if they were going to place the wells instead of extending the water main they would need to be shifted. So in his opinion it would be allowed to do so.

Chairman Spinelli asked if these homes would be required to connect to the sewer that is running down 5th Street.

Mrs. Valone said yes. The recommendation is that they would be required to connect to the sewer and left on well water. However, because the sewer is located on these private lots the applicant is required to have access to these private easements prior to approval.

Chairman Spinelli asked if the existing sewer had a utility easement.

Mrs. Valone stated it does not. The road is private from what the Village attorney and Village staff has determined based on the easements. The sewer that runs underneath it does not have any sort of dedicated easements either. It is the Village sewer but there are no dedicated easements. Additionally, the Village has been plowing and performing some maintenance activities on 5th Street for the past 15 years.

Chairman Spinelli asked if staff knew when that sewer went in.

Village Trustee Stapleton said he thinks it was in the 70's after the tornado.

Chairman Spinelli stated he would guess then that it was a function of septic system failures.

Mrs. Valone said the only easements are between property owners that fall within the original lots of 77, 76, 75, and 74. They have private roadway easements. The only way this roadway was granted was based on the property owner that owned a number of these giving these other lots the ability to have access by selling them an easement.

Commissioner McGleam stated there are overhead utilities on 5th Street so there must be some utility easements.

Mrs. Valone said not granted to the Village.

Chairman Spinelli stated if ComEd was in there he is wondering if a public utility easement was granted but not recorded.

Discussion continued in regard to utility easement for ComEd.

Commissioner Sanderson asked if tonight they are going after the fact that there is no access to the sight or just the setback.

Mrs. Valone said how the applicant gets access cannot be determined by the Village. If the Village Board wishes to grant these variations that is up to them. From staff's perspective the applicant has shown no documentation that they have an easement for road and utilities. Staff is recommending that if they get an approved ordinance then they secure that through either purchasing easements from the surrounding property owners or getting a declaratory judgment.

Commissioner Maher asked if there was anything the Village can do since they are servicing the roads in the first place.

Mrs. Valone stated that that at this time the Village has no easement thus the road is private.

Commissioner Maher asked how would water get brought into these properties.

Mrs. Valone said they would either need to extended it along McCarthy or purchase easements from these property owners to get it back here. The price of \$73,000 did not include the price for purchasing easements. It would just be the price of the pipe and the cost of getting it over there. Any additional cost could not be determined without some sort of negotiation.

Discussion continued in regards to connecting water to these lots and surrounding homes.

Commissioner Maher stated he does not think these lots should be on well. They should be considering other options to get water service to these properties. The whole area should be looked at for consideration. These are older areas in town and it is the Village's responsibility to provide water to the residents. He said fire suppression is a huge issue. Lots 40 and 41 could end up being split also.

Chairman Spinelli said he feels Commission Maher is correct. There is an opportunity here for the Village to do water main extension as a special service area.

Mrs. Valone stated it is not a simple issue but a complex issue. Staff has had some preliminary discussions and it is something that they need to look at. They do not have the easements or real ability to do it at this current moment.

Chairman Spinelli said there should be at least a 60 foot right-of-way. The Village might want to do 50 feet because they are not putting sidewalks in. There is already sewer and electric there and if they are going to put water there then there should be a right-of-way dedicated on the property. He stated they are asking for these variations but the lots are not resubdivided.

Mrs. Valone stated if the Commission approves the variations, and then they are subsequently approved by the Village Board, that is when their plat would have to come back before the Commission.

Chairman Spinelli asked would they be subject to access and the plat. They are granting variances for two lots that don't exist.

Mrs. Valone said the Commission is granting the variation for them to have the ability to split the lot. So the variations would be contingent on platting as entitled by these variations.

Commissioner Maher stated he also has an issue with not having sidewalks. He understands there are bigger issues with water and sewer, but maybe they should be asking for something to put sidewalks in the future. They required this out on the Rugby property and they do out around town as a starting point for sidewalks to be put in. In this case, if they feel that they are warranted then there should be some type of cash consideration to address the sidewalks in the future.

Commissioner McGleam asked for staff to summarize the variations.

Mrs. Valone said the variations are for the use of wells instead of extending the water main, lot size, lot width, and a waiver for the placement of sidewalks.

Chairman Spinelli asked if there were any further questions for staff at this time. None responded. He then asked if there was anyone in the audience that wanted to speak in regards to this public hearing.

Public Comment

Chief Rimbo, Fire Chief, stated they have three main concerns. The first is that the road is not wide enough and it is a nightmare if there is no water. The second is there is no turn around at the end of the property so they cannot turn around the vehicles. The biggest concern that they have is the water. It is 2016 and they need to be putting water and fire hydrants on the streets. The same thing is happening on 2nd, 3rd and 6th Street also. At some point you are going to be hearing about it whether it is for redevelopment or whatever it is and they need to be looking at the bigger picture. The biggest issue is not having any fire hydrants on the street and this is the opportunity to do it. There is a reason why when you live in a subdivision with fire hydrants that your insurance is a lot less than area that is rural.

Chairman Spinelli asked if these residents would be required to have sprinklers.

Chief Rimbo said they are currently using the International Fire Code 2006 Edition. They are looking to upgrade to the 2015 Edition at some point. The answer would be no that they would not require that, but he would love to be able to do that.

Chairman Spinelli stated he has seen other areas develop in other communities where a community has a plan to bring water when it can, but until then the homes that are built with a booster pump with a reservoir tank that can handle whatever the fire department felt was necessary.

Chief Rimbo said he would like that but currently he would not be able to enforce it.

Chairman Spinelli asked if the applicant was willing to have something like this would this help with their decision.

Chief Rimbo stated if they were going to sprinkler the home than yes they would be willing to look at that.

Chairman Spinelli asked if the applicant wanted to come up and speak.

William Brennan, applicant, said he has owned this lot for about 40 years. He has had access on 5th Street for maintaining it and would like at this point to develop it. He agrees with Commissioner Maher and with supplying water to the whole area. He

would definitely contribute to it or for in the future. In regards to sidewalks he has no objections to contributing their share. At this point they need to get a recommendation that they could develop it because he knows there are objections because it is a private street. He believes they can overcome those objections whether it goes to court or with the improvements to the area. Staff has explained mostly everything else that goes with the property.

Chairman Spinelli asked if they would be in favor of giving it total right-of-way.

Mr. Brennan stated he would give it total right-of-way and give it up to 50 feet.

Chairman Spinelli asked if he would object going to 17 feet, which if the 33 feet gets converted into right-of-way then his 17 foot would get a 50 foot. He would also request a 10 foot utility easement on his lot, so the provisions would be there so the Village wouldn't have to purchase an easement from him.

Mr. Brennan said he would definitely agree to that. It would be in his best interest to have the water in there.

Chairman Spinelli stated this would be a start to get water down 5th Street.

Chairman Spinelli asked if there were any questions for the applicant at this time. None responded. He then asked if there was anyone in the audience that wanted come up and speak.

Gerald Johnson, 455 5th Street, said 5th Street is a 20 foot wide easement. Someone mentioned that the dedication could have come from lot 73 but the people that live there do not know of any dedication. He stated he could not find anything on it, but he did find some information stating the south westerly part of lot 73 that is contained within the 33 foot McCarthy Road easement. As far as he knows, 5th Street from lot 73 to 77 is 20 feet wide.

Chairman Spinelli asked if he was referring to the easement or pavement.

Mr. Johnson stated the pavement varies from 12 feet to 17 feet depending on where you are at. The road width at McCarthy Road is 15 feet. There is not enough room for two cars to pull in. There is poor access and adding four more cars is not going to help. There are families there on 5th Street that have younger kids. As far as water, he has had his well since '44 and it is still pumping. The 15 foot improvement in front of his property, if he would be allowed to do this, would do nothing because he would have driveways.

Chairman Spinelli said the purpose is for dedicating right-of-way.

Mr. Johnson stated he could see it was a benefit if it went all the way up to McCarthy Road.

Lori Barnett, 471 5th Street, said one of her main concerns with the street is her children. Their street is very private, small and short. With the private street, that looks like it does not go anywhere, they have cars speeding down the street. They have had people mistake their street for 4th Street and once they realize that it does not go through they turn around and zip back down. If they were to add any width to that street it would only allow more access for cars to come down there. As far as the water issue, all of them are happy with the well system that they have. She has just invested money into getting new filters put in. The water she gets from the well is far better than any bottle water or city water. She asked why should they be forced into a water system that could possibly become contaminated like Flint, Michigan or Crestwood, Illinois. If they are happy with what they have then they should not be forced into something that they are not interested in. She stated she purchased her home from her grandmother and does not plan on going anywhere until she dies.

Mrs. Barnett stated Mr. Brennan land locked himself and he knew this when he built his property on lot 3. The construction on that house was done on a holiday weekend when all offices were not open so nobody can call someone to halt the construction of it. He knew he supposed to the house on the east side of the property and he did not. In regards to the private easement that is there where the private road is from lot 74 to 77, they own feet of property on the other side of that road so that is their extra parking. Some of the driveways are very small and you can't fit many cars so they use the area for extra parking. With these lots it will create more traffic on the road. She has never received any paperwork nor does her grandmother have any paperwork stating that there is a public easement for ComEd. If she owns the property all the way up to the street and across the street and they want to extend the road, she wants to know what happens to the property that she has been paying taxes on. She should not be forced to give up her property that she has been paying taxes on.

Mrs. Barnett said in regards to the comment on the snow removal, if she has been paying property taxes in this town what benefits is she getting other than that snow removal. They are the last street in town to be snow plowed. By the time the plow comes they have already shoveled out the street in front. Lastly, if this does happen to go through then there would no access for them to get in and out of their homes during the construction phase. When they redid the street and put asphalt down they had to park on 4th Street and walk over with kids and groceries. There is no way when these homes are built that they would be able to fit all those trucks on the street. In regards to the maintenance of the property, Mr. Brennan never did too much to it until she had made many phone calls with complaints about the length of the lawn. He did finally mow it and they were coming out but the service has dwindle to every couple of months. There is a huge pile of branches just sitting in the middle of the property for the past few years. She does not want to be forced into a change and hate the town where she has grown up and loves.

Chairman Spinelli asked if she was opposed to even one home being built. It is currently a platted lot and if access gets resolved he could come in and build a single-family home. He asked if she has the same concerns for one house being built.

Mrs. Barnett stated absolutely. Had he gone with the plans he submitted 10 to 15 years ago then they would not be standing here today.

Giedre Knieza, 491 5th Street, said she just bought her property two years ago and one of the reason why they bought the property was because they like the area. They knew it was a private road and that the city does not service it. They were happy about that and they like the well system. She also has kids and she does not want to see any extra traffic. Her house was built in '94 and she does not plan on moving anytime soon. She is concerned if a new house is built that it will then affect her taxes. They like that they have a big backyard and nobody in front of them.

Tony Smith, 499 5th Street, stated he agrees with what has been said so far. He understands that the Village wants to get Lemont going and bring them water, but they are happy with their house and well. His concern is that he does not want to give up that 20 feet. Their street is quite and you know who is going down their street. Now that they put a dead end sign up they don't get as many people coming down their block. He is not sure how this got land locked. When he bought his house his plat showed that he had an extra 20 feet at the end of his driveway. The first three house are newer homes and that is where it changed from 20 feet to the 33 feet. The people further down the road their plat is going to say 20 feet. This is the third time they have been here for this property. He hopes the Commission will consider their side of the story.

Chairman Spinelli said just to be clear that the Village is not proposing to take any of their land.

Mr. Smith stated he understands that but the Village is proposing to widening that. The applicant can only widen the road in front of his house which is further down.

Chairman Spinelli said that is what the applicant has indicated that he would widen the road in front of his property. The Village is not proposing to take any of their land. The Village understands that this is a private easement. It would be up to the applicant and the private owners of that easement to try to work something out. It is between private property owners and not the Village.

Mr. Smith stated he has a ComEd pole right in his front yard. He knows it was mentioned about utility easement and he is not sure of any easement.

Chairman Spinelli said if there is sewer and utility poles there than there should be an easement.

Commissioner Sanderson stated if a line came down then they couldn't come onto their property to repair it.

Phil Cullin, 12995 Parker Road, said he is going to do the development of this property if it gets approved. He spent a lot of time down in Cook County achieves trying to figure this all out. When looking at the plats for the north and south half of lot 73 and there were iron stakes set at 33 feet. In regards to the flag lot, lots 1, 2, and 3 was basically a subdivision of lot 42. So lot 3 was a buildable lot so there was two separate buildable lots. As long as he has been building in Lemont they have never allowed to build on flag lot. They would have to reach an agreement with the other owners or else go into court and let a judge decided. The only private road he knows in Lemont is Ruffled Feathers and the Village does not plow that. The road that was public easement in 1880 was on the east end. He is going to go back to continue to research and so far what he knows is that it was never platted and it was not a recorded subdivision. Their assumption is if the Village paved the road and there is a sewer there then it is not a private road and that is up to them to prove it.

Mr. Johnson stated at a Village Board meeting it was brought up about this land and the private road as to why they are plowing it. The Village attorney at that time, John Antonopoulos, said it would be wiser for the Village to plow it for legal reasons and they continued to do so. He would have to search to find the minutes on that meeting.

Nick Orlando, 1151 McCarthy Road, said he is lot 2. When he bought his lot there was a house kiddy corner towards the back on lot 3 and that was a driveway in there. Mr. Brennan stated he didn't know about it, but he did. He stated he was approached by Mr. Brennan about purchasing it and when he agreed to buy that is when Mr. Brennan doubled the priced. As far as him putting up a home everything was given a variance. The Fire Department was against it because there is only eight feet between the two roofs. Mr. Orlando then showed the Commission a picture of what was proposed. He said Mr. Brennan would park on his property and they would have to call the police. He has pictures of what was proposed and what was built. The applicant had his access to the property through lot 3 but instead he built a small home and land locked himself.

Commissioner Sanderson stated the applicant has a problem and he is gearing up to solve that problem. At this point the applicant is land locked whether he knew it or not.

Mr. Orlando said what he is trying to show is that if you grant him the variations there could be problems down the road.

Commissioner Sanderson stated none of the drawings that he is showing are stamped drawing so it is hard to take it into account right now.

Maureen Orlando, 1151 McCarthy Road said they are not trying to rehash what happened. They just want the future for their neighborhood to stay as quaint and small as it has been. This man wants to build more and more and squish them in there. She

does not deny him to build his one house there on lot 43, but do not give him any more variances.

Mr. Brennan stated lot 3 did meet all the requirements for getting a building permit there. He can produce the correct plans and not the pictures that Mr. Orlando is showing. When he bought the property he bought two lots not one lot. He applied for a permit and built on lot 3 and met all the requirements set by the Village of Lemont. He said Mr. Orlando has said lies here tonight. He stated that he has tried to sell him the lot at double the price which he never did. He takes offense at what he is saying because it is not correct. He is not sure what pictures he is showing but he can provide plans for that lot. In regards to the lot that is in question tonight, he pays taxes on the property just like the neighbors. There is a road there that he has been using and he would like to develop the property.

Chairman Spinelli asked if there was anyone else in the audience that wanted to speak in regards to this case. None responded. He asked if any of the Commissioners had any further questions for the applicant. None responded. He then called for a motion to close the public hearing.

Commissioner Maher made a motion, seconded by Commissioner Sanderson to close the public hearing for Case 16-03. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Plan Commission Discussion

Commissioner Sanderson said they had talked earlier about redevelopment and things might have gotten misunderstood. There are no plans to purchase someone's house or wanting to knock down someone's house. He understands that the neighbors are happy with well. He has well himself and he likes it also. However, from a fire protection standpoint they want to have a way to protect them. That discussion didn't have anything to do with knocking houses down. The conversation that came up is if someone started buying those lots and they wanted to redevelop it what are they going to do. Part of their job being on a Planning Commission is to think ahead and some of the discussion tonight is just what they do. He stated that they understand that they have a neighborhood and they don't want cars zipping down there. Unfortunately, there are some rights and him owning that lot he wants to develop is one. When he thinks about the lots size, the variance it is only 3%. The variances are not unheard of for subdividing these two lots. The biggest issue is the road and who has rights to it. That is not the issue to decide tonight though. A lot of the discussion was over this road tonight and that his not his issue to debate. The two lots are going to wider than some of the homes across the street.

Commissioner Maher stated they are voting on four things tonight. One is well compared to city water. The other are lot size, lot width and parkway requirement. The applicant is also asking for a waiver to construct sidewalks.

Commissioner Sanderson said the applicant stated tonight that he is willing to put the sidewalk in or make the contribution.

Commissioner Zolecki stated in regards to the road issue, it should be resolved before it comes before them. At the same time, it is the applicant's right to file for this variance and he gets the reason why. There is a little discrepancy as to whether to put the sidewalks in or make a contribution. For him the variance on lot width and size, even though they are minor, they are still a variance. Those are the older historical lots and there has to be something said about the depth when compared to the width. Based on that, he does have an issue with this subdivide. If they want to develop it as a single home that is their right.

Commissioner Sanderson said the only thing he will say about these lots was they were originally on septic which went away when the sewer got put in. He understands that these lots are part of the character of Lemont, but he does not feel that they would see those lots today. This is an infill district, so by dividing the lot it fits in with the plan.

Commissioner McGleam asked what type of road easement would the applicant need to build on that lot.

Commissioner Sanderson stated unless he buys land he has to prove that they have been using that road to access their lot. He is not speaking legally but it is his understanding.

Chairman Spinelli said it will come down to what the Village needs for a public road.

Commissioner McGleam asked if the applicant needs to get access from lots 73, 74, and 75.

Chairman Spinelli said either way the applicant is responsible for getting access to his property whether it is one lot or two lots.

Chairman Spinelli asked if there were any further questions. He then called for a recommendation.

Plan Commissioner Recommendation

Commissioner Maher made a motion, seconded by Commissioner Sanderson to recommend to the Mayor and Village Board approval of the variation to allow the properties to remain on well water as opposed to using city water. A roll call vote was taken:

Ayes: Sanderson, Spinelli

Nays: Maher, McGleam, Kwasneski, Zolecki

Motion denied

Commissioner Maher made a motion, seconded by Commissioner Sanderson to recommend to the Mayor and Village Board approval of the variation for lot size and width. A roll call vote was taken:

Ayes: Maher, Sanderson, Spinelli

Nays: McGleam, Kwasneski, Zolecki

Motion denied

Commissioner Maher made a motion, seconded by Commissioner Sanderson to recommend to the Mayor and Village Board approval of the variation to allow for waiver to construct sidewalks. A roll call vote was taken:

Ayes:

Nays: Maher, Sanderson, McGleam, Kwasneski, Zolecki, Spinelli

Motion denied

Mrs. Valone stated she just wants to comment that the Village can no way rule on the access to this road. That needs to be done through private easements or through the court. The Village is not at this time proposing any sort of reaching out for a dedicated easement from the property owners. That discussion is really not appropriate for this Commission and is more of a policy issue that has to be made by the Village Board and there has been no talks of that. There has been no plan for any sort of Village request for any easement along this road or utility. In regards to the water utilities, just like the road easements, the Village does not have a plan for any type of engagement in bringing utilities there at this current time. Because of this case it has been brought up that it is an issue that the Village, Fire Protection and some outside agencies need to discuss and have a developable future plan for. They do not have that plan right now and it will be something that they will work on in the future.

Commissioner Kwasneski made a motion, seconded by Commissioner McGleam to authorize the Chairman to approve the Findings of Fact for Case 16-03 as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

IV. ACTION ITEMS

None

V. GENERAL DISCUSSION

None

VI. AUDIENCE PARTICIPATION

None

VII. ADJOURNMENT

Chairman Spinelli called for a motion to adjourn the meeting.

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

Ayes: All

Nays: None

Motion passed

Minutes prepared by Peggy Halper