

Village of Lemont
Planning and Zoning Commission
Regular Meeting of November 14, 2012

A meeting of the Planning and Zoning Commission of the Village of Lemont was held at 6:30 p.m. on Wednesday, November 14, 2012, at the Lemont Police Department, 14600 127th Street, Lemont, Illinois.

I. CALL TO ORDER⁴

A. Pledge of Allegiance

Commissioner Murphy called the meeting to order at 6:36 p.m. and led the Pledge of Allegiance.

B. Verify Quorum

Upon roll call the following were:

Present: Kwasneski, Messer, Sanderson, Spinelli, Murphy

Absent: Maher, Schubert

Planning and Economic Development Director Jim Brown, Village Planner Charity Jones, and Village Trustee Ron Stapleton were also present.

C. Approval of Minutes

Commissioner Kwasneski made a motion, seconded by Commissioner Spinelli to approve the minutes from October 17, 2012 meeting with no changes. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

II. CHAIRMAN'S COMMENTS

Commissioner Murphy greeted the audience. She stated that she would be acting as Chairman for tonight's meeting. She then asked everyone in the audience to stand and raise his/her right hand. She then administered the oath.

III. PUBLIC HEARINGS

- A. Case 12-21 – SE Corner of 131st & Parker Rezoning**. A public hearing to change the zoning designation for property located at the southeast corner of 131st Street and Parker Road (the site of the proposed Paradise Park) from R-5, Single-Family Attached Residential District zoning to R-4, Single-Family Detached Residential District zoning.

Commissioner Messer made a motion, seconded by Commissioner Kwasneski to open the public hearing for Case #12-21. A voice vote was taken:

Ayes: All

Nays: Nays

Motion passed

Mr. Brown stated back in 2008, the Village Board approved annexation, an annexation agreement and an ordinance rezoning the property to R-5 with a special use for an assisted living facility. He said at this time the housing market was just starting to collapse. The applicants at that time had been optimistic and anticipated that they would be starting to develop the assisted living facility. Mr. Brown stated in recent telephone conversations with the applicants, they had indicated that the property would likely be returned to the bank and marketed for resale. He said it has been marketed for resale over the past couple of years and staff has received inquiries on the property within this time.

Mr. Brown said staff has had discussion with the Village Attorney and felt that the Village was protected on the type of the development that would go there by the annexation agreement. He stated the agreement was binding and anyone who wanted to develop the property would have to develop it as an assisted living facility. He said this would include the 18 townhouse units or they would have to seek an amendment to the annexation agreement, PUD special use approval.

Mr. Brown stated that despite that feeling staff felt it was prudent to at least have a public hearing on the rezoning and take public comment. He said then the item would be forwarded to the Village Board. He stated there would be further evaluations by the Village Attorney and his firm on the situation of the annexation agreement and how binding that agreement is. Mr. Brown stated staff feels they are protected by the annexation agreement from anyone coming in and wanting to develop it as anything other than an assisted living facility. He said he would like to make it clear that because they are having the hearing it is not an indication that they feel they have to rezone the property to prevent it from becoming strictly R-5. It is not an indication that the Village Board will ultimately decide to rezone the property. He said they might feel it is not necessary because they are protected by the annexation agreement. He stated this would conclude staff's presentation at this time.

Commissioner Murphy asked if anyone would like to come up and speak in regards to this case.

David Mullen, 13200 Silver Fox Drive, Lemont, stated the property is located directly behind his home. He said back in 2008 he came and spoke before this Board. He stated he applauds the Board that made the decision at that time to vote against the rezoning of the property to R-5. Mr. Mullen stated the whole community was against it and they feel it should be zoned R-2. He said the surrounding properties are a minimum of an acre or more and that is why he moved out there 20 years ago.

Mr. Mullen said this Board ruled against this property becoming R-5, but when it went to the Village Board they had over turned their decision. The Village Board approved

Paradise Park's request to change the zoning. He stated he applauds the Village for looking to change it back to Single-Family Detached Residential. He said it should have never been multi-family because it just doesn't fit in the area. Mr. Mullen stated his wife stood before this Board and predicted what would happen. He said Paradise Park only had 60% capacity filled at the time. He stated at that time he had asked the Board what would happen to that property when you start to develop on it and it looks like a bunch of offices there. He said it did not look like a residential neighborhood with a nursing home stuck in the middle of it. Mr. Mullen said he had questioned when it ended up empty would it turn into an office park or a gas station. He stated Paradise Park did bend and made changes to their plan, which made it more palatable. He said it was wrong then and it is wrong now.

Mr. Mullen stated he is happy for this change, however, he feels R-4 is not enough. He said it would put the lots at 12,500 square feet. He stated across the street the lots are at 20,000 to 40,000 square feet of land. He said where he is located the lots are 40,000 square feet or greater. Mr. Mullen stated it is his contention that the subject property should be zoned in accordance to the surrounding properties, which would be R-2. He said if he had to negotiate he would take R-3 which could be appropriate. He stated 12,500 can be divided up into many different ways and it takes away from the whole character of the rural aspect of the community. Mr. Mullen stated he hates to see businesses fail, but he is grateful that they never put a shovel in the ground. He said he is sorry for the money that they have lost, but wish they would have listened and taken their Paradise Park elsewhere.

Mr. Mullen stated this is his plea and hopes the Village changes it as they see fit to single family detached. However, change the zoning to R-3 or R-2 to fit in with the neighborhood. He then thanked the Board for their time.

Bruce Kipley, 13120 Silver Fox Drive, Lemont, stated that he was with Mr. Mullen back in 2008 when they had discussed this property. He asked wasn't Archer Avenue at one time the dividing line for rural areas.

Mr. Brown stated in the 2002 Comprehensive Plan Archer Avenue is indicated as a dividing line between single family homes and townhouse development.

Mr. Kipley stated he was under the assumption that it was considered rural. He said he agreed with Mr. Mullen that the lots need to be larger, at least three quarters of an acre. He stated it would match-up much better to their lots. Mr. Kipley said there are two property owners that have joining ponds that are adjacent to the subject property. He asked if there were going to be any provisions put in there protecting the property owners in Fox Hills from people walking from the subject property to their property. He stated he had discussions with the owners of Paradise Park in regards to this.

Mr. Brown said this is strictly a rezoning and there are no other provisions. He stated there is the Unified Development Ordinance that guides site development on the

property. He said if he was concerned with someone trespassing on his property then there are no provisions.

Mr. Kipley stated the subject property butts up to these two ponds. He asked if there was going to be anything in the rezoning in regards to this.

Mr. Brown stated no.

Neil Shackel, 13455 Artic Lane, Lemont, stated he concurred. He said he lives across the street and he had an issue with Paradise Park where a driveway would have been projecting light into their back windows. He stated he agreed with the R-2 or R-3 zoning rather than the R-4.

Commissioner Murphy asked if anyone else wanted to speak. None responded. She then asked if the Board had any questions.

Commissioner Spinelli asked on the southwest corner what is that piece of property zoned.

Mr. Brown stated the property on the southwest corner of 131st and Parker is a PUD and is zoned an R-4.

Commissioner Messer asked if the surrounding properties are all zoned R-3 why is staff recommending R-4.

Mr. Brown stated the land to the west is zoned R-4 that is in the Village. The land to the north, immediate south, and east is zoned in Cook County as R-3. He said staff is recommending R-4 basically because across the street is R-4. He stated the trend of development in this area is going to smaller lots. Mr. Brown said they have entertained development proposals in the past that have called for smaller lots with inclusion of townhomes. He stated this will be the future most likely.

Commissioner Murphy asked if there was an interested party that was going to build in the near future on this site.

Mr. Brown said he has received in the last three months maybe two phone calls on the property. He stated he did not think any were terribly serious by the nature of the questions they were asking. He said one phone call was for potential commercial use for the property and the other was just a general inquiry on what could be built there. Mr. Brown stated as far as he knows there is no serious interest in the property.

Commissioner Murphy stated she was on the Board when this came up in 2008. She said if this was changed to R-2 or R-3 and someone came in they could apply to change the zoning at that time. She stated the real vision for the Village for this piece of property is the R-4 zoning and that is based on the fact because the property across the street is R-4, but behind it is not.

Mr. Brown said behind this property it is not in the Village and it is zoned R-3 or R-2 in Cook County. He stated for clarification R-4 zoning is a minimum of 12,500 square feet lot size, R-3 is minimum 20,000 square feet lot size and R-2 is minimum 40,000 square feet lot size.

Commissioner Murphy said they might want to move on the side of caution for the community based upon there is a large amount of property out there that is not developed in this area.

Mr. Brown said it is probably the only area in Lemont left for any large scale residential.

Commissioner Murphy said if they were to go with the larger lot sizes someone seeking to develop it could ask for rezoning to R-4 with plans that suited the area and with taking into consideration the ponds that are out there.

Mr. Brown stated there is still an annexation agreement that is in place and that would guide any future development. He said someone would have to develop it to the approved plan which is for an assisted living facility that includes 18 townhouse units or someone is going to have to seek an amendment to that annexation agreement. He stated they can request any amendment they want whether they reach an agreement would be a separate matter. He asked if this answered her questions.

Commissioner Murphy said either way it is not cast in stone because they could seek an amendment to build more than what is approved for now.

Commissioner Sanderson stated they could also build what was approved.

Mr. Brown said there is still a separate issue whether any type of the approvals had expired and whether they would have to seek another Planned Unit Development. He stated the annexation agreement is binding for 20 years, but any of the other approvals outside of the annexation agreement they would have to seek a special use. Mr. Brown said he thinks Commissioner Murphy's question is are there any situations where anyone can build there without a discretionary review by the Village. He said if it is determined by staff or a court of law that the annexation agreement is not necessarily binding then that underline zoning would govern. He stated if the underline zoning is R-4 or R-5 then that would govern that is if that annexation agreement is not binding.

Commissioner Sanderson stated he feels that they would want to at least change it to R-4. He said there is no option in the petition to change it to an R-3 or R-2, so the question is do they agree with going down.

Commissioner Murphy stated their option is to either leave it the way it is or go down to an R-4 zoning.

Mr. Brown stated yes that was what it was noticed for.

Commissioner Murphy then called for a motion to close the public hearing.

Commissioner Sanderson made a motion, seconded by Commissioner Spinelli to close the public hearing for Case #12-21. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Commissioner Sanderson made a motion, seconded by Commissioner Kwasneski to recommend approval of Case #12-21 to the Mayor and Board of Trustees to change the zoning for the property locate at the southeast corner from R-5 Single-Family Attached Residential District zoning to R-4 Single-Family Detached Residential District zoning. A roll call vote was taken:

Ayes: Kwasneski, Spinelli, Sanderson, Messer, Murphy

Nays: None

Motion passed

Commissioner Sanderson made a motion, seconded by Commissioner Spinelli to authorize the Chairman to approve the Findings of Fact as prepared by staff. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mr. Mullen asked who will be meeting on Monday at 7 p.m.

Mr. Brown stated the Committee of the Whole which is the Mayor and the Board of Trustees. He said they meet in an informal setting; there are no official votes on any ordinances or resolutions taken. He stated it is just a workshop that is a public meeting, but it is not a public hearing. The Mayor who runs the meeting does not necessarily have to give the audience opportunity to speak.

Mr. Brown explained to the audience that the Committee of the Whole is not a vote taking meeting. He said there is no decision made there and this discussion could be possibly dragged out over a couple of months. He stated they might or might not prepare an ordinance that rezones this property. He said the earliest that it would occur would be the second Monday in December.

Mr. Mullen stated since he has been through this in 2008 it is his understanding that it is the Village Board that makes the ultimate decision on how a piece of property is zoned.

Mr. Brown stated that is correct. He said the Planning and Zoning Board is a recommending Board.

Mr. Mullen asked if staff was familiar with Sylvan Woods and the piece of property that is east of that, which is the property that is west of what was called Leona's Farm.

Mr. Brown asked if it is over by Red Drive.

Mr. Mullen stated if you were going west on 131st Street.

Mr. Brown asked if he was referring to the west side of Derby.

Mr. Mullen said there is a subdivision on the east side of Derby and he asked if they were in Lemont.

Mr. Brown stated that some of the lots on Red Drive are in Lemont and some are not.

Mr. Mullen stated he wanted to point out that those lots are very big also. He asked if they were zoned R-3.

Mr. Brown stated they might be zoned R-4. He said the minimum lot size is 12,500 so a lot can be bigger than the minimum.

Mr. Mullen stated he wanted to point out to the Board that two pieces of property that they have been talking about tonight are Leona's Farm, which is west of Parker, and this piece of property, Paradise Park, are surrounded by unincorporated Lemont Township. He said even the properties that are on the west side of this are larger than 12,500 square feet and are zoned R-3. He stated he does not think that staff's assumption that everything is going to be or should be R-4 in this neighborhood is correct. Mr. Mullen said he thinks it should remain R-3 or greater because of the properties surrounding it. He stated he wanted to make sure that everyone was aware of the properties that surround these two pieces of properties.

Rose Mary Kipley, 13120 Silver Fox Drive, Lemont, stated it makes them feel that the Board does not care about them because they are unincorporated. She asked would they be better off if they become part of Lemont and would they then have a say.

Mr. Brown stated that he would not characterize the Village as being uncaring in this position. He said the battle of Leona's Farm went on for 15 years with the concern and reluctance for the Village to annex that territory was founded in the concerns of the unincorporated residents out there. He stated he would not say that they are not concerned. He said if they were not concerned they would not have bent over backwards with Paradise Park to at least indulge some of the issues that were brought up. Mr. Brown stated the most recent round of discussions on Leona's Farm property was an amended annexation agreement that is pending, which had a public hearing back in May 2011. He said they listened to the concerns, and they do take it into consideration. He stated as far as annexing into the Village, they are always entertaining any ideas for annexation as long as they are contiguous with them.

Mr. Mullen stated Paradise Park annexed into Lemont because they knew that the neighbors around that piece of property stood together. He said when Ms. Murphy came to the County of Cook with townhomes that were 20 feet apart they had about 400 to 600 petitions signed for the Commissioners. He stated the Zoning Board gave it thumbs up because the lawyer they had did a great job and brought all of their experts. Mr. Mullen said they did not have experts but they did show that the Fire Department and schools were against it. They were against it because of the additional homes, access to the property, and all of the negatives that goes along with over populating a piece of property. He stated the best use of a piece of property is not to make more money, but to make a better community. Mr. Mullen stated ultimately the Cook County Commissioners voted unanimously against the Zoning Board. He said Ms. Murphy sat on the property until they sold it to someone else. He asked if there is anything they could do to ask the Village to consider R-3.

Mr. Brown stated they could ask and advised them to come to the Committee of the Whole.

B. Case 12-20 – UDO Amendments. A public hearing for text amendments to the Unified Development Ordinance to regulate the parking of trucks, certain kinds of mobile equipment, and/or construction equipment on private property .

Commissioner Murphy called for a motion to open the public hearing.

Commissioner Kwasneski made a motion, seconded by Commissioner Sanderson to open the public hearing for Case #12-20. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Mrs. Jones said there are two separate issues for UDO amendments this month. The first is the issue of overnight parking of semis and semi-trailers on commercial properties in the Village. She stated the other is parking or storage of construction equipment in residential areas. She said the first issue is a request from Trustee Chialdikas, who has expressed some concerns about semi-trailers parking overnight in parking lots of some of the shopping centers. Mrs. Jones stated they do regulate outdoor storage, which includes vehicles, but that does not come into effect until it has exceeded 72 hours.

Commissioner Messer asked if they were talking about a trailer that is connected to a tractor trailer or someone who drops a trailer off and leaves.

Mrs. Jones stated either or both. She said she wants to clarify that it is not related to what they call container storage yards, which is where a business has lots of trailers parked, or freight transportation terminals. She stated this is a piece of property that has some other use and a semi-trailer, tractor or both is parked on the property overnight.

Commissioner Sanderson asked what if it is parked behind the building in the loading dock.

Mrs. Jones said they will get into that. She stated staff had to add a couple of definitions and one is for trailer itself because there was no definition. She said they also added definitions for tractor, truck and van. Mrs. Jones stated what they are proposing are that any of the following vehicles that are listed can't be parked or stored on a lot unless they are enclosed for more than four hours. This would include trailers, tractors, trucks, buses, construction equipment, and any class of commercial motor vehicle. She said alternatively they can have a weight threshold on a vehicle to capture the similar kinds of vehicles.

Mrs. Jones said they do not want to write tickets for trucks that are waiting to unload at like Target or Jewel. She stated they are trying to prevent trucks from parking in the parking lots overnight or for long periods of time. She said this would make it unlawful for the property owner to allow such parking. Mrs. Jones stated there are some circumstances where this would be allowed. The first being when the property owner or the tenant of a shopping center consents to the parking of said vehicles in areas clearly designated and used as off-street loading zones on lots that contain an active principal use.

Commissioner Spinelli asked if there was any consideration for a personal use trailer which has a license plate TA that is 3,000 pounds or less. He said their definition is stating anything that is pulled by an automobile with no regard to weight capacity of the trailer.

Mrs. Jones stated in residential areas they do not allow trailers to be parked or stored in the open. She said this would be consistent with the residential restrictions. It would be the same everywhere.

Commissioner Spinelli stated he is thinking about people with these lower weight trailers that have larger lots and it is in their backyard.

Mrs. Jones stated they are already not allowed to have those and if they do then they have to be enclosed.

Commissioner Messer asked who enforces that.

Mrs. Jones stated with the construction equipment on residential properties it is code enforcement. She stated with parking of semi-trailers there are two parts. There is a code enforcement component and a ticketing component through the Police Department. Mrs. Jones said even though they restrict the parking of trailers in residential areas this definition broadens what they consider a trailer. She stated there were things that you could have previously parked in residential areas that are now not allowed.

Mr. Brown stated there was a discussion of this during a meeting of the Committee of the Whole last month. He said it has been a process that staff has not driven. He stated at the meeting he felt it was never articulated why they are doing this. He said when they sat down to draft it; he had drafted it in the broadest possible terms. It is easier to strike something out or put something limiting in then work the other way. Mr. Brown stated when he goes back to the Committee of the Whole he can ask the one Trustee what is the real issue with the parking of trailers. He said then they can determine what the thresholds are necessary to accomplish whatever that purpose is. He stated it might be they attach a weight threshold for a trailer. Mr. Brown stated if the Board wanted to make a recommendation to limit it they can do so.

Commissioner Spinelli stated his concern with such a broad definition of a trailer is a personal use trailer on residential property that is stored behind their house or shed that is out of view of the street, but not in an enclosure, can be in violation. He stated he feels that this is not where it was truly intended to go. He said he does not know the discussions that were made upfront. Commissioner Spinelli stated he has seen one of these personal use trailers that was used with a billboard on a commercial site in Lemont and left there. He said he does not agree with that and it does need to be ticketed. He stated he does not agree with such a broad definition and restricting every type of trailer without a weight limit. Commissioner Spinelli said on the Secretary of State's website and the lightest license trailer is a 3,000 pound carrying weight trailer which is a license plate TA. He stated these trailers can be stored properly by being lifted up on the side of a shed which should not be obtrusive to a neighbor. He said the way it is written every single trailer would have to be fully enclosed. He stated he feels there should be some kind of provision in there for these TA trailers.

Mr. Brown stated if it was a small trailer that was going to be pulled by a riding lawn mower; it would not fall under the definition. He said we have all types of neighbors that use the zoning code to upset their neighbors, in most instances staff uses common sense. Mr. Brown stated the definition is clear that it has to be something substantial. He said if they wanted to add a weight limit or weight threshold for the definition of trailer that would be fine.

Mrs. Jones stated she wanted to check with the code enforcement officer.

Discussion continued on whether to add a weight limit or threshold to the definition of trailer.

Mrs. Jones stated to get back to the commercial side of things; the exemptions would be if it is parked in a space that is marked as loading zone. Another would be if the subject lot is within an M district which contains an active principal use. The subject vehicle is engaged in work related to a building construction or site development project. The subject vehicles are school buses and they are parked on lots owned or leased by a school district. Lastly, the primary or accessory use of the lot or a business on the lot is truck, trailer, or construction equipment rental or sales and service. Mrs.

Jones stated the way it is written currently it does not provide exemption if those vehicles are owned by the tenant or owner of the property. She said for example if Ace Hardware opens up and they have Ace trucks this would not exempt them.

Commissioner Spinelli asked if they would have to apply for a special use.

Mrs. Jones stated it would have to be a variation.

Commissioner Murphy stated that could hurt business development.

Mrs. Jones stated this might be where they might want to further define trucks and what kinds of trucks.

Mr. Brown said his opinion is that this is going to just cause more problems. He stated they are chasing after something that is not a big issue. He said he wants to wait to hear what the clear government concern is for this. Once he knows then they can maybe approach this entirely in a different way.

Commissioner Messer stated if he was a business owner in one of the shopping centers and if someone parked a semi-trailer there for half a day he would be upset.

Commissioner Spinelli stated on the other hand if you owned an Ace Hardware you now cannot park your truck by your business. He asked what if you run deliveries like Sure Fire Auto Parts.

Mrs. Jones asked if they all agreed that it was a bad idea to not allow these businesses to have their trucks.

Mr. Brown stated this is an issue between a tenant and a landlord. He said if you are a tenant in a shopping center and someone is parking a truck there then they should complain to their landlord. He stated then the landlord should do whatever it takes to get them out of there. Mr. Brown said they should just say that trucks need to be parked in the loading zone.

Mrs. Jones stated they could just limit the parking restriction to semis.

Commissioner Murphy stated they would be inviting trouble if they do not put a stop to semis parking in lots overnight. She said if she is reading the problem correctly, they have just expanded upon it. Commissioner Murphy stated as far as the loading zone, if they have more than one truck they all might not fit in a loading zone and they would need a couple of spaces.

Commissioner Spinelli stated his opinion is exempt TA license plate trailers and trucks with B license plates.

Commissioner Murphy stated they should just restrict it to semi-trailers and tractors that are not related to any of the businesses in the shopping center. She said forget everything else until they can think it through further, then they can add that piece back in.

Discussion continued on which option to recommend.

Mrs. Jones stated they would move on to the construction equipment parking. She said this issue is stemming from the code enforcement officer. He has had situations where people have had neighbor complaints and he has nothing in the code to write tickets against. She stated what is happening is people who are involved in building trades or landscape companies are storing their business equipment and/or vehicles on their personal property. Mrs. Jones said they are adding a definition for construction equipment and then read the definition that was provided in the staff report. She stated it is aimed at people who have this equipment because it is part of their business and not for their personal use, but they are storing it on their personal property. Mrs. Jones said this will add to the current list of vehicles that are not permitted to be parked or stored in any residential district except when located in a garage or other fully enclosed structure. She stated that it would add construction equipment and tractors which would make it consistent with the other changes that were previously discussed. She said if they change the definition to trailer they would have to make an amendment.

Commissioner Spinelli asked if there was ever an issue where there are two people in a household that work construction and they both have trucks with B plates. He said he has seen this happen and they were not able to park in the garage due to the height of the truck.

Mrs. Jones stated that she is not sure if it has been an issue or not.

Trustee Stapleton stated that overnight parking is allowed on the street in the Village.

Mrs. Jones stated that would conclude staff's report.

Commissioner Spinelli made a motion, seconded by Commissioner Kwasneski to close the public hearing for Case #12-20. A voice vote was taken:

Ayes: All

Nays: None

Motion passed

Commissioner Spinelli made a motion, seconded by Commissioner Kwasneski to recommend approval of Case #12-20 to the Mayor and Board of Trustees of text amendments to the Unified Development Ordinance to regulate the parking of trucks, certain kinds of mobile equipment, and/or construction equipment on private property with the following provisions to 17.10.100:

1. To exempt trucks with B-truck license plates and trailers with TA-trailer license plates from all of the requirements contained in that section.

A roll call vote was taken:
Ayes: Kwasneski, Spinelli, Sanderson, Messer, Murphy
Nays: None
Motion passed

Commissioner Sanderson made a motion, seconded by Commissioner Spinelli to authorize the Chairman to approve the Findings of Fact as prepared by staff. A voice vote was taken:

Ayes: All
Nays: None
Motion passed

IV. GENERAL DISCUSSION

Mrs. Jones stated she talked to Chairman Schubert and he hopes to be back next month.

Mrs. Jones stated next month they would be meeting at their regular time if there is anything on the agenda.

V. ADJOURNMENT

Commissioner Spinelli made a motion, seconded by Commissioner Sanderson to adjourn the meeting. A voice vote was taken.

Ayes: All
Nays: None
Motion passed

Minutes prepared by Peggy Halper