

**MINUTES OF THE PLAN COMMISSION**  
**October 24, 2016**

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:00 p.m. at the Village Hall.

Members present: Chairman Mark Moore, William Cotey, Amy Flores, Matthew Krummick, Walter Oakley, Kurt Schultz, and David Semmelman.

Members absent: None.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner, and Fred Chung, Senior Project Engineer.

**OLD BUSINESS:**

**PC 16-06      DRH Cambridge Homes, Inc., Applicant**  
**127, 131, and 201 S. Stewart Avenue**

**Request is for a Preliminary Plat of Resubdivision in order to resubdivide three (3) residential lots into two (2) residential lots for property located in an R-7, Single Family Attached Residential District.**

Mr. David Smith, Senior Planner, introduced the request for a Preliminary Plat of Subdivision to the Plan Commission. Mr. Smith stated that the petitioner was before the Plan Commission at their April 25, 2016, June 13, 2016, and again on September 12, 2016, meetings requesting approval of a Preliminary Plat of Resubdivision in order to resubdivide three (3) residential lots into two (2) residential lots in order construct six (6) single family attached dwelling units, three (3) per lot, for property located in an R-7, Single Family Attached Residential District at 127, 131, and 201 S. Stewart Avenue.

Mr. Smith stated that at their June 13, 2016 meeting, the Plan Commission recommended approval to the Village Board. He stated that at the August 9, 2016, meeting the Village Board referred this item back to the Plan Commission due to a significant change in the site plan. He stated that the change showed the proposed driveway relocated to the east.

Mr. Smith stated that the applicant next appeared before the Plan Commission at their September 12, 2016, meeting per the request of the Village Board. He stated that during the course of the September 12, 2016, Plan Commission meeting, the Chairman of the Plan Commission deferred this item until the applicant was able to secure a preliminary agreement with the property owner directly to the west at 220 Florence Court as it relates to the rights of access to the proposed driveway to Florence Court. Mr. Smith stated that the two parties have not yet reached an agreement, but have been corresponding in an effort to reach a resolution. He stated that Staff is recommending that this item be placed back on the Plan Commission October 24, 2016, agenda

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 2 of 10**

so that the two parties can provide an update on the progress of the negotiations to the Plan Commission.

Mr. David Pardys, Village Attorney, stated part of the plan that Cambridge is proposing is an alley which the Village currently has control over. He stated that the proposed plan by Cambridge is dependent upon the Village to vacate the subject alley. He stated that the Village has the ability to designate as to which of the two property owners on either side of the public alley right-of-way it can go to with the vacation of said right-of-way, but in any case, it will ultimately be a decision of the Village Board. He stated that the proposed plan as it is currently designed is dependent upon the vacation of the alley. He stated that the current intent is for the developer and the neighboring property owner to the immediate west come to some form of an agreement which would allow the Village to vacate the alley and allow the owner to have access rights across the petitioner's property out to Florence Court as it would be the only route of access from 220 Florence Court to the Florence Court public right-of-way. He stated that it was hoped that there would be an agreement by this point. He stated that he has seen the draft agreement and the draft covenants provided by Cambridge. He stated that the covenants provide access to the neighboring property owner at 220 Florence Court and that this access will be unobstructed and that there will not be any parking allowed in that access area and that the owners of both parties will have the ability to have violators towed if they are violating the restrictions as stipulated in the covenants. He stated that the attorney for the neighboring property owner of 220 Florence Court has stated that the draft provisions are not sufficient and that they have been asked to appear before the Plan Commission to report the status of their negotiations to the Plan Commission.

Mr. David Munaretto, 800 S. Milwaukee Avenue, agent for the petitioner, stated that they agree with Staff recommendation No. 1 which states that at the time that the Village Board adopt a resolution approving the Final Plat of Resubdivision, the Village Board adopt an ordinance vacating the public alley which retains easement rights for the owners of 220 Florence Court.

Mr. Munaretto stated he agrees with Staff recommendation No. 2 which states that on-site parking is restricted from the western edge of the proposed driveway that runs in a north and south direction.

Mr. Munaretto stated that they will address Staff recommendation No. 3 that garbage pick-up be done in accordance to the Municipal Code Section 308.6. He stated that he has an agreement with the Groot company that will allow them to encroach onto the private driveway to access the garbage cans placed outside by the residents. He stated that the residents will be restricted to placing their garbage cans out on garbage pick days only. He stated that it is planned that the garbage cans should be located along the western edge of the driveway and that they will be screened.

Mr. Munaretto stated that they have provided a revised Plat of Resubdivision that indicates the requested shading and hatching on the Preliminary Plat to clarify the limits of the ingress-egress easement, which shall extend to the proposed west property line (over a portion of the alley to be vacated) as requested by Village Staff.

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 3 of 10**

Mr. Munaretto stated he is confident that they have a site plan that provides for the proper vehicular movement on site which should address the Village's Traffic Consultant comments in the memo dated 8/4/2016 from Civiltech, Inc.

Mr. Munaretto stated that they are currently working on the ingress-egress easement with the neighboring property owner's counsel and will work out the all of the provisions including how vehicular access for the adjacent property is to be maintained at all times, including during any necessary maintenance activities.

Mr. Munaretto stated that the maintenance of the driveway will be regulated by the easement agreement and that the HOA will be responsible for the maintenance of the driveway. He stated they will implement 'self-help' remedies into the agreement.

Ms. Beth Miller, attorney representing the owners of the adjacent property owners at 220 Florence Court asked for clarification as to the meaning of 'self-help' remedies.

Mr. Steve Goodman, attorney for the petitioner, stated that 'self-help' remedies provide the adjacent property owners to request towing of vehicles parking on the driveway that does not comply with the regulations of the HOA. He stated that it also provides for the maintenance of the drive to be implemented and that the property owner of 220 Florence Court will have the ability to place a lien on the HOA if they do not fulfill their obligations as it relates to the maintenance of the driveway.

Ms. Miller stated that the draft Homeowners' Association documents are over 75 pages long and does not offer a reasonable opportunity to decipher and understand all of the elements within the document. She stated that consideration should have been given to providing a 12 foot wide strip adjacent to the existing alley that would serve the prospective petitioner to serve their property and that if the alley would be vacated that then it should be given to the property owner at 220 Florence Court by way of a quit claim deed.

Ms. Miller stated that she is concerned that the proposed townhomes will not be owner occupied. She stated that it would be better for the neighborhood that the petitioner reduce the number of units because they are concerned about the proposed density and its impact upon the neighborhood. She stated that the assessment of the property drives the property taxes and because of that it would be better if the proposed project contains single family homes and not townhomes. She stated that what the applicant is proposing does not make sense.

Ms. Miller stated that it is better to deed over to the Valdez family, the owner of 220 Florence Court, the 12 foot width of the alley and for the petitioner to then add another 12 feet of driveway to serve their property. She stated that only four or five dwelling units are better than six (6) townhome dwelling units for the proposed project. She stated that if they become rentals, then there are serious drawbacks.

Mr. Goodman stated that they are not asking for zoning relief. He stated that there is no evidence that the property values will decrease in response to the proposed development. He stated that there should be no restrictions to leasing or renting because this restriction is not

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 4 of 10**

applicable to any other residential property in the Village of Libertyville. He stated that the draft Homeowners' Covenants and Restrictions have gone above and beyond what would otherwise be implemented.

Ms. Miller stated that she is concerned that once DR Horton/Cambridge develops the site and is gone that the prospective property management will not be able to provide the necessary oversight to take care of the subject site.

Mr. Goodman stated that the property management will be a third party entity.

Ms. Deb Galvin, 155 Sunnyside Place, stated that this proposed development will fracture the community. She stated that this is not a townhome community. She stated that without the alley vacation they will not be able to comply with the lot coverage requirement. She stated that this application is not equitable. She stated that she has been living in her home since 1960 and has never had water in her basement, but she is concerned with the stormwater management of the new proposal and fears that flooding will become a problem.

Ms. Galvin stated that the existing storm sewers are old and not up to current code. She stated that she is in the path of the storm water flow and is concerned with that.

Mr. Munaretto stated that the impervious surface is not an issue with the new plan. He stated that the proposed plan is not an issue with the Zoning Code. He stated that they are providing on-site detention. He stated that the increase in the impervious surface as compared with the existing impervious surface is not substantial.

Commissioner Oakley asked for more clarification as it relates to storm water management. Mr. Fred Chung, Senior Project Engineer, stated that the applicant is restricted so that the new development does not make storm water management worse and not increase the overland flow on to neighboring property. He stated that they will look for the release rates from the applicant at the time of Final Plat of Subdivision submittal.

Commissioner Oakley asked if the alley is vacated and given over to the property owners of 220 Florence Court, would they be required to provide additional storm water management. Mr. Chung stated that it will depend upon how much lot coverage is increased and how the WDO Appendix P would regulate the change.

Commissioner Flores stated that she is concerned about the how they will access the garage.

Mr. Munaretto described the proposed driveway reconfiguration and stated that the Valdez household (220 Florence Court) would have complete rights of access onto the driveway on the Cambridge site out to Florence Court.

Commissioner Cotey asked if there are Standards for the Plat of Subdivision that should be addressed. Mr. Smith, stated that the Zoning Code provides for minimum required lot width and area.

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 5 of 10**

Mr. Pardys stated that the Subdivision Code provides for certain criteria relative to the Illinois Plat Act.

Commissioner Cotey asked if this project would eventually need a Special Use Permit.

Mr. John Spoden, Director of Community Development, stated that at the point in time when the applicant applies for a building permit, they would have to comply with the standard Zoning Code and Building Code regulations. He stated that it would not be a Special Use Permit.

Commissioner Cotey stated that he is concerned that there doesn't appear to be any Standards that can be applied in this case.

Mr. Smith stated that there are Site Plan Permit Standards for Denial listed in the Zoning Code, but that a Site Plan Permit is reviewed Administratively.

Mr. Spoden state that for a Site Plan Permit the Zoning Code does not have a list of Standards to meet, but a list Standards by which a Site Plan can be denied.

Mr. Pardys stated in Zoning Code Section 16-10.6 lists 14 Standards for Denial including the lack of amenities, if the site plan creates unusual drainage or erosion problems, if the proposed site plan fails to meet the policies of the Village, if it protects the public utilities and easements of right-of-way, and others that Staff can look at to determine if a site plan is appropriate or not. He stated that it is ultimately an Administrative decision.

Commissioner Cotey asked if the Plan Commission can use the Site Plan Permit Standards for Denial as a regulating tool to help them render their recommendation. Mr. Pardys stated that the Site Plan Permit is intended to be regulated by Staff at an Administrative level and the item before the Plan Commission is a request for approval for a Preliminary Plat of Resubdivision.

Commissioner Semmelman asked if the alley were to be vacated and that land was then given to the neighboring property at 220 Florence Court, how would that affect the Cambridge proposal. Mr. Munaretto stated that it may cause the driveway location to change from where it is proposed now back to where it was originally proposed along the western property line. He stated that it would reduce the parking availability for all the parties involved. He stated that it may not have a significant impact on the proposal, but they may have to revisit the site plan design and the impervious surface calculations.

Mr. Munaretto stated that the current plan has multiple benefits including better ingress/egress, improved aesthetics, better site plan design, and ample parking for all parties.

Commissioner Semmelman stated that he is concerned about the potential for re-sale and the impact that this would have on the neighbors. He stated that the shared driveway seems too close to the rear of the proposed townhome garages. He stated that he likes the 'self-help' provisions suggested for the HOA Covenants.

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 6 of 10**

Commissioner Krummick asked what changed since the last time the petitioner was before the Plan Commission. Mr. Munaretto stated that the driveway location has changed and some landscaping has changed. He stated that by moving the driveway to the east it creates a bigger buffer between the subject site and the neighbors at 220 Florence Court.

Commissioner Krummick asked if a valuation is assigned to right-of-way property that is vacated. Mr. Pardys stated that the Village Board can determine what the market value is for property vacated. He stated that there have been instances in the past where no compensation was requested depending upon the circumstance.

Commissioner Krummick asked for clarification as to the petitioner's proposal to provide more vehicular space on the plan for the neighbors. Mr. Munaretto stated that the revised site plan allows for a parking area in front of the neighbor's garage.

Commissioner Krummick asked for clarification as to the location of the garbage area. Mr. Munaretto described the area along the western edge of the driveway and that it would be screened from the neighbors.

Commissioner Krummick asked for clarification as to the existing and proposed lot coverage. Mr. Munaretto stated that there will be an increase of approximately 2,000 square feet from the existing lot coverage today to the proposed plan, but will still be compliant with the Zoning Code's maximum permitted lot coverage. He stated that they will be required to store the additional storm water volume.

Commissioner Krummick stated that he lives on Stewart Avenue and that it is an interesting area. He stated that there are some great homeowners, but in some cases there horrible landlords. He state that he is concerned about the proposed HOA Board. He stated that he has seen boards enact a limit on rentals for certain developments in order to protect the property values. He stated that he is concerned that if the proposed townhomes become rentals how it may impact the neighbors to the west. He stated that he agrees that the Florence Court/Stewart Avenue needs to be re-developed and that the petitioner is almost there, but a better balance should be struck.

Commissioner Schultz asked the petitioner if they are accepting the Village Staff report recommendation with the proposed conditions for approval. Mr. Munaretto stated that they have obtained approval from Groot that they agree to pick up the garbage in the alley. He stated that they would prefer to not have the garbage picked up on Florence Court.

Commissioner Schultz asked Village Engineering Staff if they are comfortable with the plans thus far. Mr. Chung stated that they have not yet received the final storm water calculations yet. He stated that they will need to determine that the storm water release rates do not exceed current levels.

Commissioner Schultz asked what type of landscape screening would be installed along the western edge of the site. Mr. Munaretto stated that there is already a fence on the 220 Florence Court property long the property line separating the two properties. He stated that they are still

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 7 of 10**

developing their landscape plan and that it will be subject to Appearance Review Commission review and recommendation.

Commissioner Schultz asked if the headlights of the vehicles of the new occupants of the proposed townhomes will glare into the living room of 220 Florence Court. Mr. Munaretto stated that there should be ample screening to address that issue.

Commissioner Schultz asked where the Valdez family currently places garbage for pickup. Mr. Munaretto stated that they take the garbage out to the street curb.

Chairman Moore asked for clarification regarding the disposition of the land under the alley once it was vacated and what the options are. Mr. Smith stated that the prior plan reviewed by the Plan Commission showed the driveway widened and located along the western property line. He stated that prior to going to the Village Board, the applicant revised the plan so that the driveway was moved to the east away from the western property line.

Mr. Munaretto stated that the revision was done to improve on-site vehicular circulation.

Chairman Moore stated that he can understand why the Valdez's would want to be in control of their access to their property.

Mr. Pardys stated that if a perpetual easement was put in place then the Valdez's would have the right to enforce the provisions and 'self-help' remedies as earlier suggested.

Chairman Moore requested comments made by the Appearance Review Commission. Mr. Smith stated that the Appearance Review Commission meetings have not been concluded as of yet. He stated that Village Staff has requested that the applicant apply for the Appearance Review Commission as part of the Final Plat of Subdivision.

Chairman Moore asked for clarification as to how and where the storm water will be managed. Mr. Munaretto identified two locations on the Preliminary Plat of Resubdivision.

Mr. Chung stated that they are showing retention areas for 10 year rain fall event. He stated that the intent is to release storm water slowly into the storm sewer system. He stated that if a second 10 year rain event occurs shortly thereafter then the detention facility will hold and slow release that storm water as well.

Chairman Moore stated that the bike path to the north floods quite easily after a heavy rain.

Mr. Chung stated that the bike path at that location is under the jurisdiction of Lake County and IDOT. He stated that the Village does not have a storm sewer at that location.

Chairman Moore stated that this plan seems to put the storm water out into the street.

Mr. Chung stated that they will review the storm water management design and calculations, after the petitioner submits that information.

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 8 of 10**

Mr. Munaretto stated that part of the storm water management shows that there will be drainage between the two townhome buildings then it proceeds to the retention areas on-site before being released into the storm sewer system.

Chairman Moore asked the Civiltech Traffic Engineer Consultant Jim Woods if he is now satisfied with how the petitioner has addressed the parking and traffic movement issues. Mr. Jim Woods, Civiltech Engineering, stated he is for the most part satisfied with the revised plan. He stated that the petitioner has provided 12 parking spaces that will serve the townhomes. He stated that they have reviewed the updated Auto Turn exhibits which appear to have addressed the on-site vehicular movement conflicts. He stated that the only question he has remaining is whether or not the rear driveway that extends to the north on the neighboring property can accommodate a larger vehicle such as camper or not.

Mr. Munaretto stated that the back driveway is used for passenger vehicle parking.

Chairman Moore stated that the DRC Staff report current has listed six (6) conditions for approval with one more being offered tonight to be added which is that the HOA utilize a property management company.

Commissioner Semmelman stated that consideration should be given to removing condition number three relative to the curb side garbage pick-up.

Mr. Spoden stated that they may have to amend the agreement with Groot in order to access the private driveway for trash pickup.

Chairman Moore stated that even by removing Condition No. 3 the petitioner is still subject to the Municipal Code relative to the curb side trash pick-up until an amendment to the agreement with Groot is executed.

*In the matter of PC 16-06, Commissioner Oakley moved, seconded by Commissioner Semmelman, to recommend the Village Board of Trustees approve a Preliminary Plat of Resubdivision in order to resubdivide three (3) residential lots into two (2) residential lots for property located in an R-7, Single Family Attached Residential District, subject to Condition Nos. 1, 2, 4, 5, and 6 as outlined in the October 21, 2016 DRC Staff Report, and adding Condition No. 7 which shall be that the CC&R's for the subject property require the H.O.A. will at all times have a Property Management Company, as follows:*

- 1. That at the time that the Village Board adopt a resolution approving the Final Plat of Resubdivision, the Village Board adopt an ordinance vacating the public alley which retains easement rights for the owners of 220 Florence Court.*
- 2. That onsite parking is restricted from the western edge of the proposed driveway that runs in a north and south direction.*
- 3. That garbage pick-up be done in accordance to the Municipal Code Section 308.6. **This condition has been removed by the motion of the Plan Commission.***
- 4. Revise the shading / hatching used on the Preliminary Plat to clarify the limits of the ingress-egress easement, which shall extend to the proposed west property line (over a portion of the alley to be vacated).*

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 9 of 10**

5. *Address the Village's Traffic Consultant comments in the attached memo dated 8/4/2016 from Civiltech, Inc.*
6. *The ingress-egress easement shall include provisions specifying that vehicular access for the adjacent property is to be maintained at all times, including during any necessary maintenance activities.*
7. *The CC&R's for the subject property require the HOA will at all times have a Property Management Company.*

*Motion carried 5 - 2.*

*Ayes: Moore, Flores, Oakley, Schultz, Semmelman*  
*Nays: Cotey, Krummick*  
*Absent: None*

**PC 16-35 N3 Property Advisors, LLC, Applicant**  
**175 W. Peterson Road**

**Request is for a Special Use Permit for a Drive-In Establishment accessory to a restaurant in order to construct a Burger King restaurant with drive-thru for property in a C-3, General Commercial District.**

**PC 16-39 N3 Property Advisors, LLC, Applicant**  
**175 W. Peterson Road**

**Request is for a Site Plan Permit for a Drive-In Establishment accessory to a restaurant in order to construct a Burger King restaurant with drive-thru for property in a C-3, General Commercial District.**

*In the matters of PC 16-35 and PC 16-39, Commissioner Oakley moved, seconded by Commissioner Schultz, to continue these items to the November 28, 2016, Plan Commission meeting.*

*Motion carried 7 - 0.*

*Ayes: Moore, Cotey, Flores, Krummick, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: None*

**NEW BUSINESS:**

**PC 16-36 Heritage Church, Applicant**  
**850-860 Technology Way**

**Request is for a Special Use Permit for a Religious Organization in order to allow Heritage Church to occupy property located in an O-2, Office, Manufacturing and Distribution Park District.**

**Minutes of the October 24, 2016, Plan Commission Meeting**  
**Page 10 of 10**

Mr. David C. Smith, Senior Planner, introduced the proposed Special Use Permit for a Religious Organization. He stated that the petitioner, Heritage Church, is requesting a Special Use Permit for a Religious Organization in an O-2, Office, Manufacturing and Distribution Park District at 850-860 Technology Way. He stated that the subject site is in the Pine Meadow Corporate Center on Technology Way just north of the Innovation Park office campus.

Mr. David K. Smith, agent for the applicant, stated that they are proposing to build out approximately 10,000 square feet of existing tenant space in the subject office building. He stated that there is more than ample parking and that their activities will take place during non-business hours.

Commissioner Schultz asked for clarification of the church's capacity. Mr. David K. Smith stated that their seating will accommodate up to approximately 300 people.

Commissioner Schultz asked about any planned outdoor activities. Mr. Mark Larson, representative from Heritage Church, stated that any outdoor activities will not be on an on-going basis and will be social in nature.

Commissioner Cotey asked about the nature of the lease. Mr. David K. Smith stated that they will have a five (5) year lease with the option to renew it twice.

Chairman Moore asked the petitioner what he would like for the Plan Commission to do this evening. Mr. David K. Smith stated that he would like for the Plan Commission to make a positive recommendation to the Village Board of Trustees.

*In the matter of PC 16-36, Commissioner Schultz moved, seconded by Commissioner Flores, to recommend the Village Board of Trustees approve a Special Use Permit for a Religious Organization in order to allow Heritage Church to occupy property located in an O-2, Office, Manufacturing and Distribution Park District, in accordance with the plans submitted.*

*Motion carried 7 - 0.*

*Ayes: Moore, Cotey, Flores, Krummick, Oakley, Schultz, Semmelman*  
*Nays: None*  
*Absent: None*

**COMMUNICATIONS AND DISCUSSION:**

Mr. John Spoden, Director of Community Development, reported that the request by Marytown to expand the EMB Overlay District will be before the Village Board at their next meeting.

Commissioner Oakley moved, seconded by Commissioner Schultz, to adjourn the Plan Commission meeting.

Motion carried 7 - 0.

Meeting adjourned at 8:40 p.m.