

MINUTES OF THE PLAN COMMISSION
February 26, 2018

The regular meeting of the Plan Commission was called to order by Chairman Mark Moore at 7:26 p.m. at the Village Hall.

Members present: Chairman Mark Moore, Amy Flores, Matthew Krummick, Walter Oakley, Richard Pyter, Kurt Schultz, and Eric Steffe.

Members absent: None.

A quorum was established.

Village Staff present: John Spoden, Director of Community Development; David Smith, Senior Planner, and Jeff Cooper, Village Engineer.

Others present: James Woods, P.E., PTOE, Civiltech Engineering, Inc.

Commissioner Oakley moved, seconded by Commissioner Steffe, to approve the February 12, 2018, Plan Commission meeting minutes.

Motion carried 7 - 0.

OLD BUSINESS: None.

NEW BUSINESS:

PC 18-02 Paul Swanson, Applicant
213, 317, 403, and 417 S. Butterfield Road

Request is for a Final Plat of Subdivision in order to Subdivide 7.6 acres of land into 15 single family lots for property located in an R-5, Single Family Residential District.

Mr. David Smith, Senior Planner, stated that the petitioner was before the Plan Commission at their June 12, 2017 meeting requesting approval of a Preliminary Plat of Subdivision in order to subdivide 7.6 acres of land into 15 single family lots for property located in an R-5, Single Family Residential District at 213, 317, 403, and 417 S. Butterfield Road. Mr. Smith stated that the Plan Commission recommended approval to the Village Board of Trustees who then approved the Preliminary Plat of Subdivision with conditions at their August 8, 2017 meeting.

Mr. Smith stated that the petitioner is now requesting approval of the Final Plat of Subdivision in order to subdivide 7.6 acres of land into 15 single family lots for property located in an R-5, Single Family Residential District at 213, 317, 403, and 417 S. Butterfield Road.

Mr. Russ Whitaker, attorney representing the petitioner, stated that the project was before the Plan Commission in June of last year seeking approval for the Preliminary Plat of Subdivision

Minutes of the February 26, 2018, Plan Commission Meeting
Page 2 of 19

and preliminary approval for a variation for the length of the cul-de-sac. He stated that the Plan Commission did recommend approval to the Village Board for the Preliminary Plat of Subdivision. He stated that the Village Board then approved the Preliminary Plat of Subdivision. He stated that the petitioner is back before the Plan Commission seeking a recommendation for approval for the Final Plat of Subdivision. He stated that the proposed Final Plat is in substantial conformance with the Preliminary Plat of Subdivision. He stated that there is no change to the number of lots or their size, no change to the access to the site, and virtually no change from the Preliminary Plat of Subdivision. He stated that they are in the process of working through technical details. He stated that they had preliminary engineering plans reviewed at the Preliminary Plat of Subdivision approval process and now they have final engineering plans and final landscape plans.

Mr. Whitaker stated that the subject site consists of four different parcels located on Butterfield Road. He stated that the proposed Final Plat of Subdivision consist of 15 buildable single family residential lots that comply with the R-5 Single Family Residential District requirements. He stated that no zoning relief has been requested. He stated that there are two additional Outlots A and B to be maintained by the Home Owners Association.

Mr. Whitaker presented via Power Point the existing conditions of the subject site including the wetland and flood plain concerns and drainage areas associated with those areas. He stated that when referring to a flood plain in this case, it is Lake County regulated flood plain not federally regulated flood plain. He stated that because it is not federally regulated the property owners are not required to own flood insurance. He stated that there is approximately 11.13 acres encumbered by flood plain, a portion of which lies within the subject site. He stated that there is no modern storm water system in the existing conditions of the subject site. He stated that the Victory Drive subdivision was developed without a modern storm water management system.

Mr. Whitaker stated under the existing conditions storm water flows to the low spots on or near the subject site and currently there is no outlet or release for the storm water in the land's current condition today. He stated that the water either sits until it evaporates or is absorbed into the ground. He stated that those are the existing conditions that the developer is addressing with the proposed subdivision. He stated that they have gone from two tributary areas to three tributary areas. He stated that the proposed subdivision provides for three drainage area systems. He stated that they are creating a modern storm sewer system that will capture and channel storm water where it wasn't before in a manner consistent with the Lake County Watershed Development Ordinance.

Mr. Whitaker stated that there are two drainage areas that will require two parallel storm sewer systems. He stated that by raising the site they are eliminating the existing depressional area and shifting its location and increasing its storm water capacity. He stated that the relocated storm water depressional area will be planted with plant life that will help to accommodate the storm water. He stated that the new depressional storage area will replace the old depressional area with 120% of the capacity.

Mr. Whitaker stated that the part of the proposed storm sewer system will include a line running east and west along the south property line. He stated that that storm sewer will take the existing

Minutes of the February 26, 2018, Plan Commission Meeting
Page 3 of 19

runoff from the rear yards of the new homes and the rear yards of the existing residences along Victory Drive and take it underground in a northerly direction into the proposed east detention pond. He stated that this pond is dedicated to accommodate the needed depressional storage displaced from the mitigated wetland and existing depressional area.

Mr. Whitaker stated that everything will be graded in such a way so that it feeds into the proposed storm sewer system. He stated that both detention basins will be designed with restricted flows so that release into the public storm sewer system will be a controlled rate. He stated that the design is intended to be in compliance with Lake County regulations.

Mr. Whitaker stated by virtue of the necessary grading for the site it will be impossible to save all of the existing trees. He stated that there are some isolated areas where there will be some tree preservation. He stated that the primary mode of preservation will take place in Outlot A. He stated that the intent of Outlot A is to be a dedicated Open Space area for the benefit of the residents of the proposed subdivision. He stated that it is the intent to save all of the trees within Outlot A except where there may be some grading along the perimeter of Outlot A. He stated that there is a desire to activate the Outlot A area by allowing a small trail system through Outlot A and in addition there will be small playground area located to the northeast of Outlot A. He stated that the proposed trail that is currently being shown as part of their presentation is not intended to be the exact trail location but merely as an example representation of what they are offering to install.

Mr. Whitaker stated there will be additional storm sewer and drainage swale along the south property line. He stated that just north of the swale there will be a 10 foot wide swath of new landscaping planted very heavily. He stated that the proposed landscaping would not typically be required in the R-5 Single Family Residential District, but will match what would otherwise be required if this subject site were in commercial district. He stated that this will be a very significant landscape buffer at this location.

Mr. Whitaker stated that the storm water easement and the landscape easement along the southern property line will comprise twenty (20) feet in width. He stated that the Home Owner's Association will maintain the landscaping. He stated that for example there will be reserved fund to be utilized if a tree dies and needs replacement.

Mr. Whitaker stated that proposed plans comply with both the Village and Lake County regulations. He stated that they will look for a recommendation from the Plan Commission in order to move forward to the Village Board. He stated that it is their hope to start construction by late summer or early fall.

Ms. Lisa Roti, 1212 Victory Drive, stated that her property backs up to the subject site. She presented photos of the rear yards that back up to the subject site and how the heavy rain and the melting snow affects these properties, taken on February 20, 2018. She presented a photo of her back yard located at 1212 Victory Drive that showed no water. She stated that she believes that Mr. Swanson has the right to develop his property as he sees fit and within Code. She stated that she is asking that her property rights are accounted for.

Minutes of the February 26, 2018, Plan Commission Meeting
Page 4 of 19

Ms. Roti presented a photo of the house that is currently on the subject property. She stated that this house is currently at the same grade elevation as her house. She stated that she learned from a previous Village Board meeting that one cannot alter the grade of their property. She stated that with the Swanson development proposal the new homes will be built up which will alter the grades and that when the new homes are built up at a higher grade than her property, the water will eventually flow downhill. She stated that she is still concerned about the possibility of flooding onto her property even after the installation of a storm sewer on the subject site. She stated that she is afraid that her property will become a mini-detention pond.

Ms. Roti presented a photo of a new house construction along Rockland Road near Copeland area. She stated that she attended a Village Board meeting shortly after the July flooding and listened to the story as told by the homeowner who lives at the end of Wrightwood Terrace tell the Village Board that he bought this home without knowing that it was located in an overland flood route. She stated that this man's basement flooded during the July flooding. She stated that the house should have never been built there. She asked that the Plan Commission remember this case when they make their decision about Mr. Swanson's development proposal.

Ms. Roti stated that she wants the engineering to be designed for a 500 year flood event not just the 100 year flood event. She stated that the 100 year flood happens more frequently than it used to.

Mr. Todd White, 305 S. Butterfield Road, stated his home is the island surrounded by the proposed development. He stated that next to his home that property located at 213 S. Butterfield Road was torn down. He stated that the developer will bring the storm water into a detention pond next to his house. He asked what the laws are that pertained to changing a residentially zoned property into a storm drainage pond. He is concerned about the potential for mosquito and algae problems. He stated that he has lived in his home for 62 years and he has seen a lot of water along the back of the residents' homes that live along Victory Drive.

Mr. John Spoden, Director of Community Development, stated that the existing Code allows for a residential development to incorporate a storm water detention pond as part of the development within the residentially zoned property.

Ms. Barbara Wilcox, 1129 Pine Tree Lane, stated that she is concerned about accessing the proposed subdivision. She stated that there is a retaining wall along the South Butterfield Road median that blocks northbound vehicles from turning into the site. She stated that she would like for the proposed route to be explained.

Mr. Whitaker stated the issue was discussed previously when the Plan Commission was giving consideration to the Preliminary Plat of Subdivision. There was a Haeger Engineering study that had evaluated and addressed site access and traffic routing concerns previously. He stated that Civiltech Engineering has reviewed the Haeger Engineering study and had concluded that the access and the low number of vehicles that this development would produce could be accommodated by the plan. He stated eleven (11) cars in the morning peak travel time and fifteen (15) cars in the evening peak travel time was predicted. He stated that the condition that

Minutes of the February 26, 2018, Plan Commission Meeting
Page 5 of 19

this and all of the other subdivisions up and down South Butterfield Road will face will be the Butterfield Road traffic.

Ms. Wilcox stated that most of those subdivisions along Butterfield Road were developed in the 1950's and 1960's, and the barrier median in the center of Butterfield Road was constructed in the early 2000's. She stated that the other subdivisions have numerous other access points, with fewer cul-de-sacs. She stated that she is concerned about the level of safety due to the median barrier as people will try to U-Turn around the end of the barrier median in order to go the other direction along South Butterfield Road or to get into the subdivision.

Ms. Wilcox stated she is concerned about the water flow across the street to her street on Pine Tree Lane.

Mr. Whitaker stated there is existing Village infrastructure along Butterfield Road that currently accommodates the storm water in the area. He stated that the engineers have evaluated the existing storm water capacity in the infrastructure and it is their understanding that there should be enough capacity in the existing storm sewer system.

Ms. Wilcox stated they have lived in the Village for 30 years and they have concerns about the rapidly changing conditions. She stated that she has serious concerns about any changes on the subject site that has the wetland.

Ms. Wilcox stated that she has concerns about the Dairy Dream and its outdoor dining area and the collection of garbage. She stated that she is concerned that the new detention pond areas will accumulate garbage and attract geese. She stated that these ponds will require a lot of maintenance. She asked if there will be a fence around the pond to help keep the children out of the pond area.

Mr. Whitaker stated that the ponds will be dry bottom ponds. He stated that the water that will accumulate in the ponds will eventually dry out as they were designed to do so. He stated that the ponds will be owned by the Home Owner's Association and they will have a maintenance and management contract for those ponds.

Ms. Barbara Shafer, 315 Minear Drive, asked if there is a regulation that states an outlot cannot be created for the purpose of water retention. Mr. Spoden stated that generally the purpose of an outlot could be for stormwater detention or recreation for the subdivision.

Ms. Shafer asked if the detention pond is intended to serve multiple lots. Mr. Spoden stated that that it may serve multiple lots.

Ms. Shafer stated that there is a similar situation located at the east end of Ellis Avenue where she learned that a separately subdivided lot could not be used for storm water management to server multiple lots.

Mr. Spoden stated that the difference between the subdivision along East Ellis Avenue and proposal for North Pointe Estates is that East Ellis is an existing subdivision and North Pointe

Minutes of the February 26, 2018, Plan Commission Meeting
Page 6 of 19

Estates is a new subdivision. He stated that the detention pond for the new subdivision is to service the fifteen (15) new lots.

Ms. Shafer stated that the Village incorporated the new Watershed Development Ordinance in 2015. She stated that conditions were different at that time. She stated that if someone's house flooded then the developer would say that the Village approved it and the Village would say that the developer met all of the requirements and that they would sue the Village if they did not approve it. Ms. Shafer stated that the Watershed Development Ordinance states that there should be no adverse impact to neighboring homes. She stated that there have been Victory Drive residents who have been taking pictures of the existing conditions and thereby creating a baseline. She stated that this information should enable them to identify how conditions might get worse. She stated that they have been taking pictures and videos for three (3) years. She stated that a baseline has been created and if the conditions get worse they will look to see who should be responsible. She stated that if there is an adverse impact then the law should be on the side of those people who have been adversely impacted.

Ms. Roti asked who will own the storm sewers that will surround the property. Mr. Jeff Cooper, Village Engineer, stated that the majority of the storm sewers will be publicly owned and maintained.

Ms. Roti asked if the storm sewer behind 1212 Victory Drive will be public or private. Mr. Cooper stated that the main trunk line leading from the southern area of the parcel to the detention ponds will be publicly owned and the smaller branch storm sewer line behind 1212 Victory Drive will be privately owned.

Ms. Roti stated as she quoted from the Illinois Drainage Act that, "Land may be drained in the general course of the natural drainage by either open or covered drains. When such a drain is entirely upon the land of the owner constructing the drain he shall not be liable for damages thereof." Ms. Roti asked David Pardys, Village Attorney the meaning of the excerpt from the Illinois Drainage Act that she read out loud. Mr. David Pardys, Village Attorney, stated that he will need to review the statute read my Ms. Roti, but he believes that the owner should be responsible for the maintenance of the drainage infrastructure on his property.

Ms. Roti asked who she goes after when she starts to have flooding in her yard. She asked what recourse has she. She asked if the Village can own that portion of the proposed storm sewer line that is currently proposed as private. Mr. Cooper stated that the Village is asking that the HOA be responsible for the smaller segment of sewer line currently being discussed.

Ms. Roti asked which sewer lines would be owned by the Village and which ones would not be owned by the Village. Mr. Cooper stated that for those sewer lines that would be part of the road way drainage they would be owned by the Village because the road is a public road. He stated that they will also own the sewer lines that are mandatory to serve the flood plain area. He stated that the smaller branches of the storm sewer will be HOA owned and maintained.

Ms. Roti stated that the proposed new storm sewer system has been designed for the 100 year flood event. Mr. Cooper stated that is correct, the 100 year flood event.

Minutes of the February 26, 2018, Plan Commission Meeting
Page 7 of 19

Ms. Roti stated that Victory Drive was part of a storm sewer system study. She asked if the Village knows the existing sanitary sewers and storm sewers are connected correctly and that nothing is leaking at this time.

Mr. Cooper stated that the new developments storm and sanitary sewer system will have no impact upon Victory Drive's sewer system.

Ms. Roti stated that the new development's homes will be built up on higher elevation and that she is concerned that the natural drainage path or contour of the land will change.

Mr. Cooper stated that the elevations will change on the new development, but that the design of the development will not increase the storm water onto Ms. Roti's property.

Ms. Roti asked what recourse is available to her if her property is flooded because the storm water on the new development was not captured and channeled correctly or as intended. Mr. Whitaker stated that there are redundant storm water management systems in place. He stated that this project is designed with both a storm sewer system and a swale system. He stated that if there is a failure in the storm sewer system then there is still the swale system in place to manage the storm water. He stated that the plan is reducing the footprint of land that is tributary to the back yards of the Victory Drive residences. He stated that this plan is taking the number of cubic feet of water that currently is stored in those Victory Drive back yards plus another 120% and channeling it to another location. He stated that they are following all of the regulations. He stated that based upon his testimony that the Victory Drive residents should realize that there will be a tangible benefit to them. He stated that if there becomes a problem after the development is in, anyone could file a lawsuit. He stated that a lawsuit could be filed against a number of different parties depending upon the circumstance, including the civil engineer who designed the storm sewer system and stamped the civil engineering plans that said that they are in compliance with the regulatory authorities, or the lawsuit might be against the developer who constructed the project, or against the Home Owner's Association who owns components of the project, or it could be against other entities. He stated that these subject plans have several fail safes in place. He stated that the Village's engineers have also stated that there is a benefit to be gained by this proposal. He stated that the rule of law dictates that these plans are approved by the Village.

Ms. Roti asked for clarification as to how the storm water is channeled from one area to another area. Mr. Whitaker presented the engineering plans to Ms. Roti and explained the storm water flow patterns as channeled by the underground storm sewer system and the swale system.

Ms. Roti stated that she is concerned that one of the Engineering Staff review comments indicated that the swale is very flat and that run-off is required to travel a substantial distance.

Mr. Whitaker stated that he is involved with other residential developments and what is presented here in Libertyville is no different than what they do in Naperville, Waukegan, or elsewhere. He stated that this proposal incorporates accepted standards in the community adopted by Lake County in order to manage the storm water flow. He stated that there are still a sub-set of review comments that they are working through with Village Staff. He stated that they are ready to revise their plans with the feedback of the Plan Commission. He stated that he

Minutes of the February 26, 2018, Plan Commission Meeting
Page 8 of 19

has not heard anything tonight that would require them to alter the plans. He stated that they intend to submit revised plans next week. He stated that they will not get to the Village Board until every Staff comment is addressed in detail in the plans and they are committed to doing that. He stated that there weren't any substantive review comments that couldn't be addressed.

Ms. Mara Slessers, 1320 Victory Drive, asked where tree tagged as number 18 is located on the property. Mr. Whitaker pointed on the exhibit the location of tree tagged number 18.

Ms. Slessers asked if a visual exhibit could be provided that would illustrate which trees on the subject property will be saved. Mr. Whitaker stated that the plans that addressed the trees have been submitted to the Village. He presented that tree plan and stated that the tree symbols on the plan colored green are intended to be saved and the remaining tree symbols colored black are intended to be removed.

Ms. Slessers stated that her property is behind the proposed Lot 8 of the subject property. She asked what will be installed along the rear of Lot 8 and what natural vegetation will remain. Mr. Whitaker stated that a landscape buffer is proposed in the rear area of Lot 8.

Ms. Slessers asked what the estimated amount of time that it takes for the storm water to travel and reach the detention pond. Mr. Angelo Zografos, Pearson, Brown and Associates, engineering firm representing the applicant, stated that the timing will vary depending upon the location of the starting point of the storm water flow. He stated that calculations have been computed and incorporated into the storm water management report.

Chairman Moore stated that the applicant can check with Staff after the meeting to see specifically what the calculations are as they pertain to the location and distance of the storm water flow.

Ms. Ariel Landvick, 1306 Victory Drive, asked for clarification as to which trees are recommended for removal and preservation. Mr. Whitaker presented the tree plan and explained which trees are to be preserved and removed. He stated that the tree plan included trees that are located on shared property and those trees that are off site but in close proximity to the southern property line of the subject development site. He stated that the subject exhibit has not been reviewed by Village Staff as of yet but is intended for discussion purposes for the Plan Commission meeting. He stated that a certain number of trees along the southern property line may be a hardier species due to the wet conditions that often presents itself. He stated that the developer can either modify the proposed storm sewer infrastructure along the southern property line or do the necessary amount of root pruning, or a combination of both, in an effort to preserve those trees along or near the southern property line.

Ms. Landvick stated there are a number of trees with a various number of colored ribbons tied to them.

Mr. Whitaker stated that the ribbons signify that those are trees that were picked up in the tree survey.

Minutes of the February 26, 2018, Plan Commission Meeting
Page 9 of 19

Mr. Craig Hammett, 1220 Victory Drive, asked if the proposed development can tie into the existing storm water main that already exists along Butterfield Road without the proposed storm water detention basin. Mr. Cooper stated that the developer has several storm water volume requirements that they must achieve including the existing flood plain on the property that will be filled, they have to account for all of the proposed impervious area for the new homes, and the water must be maintained on the site. He stated that the storm water must be held on site and slowly released. He stated that he proposed system will be connected to the storm sewer system along Butterfield Road.

Mr. Whitaker stated that generally speaking flooding is caused by immediate inundation. He stated that modern storm water management is designed to prohibit the inundation. He stated that storm water is held in the pond and released slowly in order to not inundate the storm sewer system. He stated that this is how storm water is managed throughout Illinois.

Mr. Hammett stated that he is concerned about the noise pollution.

Mr. Whitaker stated that landscape buffers don't generally buffer sound. He stated that sound will travel through trees. He stated that the 15 new houses planned for the subdivision are solid structures and will do much more in terms of mitigating sound than the landscaping will.

Mr. Hammett asked how many decibels will be reduced due to the houses. Mr. Whitaker stated that he does not know how much the sound will be reduced by the houses. He stated that this development will not create a new sound generation issue.

Mr. Hammett stated that he read a report from the E.P.A. which indicated that trees mitigate sound better than single family houses. He stated that the traffic consultant that they hired stated that this development will generate ten (10) car trips per household per day which could be up to 130 trips per day for the entire development.

Mr. Whitaker stated that he was referencing a.m. and p.m. peak travel hours when quoting the 10 trips generate from the traffic impact study. He stated that the study indicated 11 trips in the a.m. peak time and up to 15 in the p.m. peak travel time.

Ms. Roti asked how the Village can proceed without the neighbors approval for the removal of the trees. Mr. Whitaker stated that there will not be any tree removal on the adjacent property.

Ms. Roti asked what will happen if any of the trees on her property die as a result of the proposed development. Mr. Whitaker stated that they will work with the Village's arborist to establish a tree preservation plan.

Ms. Roti stated that it should be the developer's statutory obligation to not create an adverse impact on the neighboring property and they should be reminded that extending the time of standing water along the southern property line is an adverse impact and is unacceptable. She stated that the Village should get documentary evidence that this will not happen from any storm event. She stated the documentary evidence will help make the Victory Drive residents feel better.

Minutes of the February 26, 2018, Plan Commission Meeting
Page 10 of 19

Mr. Whitaker stated they will respond to the Village Staff comments that have requested the engineer for the developer to provide additional plan sheets at a larger scale to depict the proposed grading along the southern property line and to include spot elevations that extend into the properties south of the subject property. He stated that they are willing to do that.

Ms. Roti stated that she would like for the Plan Commission to continue the petitioner's request to the Village Staff recommended April 9, 2018 Plan Commission meeting date.

Mr. John Linden, 1406 Victory Drive, stated that he lives directly behind Outlot A. He stated that most of his other neighbors that back up to the proposed development will be directly behind the proposed storm water swale and storm drains. He stated that Outlot A will not have such storm water management infrastructure. He stated that his concern is regarding the proposed swale along the rear of the proposed lots will not be deep enough. He stated that consideration should be given to constructing a canal so that Outlot A does not become a swamp. He stated that he does not want to see any additional water onto Outlot A that currently exists and does not want to see additional water flow onto his property.

Mr. Whitaker stated that they are not proposing to change the grading of Outlot A. He stated that the Outlot A area has a higher elevation so it is not part of the flood plain. He stated that they will be prepared to address the Village Staff comment regarding the depth of the proposed storm water swale.

Ms. Debbie Wilson, 1312 Victory Drive, stated that she would like to have a clause drafted that Mr. Swanson will sign that would make him responsible for any water that the Victory Drive residents might get for a certain amount of time after he constructs the drainage system. She stated that the Village Attorney indicated that this might be possible. She asked about the timing as to when such a document could be drafted and signed. Mr. David Pardys, Village Attorney, stated that the petitioner is looking for approval for the plat and plans and is conveying that these documents will be compliant with Code. He stated that they are currently working on a Development Agreement and the Village can have the discussion with the developer regarding some level of guarantee to be tied to some level of time. He stated that the developer has not indicated that he would be in agreement to such a condition. He stated that the drainage code provides rules relative to whether or not they can increase the rate or change direction of storm water flow. He stated that under the law they cannot increase the rate or change the direction if it were to create an adverse impact on the adjacent properties. He stated that Staff is reviewing the petition to make sure that the developer is in compliance with the drainage codes.

Mr. Pardys stated that it may be problematic to require the developer to sign onto such a condition given the fact that they are required to comply with the existing drainage code anyway and it could bring into question as to whether the Village could deny the petitioner the right to develop the land. He stated that the Village could ask the developer to sign such a condition but the Village would be hard pressed to require such a commitment.

Ms. Wilson stated that if asked, most developers would probably say no. She stated that she is concerned that mistakes could be made from the development and then the Victory Drive residents could be adversely impacted by storm water run-off. She stated that she would like to

Minutes of the February 26, 2018, Plan Commission Meeting
Page 11 of 19

have a clause that protects the Victory Drive residents. She stated that she is looking for the developer to be required to sign such a clause and not given a choice. She is concerned about the water problems that they have had in the past and she does not want this development to exasperate the problem.

Mr. Pardys stated that before this project goes to the Village Board for final approval there will be a Development Agreement in place. He stated that the kind of developer obligation that Ms. Wilson is asking for can only be agreed to by the petitioner not required of the developer. He stated that the Village Board could impose it but because the petitioner is required to comply with the Storm Water Management Regulations it would be difficult to impose the additional requirement as requested by Ms. Wilson.

Ms. Wilson stated that she is worried that even if the development was constructed in accordance with drainage codes but still doesn't work. She stated that she still wants the developer to be responsible.

Mr. Pardys stated that there will be certain liabilities and certain kinds of lawsuits can be brought about if certain aspects of the project are not constructed appropriately. He stated that typically these types of situations will be between the adjoining property owners and the developer or possibly between the developer and the engineer. He stated that he can talk to the petitioner's attorney about drafting some type of clause.

Ms. Wilson stated that she would like to know what the clause will be before it is approved by the Village.

Mr. Pardys stated that they can take the Ms. Wilson's input on the language. He stated that the residents should remember that the developer has certain rights to ask for a development that meets code and there is a limit as to what the Village can impose upon the developer. He stated that if such a clause were to be approved it would be incorporated into the Development Agreement.

Ms. Wilson stated that she understands that if the development is constructed in accordance with the regulations that it should be done correctly but she stated that she is concerned about the scenario in which something goes wrong and she does not want the impact of something going wrong on her property or her neighbor's property. She asked Mr. Pardys to inform her as to when he speaks to the developer's lawyer and what the clause will say.

Mr. Pardys stated that prior to the Village Board meeting on this project there will be a draft Development Agreement circulated and made available.

Ms. Wilson asked if the Development Agreement can be mailed to her. Mr. Spoden stated that he would request that one copy of the draft Development Agreement go to one representative of the neighbors.

Minutes of the February 26, 2018, Plan Commission Meeting
Page 12 of 19

Ms. Wilson stated that this issue is very important because their properties have flooded for years. She stated that she is concerned that many of the trees will be taken away, the grade will change and a lot of hard scape will be constructed on this site.

Ms. Wilson stated that Mr. Swanson promised to give \$10,000 worth of landscaping. She stated that the proposed landscape buffer will include trees that are three (3") inches in circumference which is miniscule and is concerned about the lack of landscaping.

Ms. Wilson asked about who maintains the drainage along the bike path. Mr. Zografos stated that the right of way where the bike path is located is owned by I.D.O.T. and the bike path itself is owned by the Lake County Division of Transportation and maintained by Lake County. He stated that that the sewer line is also maintained by Lake County.

Ms. Wilson stated that she is concerned that the storm sewer along the bike path is very old and that if something goes wrong with it then the new homes will be impacted as well as the Victory Drive residents will be impacted as well. She asked if the condition of the storm sewer along the bike path can be inspected.

Mr. Zografos stated that the North Pointe Estates development will connect to the storm sewer located along Butterfield Road which is a Village of Libertyville system. He stated that the storm sewer along the IDOT and Lake County bike path is a separate system.

Chairman Moore stated that the current question at hand may be referring to the proposed drainage system at the north end of the subject site.

Mr. Zografos referenced the engineering plan. He stated that all the systems eventually carry the storm water in the same direction. He stated that he is not certain how old the Lake County storm sewer system is. He stated that it is his understanding that Lake County modified the storm sewer system when they installed the bike path. He stated that the Lake County system was constructed with PVC pipe material.

Ms. Wilson stated that she is concerned about the bike path area because it has flooded in the past, including the Dairy Dream property. She asked if IDOT is responsible for taking that flood water away. She stated that if the Dairy Dream property and the bike path property continue to flood then the flooding will reach the new development and eventually the back yards of the Victory Drive residences.

Chairman Moore stated that there is a storm sewer system along the bike path.

Ms. Wilson stated that she is concerned about the additional traffic that will cut through on Victory Drive. She stated that she does not want North Pointe Estates residents driving through Victory Drive and asked if they can be ticketed if they do.

Mr. Spoden stated that one of the Staff recommended conditions for approval is that there should be no construction traffic permitted to access Victory Drive. He stated that they would rely on the Village's Police Department for enforcement.

Minutes of the February 26, 2018, Plan Commission Meeting
Page 13 of 19

Mr. Whitaker stated that the petitioner will agree that there will be no construction traffic on Victory Drive.

Ms. Barbara Wilcox asked how she can review the safety and traffic studies. Chairman Moore stated that Ms. Wilcox can check with Village Staff on how to gain access to the studies.

Chairman Moore stated that the public comment portion of the meeting is now closed. He stated that the petitioner has already committed to not removing any of the trees that straddle the south property line or are on the neighboring properties to the south. He stated that the petitioner has presented a new exhibit tonight that identified trees to be protected along the south property line but this exhibit has not yet been reviewed by Staff.

Mr. Whitaker stated that this particular tree protection exhibit has not been submitted yet. He stated that they have met with Staff previously to discuss how to address the trees along the southern property line and the storm sewer line to be installed in an adjacent position. He stated that there isn't a simple one answer for all the tree locations and their juxtaposition to the storm sewer but rather the approach should be working with the Village Arborist and addressing each tree individually. He stated that this is not a substantive issue because it is an issue that can be easily addressed.

Chairman Moore stated that Staff has not had the opportunity to review this exhibit and the Plan Commission will not have had an opportunity to have input on.

Mr. Whitaker stated that they do not anticipate a need to negotiate with Staff regarding their review comments and will be able to solve the issues. He stated that they will either prune the roots and the canopy of the trees located along the southern property line or move the storm sewer line as needed to protect the trees.

Chairman Moore stated that the Plan Commission typically will see how the issues are addressed in the plans.

Chairman Moore stated that the tree issue should have been known about for quite some time.

Mr. Whitaker stated that this is part of the final process. He stated that they wouldn't typically survey trees on adjacent properties. He stated that this issue would not have been picked up without making field visits. He stated that they would not have been able to make a final determination until they have reached the final engineering stage of the process because the grades will determine what trees can and cannot be saved.

Chairman Moore stated that Staff is recommending that the Plan Commission review this issue before a recommendation to the Village Board is made.

Mr. Whitaker asked Village Staff if given that what is remaining are technical issues do they have an ongoing concern about the first Planning Division review comment found in the DRC Staff report. Mr. Spoden stated that it is not an ongoing concern but instead it is Staff's attempt to get to the next level by making sure that it is not still a question when it moves on from the

Minutes of the February 26, 2018, Plan Commission Meeting
Page 14 of 19

Plan Commission to the Village Board. He stated that they would like to have that tree and sewer line placement study in hand to review as the petitioner works with the Village Arborist on the disposition of those trees along the rear property line lot by lot so that both Staff and the Plan Commission will know what is happening. He stated that if the storm sewer line is moved it could change the dimensions of the easement.

Mr. Whitaker stated that he is confident that these issues can be addressed before this item appears before the Village Board. He stated that the plans are in substantial conformance with the preliminary approved plat and plans. He stated that they will not kill the trees along the southern property line. He stated that the Village's arborist has made recommendations as to how to address those particular trees and they are in agreement with that. He stated that he does not understand why the Plan Commission would need to see the plans to the level of detail that the Staff is requesting.

Mr. Spoden stated that the reason for this discussion and this Staff recommendation is relative to the neighboring property to the south. He stated that it is Staff's intent that the Village is looking out for the neighbors' property. He stated that they would like the opportunity to review the tree exhibit before the Plan Commission renders its recommendation to the Village Board. He stated that Staff wishes to convey its gratitude for staking the lots and allowing site visits.

Mr. Whitaker stated that they have shown good faith by addressing all of the concerns that the residents have raised. He stated that the next public meeting should be held at the Village Board where they can also take action on the Development Agreement. He stated that they are in a position that they could lose at least 45 days of the development season. He stated that their desire is to be done with the Village Board process in April so that they can break ground in May. He stated that they are attempting to target the sale season.

Chairman Moore asked the petitioner if they will be through two more rounds of Engineering Plan reviews within 60 days. Mr. Whitaker stated that they would have the Engineering Plans complete by then.

Chairman Moore asked the petitioner to address the Staff review comment regarding the path to Outlot A, and the outlot itself and the walking path inside of the outlot. He stated that this still seems conceptual. Mr. Whitaker stated that the walking path will not be finalized on the plan because it is going to take going to the site and walking through it to determine how and where it will be laid. He stated that their proposal is to get the final plans approved, and there will be a Development Agreement that says that the developer will create a walking path and the developer will go out with the arborists with stakes to identify the best location for the walking path. He stated that he does not envision that the path will need to be surveyed with multiple iterations until complete. He stated that it can be done in a logical and simplistic fashion. He stated that it is intended to be a rudimentary path that will be used to activate the area. He stated that they agree with the spirit and intent of the Staff comment and it will be satisfied.

Mr. Whitaker stated that he agrees with Planning Division comment number four (4).

Mr. Zografos stated that they agree with Planning Division comment number five (5).

Minutes of the February 26, 2018, Plan Commission Meeting
Page 15 of 19

Mr. Pardys stated that he is working on the draft of the Development Agreement and will have it ready to share with the petitioner's attorney within the next week.

Mr. Whitaker stated that they will have a draft of the Home Owner's Association covenants with the next week.

Mr. Cooper stated that they can work through the remaining Engineering Division comments with the petitioner.

Mr. Spoden stated that the Engineering Division comments would need to be addressed prior to the adoption of the Resolution approving the Final Plat of Subdivision.

Commissioner Oakley asked what a four (4") rainfall would be considered. Mr. Zografos stated that a 100 year event is generally considered to be a seven (7") inch rain fall.

Commissioner Oakley asked if Outlot A will be impacted by storm water if the rest of the development grade will be raised. Mr. Zografos stated that they are creating a drainage swale along the rear portion of the property. He stated that the front half of the property will drain towards the front and north directly into the planned detention basin. Outlot A is a little higher and it too will drain into the proposed swale.

Commissioner Steffe stated that there are still a substantial number of Staff comments that have not been publicly addressed.

Chairman Moore stated that the petitioner is asking for the opportunity to address the Staff comments before it reaches the Village Board.

Commissioner Krummick asked to confirm that restrictive flow out of the proposed detention basins can be handled downstream in the storm sewers. Mr. Zografos stated that Chairman Krummick is correct.

Commissioner Krummick asked what kind of downstream storm sewer capacity analysis was done. Mr. Zografos stated that they have done an analysis showing what is entering into the downstream flow from the property currently as well as all tributary storm water flows.

Commissioner Krummick asked what the response should be if the future homeowners along the south side of the proposed cul-de-sac manipulate or change anything in the drainage swale easement. He asked what recourse the residents of Victory Drive have if the swale becomes encumbered with fences or berms. Mr. Whitaker stated that there will be a storm water management easement in the rear ten (10) feet of the property. He stated that the Village will be able to prosecute any violation of the storm water management easement. He stated that these violations would include changing the grade of the property or changing the plants that are within that area. He stated that there will be a restriction on fences along that area or the property as well. He stated that the Home Owner Association will be responsible for the maintenance in the area. He stated that the HOA would have the ability to penalize the

Minutes of the February 26, 2018, Plan Commission Meeting
Page 16 of 19

homeowner for certain violations as well. He stated that there is a kind of dual system of monitoring the storm water management easement area.

Commissioner Krummick asked how the homeowner will know about these storm water management rules. Mr. Whitaker stated that the rules will be in multiple places such as the Plat of Subdivision, they will show up on a title policy, and provisions will also be contained in the covenants. He stated that they may also incorporate a disclosure in a purchase and sales agreement that makes note of the restrictions within the storm water management easement.

Commissioner Krummick stated that the residents living on Victory Drive can also contact the Village if they notice something out of order in the new development as well. Mr. Spoden stated that Commissioner Krummick is correct.

Commissioner Krummick asked how the developer is managing the storm water flow around Mr. White's house. Mr. Zografos stated that Mr. White's house happens to be at a much higher elevation than the proposed development. He stated that the overland flow will sheet straight down into their proposed detention.

Commissioner Pyter asked for clarification regarding the proposed carriage walk. Mr. Whitaker stated that the carriage walk is located right next to the right of way abutting the curb of the street.

Mr. Zografos stated that they are dedicating an additional 20 feet to the Butterfield Road right of way. He stated that where they are able they are proposing a public sidewalk set back off of the curb of the road and in other locations it will be a carriage walk.

Mr. Whitaker stated that they voluntarily proposed to connect the public walk to the north and to the south to make it a contiguous connection to existing sidewalks.

Commissioner Pyter asked to confirm if the dead and invasive species trees would be removed from Outlot A for the sake of the neighbors. Mr. Whitaker stated that if all of the invasive trees were removed then the wooded lot would be lost.

Commissioner Pyter requested clarification regarding access to Outlot A and asked if there is a proposed swale that would inhibit access to Outlot A. Mr. Zografos stated that there is an overland flow path at the location of the access into Outlot A but it is designed for minor drainage and is not a typical flood route and is not a concern.

Commissioner Pyter asked what materials will be used to construct the pedestrian path leading to Outlot A. Mr. Zografos stated that the path material for the proposed path leading up to Outlot A is still an issue to be discussed with Village Staff. He stated that the walking path inside of Outlot A is assumed to be a woodchip material path.

Commissioner Pyter asked about getting in and out of the subdivision. He asked if vehicles will choose to drive into Pine Tree Lane to turn around in order to access the subdivision which will have right-in, right-out restrictions at Butterfield Road and the subdivision entrance. Mr. Whitaker stated that the Traffic Study acknowledge that there can only be a right in and right out

Minutes of the February 26, 2018, Plan Commission Meeting
Page 17 of 19

at the subdivision entrance. He stated that there are opportunities to change directions along Butterfield Road. He stated that U-Turns are permitted along Butterfield Road in that area. He stated that there are various collector roads up and down Butterfield Road that can assist travelers when they choose their routes for their destinations. He stated that others may choose to turn onto Crane Boulevard in their attempt to re-route. He stated that the current situation was created by the Lake County Department of Transportation when they installed the barrier structure within the median of Butterfield Road.

Commissioner Pyter asked for clarification regarding a cross walk that was previously mentioned. Mr. Zografos stated that there will be a cross walk running north and south at the entrance of the subdivision to enable a connection to the bike path located further north.

Commissioner Schultz stated that he recognizes that the petitioner has reduced the number of units from 19 to 15. He stated that he trusts the storm water management system. He stated that in these situations in other developments they often improve the conditions for the neighboring properties. He stated that he recognizes that the developer has gone above and beyond the regulations with their proposed storm water management plan.

Commissioner Schultz stated that his concern is the lack of screening proposed along the northern property line along the bike path. He stated that the development will be in plain view from Rt. 176 and from the bike path. He stated that he would like to see the same landscape screening along the north as is proposed along the south property line.

Mr. Zografos stated that there is a strip of land along the northern property line that is owned by the Illinois Department of Transportation which encompasses a substantial amount of landscaping which is adjacent to the Lake County bike path.

Commissioner Schultz stated that he acknowledges there is some vegetative undergrowth within the IDOT right of way but it does not seem it will be enough.

Mr. Zografos stated that there is an overland storm water flow route that can't be blocked with additional landscaping along the northern property line. He stated that there is the proposed detention basin berm that needs to remain unencumbered by additional landscaping as the tree roots could jeopardize the structural integrity of the detention basin embankments.

Commissioner Schultz stated that he would still like to see some additional landscaping along the northern property line.

Mr. Whitaker stated that they have proposed some additional off-site improvements in addition to the landscaping along the southern property line. He stated that it might be possible to add a couple of trees near the north property line but they cannot do the same amount of landscaping along the north as they are showing along the south.

Commissioner Schultz stated that the plans show the wrong property line was landscaped buffered.

Minutes of the February 26, 2018, Plan Commission Meeting
Page 18 of 19

Mr. Whitaker stated that the homeowners will have the ability to landscape their properties as well.

Commissioner Flores asked if the homeowners for Lots 9, 10, 11, 12, 13 and 14 be allowed to install fences. Mr. Whitaker stated fences are allowed but there will be regulations to control the fence type.

Chairman Moore stated that there are now two options to consider regarding how to proceed at this point. He stated that Village Staff is recommend to continue this matter to the April 9, 2018 Plan Commission meeting. He stated that the other option would be to vote with conditions based upon the Development Review Committee report. He stated that the petitioner should review the Staff proposed conditions to be tied to the Plan Commission motion on the request. He stated that if the petitioner would agree with the conditions then the Plan Commission may vote on the request. He stated if the petitioner was not in agreement with all of the recommended conditions then the Plan Commission has the option to continue the matter to April 9, 2018.

(Plan Commission meeting took a five minute recess to provide the applicant the opportunity to review the Staff proposed conditions.)

Mr. Whitaker stated that they agree to the continuance to April 9, 2018. He stated that he is concerned that the April 9th will revisit all the issues already discussed such as storm water management, trees and landscaping or will the meeting be limited only to the outstanding issues that are not yet resolved. He stated that this is not a public hearing which has a different set of rules and there are only a very limited number of items not fully resolved. He stated that he is asking that the discussion be limited to the scope of the outstanding issues which appear to be items number 1, 2 and 3 under the Planning Division comments in the Development Review Committee report.

Chairman Moore stated that he would like to be able to limit the scope of the discussion to the open items.

Mr. Spoden stated that he concurs.

Mr. Pardys stated it would be appropriate to have some limitation on the scope of the discussion.

In the matter of PC 18-02, Commissioner Schultz moved, seconded by Commissioner Flores, to continue this item to the April 9, 2018, Plan Commission meeting.

Motion carried 7 - 0.

Ayes: Moore, Flores, Krummick, Oakley, Pyter, Schultz, Steffe

Nays: None

Absent: None

Minutes of the February 26, 2018, Plan Commission Meeting
Page 19 of 19

STAFF COMMUNICATIONS AND DISCUSSION: None.

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

Motion carried 7 - 0.

Meeting adjourned at 9:55 p.m.