



VILLAGE OF NORTH AURORA
KANE COUNTY, ILLINOIS

ORDINANCE NO. 13-01-07-03

AN ORDINANCE ZONING AND GRANTING A SPECIAL USE AS PLANNED UNIT
DEVELOPMENT FOR COMMERCIAL AND MULTI-FAMILY USE
FOR THE PROPERTY LOCATED WEST OF ORCHARD ROAD,
NORTH OF TANNER ROAD AND EAST OF DEERPATH ROAD
IN THE VILLAGE OF NORTH AURORA

Adopted by the Board of Trustees
And Village President
of the Village of North Aurora
this 7th day of January, 2013

Published in Pamphlet Form
By Authority of the Board of Trustees
of the Village of North Aurora
Kane County, Illinois
this 17th day of January, 2013

Lori J. Murray by: Cynthia Toriaco
Lori Murray, Village Clerk DEPUTY CLERK

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

ORDINANCE NO. 13-01-07-03

AN ORDINANCE ZONING AND GRANTING A SPECIAL USE AS PLANNED UNIT
DEVELOPMENT FOR COMMERCIAL AND MULTI-FAMILY USE
FOR THE PROPERTY LOCATED
WEST OF ORCHARD ROAD, NORTH OF TANNER ROAD AND
EAST OF DEERPATH ROAD IN THE VILLAGE OF NORTH AURORA

WHEREAS, the Trustee of the Stanley L. Zepelak Trust under a certain agreement dated April 26, 1989, hereinafter called "Owners" and/or "Petitioners" has entered into an Annexation Agreement (hereinafter the "Annexation Agreement") with the Village of North Aurora, hereinafter sometimes referred to as the "Village" for certain property legally described in Exhibit "A" attached to the Annexation Agreement, hereinafter referred to as the "Property"

WHEREAS, a petition requesting B-2 General Commercial, R-4 General Residential District and Mixed Use PUD Development the Property, has been filed with the Village, by the Owners; and

WHEREAS, the Petitioners desire to develop the Property as a mixed use planned unit development with an underlying zoning classification of B-2 General Commercial District for the area south of the access road to be provided onto Orchard Road and with an underlying zoning classification of R-4 General Residential District for the area north of the access road to be provided onto Orchard Road; and

WHEREAS, a public hearing was held on the application before the Plan Commission of the Village of North Aurora (hereinafter referred to as the "Plan Commission"), on August 7, 2012, and before the North Aurora Village Board on August 27, 2012, pursuant to the requirements of the North Aurora Municipal Code and the Illinois Municipal Code; and

WHEREAS, the Plan Commission has recommended approval of the application with certain flexibility and subject to certain limitations, as indicated in the Plan Commission Minutes attached hereto and made a part hereof as Exhibit "1" (hereinafter referred to as the "Plan Commission Minutes"); and

WHEREAS, the President and Board of Trustees of the Village have concluded that the reasons set forth in the Plan Commission Report for the recommendation of approval are well founded and are consistent with the Zoning Ordinance and other Ordinances of the Village; and

WHEREAS, the Petitioners have submitted all documentation required by the Village for its review of the proposed development; and

WHEREAS, the Annexation Agreement sets forth an orderly process for the Village's administration of the development of the Property pursuant to the Development Plans; and

1
2 **WHEREAS**, the President and the Board of Trustees of the Village of North Aurora have
3 determined that the best interests of the Village will be attained by granting to the Property the
4 special use for a planned development pursuant to the Development Plans.
5

6
7 **NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE**
8 **VILLAGE OF NORTH AURORA, KANE COUNTY, ILLINOIS, as follows:**
9

10 1. **APPROVAL AND MAP AMENDMENT.**
11

12 That the North Aurora Zoning Ordinance, as amended from time to time, and as set forth
13 in the Zoning District Map as described therein and on file in the office of the Village Clerk, is
14 hereby amended by classifying the Property as B-2 General Commercial District for the area
15 south of the access road to be provided onto Orchard Road and with an underlying zoning
16 classification of R-4 General Residential District for the area north of the access road to be
17 provided onto Orchard Road as a General Mixed Planned Unit Development, subject to the
18 flexibility and limitations identified below. Development shall be in substantial compliance with
19 the Annexation Agreement, the North Aurora Code and the Development Plans to be approved
20 according to the terms of this PUD Ordinance. Before a construction permit shall be granted for
21 improvements on the Property, a Final Plan shall be presented for approval to the Village Plan
22 Commission in conformance with Village ordinances, the Annexation Agreement entered into by
23 and between the parties, and this PUD Ordinance. The Plan and related Plan drawings, as finally
24 approved by the Village, shall be initialed by Owner and Village and placed on file in the Village
25 records at the time they are presented and approved. Development of the Property shall also be
26 subject to the additional requirements, provisions and restrictions provided in this Ordinance.
27

28 2. **LAND USE REQUIREMENT.**
29

30 The Property shall be developed subject to the following deviations from the North
31 Aurora Municipal Code and operated in compliance with this Ordinance and all applicable
32 ordinances of the Village that are not in conflict with this Ordinance, except as provided for in
33 the Annexation Agreement:
34

- 35 2.1 It is understood between the parties the office uses are generally permitted within
36 the B-2 classification.
37
38 2.2 All of the uses that are listed and only those uses that are listed as permitted and
39 special uses in the Zoning Ordinance, as amended from time to time, shall apply
40 in the B-2 General Commercial District and the R-4 General Residential District
41 portions of the Property, respectively, except as specifically stated in Exhibit B to
42 the Annexation Agreement and Exhibit C to the Annexation Agreement.
43

- 1 2.3 Those permitted and special uses set out in Exhibit B to the Annexation
2 Agreement shall be considered additional permitted and special uses for the
3 property, and those permitted, and special uses set out in Exhibit C to the
4 Annexation Agreement shall not be allowed as permitted and special uses within
5 respective districts in the PUD.
6
- 7 2.4 Any uses not specifically addressed in Exhibits B and B to the Annexation
8 Agreement shall be addressed according to the North Aurora Zoning Code for the
9 portions of the Property that are included in the B-2 and R-4 zoning districts
10 respectively.
11
- 12 2.5 Flexibility shall be allowed in the zoning for the area north of the access road to
13 be provided onto Orchard Road such that the exact number of acres devoted to B-
14 2 uses and/or R-4 residential uses may be determined at the time that a
15 preliminary plan and plat for the development of the northern portion of the
16 Property is submitted. As long as adequate buffers are maintained to the
17 residential properties to the east, west and north of the Property, the Property may
18 be developed solely for commercial purposes or a combination of commercial and
19 residential uses.
20
- 21 2.6 The Property shall be processed as a Planned Unit Development according to the
22 preliminary and final plan review process, without the need to amend this
23 Ordinance or for further public hearing, and subject only to the notice required in
24 Section 4.1 below, pursuant to the provisions and requirements of the Zoning
25 Ordinance at such time as Owners locate a commercial and/or residential user or
26 users for the Property.
27

28
29 3. SITE DEVELOPMENT STANDARDS:
30

31 The site development standards of the North Aurora Code for planned unit development
32 shall be applied to the Property, except as modified by the provisions of this Ordinance and of the
33 Annexation Agreement.
34

- 35 3.1 An one hundred foot (100') landscape setback shall be provided to buffer any
36 commercial property from an adjacent, external property that is zoned or currently
37 used as residential at the time of application for approval of any site plan, and any
38 commercial building immediately adjacent to such residential property shall be
39 screened from the residential area by a wall, fence or densely planted hedge not
40 less than five feet (5') nor more than eight feet (8') in height. This buffering
41 requirement may be fulfilled without the use of a wall, fence or densely planted
42 hedge if there is an one hundred foot (100') landscape setback created by storm
43 water management facilities or a landscaped berm. No buffer shall be required

between different residential districts.

- 3.2 If any portion of the Property that is classified R-4 General Residential District is developed for apartment use, the following standards shall apply:

3.2.1 Building height shall be limited to three (3) stories;

3.2.2 Each apartment unit shall have individual access from the exterior;

3.2.3 At least one parking space shall be provided for each dwelling unit in an interior, enclosed area;

3.2.4 At least twenty five percent (25%) of each apartment building shall be covered with masonry or brick material;

3.2.5 The architectural elements, including anti-monotony standards, must be approved as part of the site plan review.

- 3.3 Additional site development standards applicable to the Property and any portions of the property developed in separate phases shall be determined pursuant to a PUD amendment process described below.

4. PRELIMINARY PLAN APPROVAL, DEVELOPMENT PROCESS.

The basic concept of the General Mixed Use PUD Plan been reviewed by the corporate authorities of the Village, and is hereby approved for the development of the Property. Development of the Property shall comply with the procedures set forth in the North Aurora Municipal Code, except as modified in this Ordinance or the Annexation Agreement. Final Plats of Subdivision and Final Engineering shall be reviewed and approved in accordance with the procedures and ordinances of the Village as modified by the Annexation Agreement.

- 4.1 The final zoning of the particular portions of the Property, with the flexibility and limitations contained hereinabove, and the details of the PUD Ordinance shall be determined as a continuation of the planned unit development process without the need for further hearing, consistent with this Annexation Agreement and the specific details and terms of the site plan; except that notice shall be sent by regular mail to all owners of property adjacent to the Property when the initial site plan and preliminary plat is submitted for review. The notice shall state that a plan has been submitted, the proposed zoning of the property subject to the plan, the time and date of the first Plan Commission meeting at which the plan will be considered and that the planned unit development proceeding is a continuation of the process initiated on August 7, 2012, which will proceed without further public

hearing.

4.2 The Property may be developed in phases. Each phase shall require PUD ordinance amendment and site plan approval together with any requested zoning approval. The presentation of plan for any portion of the Property shall include the entire Property, provided however, that only a bubble plan and schematic utility plan is required for that portion of the Property not being developed. The zoning standards, PUD provisions, site plan and engineering plans for any portion of the Property shall be harmonized with the Plan for the entire Property.

4.3 The zoning, PUD amendments, and/or site plans and engineering plans shall be processed in the manner prescribed by the Villages' Code, but without further public hearing, provided that there is no material deviation from the provisions of this Ordinance and the Annexation Agreement.

5. CHANGES TO THE DEVELOPMENT OF THE PROPERTY.

The Property shall be developed in substantial compliance with a PUD Plan to be determined according to the PUD process established in the North Aurora Zoning Code as modified in Paragraph 4. Changes to the development of the Property shall be evaluated and processed as provided for in the North Aurora Zoning Code as modified by the Annexation Agreement.

6. STREETS AND ACCESS.

Owners shall improve internal and external roadways as identified in the Annexation Agreement and as determined by a Preliminary Engineering Plan to be submitted and approved as part of the PUD process identified herein.

7. INCORPORATION OF PROVISIONS OF ANNEXATION AGREEMENT.

The applicable provisions of the Annexation Agreement are hereby incorporated herein as if fully set forth herein, and shall be construed as a part of the substance of this Ordinance. In the event of a conflict between this Ordinance and the Annexation Agreement, the terms of the Annexation Agreement shall supersede and prevail over the terms of this Ordinance.

8. COMPLIANCE WITH STATE STATUTES.

In the event that any one or more provisions of this Ordinance do not comply with any one or more provisions of the Illinois Compiled Statute and the governing rules of the Water Pollution Control Board or the Federal or State Environmental Protection Agencies, then the Village, Owner, and all of their respective successors and assigns, agree to cooperate to comply with said provisions which shall include, but not be limited to, the passage of resolutions and

ordinances to accomplish such compliance.

9. CONFLICT IN REGULATIONS AND ORDINANCES.

The provisions of this Ordinance shall supersede the provisions of any ordinance, code, or regulation of the Village which may be in conflict with the provisions of this Ordinance.

10. INCORPORATION OF EXHIBITS.

All exhibits attached to this Ordinance and attached to the Annexation Agreement are hereby incorporated herein and made a part of the substance hereof.

The special use granted under this Ordinance shall remain in effect until amended in the manner provided by law for same, or until amended or extinguished under the terms of this Ordinance.

11. EFFECTIVE DATE.

That this Ordinance shall become effective from and after its passage and approval in accordance with law and upon the approval of the Annexation Agreement at the same meeting.

PRESENTED to the Board of Trustees of the Village of North Aurora, Kane County, Illinois, this 7th day of January, 2013.

PASSED by the Board of Trustees of the Village of North Aurora, Kane County, Illinois, this 7th day of January, 2013.

Laura Curtis yes
Mark Gaffino yes
Ryan Lambert yes

Chris Faber NO
Mark Guethle yes
Vince Mancini NO

APPROVED and signed by me as the President of the Board of Trustees of the Village of North Aurora, Kane County, Illinois, this 7th day of January, 2013.

Wale Berna
Village President

ATTEST:

Lori J. Murray
Village Clerk

By: Cynthia Torracio - DEPUTY CLERK

EXHIBIT 1

Plan Commission Meeting Minutes, Findings & Recommendation

**VILLAGE OF NORTH AURORA
PLAN COMMISSION MEETING MINUTES
AUGUST 7, 2012**

CALL TO ORDER – 7:00 pm

Chairman Brackett called the meeting to order.

ROLL CALL

In attendance: Chairman Mike Brackett, Co-Chairman Jennifer Duncan, Commissioners Mark Bozik, Connie Holbrook, Mark Rivecco, Ed Sweeny and Aaron Anderson. Commissioner Lenkart arrived at 7:07 pm. **Not in attendance:** Commissioner Mark Carroll.

APPROVAL OF MINUTES – July 17, 2012

Commissioner Sweeney noted a correction to the July 17th Minutes. He noted that he had called the meeting to order since Chairman Brackett had arrived late for that meeting. Motion to approve the Minutes with that correction made by Commissioner Rivecco and seconded by Commissioner Holbrook. All in favor. **Motion approved.**

NEW BUSINESS

a. Subdivision Ordinance Amendment : Section 16.12.190.C.8 (Parkway Trees) (VONA)

Public Works Superintendent Mike Glock addressed the Commission on the need for a variety of parkway trees in the Village. Glock had provided a list of the types of trees recommended, which would all be parkway and salt tolerant. Currently, 40% of the parkway trees in the Village are Ash trees.

(Commissioner Lenkart arrived at 7:07 pm.)

Motion made by Commissioner Rivecco and seconded by Commissioner Sweeney to approve the amendment to the subdivision ordinance in regard to the substitution of parkway trees. All in favor. **Motion approved.**

PUBLIC HEARING

a. 12-001: West Side of Orchard Road, north of Tanner Road, Rezoning from ER to B2 and R4, approval of a Planned Unit Development (Zepelak)

Chairman Brackett opened the public hearing.

Atty. John Philipchuck (123 Water Street, Naperville, IL) was in attendance, representing the Stanley L. Zepelak Trust. Stan and Jean Zepelak were present. The application before the commission was an annexation of the property which would come in with an ER Zoning. The request is for the property to be zoned with a flex zoning, similar to that of the Mango Creek property. The property would be split by a connector road between Deerpath and Orchard roads. The Zepelaks are requesting the property be annexed to the Village. Atty. Philipchuck said that the desire is for some sort of residential use on the north side of the connector road. There is no particular user, but the Zepelaks have thought about a potential elderly development or assisted living development. In the event they are able to find someone who would want higher density development, it would be considered. Basic zoning was requested. Since the property is to be

annexed, it comes in with a default zoning and the ER is not desirable. Therefore the request was for B2 and R4 potential.

AUDIENCE QUESTIONS

Lisa Quigley, 3S714 Deerpath – Asked what the process is for zoning. Buening stated that the public hearing is held tonight on the zoning change and the PUD. If the Plan Commission completes the hearing and makes a recommendation, they would vote on that and it would be forwarded to the Village Board. The next step at the Board would be a public hearing on the actual annexation agreement which most likely would not happen until September. The Village Board would review the annexation at a public hearing and then vote on the annexation, rezoning and the related ordinance. Quigley asked if the new zoning code is on the Village Website or if it is forthcoming. Buening said that there is a new zoning ordinance. Quigley asked if the rezoning for this property would be according to the old or new code. Buening said under both. The new zoning code will replace the old zoning code so the property would be subject to the new zoning ordinance. The new code incorporates site development standards and landscape standards. Two districts have been added and two districts have been deleted. Buening added that a lot of the old ordinance is incorporated into the new one. Quigley asked if a traffic study had been done on Deerpath that would encompass the already planned communities that have not been built. Buening said that the Village has not but the county has done a traffic study and that is why they want the connector road built, in order to relieve some of the traffic on Deerpath. Quigley asked if the north parcel is planned for residential and the south parcel commercial. Buening said that was correct. Quigley stated that Buening was quoted in the paper as saying that he is looking for assisted living or senior housing in the proposed area. Quigley asked if that could be accomplished with an R3 rating instead of an R4. Buening said that his quote in the paper stated what the petitioner was considering as possible uses for the property and they are requesting the R4 zoning. Quigley said that B2 general commercial, per the Village code, (17.36.030 part A) states that “the B2 General Commercial District is designated to accommodate high rate oriented uses and other uses that serve a larger market area. This should be located along major traffic corridors and near the central area of the village.” Quigley asked the Commission if they consider Deerpath the central area of the Village.

(Commissioner Bozik left the meeting)

Chairman Brackett said that the center of the Village has moved west over the years. Commissioner Sweeney said it is not fixed and is a changing characteristic based on where the businesses develop. Sweeney said there is no argument as to whether it is appropriate for commercial to be built there because it is a major corridor. Shifting of the businesses is going that way and no one is prepared to say what point the center of the Village is right now.

Quigley said that attached to the back of the petition was a map showing her property being annexed, including her entire subdivision. This was dated December of 2011. Buening said that what Quigley was referring to was the Plat of Annexation. There is a bolder line that surrounds the property in question and the darker line is the current village limits. The property that would be annexed not be Ms. Quigley's property. Buening said that statutorily the Village would not be able to annex her property without her permission since it is not surrounded on all four sides.

Julie Boer, 3S701 Deerpath Road – Ms. Boer said that the farm field surrounds her house and she had not heard about the annexation. Boer said a letter had been sent to her home while on vacation and was no longer at the post office. Boer asked where the connector road would be from Deerpath to Orchard Roads. Buening said it would start at Orchard Road just south of the farm access and go northwest and intersect at Deerpath Road just south of Boer's property. Boer asked how far south of her property. Buening said it would be at a distance from 50 to 10 feet. Boer noted that since her family has lived in their house, there have been 40 accidents into their fence.

Buening said it is a township road, but once it is annexed and becomes developed there would be intersection improvements and a turn lane. Boer said this would decrease their property values and asked if the road could be moved. Buening said that they have discussed this with the county and that location is the only location that will accommodate the traffic safely and provide access based on county requirements.

Mike Covelli (Deerpath Road) – asked about the purpose of the road in terms of traffic. Buening said the County believes the road will bring some relief from traffic off of Orchard Road. The roadway and intersection at Orchard will allow access to the property on the east side of Orchard as well. In order to have that as a signalized intersection for their development, this roadway was required by the county. It will not be a signalized intersection. Covelli said he thinks this will create more traffic on Deerpath Road.

AUDIENCE COMMENTS

Lisa Quigley noted his concern that the residents were not given adequate notice. Quigley said that the notice she received only talked about rezoning and that the residents should have time to absorb this and to respond. Quigley said that the petition was lacking in notice. It did not talk about the road, the widening of the road or the variances being granted. Quigley added that residents should be given notice to anything that will be developed in this location.

Quigley stated that there have been many accidents on Deerpath since she has lived in her home (1990). Quigley presented to the Commissioner a list of the accidents (more than 40 accidents over the last 10 years). Two of the accidents were nearly fatal. Quigley said that this is a major problem and putting a road in that location will be fatal.

Chairman Brackett informed Quigley that she can talk to the County now regarding her concerns and does not have to wait on the Village. Quigley said that Deerpath should stay residential and businesses should stay on Orchard.

Quigley urged the commission to reconsider having such a broad zoning as R4 and consider R3. For Business consider B1 instead of B2 and limit it to along Orchard Road.

Quigley said she is concerned with traffic on Deerpath, access to her own driveway, dangerous accidents if the road is developed. Quigley suggested an updated traffic study be done. Quigley also asked the Plan Commission to postpone their decision.

David Fitzgerald, 1534 Patterson, North Aurora, IL – Agreed with most of what Atty. Philipchuck had to say, but disagreed that the introduction of multi-family dwellings in this area

would be compatible. This would be used as a buffer and the increased traffic is a negative. Fitzgerald said that it would have made it easier for everyone if a site plan was put together based on the zoning that is being required, showing where commercial and multi-family will be assembled.

Jason Leffel, 1641 W. Mooseheart Road, North Aurora, IL

Mr. Leffel said that a lot of the commercial property that is developed on Orchard Road is either vacant or very low density. The opportunity to take a look at rezoning at this time is premature, but have to consider that the taxes for the people in the Mirador Community are the highest single tax rates in North Aurora. If an R4 rating is put in place for that area with the potential for high density, it will reduce the tax base in the city since it will reduce the home values. Leffel said he was concerned with the R4 rating. In reference to the new road, Leffel asked the Commission to consider that in October 2010, where that road will terminate into Orchard Road, there was a fatal accident. Deerpath, where the other entrance would exist, is also at a turn which would limit the line of sight. Leffel requested the Commission look at the information that the County put together and hear the aspects of the study to understand how that road will benefit the Village. Leffel also requested the Commission look at B2 zoning and if that is the right zoning for the area. Look at what is going to be the impact when additional turn lanes are added and take over the 80 foot right-of-way which is people's front yards. Leffel requested a traffic study to determine if the road is needed.

Jessica Tinayo (owner of vacant property at Mirador – Lot 100). Suggested commercial only along Orchard Road since it is the main corridor. Commercial is not needed on Deerpath Road. If there is higher density allowed, would request a buffer between that and the homes that will face Mooseheart.

Atty. Philipchuck said that one is not always privy to what goes on in government. Mr. Zepelak was surprised to find out that a road would be required through the middle of his property. The County has professional traffic engineers who have studied the road and decisions have already been made by the County. They have looked at all of the traffic patterns and the subdivisions and are looking into the future. There are four houses along Deerpath Road, but there is a greater good for the Village that the Plan Commission has to take into account.

An annexation agreement has been entered into with Mango Creek and that annexation agreement mandated that the road go in on Mr. Zepelak's property. It is planned and set forth in legal documents that bind the Village.

In terms of commercial only on Orchard Road, it will be oriented that way but when looking at the configuration of the land and where Deerpath Road is in relation to it, there is only 665 feet of depth between Orchard Road and Deerpath, so parking will be up in front of the stores and therefore the store buildings will be pushed back. Philipchuck said there is plenty of room to buffer.

Philipchuck said that the Village needs rooftops. To have multi-family in this location makes sense. Single family generate more trips out of a detached single family, not multi-family or senior housing. Adequate buffers will be put in place in addition to a roadway separation.

Philipchuck said that the amount of accidents is tragic, but impaired drivers will have an accident on a straight road. The road being curved is not a fair argument.

Chairman Brackett closed the public portion of the meeting.

NEW BUSINESS

b. **12-001: West Side of Orchard Road, north of Tanner Road, Rezoning from ER to B2 and R4, approval of a Planned Unit Development (Zepelak)**

Commissioner Duncan – In terms of R4 vs R3, Duncan said she did not see much of a difference and will both allow for multi-family. Buening said there is not a significant difference. The R4 allows for some higher density.

Chairman Brackett said that Atty Philipchuck had stated at the beginning of the hearing that residential would be north of the proposed road and then later said that maybe commercial would go north of the road. Brackett asked for clarification. Philipchuck noted the flex zoning, which was done in Mango Creek. While the base underlying zoning will be B2 and R4, cannot take the R4 south of the connector road but have ability to take commercial north of the connector road.

Buening explained that Mango Creek is the development the Village approved a year ago on the east side of Orchard Road directly across from this property.

Duncan noted that R4 allows for a number of commercial uses as a special use.

Brackett asked about the buffer of green space that will be used. Buening said that it will depend on the development. For outlots, the buffer is normally 150-200 feet. For a larger development, 600 feet is the minimum and many are closer to 900 feet. Philipchuck said there is 665 feet along Tanner Road. Buening said that the Annexation Agreement requires a 50-foot buffer between the right-of-way and the nearest part of where the development would occur.

Commissioner Rivecco asked if there is notice given to nearby residents of site plan reviews. Buening said that is not the case at this time. Rivecco said he is not comfortable with that. Buening said it can be added as a recommendation.

Rivecco said that on page 3, additional special uses include outdoor storage and auto body shops, however Exhibit C excludes those. Buening said that Exhibit C would govern.

Commissioner Sweeney said that this is an awkward land use situation. It is clear that there will be no big box and will be similar to the Sorrentino property that butts up to Oak Street. Sweeney said he does see the area appropriate as a multi-family buffer zone but would require buffering for adjacent properties. Sweeney said it is important for the developer to understand that a lower density multi-family proposal would all that would be considered by him. Sweeney stated that Deerpath Road has more traffic because it is no longer a country road and there is no control over that change. The Plan Commission will consider what is going to work for everyone.

Commissioner Holbrook asked if the connector road will go through whether the Village wants it or not. Buening said that was correct. Holbrook said that the last proposal for senior housing in the village fell through. Philipchuck said that the population is aging and there will be a need

in the future. It is a good transition area so multi-family in the area makes sense. Holbrook asked if the developer was considering apartment buildings or condos and if so, how dense. Philipchuck said that the developer is restricted by the zoning district. Holbrook said she was concerned and would not want apartment buildings and there is already a huge condo complex to the east of that on the corner of Randall and Orchard. Holbrook said she would be agreeable to senior housing and duplexes. Holbrook then asked what the urgency is for changing the zoning at this time. Philipchuck said that Mr. Zepelak would like to try to market the property. Holbrook suggested waiting until next month so that residents can have more of an opportunity to review and because it appeared that some residents may not have received notice in time.

Philipchuck said that notice was sent with a registered return receipt. The post office only holds these items for so long and then they are returned to the Village. Signs were posted on every road describing what would be happening and those signs were up for almost a month. Philipchuck said that they are here to provide answers to questions this evening so that there is understanding. To delay it any further, would not be an advantage. Explanations have been made as to agreements already made about the road. Adequate notice was set forth and met all the statutory requirements. Philipchuck said that Commissioner Rivecco's suggestion for additional notice for site plan time is a great idea.

Buening noted that in regard to senior housing, when the complex was proposed off of Randall Road, the proponent showed a study that showed the senior housing is suitable for the area. That particular project failed due to the developer's financial issues and not that it wasn't feasible.

Commissioner Lenkart asked if there would be any traffic controls on Deerpath. Buening said that would be determined as part of a development approval. It would probably make sense to at least have a three-way stop control, but that would be determined by a traffic study. Some kind of traffic controls would be necessary as it develops. Lenkart asked if the County would be responsible for policing the road. Buening said that any property annexed by the Village would be Village's jurisdiction.

Lenkart suggested all B2 along the south or only along Orchard and not Mooseheart.

Commissioner Anderson asked, in regard to the connector road, if the exact location is determined at this point and time. Buening said yes. It is permanent unless the County has a different opinion in terms of the alignment.

DISCUSSION

Connector Road – set and will not change.

Commissioner Sweeney said that the Plan Commission has complete control as far as what happens since there is a site plan review. What is being proposed is a conceptual plan for the property. It is not an automatic license to put up high density since it has to come back to the Plan Commission. Sweeney said the property is suitable for all of the uses suggested. The Plan Commission has made it clear that high density is not favored. The Village wants to make

conditions right for something to develop there. The big issue is the road and that has already been decided by the County.

Chairman Brackett noted the following items of concern by the plan commission:

1. notice to residents
2. sensitivity to density, buffers
3. B2 along Mooseheart Road and prefer it be along Orchard Road with Buffering (Lenkart)

Lenkart asked if B2 is moved north of connector road that it can only be along Orchard. Buening said would need to be defined specifically.

Commissioner Anderson suggested making a recommendation to modify the annexation agreement for the B2 to the south of the connector Road with the residential portion to encompass the balance of the property. In the future, they could always petition for a change of zoning. Eliminate the flex zoning. Buening said would have to amend the annexation agreement language by saying it is R4 but the property owners may come back to petition to rezone at a future date.

Buening noted that in terms of the annexation, the Deer Oaks Subdivision was invited to annex into the Village a few years ago but they refused and elected to remain unincorporated.

FINDINGS OF FACT:

1. *Is there currently an error in the existing zoning district which proposed amendment will correct?*

Anderson - no, Rivecco - yes Duncan - yes, Holbrook - yes, Lenkart - yes, Sweeney - no.

2. *Are there changed or changing conditions in the applicable area of the amendment or in the village generally that make the proposed amendment reasonably necessary to the promotion of the public health, safety or general welfare?*

Sweeney - yes, Anderson - yes, Rivecco - yes, Duncan - yes, Lenkart - yes, Holbrook - yes

3. *Is the proposed use compatible with existing uses of property within the general area of the property in question?*

Lenkart - yes, Holbrook - yes, Duncan - yes, Rivecco - yes, Sweeney - yes, Anderson - yes,

4. *Is the proposed zoning classification of the property compatible within the general area of the property in question*

Duncan - yes, Holbrook - yes, Anderson - yes, Sweeney - yes, Rivecco - yes, Lenkart - yes.

5. *Is the property in question unsuitable for the uses permitted under the existing zoning classification*

Rivecco - no, Sweeney - yes, Duncan - yes, Anderson - yes, Holbrook - yes, Lenkart - yes.

6. *Is the trend of development if any in the general area of the property in question compatible with the proposed zoning classification*

Duncan - yes, Holbrook - yes, Lenkart - yes, Anderson - yes, Sweeney - yes, Rivecco - yes.

Motion made by Commissioner Rivecco and seconded by Commissioner Sweeny to approve the annexation and rezoning from ER to B2 and R4 for the west side of Orchard Road, North of Tanner Road and approval of a Planned Unit Development with the staff recommendations and requirements and in addition that public notice be provided for any site plan approvals or reviews and that the discussion of the flex zoning be removed and the ability to petition for further zoning changes as required in the future. **Roll Call Vote:** Rivecco – yes, Sweeney – yes, Holbrook – yes, Duncan – yes, Lenkart – yes, Anderson – yes. **Motion approved.**

Buening said this will probably go before the Village Board sometime in September.

NOTES

Scott Buening reported on the following:

41 S. Randall Special Use (batting facility) – tabled at the Village Board meeting.

98 S. Randall Road Rezoning –approved by the Village Board

216 S. Butterfield –special use amendment for Asphalt Plant - approved.

Zoning Ordinance - reviewed by committee and was moved forward without any objections. Will be placed on the August 20th agenda. If adopted, will have a January 1st effective date.

All commissioners up for reappointment were reappointed by Mayor Berman.

Aaron Anderson was appointed as the newest Plan Commissioner.

River Valley Recycling – business closed.

Village Administrator Wes Kornowske submitted his resignation effective August 23rd. He is taking a position as director of operations for a shipping company in Green Bay. Buening then noted that this would be his last Plan Commission as he has accepted a position with the City of Batavia.

A new Village Administrator will not be hired at this time. Police Chief Dave Summer will be in place temporarily until the position is filled.

AJDOURNMENT

Motion to adjourn made by Commissioner Duncan and seconded by Commissioner Holbrook. All in favor. **Motion approved.**

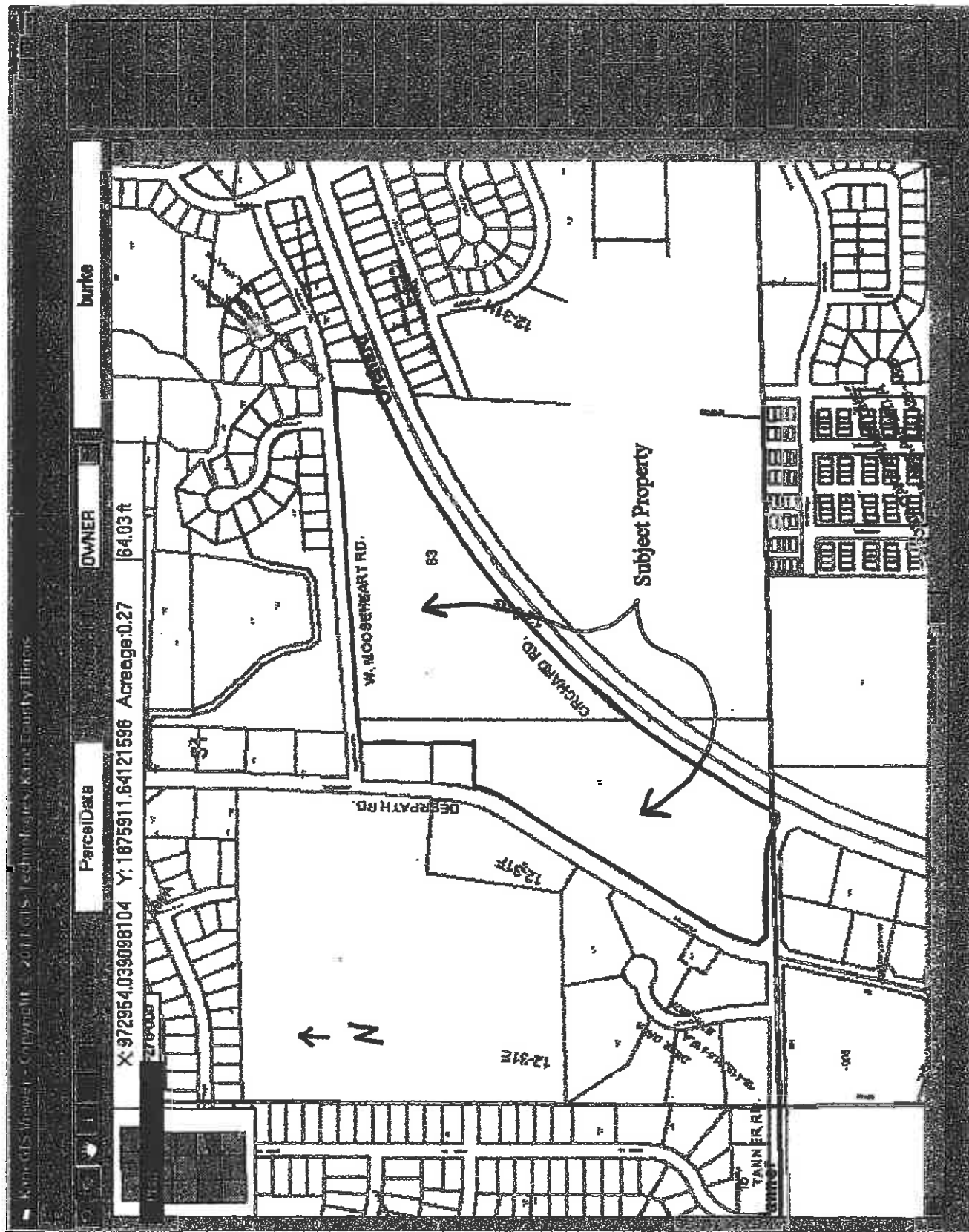
Respectfully Submitted,

Lori J. Murray
Village Clerk

ZEPELAK. NET ANNEXATION (41.14 ACRES):

QUARTER OF SECTION 31, TOWNSHIP 39 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF DEER OAKS; THENCE EASTERLY, ALONG THE SOUTH LINE OF SAID SOUTHWEST FRACTIONAL QUARTER, 529.26 FEET FOR THE POINT OF BEGINNING; THENCE CONTINUING EASTERLY, ALONG SAID SOUTH LINE, 104.51 FEET TO THE WESTERLY RIGHT OF WAY LINE OF ORCHARD ROAD; THENCE NORTHEASTERLY, ALONG SAID WESTERLY RIGHT OF WAY LINE, 2699.05 FEET, ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 3889.80 FEET, SAID ARC FORMING A CHORD THAT MEASURES $138^{\circ}25'49''$ CLOCKWISE FROM SAID SOUTH LINE AND MEASURES 2645.23 FEET TO AN OLD CLAIM LINE; THENCE NORTHERLY, AT AN ANGLE OF $136^{\circ}19'23''$, MEASURED CLOCKWISE FROM SAID CHORD, ALONG SAID OLD CLAIM LINE, 201.29 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF MOOSEHART ROAD; THENCE WESTERLY, AT AN ANGLE OF $82^{\circ}16'56''$, MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 1643.76 FEET; THENCE SOUTHERLY, AT AN ANGLE OF $96^{\circ}38'$, MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE, 346.81 FEET; THENCE SOUTHERLY, AT AN ANGLE OF $178^{\circ}38'$, MEASURED COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE, 195.0 FEET; THENCE WESTERLY, AT RIGHT ANGLE TO THE LAST DESCRIBED COURSE, 182.45 FEET TO THE EASTERLY RIGHT OF WAY LINE OF DEERPATH ROAD; THENCE SOUTHWESTERLY, ALONG SAID EASTERLY RIGHT OF WAY LINE, 164.87 FEET, ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 597.15 FEET, SAID ARC FORMING A CHORD THAT MEASURES $109^{\circ}15'31''$ CLOCKWISE FROM THE LAST DESCRIBED COURSE AND MEASURES 164.35 FEET; THENCE SOUTHWESTERLY, AT AN ANGLE OF $172^{\circ}05'26''$, MEASURED COUNTERCLOCKWISE FROM SAID CHORD, ALONG SAID EASTERLY RIGHT OF WAY LINE, 1051.31 FEET; THENCE SOUTHWESTERLY, ALONG SAID EASTERLY RIGHT OF WAY LINE, 240.70 FEET, ON THE ARC OF A CURVE TO THE LEFT, HAVING A RADIUS OF 718.54 FEET, SAID ARC FORMING A CHORD THAT MEASURES $170^{\circ}21'29''$ CLOCKWISE FROM THE LAST DESCRIBED COURSE AND MEASURES 241.84 FEET; THENCE SOUTHWESTERLY, ALONG SAID EASTERLY RIGHT OF WAY LINE, AT AN ANGLE OF $170^{\circ}21'29''$, MEASURED CLOCKWISE FROM SAID CHORD, 21.89 FEET; THENCE SOUTHEASTERLY, AT AN ANGLE OF $128^{\circ}09'02''$, MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG THE NORTHERLY RIGHT OF WAY LINE OF TANNER ROAD 49.64 FEET; THENCE EASTERLY, AT AN ANGLE OF $128^{\circ}15'44''$, MEASURED CLOCKWISE FROM THE LAST DESCRIBED COURSE, ALONG SAID NORTHERLY RIGHT OF WAY LINE, 354.68 FEET; THENCE SOUTHEASTERLY, ALONG SAID NORTHERLY RIGHT OF WAY LINE, 103.21 FEET, ON THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 217.00 FEET, SAID ARC FORMING A CHORD THAT MEASURES $166^{\circ}22'28''$ COUNTERCLOCKWISE FROM THE LAST DESCRIBED COURSE AND MEASURES 102.24 FEET; THENCE SOUTHEASTERLY, AT AN ANGLE OF $166^{\circ}22'27''$, MEASURED COUNTERCLOCKWISE FROM THE LAST COURSE, ALONG SAID NORTHERLY RIGHT OF WAY LINE, 19.47 FEET TO THE POINT OF BEGINNING, ALL IN BATAVIA TOWNSHIP, KANE COUNTY, ILLINOIS.

EXHIBIT
A



This map does not represent a survey. No accuracy is assumed for the data delineated herein, either expressed or implied by Kane County or its employees. This map is compiled from official records, including plat, surveys, recorded deeds, and contracts and only contains information required for local government purposes. See the recorded documents for more detailed legal information.

PUBLIC NOTICE REGARDING ANNEXATION

PLEASE BE NOTIFIED that a public hearing for annexation was held at the request of Stanley L. Zepelak before the North Aurora Board of Trustees on August 27, 2012. The Petitioner requested that the Village enter into an annexation agreement for the annexation of the property located east of Deerpath Road, west of Orchard Road and south of Mooseheart Road, which property is legally described in the document attached hereto and incorporated herein by reference as Exhibit A. An Annexation Agreement was approved on November 19, 2012, and the property will be considered for annexation at the North Aurora Village Board Meeting on December 17, 2012, which begins at 7:00 p.m. on that date, at the North Aurora Village Board Meeting Room, 25 East State Street, North Aurora, Illinois. The annexation will include the property to the far side of Deerpath Road.

Dated this 4th day of December, 2012

/s Dave Summer
Interim Village Administrator

AFFIDAVIT OF MAILING

STATE OF ILLINOIS)
 ss.
COUNTY OF KANE)

Michele M. Barker, being first duly sworn, deposes and states that on December 4, 2012, a copy of the *Public Notice Regarding Annexation, legal description, and map* were served on the following:

Christopher R. Long
Batavia Township Highway Commissioner
131 Flinn, Ste. B
Batavia, IL 60510

Board of Trustees, Batavia Township
Ron Gilkerson, Brian Singer, Leigh Tracy
John West, Van Larson, Bob Chalberg
131 Flinn, Ste. B
Batavia, IL 60510

James R. Anderson, Township Supervisor
131 Flinn, Ste. B
Batavia, IL 60510

Susan Fricano, Township Clerk
131 Flinn, Ste. B
Batavia, IL 60510

Randall E. Gibson, Trustee
Batavia Township Library District
1131 Newton Ct.
Batavia, IL 60510

J. Thomas Von Lunen, Trustee
Batavia Township Library District
530 Windsor Lane
Batavia, IL 60510

Maureen A. Jakubowski, Trustee
Batavia Township Library District
120 N. Jackson
Batavia, IL 60510

Cara M. Schuster, Trustee
Batavia Township Library District
555 Carriage Dr.
Batavia, IL 60510

Douglas S. Sullivan, Trustee
Batavia Township Library District
2003 Wagner Road
Batavia, IL 60510

Virginia Babcock, Trustee
Batavia Township Library District
525 Carriage Drive
Batavia, IL 60510

James F. Trefil, Trustee
Batavia Township Library District
601 Violet Lane
Batavia, IL 60510

George Scheetz, Director
Batavia Library District
10 S. Batavia Ave.
Batavia, IL 60510

by depositing a copy thereof, enclosed in an envelope, Certified Mail, Return Receipt Requested, in the United States Mail at Batavia, Illinois, proper postage prepaid, before the hour of 5:00 p.m., addressed as above.


Michele M. Barker

Subscribed and sworn to before me this
4th day of December, 2012


NOTARY PUBLIC



Kevin G. Drendel, Esq.
DRENDEL & JANSON'S LAW GROUP
111 Flinn Street
Batavia, Illinois 60510
(630) 406-5440