

## **DIMUCCI FAMILY APPLICATION**

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### **RPC QUESTIONS**

A number of threshold questions have been raised by members of the RPC as we move forward in the review process. Staff will be prepared to address these questions at the upcoming meeting. In advance of the meeting, following are the specific questions that were raised and staff's response:

**How can the County review the project without specific building, parking and other improvements being precisely identified on the plan?**

The Planned Unit Development (PUD) process involves 2 main stages: (1) the Preliminary Development Plan stage and (2) the Final Development Plan stage. By definition, the Preliminary Development Plan stage constitutes review and decision on the "conceptual use and layout of the proposed PUD" (UDO Sec. 3.7.3), whereas the Final Development Plan stage constitutes review and decision on a finalized development plan in accordance with any conditions imposed at the Preliminary Development Plan stage. Based on staff review of the Preliminary Development Plan (PDP) submitted by the Dimucci Family and consultation with the State's Attorney's Office, the PDP meets the requirements of Section 3.7 for following reasons:

1. The PDP consists of site plan and design elements. The site plan portion of the PDP proposed by the Dimucci family establishes boundaries for the development area by means of setbacks and open space limitations, and is further defined through floor area and impervious surface area thresholds. The site plan limits height and places specific constraints on lighting at all property lines. The design features for the development are established by the "Pattern Book" that reflects and expands on the Route 12 Corridor Planning Council's Guidelines providing detailed direction in the areas of signage, architecture, site layout, and landscaping. In staff's opinion, the PDP provides sufficient detail to perform a review, evaluate impacts and establish conditions required to be met by the Final Development Plan (FDP) when it is eventually submitted.
2. The Planned Unit Development approval is an extensive entitlement process involving a considerable amount of staff and public involvement prior to approval. For this reason, it is not necessary that the PDP show a final, precise layout of all physical improvements or specific uses that will be located in the development. The UDO, Section 7.8.7.2 states: "any use or mix of uses may be allowed within a PUD in a nonresidential zoning district provided that those uses not allowed by right in the underlying zoning district shall be specifically approved within the PUD by the County Board." Any use that is not allowed by right in the General Commercial District will not be permitted. The County Board also has the ability to exclude any permitted uses that they feel are not appropriate for the area under their authority to set conditions through the Conditional Use Permit.

3. In accordance with Section 4.1.3.3 of the Unified Development Ordinance, "The Planning, Building and Development Director shall determine the type and extent of information necessary to provide for an adequate Site Capacity/Site Plan Review...." The Director has reviewed the proposed application and has determined that the information contained in the plan is sufficient to conduct a review of the PDP for this project. The Final Development Plan stage will require the developer to provide a more detailed site plan and site capacity calculations based on the plan proposed at the time of development, and that plan must reflect all conditions of approval established at the PDP stage.

**What is the impact of the Hawthorn Woods/North Barrington Intergovernmental Agreement (IGA) on the application review?**

The property is located in unincorporated Lake County and the owner has chosen to work with the County rather than be incorporated into one of the neighboring villages. Therefore, the County has a legal obligation to conduct a review of the application.

While the Framework Plan recognizes the existence of the Hawthorn Woods/North Barrington IGA, among various others, the County is not a signatory to the IGA and is not bound by the IGA.

Chapter 11 of the Framework Plan encourages intergovernmental planning and agreement, but stipulates certain conditions under which the County would participate in such agreements. Where an element of controversy is involved in a particular property or project, the County's involvement is tempered by the following guidance: "... In order for the intergovernmental planning process to be effective, planning should begin before the appearance of a controversial development proposal." The Hawthorn Woods/North Barrington IGA was developed and executed after the Taubman development proposal for the property created controversy.

Further, to the extent that the County were to participate in any such agreements, the County's involvement would need to occur at the earliest stage of discussion: "The County should be involved from the beginning in the development of intergovernmental agreements to which the County will be a signatory." In the case of the Hawthorn Woods/North Barrington IGA, the County was not involved at the beginning in negotiating such agreement, but was invited to **concur** with the agreement after the villages had concluded their negotiations. This fact is recognized explicitly in the North Barrington Comprehensive Plan of 2004: "An attempt was made to have Lake County **concur** with the Villages' Agreement to prevent incompatible development of this unincorporated area. The initial overture to Lake County was not successful." [Village of North Barrington (2004) p.24] (emphasis added).

In contrast to the Hawthorn Woods/North Barrington IGA process, the Framework Plan explicitly endorses another local intergovernmental planning process that *did* involve proper inclusiveness and involvement of the County from the beginning. Specifically, the County was invited to participate in the Route 12 Corridor Planning Council at the Council's inception in the late 1990s, and continued to participate in this process until 2004, at the conclusion of the Council's work, in order to jointly develop community character policies for development on the Route 12 Corridor in both the village and County territory. This joint exercise involved the villages of Deer

Park, Kildeer, Lake Zurich, Hawthorn Woods and North Barrington, along with the County and NIPC (now CMAP). The Framework Plan specifically references County Board resolutions that "instruct County review and decision-making bodies to consider the guidelines when handling applications for conditional use permits and planned unit developments for parcels along the Corridor." The Dimucci Family CUP and PUD applications are therefore subject to such review, and were contemplated by this direction. The Framework Plan provides no such direction in relation to the Hawthorn Woods/North Barrington IGA, and the Framework Plan policies do not support the County's involvement in such IGA given the circumstances under which it was executed.

**How is sanitary sewer service being provided to the property?**

Sanitary sewer is available to the Dimucci property in the unincorporated area through a series of executed sanitary sewer agreements that are excerpted in the enclosed materials.

**There is a pending annexation petition for a portion of the Dimucci property. How does this pending petition affect the development review process?**

There is a pending annexation petition that involves the Dimucci property (see attached annexation petition and generalized map). We have consulted with the States Attorney's Office, who will be attending Monday night's meeting. Per our discussion with the SAO, the development application was filed prior to the annexation petition and therefore takes priority unless and until such time as the Circuit Court acts on the petition. The petitioner therefore has the legal right to continue with the development review process at this time, and the County has the legal obligation to continue with the development review process.

