



Memorandum

To: Charles Witherington-Perkins, Director of Planning and Community Development
From: Sam Hubbard, Development Planner
Date: 12/29/2020
Re: Village Board Meeting on January 4, 2021 - PC #20-013: Trammell Crow Senior Living Facility

Background:

On December 2, 2020, the Plan Commission held a public hearing to consider a proposed senior living facility at 2015-2045 South Arlington Heights Road. Staff recommended approval of the application subject to several conditions and the Plan Commission voted 8-0 to recommend approval subject to the conditions as recommended by staff, with one modification: The Plan Commission asked that staff and the petitioner continue to work on the language for conditions #1 and #2. The original language of these conditions is reflected below:

1. **Relative to cross access to the south, prior to building permit issuance, the Petitioner shall (a) establish/record an access easement to the benefit of the properties to the south; and (b) redesign the detention area to accommodate for the anticipated stormwater detention of the future driveway connection. Actual construction of this driveway connection will be the responsibility of the property owner to the south, and will occur if and when the Village determines it is necessary. The easement provision shall allow for others to construct the cross access.**
2. **Prior to building permit issuance, the Petitioner shall dedicate a 20-foot easement for Commonwealth Edison along the western property line to facilitate ComEd utility relocation/burial, with an additional five feet in width if determined necessary by the Village. The proposed underground water line in this location shall be pushed back so that it is outside of this easement area.**

Relative to condition #2, subsequent to the hearing staff examined the request for a 20' wide utility easement along the western side of the site to determine if the full 20' was necessary. The actual width of the easement will need to be determined by the utility companies, which will depend on how many utility ducts are necessary for burial of the utilities in this location. Since burial of the utilities is a future project, the utility companies do not have a design for the work and the actual number of ducts that are needed is unknown. As such, to ensure that there is adequate space underground for all of the ducts, staff continues to recommend the 20' wide easement as outlined and does not recommend any alterations to the condition as originally drafted.

Relative to condition #1, staff has worked with the petitioner on language to address their concerns. Both staff and the petitioner have agreed on the following modifications as outlined in the Recommendation below.

Recommendation: Staff and the Village Attorney recommend the following modification to the Plan Commission "Condition #1" be considered, which would adjust the aforementioned condition as shown below:

Green Bold text is to be added, ~~red strike through~~ is text to be deleted.

- ~~1. Relative to cross access to the south — Prior to building permit issuance the petitioner shall a) establish/record an access easement to the benefit of the properties to the south, and b) redesign the detention area to accommodate for the anticipated stormwater detention of the future driveway connection. Actual construction of this driveway connection will be the responsibility of the property owner to the south, and will occur if and when the Village determines it is necessary. The easement provisions shall allow for others to construct the cross access.~~
1. Relative to cross access to the south – Petitioner shall use diligent, commercially reasonable efforts to (a) negotiate and enter into a cross access easement agreement with the owner of the property to the south (the "Cross Access Easement Agreement"); and (b) redesign the detention area to accommodate for the anticipated stormwater detention of the future driveway connection. The Cross Access Easement Agreement shall include the following terms, in addition to those otherwise mutually agreed upon by Petitioner and the south property owner:
 - (i) the south property owner shall bear the cost of initial construction of all driveway improvements within the easement area which are subject to Petitioner's approval, not to be unreasonably withheld;
 - (ii) all initial construction shall be performed by a licensed contractor in good, lien-free and workmanlike manner, in compliance with all laws, and all work shall be reasonably coordinated between Petitioner and the south property owner so as promote safety and minimize disruption to the operation of the properties;
 - (iii) the cost to maintain, repair and replace the new driveway shall be paid by south property owner;
 - (iv) each owner shall maintain customary insurance and agree to customary indemnity obligations; and
 - (v) each owner shall have customary rights upon default by the other owner, including self-help.

If a final form of Cross Access Easement Agreement is not agreed to by Petitioner and south property owner by May 1, 2021, Petitioner shall, upon request by the Village, continue to use diligent commercially reasonable efforts to negotiate and enter into the Cross Access Easement Agreement.