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She just moved her house to make way for apartments. Brown Deer officials might force her to move it again.

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When Fiduciary Real Estate Development Inc. decided to build The Bevy apartment complex on Deerwood Drive, Cherry Lange agreed to sell her two properties to the developer for \$800,000 to make room for the three-building, 175-unit development.

This spring, one of her houses, built in 1887, was moved north to a lot provided by the developer. The other house, a bungalow built in the 1930's, was relocated across the street to the west side of Deerwood Drive.

Then, another developer, Scott Lurie, approached her with an offer to buy her property on the west side of Deerwood Drive, where the 1930's bungalow sits on wooden cribs and steel girders. She rejected Lurie's initial offer and countered with a higher price.

"I've been open to negotiations," Lange said. "I just don't agree with what their price is."

Lange had thought the negotiations with Lurie were still ongoing, but Lurie informed village officials that his negotiations with Lange had reached an impasse.

At an Aug. 5 plan commission meeting, Lange learned the village planned to acquire the land through eminent domain, a legal procedure that forces private land owners to sell to a governmental body for a public purpose.

Lurie's proposal

The village wants Lange's property, along with three others nearby, to create a public park with a community shelter and a splash pad on a one-acre piece of land between Deerwood Drive and 43rd Street.

In his pitch to village officials, Lurie said a village-owned park could function as a commons area between Fiduciary's apartment complex on Deerwood Drive and the apartment complex he plans to build on the site of the Brown Deer Public Works Department.

(The public works department will soon relocate to a parcel that was acquired — also through eminent domain — from Rite-Hite Corporation.)

In addition to Lange's bungalow, the village would also have to purchase Christ Apostolic Church, a house owned by Paul Rasmussen at 8716 N. 43rd St. and a small house at 8727 N. Deerwood Drive owned by Kirk Radtke, the village's building inspector.

Christ Apostolic Church does not hold regular services, and the property owners were hoping to sell to Lurie.

Rasmussen had also hoped to sell to Lurie, but instead he said he was blindsided by the eminent domain action.

"I don't think you guys treated me fair," he said at an Aug. 5 village board meeting. "Shame on you all for not sending me a letter."

Rasmussen sold the vacant parcel at 8715 N. Deerwood Drive for \$50,000 to Bill Jansen, who then sold it to Lange for \$60,000. Jansen works as a general manager and independent contractor for Lange's real estate business.

In addition to the \$60,000 for the land, Lange said she spent \$34,000 to move the house and \$32,000 for sewer and water infrastructure. She is also losing rent revenue and paying attorney's fees — all while spending \$2,500 per month to keep her house on the cribs and girders.

"I have \$140,000 in it to date," she said. "It's going to cost another \$140,000 to move it. All those costs would be repeated."

Village officials informed Lange in April that she might want to hold off on relocating her house to the new lot, as one of the two development proposals they received for the DPW site would involve her new lot.

The board didn't select Lurie's development proposal until June 4, which was after Fiduciary's deadline for her to move the bungalow.

Eminent domain

The village board has not yet voted to acquire the four properties on Deerwood Drive, but it did unanimously approve a resolution stating the park is a "necessary and a public purpose" that warrants the use of eminent domain.

"We're not here to take people's property tonight," said Trustee Renee Booker. "We're here to vote on a concept to be studied, to be negotiated."

Before the village board meeting, the plan commission approved the resolution on a 5-2 vote. Paul Zimmer was one of the two members to vote against it.

"Ultimately what you are doing is using the power of the government to take their property from them, even though they don't consent to that," Zimmer said. "I think that's a morally wrong thing to do."

The village has hired attorney Alan Marcuvitz to represent the village in the eminent domain process.

Before negotiations begin between the village and the property owners, the village must have a professional appraisal conducted, and then submit a relocation plan to the state Department of Administration for approval.

After the relocation plan has been approved, Marcuvitz is expected to return to the village board with a budget for acquiring the properties. If village officials think the budget is too high, they could discontinue the eminent domain process.

If the village continues to pursue eminent domain, homeowners will solicit their own appraisal at the village's expense. If there is a difference in the two appraisals, the two parties will try to reach a settlement. Otherwise, it will be decided by a jury.

Marcuvitz said Wisconsin law is designed to cover property owners and tenants from myriad expenses, including the cost for tenants to relocate to a new home.

Rasmussen and Radtke have tenants in their properties. Lange has a tenant's possessions in the house, but the tenant is not able to live in the house because it does not have electricity.

Although eminent domain can be contentious, Brown Deer Village Manager Michael Hall said he believes the new apartments and the park would go a long way in transforming the Original Village area into a downtown destination with apartments, businesses and community gathering spaces.

"I think it would be a huge amenity to the area," Hall said.

Lange sees things differently.

"They have this master plan, and they don't care who they have to trample over to accomplish it," she said.

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