

VILLAGE OF ELWOOD

FORM 1

**VILLAGE OF ELWOD
FREEDOM OF INFORMATION ACT
WRITTEN REQUEST FOR RECORDS**

Dear Village Clerk (or designee):

(I), (We), are hereby requesting that (I) (We)

inspect the following records at the Village of Elwood's Administrative Office.

receive copies of the following records from the Village of Elwood.

Any and all communications (including, but not limited to any letters, emails, texts, notes, or phone records) during June 2016 to the present between the Village of Elwood Plan Commission (including but not limited to Greg Hickey, Jake Fanning, Thomas Nagel, and Doug Vaughn) and

- Any employee, representative, or agent of Northpoint Development, Compass Business Park, or East Gate
- The Elwood Village Attorney David Silverman
- The Elwood Village Administrator Marian Gibson
- Any representative of a worker's union, "Local" branch of a national trade union, or any other member of organized labor.

Will the records received or requested or the information derived thereof be used in any form of sale, resale, or solicitation or advertisement for sales or services?

Yes

No

I understand that if I request that the records be copied, I may be charged a fee due in full before the copies are made.

Christina L. Lamant
Signature(s) of Requester(s)

1/19/18

Date of Request

(For office use only)

Date Request Received: _____ Signature: _____

Date Response Due: _____

Julie Friebele

From: Thomas Nagel
Sent: Thursday, January 25, 2018 5:58 PM
To: julie.friebele@villageofelwood.com
Subject: Fwd: Send data from MFP11995813 01/12/2018 14:10
Attachments: DOC011218-01122018141048.pdf; Untitled attachment 00204.htm

Sent from my iPhone

Begin forwarded message:

From: Thomas Nagel <thomas.nagel@villageofelwood.com>
Date: January 14, 2018 at 8:26:29 AM CST
To: twnagel58@yahoo.com
Subject: Fwd: Send data from MFP11995813 01/12/2018 14:10

Sent from my iPhone

Begin forwarded message:

From: David Silverman <dsilverman@msclawfirm.com>
Date: January 12, 2018 at 3:55:07 PM CST
To: "Doug.vaughn@villageofelwood.com" <Doug.vaughn@villageofelwood.com>,
"Greg.hickey@villageofelwood.com" <Greg.hickey@villageofelwood.com>,
"Jake.fanning@villageofelwood.com" <Jake.fanning@villageofelwood.com>,
"Thomas.nagel@villageofelwood.com" <Thomas.nagel@villageofelwood.com>
Cc: Marian Gibson <marian.gibson@villageofelwood.com>, Julie Friebele
<julie.friebele@villageofelwood.com>
Subject: FW: Send data from MFP11995813 01/12/2018 14:10

PLEASE DO NOT RESPOND TO ALL TO AVOID OPEN MEETINGS ACT VIOLATIONS
Portions of zoning ordinance are attached

David J. Silverman
MAHONEY, SILVERMAN & CROSS, LLC
822 Infantry Drive, Suite 100, Joliet, Illinois 60435
Phone: (815) 730-9500 Facsimile: (815) 730-9598
dsilverman@msclawfirm.com | www.msclawfirm.com | Bio

"If you think it's expensive to hire a professional to do the job, wait until you hire an amateur."
Red Adair

KENDALL COUNTY OFFICE:
126 S. Main Street, Oswego, IL 60543 (630) 554-7800
COOK COUNTY OFFICE:

-----Original Message-----

From: Litigation Resource
Sent: Friday, January 12, 2018 4:11 PM
To: David Silverman <dsilverman@msclawfirm.com>
Subject: Send data from MFP11995813 01/12/2018 14:10

Scanned from MFP11995813
Date:01/12/2018 14:10
Pages:9
Resolution:200x200 DPI

- B. Filing - An application for text amendment shall be filed with the office of the Village Clerk. Said application shall include at a minimum the relevant portion of the text for which the amendment is proposed and the exact wording of the proposed new text.
- C. Standards - Within thirty (30) days of the close of the public hearing the Plan Commission shall make a recommendation accompanied by such findings as supported by the evidence with respect to the following matters:
 - 1. That said amendment(s) is consistent with the purpose and intent of the Ordinance;
 - 2. That said amendment(s) is consistent with Village policy;
 - 3. That said amendment(s) does not unnecessarily create a hardship on property owners such as created by numerous non-conformities;
 - 4. That said amendment(s) are not in conflict with this Ordinance or other Village Ordinances.

(2) Map Amendments

- A. Standing - An application for an amendment to the official zoning map may be filed by the Board of Trustees, the Plan Commission, the owner of the subject property or anyone having a proprietary interest in the property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. Standards - The Plan Commission shall make recommendations based upon the evidence presented to it in each specific case with respect to the following matters:
 - 1. Existing uses of property within the general area of the property in question.
 - 2. The zoning classification of property within the general area of the property in question.
 - 3. The suitability of the property in question for the uses permitted under the existing zoning classification.
 - 4. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was placed in its present zoning classification.
 - 5. The length of time the property has been vacant as zoned considered in the context of land development in the area surrounding the subject property.
 - 6. The extent to which property values are diminished by particular zoning restrictions.
 - 7. The extent to which the proposed rezoning conforms with the comprehensive plan; or conditions or trends of development have

changed in the area to warrant the need for a different type of land use or density.

8. Adequate public facilities and services exist or can be provided.
- G. Effect of Denial of a Map Amendment – No application for an amendment which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of said order of denial, except on grounds of new evidence or proof of changed conditions found to be valid by the Board.
- H. Reversion of Zoning – If a lot or parcel for which a map amendment has been issued has not been put to a bona fide use or uses permitted in the amended district within two (2) years after the ordinance or order making the amendment, the Village may revert the zoning classification of the property to the zoning district present before the amendment.

Initiation of Reversion – Reversions may be proposed by the Village Board, Plan Commission, or by any person aggrieved by the map amendment.

2.09 SPECIAL USES

Purpose – In order to accomplish the general purpose and intent of this Ordinance, certain uses in each zoning district are classified as Special Uses. Because of their unique characteristics, such uses often require larger land areas or need specific regulations to achieve compatibility with existing development. The effects of such uses cannot normally be foreseen until a specific site is proposed. These uses then must be given careful consideration relative to the existing and proposed development in the area.

- A. Standing – Application for a Special Use may be made by the Village, the owner of the subject property or anyone having proprietary interest in the subject property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. Standards – A Special Use other than a Planned Unit Development shall be authorized only when the Plan Commission shall find all of the following:
 1. Compatible with Existing Development – The nature and intensity of the activities involved and the size and placement of any structures proposed will be so planned that the Special Use will be compatible with the existing development and will not impede the normal and orderly development and improvement of surrounding property.
 2. Lot of Sufficient Size – The size of the lot will be sufficient for the use proposed.
 3. Traffic – The location of the Special Use within the Village will be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the Special Use.
 4. Parking and Access – Parking areas will be of adequate size for the particular use and properly located, and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.

5. Effect on Neighborhood – In all respects, the special use will not be significantly or materially detrimental to the health, safety and welfare of the public or injurious to the other property or improvements in the neighborhood, nor will it diminish or impair property values in the surrounding area.
6. Adequate Facilities – That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided.
7. Adequate Buffering – Adequate fencing and/or screening shall be provided to ensure the enjoyment of surrounding properties, to provide for the public safety or to screen parking areas and other visually incompatible uses.

C. Standard – The Plan Commission recommendation shall be consistent with the Objectives and Intent of this Ordinance and shall refer to specific zoning district standards as a guide to the establishment of requirements for each special use.

D. Conditions – The Plan Commission shall recommend such conditions or restrictions upon the location, construction, design and operation of a Special Use as they shall find necessary and appropriate to assure compliance with the requirements set forth in this Ordinance and the Objectives and Intent of this Ordinance. These conditions may include, but are not limited to, regulations regarding landscaping, signage, adequate drainage of storm water, exterior lighting, fence height and the duration of the Special Use.

E. Effect of Denial of a Special Use - No application for a Special Use which has been denied wholly or in part by the Board of Trustees shall be re-submitted for a period of one (1) year from the date of the decision, except on the grounds of new evidence or proof of changed conditions found to be valid by the Plan Commission and the Board of Trustees.

F. Time Limits - A Special Use shall become null and void if not established or actively pursued within one (1) year of the date of approval except for a Planned Unit Development as provided in Section 7, Planned Unit Development.

2.10 PROCEDURE FOR VARIANCES, AMENDMENTS, REVERSION, AND SPECIAL USES.

A. Filing - Application shall be filed in writing with the Village Clerk and shall be accompanied by such documents and information as the Plan Commission requires. A specific list of direction or requirements are available from the Village Clerk.

B. Public Hearing

1. Timing - The Plan Commission shall hold a public hearing within sixty (60) days of approval of a completed application.
2. Public Notice - The petitioner shall provide a list to the Village Clerk of every owner of property within two hundred fifty feet (250'), exclusive of right-of-way, of the subject property. These owners shall be notified of the hearing by certified mail not more than thirty (30) days nor less than fifteen (15) days before the date of the hearings. A list of the owners shall be provided to the Village Clerk not less than thirty (30) days before the

SECTION 7 - PLANNED UNIT DEVELOPMENT REGULATIONS

7.01 Purpose

The purpose and intent of planned unit developments are to provide for certain exceptions to the use and bulk regulations of this code, where such exceptions will be utilized to provide greater flexibility and originality in the design of projects than might otherwise be possible under conventional zoning. A planned unit development is intended to permit and encourage such flexibility and to accomplish the following goals:

1. To stimulate unique and creative approaches to the development of land;
2. To provide for the more efficient use of land;
3. To promote flexibility in design and permit planned diversification in the location of structures;
4. To promote an efficient use of land to facilitate sustainability in the arrangement of buildings, circulation systems, utilities, open space and natural resources;
5. To preserve existing natural resources and landscape features and to utilize them in a manner harmonious with the development;
6. To provide for more usable and suitably located recreation facilities and other public facilities than would otherwise be provided under conventional development;
7. To provide for the aesthetic and functional harmony of various types of buildings, land uses, and landscape elements;
8. To develop new approaches to the living environment through variety in type, design and layout of residential structures, commercial and industrial buildings, transportation systems and public facilities;
9. To allow for the development of properties with unique constraints such as environmentally-sensitive areas or infill parcels which require a more flexible approach to land use control to make possible development that is sensitive to such constraints.
10. A land use which promotes the public health, safety, comfort, morals, and welfare.

The planned unit development is intended to provide for developments incorporating a single type or a variety of related uses which are planned and developed as a unit. The planned unit development may provide amenities not otherwise required by law and should establish facilities and open space greater than the minimums required by law. Such development may consist of conventional subdivided lots or provide for development by a planned unit development plat which establishes the location and extent of the features of the planned unit development in keeping with the purpose of the plan.

7.02 Standards and Regulations

A planned unit development shall be granted as a special use. Even though specified as a special use, a planned unit development is substantially different from other special uses. To reflect this difference, additional regulations and standards are hereby established. The planned unit development shall conform to the intent, purpose and character of the zoning district in which it is located.

7.03 Permitted Uses in a PUD

1. Residential PUDs are permitted under the provisions of this Ordinance in the Residential Districts and may include any uses permitted by right, special uses, or accessory uses in the underlying Residential district.
2. Commercial PUDs are permitted under the provisions of this Ordinance in the Business Districts and may include any uses permitted by right, special permitted uses, or accessory uses as provided in the underlying Business district.
3. Industrial PUDs are permitted under the provisions of this Ordinance in the Industrial Districts and may include any uses permitted by right, special permitted uses, or accessory uses as provided in the underlying Industrial district.
4. Mixed Use PUDs are permitted under the provisions of this Ordinance, provided that the underlying district boundaries conform with the uses being proposed.

The uses included in any proposed PUD are subject to the review and approval procedures specified herein, and shall not be deemed to be permitted by right.

7.04 Minimum Standards for a PUD

No development shall be filed as a Planned Unit Development unless it:

1. Is at least five (5) acres in size, and
2. Is initially under the same ownership or control.

7.05 Procedure: A planned unit development shall be granted a special use in accord with the following procedures and may depart from the normal procedure, standards, and other requirements of this ordinance. Applications shall be accompanied by the required plats and documents.

The process for a Planned Unit Development shall be as follows:

1. Pre-Application

Prior to filing a formal application, the applicant thereof shall meet with the Zoning, Planning and Engineering staff of the Village to discuss the proposed development. The applicant will provide a concept of the PUD at this time. Staff will advise the applicant at this time of all applicable officially adopted policies, standards, regulations and procedures.

A concept review before the Plan Commission may be directed at the discretion of Village staff or upon the request of the applicant. A concept review provides the Plan Commission an opportunity to determine what additional information will be necessary concerning the application.

2. Preliminary Plat of Planned Unit Development

Procedure for the submission of the Preliminary Plat for a Planned Unit Development shall be identical to the Preliminary Plat procedure described in the Village of Elwood Subdivision Regulations except that it shall be accompanied by an application for a special use permit for a Planned Unit Development in accordance with the procedures for special permitted uses established in Section 2.09 of this Ordinance.

3. Special Use for Planned Unit Development

Concurrent with the application for Preliminary Plat for a Planned Unit Development, the applicant shall submit an application for a special use for a Planned Unit Development. The Special Use Permit shall be approved contingent upon Final PUD approval.

4. *Final Plat of Planned Unit Development*

Procedure for submission of the Final Plat of Planned Unit Development shall be identical to the Final Plat procedure described in the Village of Elwood Subdivision Regulations.

7.06 Requirements for Submission

1. *Pre-Application:* The following items need to be provided by the applicant for a pre-application conference review to occur:
 - a. General Site Information - Data regarding site conditions, land characteristics, available community facilities and utilities, and other related information.
 - b. Concept Plan - A drawing in simple sketch form showing the proposed location, land uses, streets, buildings, and other related information.
2. *Preliminary Plat of Planned Unit Development:* In addition to the requirements for Preliminary Plat set forth in the Village of Elwood Subdivision Regulations, the following items and information are required for the submission of a Planned Unit Development:
 - a. Statement of Objectives - A statement of the objectives to be achieved by the PUD. This statement should provide the rationale behind the assumptions and choices of the developer/applicant. This statement should explain the benefits to the Village of Elwood that will result from the PUD.
 - b. Statement of Character - Explanation of the character of the PUD and the manner in which it has been planned to take advantage of the flexibility of these regulations.
 - c. List of Variances - a list of the variances from the zoning and subdivision ordinances that are being employed in the proposed PUD.
 - d. Design Schedule - A list of the area, lot width, yard, setback and bulk requirements applicable to the PUD.
 - e. Preliminary Landscape Plan - A landscape plan showing all landscape improvements (both plantings and hardscape) being proposed in the PUD. Details should be provided for landscape design elements intended for screening or buffering as well as for any unique landscape design features such as entry features, parks, etc.

In addition, the Plan Commission or Village Board may request at any time during the review process that the applicant provide any of the following additional items:

- a. Architectural Plans - If directed by the Plan Commission, the applicant shall submit Preliminary architectural plans for all primary buildings. The plans shall be submitted in sufficient detail to allow an understanding of the style of the development except for single-family detached structures proposed to be constructed on lots in compliance with all applicable zoning district requirements.
- b. School Impact Analysis - Provide information on the student count to be generated by the PUD and the financial impact on the local school districts.

2. *Varied Subdivision Requirements* - Dimensional and design standards for subdivisions and subdivision improvements such as streets, blocks, sidewalks, and parkways may vary from Village standards established or referenced in the Village Subdivision regulations provided that it can be demonstrated that the variations conform to all of the review criteria contained herein as well as those established for special uses and those established for subdivision plats. Required subdivision improvements may not vary from the required construction improvement specifications.
3. *Mixed Uses* - A PUD may include a variety of land uses designed and planned as part of a unified development provided that the underlying zoning conforms to the uses being proposed.
4. *On-Site Density Transfer* - The density permitted in a given portion of a total site may be transferred to another portion of site in order to preserve environmentally sensitive areas or to achieve excellence in design provided that the gross density does not exceed the maximum allowed herein for the underlying zoning district.
5. *Density Bonuses* - Design excellence in the provision of site amenities such as exceptional landscaping, recreational facilities, preservation of architectural and historic sites, and the preservation of environmentally sensitive areas may allow the granting of an increase in density of up to fifteen percent (15%).

The gross maximum density of a residential PUD shall not exceed the following standard for the district in which it is situated:

GR -	2 du/acre
R1 -	2.5 du/acre
R2 -	3.0 du/acre for single-family detached 6.0 du/acre for two-family
R2A -	3.0 du/acre
R3 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached 12 du/acre for multi-family
R4 -	3 du/acre for single-family detached 5 du/acre for two-family
R5 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached
R6 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached 12 du/acre for multi-family

Flexibility to suspend requirements imposed by the Village's zoning and subdivision regulations is not conferred upon the PUD applicant as a matter of right but in all cases subject to the finding by the Village that the objectives of these provisions are being served by the PUD and that all applicable review standards are being adhered to. Variations in a PUD from normally applicable standards shall not be considered as variances as defined in this Ordinance and shall not be required to conform to the approval criteria herein provided for variances.

7.09 Schedule: The President and Board of Trustees shall consider the planned unit development subject to revocation if construction falls more than two (2) years behind the schedule filed with the final plat. Extensions in the building schedule may be granted by the Plan Commission.

7.10 Location: The planned unit development is authorized as a special use in each of the zoning districts of this ordinance.

7.11 Standards: The planned unit development must meet the following standards:

- A. **Comprehensive Plan:** A planned unit development must conform with the intent and spirit of the proposals of the Comprehensive Plan.
- B. **Size:** The site of the planned unit development must be under single ownership and/or unified control and shall not be less than five (5) acres in area.
- C. **Compatibility:** The uses permitted in a planned unit development must be of a type and so located so as to exercise no undue detrimental influence upon surrounding properties.
- D. **Need:** A clear showing of need must be made.
- E. **Space Between Buildings:** The minimum horizontal distance between buildings shall be:
 - 1. Ten (10) feet between one story single-family dwellings.
 - 2. Fifteen feet (15') between two (2) story, two and one-half (2½) story buildings or combinations thereof.
 - 3. Equal to the height of the taller buildings in the case of freestanding unattached buildings other than one, two (2) or two and one-half (2½) story buildings.
- F. **Yards:** The required yards along the periphery of the planned unit development shall be at least equal in width or depth to that of the adjacent zoning district.
Buildings of more than twenty four feet (24') in height shall provide a setback from any property line of not less than equal to the height of such buildings.
- G. **Parking Requirements:** Adequate parking shall be provided and in no event shall the parking be less than that provided for in Section 8 of this ordinance.
- H. **Traffic:** Adequate provision shall be made to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- I. **Density:** The density of any planned unit development shall not exceed, by more than fifteen percent (15%), the density allowed in the district in which the planned unit development is located. Land within the planned unit development which is used for industrial purposes, commercial purposes, and open space may be included as gross area for calculations of density. (See densities in Section 7.08, Design Incentives)
- J. **Other Standards:** The planned unit development may depart from strict conformance with the required density, dimension, area, bulk, use, and other regulations for the standard zoning districts and other provisions of this ordinance to the extent specified in the preliminary land use and zoning plat and documents authorizing the planned unit development so long as the planned unit development will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

7.12 Findings: The Plan Commission shall provide findings of fact setting forth the reasons for the recommendation, and said findings shall set forth with particularity in what respects the proposal would serve the public interest including but not limited to findings of fact on the following:

- A. The extent to which the proposed plan is consistent with the stated purpose of the planned unit development regulations.
- B. The extent to which the proposed plan meets the requirements and standards of the planned unit development regulations.
- C. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to the density, dimension, area, bulk, and use, and the reasons why such departures are deemed to serve the public interest.
- D. The physical design of the proposed plan and the manner in which said design makes adequate provision for public services; provides adequate control over vehicular traffic; provides for and protects designated common open space; and furthers the amenities of light and air, recreation and visual enjoyment.
- E. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.
- F. The desirability of the proposed plan to physical development, tax base and economic well-being of the entire community.
- G. The conformity with the intent and spirit of the Comprehensive Plan.

7.13 Conditions and Guarantees: Prior to the granting of any planned unit development the Plan Commission may recommend, and the Village Board may stipulate, such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation and other elements of the planned unit development as deemed necessary for the protection of the public interest, improvement of the development, protection of the adjacent area, and to secure compliance with the standards specified. In all cases in which planned unit developments are granted, the Village Board shall require such evidence and guarantees to insure compliance with the conditions set forth in the approved planned unit development.

Julie Friebele

From: Thomas Nagel
Sent: Thursday, January 25, 2018 5:58 PM
To: julie.friebele@villageofelwood.com
Subject: Fwd: Resolution by the Elwood Fire Protection District Opposing Northpoint Development
Attachments: DOC059.pdf; Untitled attachment 00260.htm

Sent from my iPhone

Begin forwarded message:

From: Admin Post <admin.post@elwoodfpd.com>
Date: January 17, 2018 at 1:40:16 PM CST
To: thomas.nagel@villageofelwood.com
Subject: Fwd: Resolution by the Elwood Fire Protection District Opposing Northpoint Development

----- Forwarded message -----

From: Admin Post <admin.post@elwoodfpd.com>
Date: Wed, Jan 17, 2018 at 1:34 PM
Subject: Resolution by the Elwood Fire Protection District Opposing Northpoint Development
To: doug.jenco@villageofelwood.com, jasen.melahn@villageofelwood.com,
mary.matichak@villageofelwood.com, dean.lowrance@villageofelwood.com,
don.lapaglia@villageofelwood.com, darryl.lab@villageofelwood.com, Julie Friebele - V of Elwood
<Julie.friebele@villageofelwood.com>, thomas.nagel@villageofelwood.com,
doug.vaughn@villageofelwood.com

Attached please find a copy of Elwood Fire Protection District's Resolution No. 01082018 opposing Northpoint Development and annexation, which is currently in front of the Village of Elwood Zoning and Planning Commission.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

William E. Offerman

William E. Offerman, Fire Chief
Elwood Fire Protection District
309 W. Mississippi Street
Elwood, IL 60421-9211
[815.423.5224](tel:815.423.5224)
[815.423.5783](tel:815.423.5783)

RESOLUTION NO. 01082018

**A RESOLUTION BY THE ELWOOD FIRE PROTECTION DISTRICT OPPOSING THE
NORTHPOINT INTERMODAL DEVELOPMENT AND THE ZONING AND
ANNEXATION PROCESS PROPOSED TO THE VILLAGE OF ELWOOD, ILLINOIS**

WHEREAS, the Elwood Fire Protection District, Will County, Illinois (the "District") is an Illinois unit of local government (Constitution, Art. VII, Section 1) and fire protection district duly organized and existing pursuant to Illinois law including the Fire Protection District Act (70 ILCS 705/1 et seq.); and

WHEREAS, the District's Board of Trustees (the "Board") is advised of a proposed development within the Village of Elwood and adjacent to the Village of Elwood known as "Northpoint/Compass Business Park" ("Compass Business Park"); and

WHEREAS, the Board is advised that proposed development in its initial stages will consist of approximately 851 acres, 675 of which are proposed to be annexed into the Village and the remaining 176 are already within the Village; and

WHEREAS, the proposed development will be an intermodal facility resulting in a tremendous increase in construction, in truck traffic and resultant automobile traffic within the community represented and served by the Elwood Fire Protection District; and

WHEREAS, the increased traffic will create a dangerous environment for community, as previously created by the increased traffic attributed to presence of the CenterPoint Intermodal facility already located within the Fire Protection District, resulting in harm to the residents and additional financial stress upon the Fire Protection District.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Elwood Fire Protection District, Will County, Illinois, as follows:

SECTION ONE: That the Board finds the above entitled recitals to be true and correct, and by this reference incorporates each and all of them fully herein as if here restated.

SECTION TWO: That by this Resolution the Board opposes the Compass Business Park and requests that the Village of Elwood deny the pending applications for annexation and rezoning filed on its behalf.

SECTION THREE: That the Chief of the Fire Protection District is authorized to distribute this resolution and directed to serve it upon the Village Clerk of the Village of Elwood Illinois

SECTION FOUR: That all other resolutions, policies, or other proceedings in conflict herewith be to the extent of such conflict, are hereby repealed.

SECTION FIVE: This Resolution shall be in full force and effect upon its passage and approval as required by law.

ADOPTED this 8th day of January, 2018, by the following roll call vote:

AYES: 3

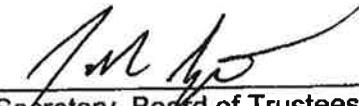
NAYS: 0

ABSENT: 0



President, Board of Trustees
Elwood Fire Protection District

ATTEST:



Mark J. Goss

Secretary, Board of Trustees
Elwood Fire Protection District

STATE OF ILLINOIS)
COUNTY OF WILL) SS

SECRETARY'S CERTIFICATE

I, John Stipanovich, the duly qualified and acting Secretary of the Board of Trustees of the Elwood Fire Protection District, Will County, Illinois, do hereby certify that attached hereto is a true and correct copy of a Resolution entitled:

RESOLUTION NO. 01082018

**A RESOLUTION BY THE ELWOOD FIRE PROTECTION DISTRICT OPPOSING THE
NORTHPOINT INTERMODAL DEVELOPMENT AND THE ZONING AND
ANNEXATION PROCESS PROPOSED TO THE VILLAGE OF ELWOOD, ILLINOIS**

which Resolution was duly adopted by said Board of Trustees at a meeting held on the
8th day of January, 2018.

I do further certify that a quorum of said Board of Trustees was present at said meeting, and the Board met all the requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of January,
2018.

John H. Hause

Julie Friebele

From: Thomas Nagel
Sent: Friday, January 26, 2018 11:16 AM
To: julie.friebele@villageofelwood.com
Subject: Fwd: Planning & Zoning Meeting

Sent from my iPhone

Begin forwarded message:

From: Julie Friebele <julie.friebele@villageofelwood.com>
Date: September 27, 2017 at 6:02:01 PM CDT
To: ghickey@krausonline.com, thomas.nagel@villageofelwood.com, jakefanning@hotmail.com, doug.vaughn@villageofelwood.com
Cc: Marian Gibson <marian.gibson@villageofelwood.com>
Subject: Planning & Zoning Meeting

Good Evening,

The next P&Z meeting is scheduled on October 24, 2017. Marian and I will be on vacation that week therefore would like to reschedule that meeting and move it to October 17, 2017. Please advise if you would be available on October 17th.

Thank you and enjoy your evening,

Julie Friebele

*Executive Administrative Assistant, Village Clerk
Village of Elwood
401 E. Mississippi Avenue
Elwood, IL 60421
815-424-1079 Fax 815-423-6861*

Julie Friebele

From: Thomas Nagel
Sent: Friday, January 26, 2018 11:18 AM
To: julie.friebele@villageofelwood.com
Subject: Fwd: Planning & Zoning Commission Meeting

Sent from my iPhone

Begin forwarded message:

From: Julie Friebele <julie.friebele@villageofelwood.com>
Date: November 10, 2017 at 6:48:48 AM CST
To: Thomas Nagel <thomas.nagel@villageofelwood.com>
Subject: Planning & Zoning Commission Meeting

Good Morning All,

The next regularly scheduled meeting of the Planning & Zoning Commission is November 28th. Due to timing matters, we are considering rescheduling the meeting to either December 5th or December 12th. Please advise of your availability on those dates.

Thank you and enjoy your weekend,

Julie Friebele
Executive Administrative Assistant, Village Clerk
Village of Elwood
401 E. Mississippi Avenue
Elwood, IL 60421
815-424-1079 Fax 815-423-6861

Julie Friebele

From: Thomas Nagel
Sent: Friday, January 26, 2018 11:20 AM
To: julie.friebele@villageofelwood.com
Subject: Fwd: your concerns
Attachments: mime-attachment (6.52 KB); Untitled attachment 00227.htm

Sent from my iPhone

Begin forwarded message:

From: Marian Gibson <marian.gibson@villageofelwood.com>
Date: December 13, 2017 at 8:14:35 AM CST
To: Tom Nagel <Thomas.Nagel@villageofelwood.com>
Cc: engineering <engineering@villageofelwood.com>
Subject: your concerns

Tom,
Thanks for your comments I will pass them on to Jim Sparber as he is reviewing all of the documents that the developer is presenting. As far as the field tiles, I received the attached email from the Will County Farm Bureau and passed the comments on to the developer.
Please let me know if you have any other concerns.

Marian T. Gibson, ICMA-CM
Village Administrator
Village of Elwood
401 East Mississippi Ave.
Elwood, IL 60421
marian.gibson@villageofelwood.com
815 424-1094 (Direct)
815 509-2282 (Cell)
815 423-6861 (Fax)

Julie Friebele

From: Marian Gibson <marian.gibson@villageofelwood.com>
Sent: Tuesday, December 12, 2017 1:09 PM
To: 'Mark Schneidewind'
Cc: 'Patrick Robinson'; 'Ian McDonald'; 'Tom George'
Subject: RE: question on farm drainage tiles

Mark,
Thanks for your input I will forward this to them and ask them to address it.

Marian T. Gibson, ICMA-CM
Village Administrator
Village of Elwood
401 East Mississippi Ave.
Elwood, IL 60421
marian.gibson@villageofelwood.com
815 424-1094 (Direct)
815 509-2282 (Cell)
815 423-6861 (Fax)

From: Mark Schneidewind [mailto:mark@willcfb.com]
Sent: Tuesday, December 12, 2017 12:04 PM
To: Marian Gibson <marian.gibson@villageofelwood.com>
Subject: question on farm drainage tiles

Marian, Hi! Hope all is going well! I was not planning to attend the meeting December 19th based on another meeting but in reviewing the materials I did not see anyplace where they "Northpoint" is addressing field tiles, rerouting tiles where needed and farm drainage. I have had meetings with them and they answered questions as to they would take care of this but I do not see it in any of the materials that are in the close to 80 page document for the meeting on the 19th.

Mark

Julie Friebele

From: Thomas Nagel
Sent: Friday, January 26, 2018 11:21 AM
To: julie.friebele@villageofelwood.com
Subject: Fwd: Farmers & Veterans Against NorthPoint Parade

Sent from my iPhone

Begin forwarded message:

From: Marian Gibson <marian.gibson@villageofelwood.com>
Date: December 28, 2017 at 4:00:09 PM CST
To: Doug Jenco <doug.jenco@villageofelwood.com>, Dean Lowrance <dean.lowrance@villageofelwood.com>, "Darryl P. Lab" <darryl.lab@villageofelwood.com>, Jasen Melahn <jasen.melahn@villageofelwood.com>, Mary Matichak <mary.matichak@villageofelwood.com>, Julie Frieble <julie.friebele@villageofelwood.com>, David Silverman <dsilverman@msclawfirm.com>, Tom Nagel <Thomas.Nagel@villageofelwood.com>, Greg Hickey <ghickey@krausonline.com>, jake.fanning@villageofelwood.com, Doug Vaughn <doug.vaughn@villageofelwood.com>
Subject: Fwd: Farmers & Veterans Against NorthPoint Parade

Marian T. Gibson, ICMA-CM
Village Administrator
Village of Elwood
401 E. Mississippi
Elwood, IL 60421
(815) 424-1095 Direct
(815) 509-2282 Cell
Email marian.gibson@villageofelwood.com

Begin forwarded message:

From: Erin Gallagher <Erin@ErinGallagher.net>
Date: December 28, 2017 at 12:45:58 PM CST
To: Marian Gibson <marian.gibson@villageofelwood.com>
Subject: Farmers & Veterans Against NorthPoint Parade

Mrs. Gibson:

As a courtesy, I wanted to let you know that a group of farmers, as well as some veterans, are hoping to demonstrate the size of their machinery and military vehicles, which needs to be part of the discussion with the NorthPoint issue.

On 1/11 at noon, they are traveling along Mississippi to 53 to Hoff to Ridge to Manhattan/Arsenal back to 53. We've discussed the matter with Chief Hayes and we understand that Elwood does not have a parade ordinance, and no permit is required.

We have secured assistance from the Will County Sheriff for traffic control, and have permission from Jackson and Manhattan township officials to use these roads.

We are asking that you share this information with your Board of Trustees, as well as the Planning & Zoning Commission so that we can witness and comprehend the life size of the vehicles — an important part of the equation.

If you have any questions, please feel free to contact me.

Erin L. Gallagher
815-641-7760 cell

Erin Gallagher & Associates, LLC

Julie Friebele

From: Thomas Nagel
Sent: Friday, January 26, 2018 11:23 AM
To: julie.friebele@villageofelwood.com
Subject: Fwd: Send data from MFP11995813 01/12/2018 14:10
Attachments: DOC011218-01122018141048.pdf; Untitled attachment 00122.htm

Sent from my iPhone

Begin forwarded message:

From: Thomas Nagel <thomas.nagel@villageofelwood.com>
Date: January 14, 2018 at 8:26:29 AM CST
To: twnagel58@yahoo.com
Subject: Fwd: Send data from MFP11995813 01/12/2018 14:10

Sent from my iPhone

Begin forwarded message:

From: David Silverman <dsilverman@msclawfirm.com>
Date: January 12, 2018 at 3:55:07 PM CST
To: "Doug.vaughn@villageofelwood.com" <Doug.vaughn@villageofelwood.com>,
"Greg.hickey@villageofelwood.com" <Greg.hickey@villageofelwood.com>,
"Jake.fanning@villageofelwood.com" <Jake.fanning@villageofelwood.com>,
"Thomas.nagel@villageofelwood.com" <Thomas.nagel@villageofelwood.com>
Cc: Marian Gibson <marian.gibson@villageofelwood.com>, Julie Friebele
<julie.friebele@villageofelwood.com>
Subject: FW: Send data from MFP11995813 01/12/2018 14:10

PLEASE DO NOT RESPOND TO ALL TO AVOID OPEN MEETINGS ACT VIOLATIONS
Portions of zoning ordinance are attached

David J. Silverman
MAHONEY, SILVERMAN & CROSS, LLC
822 Infantry Drive, Suite 100, Joliet, Illinois 60435
Phone: (815) 730-9500 Facsimile: (815) 730-9598
dsilverman@msclawfirm.com | www.msclawfirm.com | Bio

"If you think it's expensive to hire a professional to do the job, wait until you hire an amateur."

Red Adair

KENDALL COUNTY OFFICE:
126 S. Main Street, Oswego, IL 60543 (630) 554-7800
COOK COUNTY OFFICE:

-----Original Message-----

From: Litigation Resource

Sent: Friday, January 12, 2018 4:11 PM

To: David Silverman <dsilverman@msclawfirm.com>

Subject: Send data from MFP11995813 01/12/2018 14:10

Scanned from MFP11995813

Date:01/12/2018 14:10

Pages:9

Resolution:200x200 DPI

- B. Filing - An application for text amendment shall be filed with the office of the Village Clerk. Said application shall include at a minimum the relevant portion of the text for which the amendment is proposed and the exact wording of the proposed new text.
- C. Standards - Within thirty (30) days of the close of the public hearing the Plan Commission shall make a recommendation accompanied by such findings as supported by the evidence with respect to the following matters:
 - 1. That said amendment(s) is consistent with the purpose and intent of the Ordinance;
 - 2. That said amendment(s) is consistent with Village policy;
 - 3. That said amendment(s) does not unnecessarily create a hardship on property owners such as created by numerous non-conformities;
 - 4. That said amendment(s) are not in conflict with this Ordinance or other Village Ordinances.

(2) Map Amendments

- A. Standing - An application for an amendment to the official zoning map may be filed by the Board of Trustees, the Plan Commission, the owner of the subject property or anyone having a proprietary interest in the property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. Standards – The Plan Commission shall make recommendations based upon the evidence presented to it in each specific case with respect to the following matters:
 - 1. Existing uses of property within the general area of the property in question.
 - 2. The zoning classification of property within the general area of the property in question.
 - 3. The suitability of the property in question for the uses permitted under the existing zoning classification.
 - 4. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was placed in its present zoning classification.
 - 5. The length of time the property has been vacant as zoned considered in the context of land development in the area surrounding the subject property.
 - 6. The extent to which property values are diminished by particular zoning restrictions.
 - 7. The extent to which the proposed rezoning conforms with the comprehensive plan; or conditions or trends of development have

changed in the area to warrant the need for a different type of land use or density.

8. Adequate public facilities and services exist or can be provided.
- G. **Effect of Denial of a Map Amendment** – No application for an amendment which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of said order of denial, except on grounds of new evidence or proof of changed conditions found to be valid by the Board.
- H. **Reversion of Zoning** – If a lot or parcel for which a map amendment has been issued has not been put to a bona fide use or uses permitted in the amended district within two (2) years after the ordinance or order making the amendment, the Village may revert the zoning classification of the property to the zoning district present before the amendment.

Initiation of Reversion – Reversions may be proposed by the Village Board, Plan Commission, or by any person aggrieved by the map amendment.

2.09 SPECIAL USES

Purpose – In order to accomplish the general purpose and intent of this Ordinance, certain uses in each zoning district are classified as Special Uses. Because of their unique characteristics, such uses often require larger land areas or need specific regulations to achieve compatibility with existing development. The effects of such uses cannot normally be foreseen until a specific site is proposed. These uses then must be given careful consideration relative to the existing and proposed development in the area.

- A. **Standing** – Application for a Special Use may be made by the Village, the owner of the subject property or anyone having proprietary interest in the subject property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. **Standards** – A Special Use other than a Planned Unit Development shall be authorized only when the Plan Commission shall find all of the following:
 1. **Compatible with Existing Development** – The nature and intensity of the activities involved and the size and placement of any structures proposed will be so planned that the Special Use will be compatible with the existing development and will not impede the normal and orderly development and improvement of surrounding property.
 2. **Lot of Sufficient Size** – The size of the lot will be sufficient for the use proposed.
 3. **Traffic** – The location of the Special Use within the Village will be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the Special Use.
 4. **Parking and Access** – Parking areas will be of adequate size for the particular use and properly located, and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.

5. Effect on Neighborhood – In all respects, the special use will not be significantly or materially detrimental to the health, safety and welfare of the public or injurious to the other property or improvements in the neighborhood, nor will it diminish or impair property values in the surrounding area.
6. Adequate Facilities – That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided.
7. Adequate Buffering – Adequate fencing and/or screening shall be provided to ensure the enjoyment of surrounding properties, to provide for the public safety or to screen parking areas and other visually incompatible uses.

C. Standard – The Plan Commission recommendation shall be consistent with the Objectives and Intent of this Ordinance and shall refer to specific zoning district standards as a guide to the establishment of requirements for each special use.

D. Conditions – The Plan Commission shall recommend such conditions or restrictions upon the location, construction, design and operation of a Special Use as they shall find necessary and appropriate to assure compliance with the requirements set forth in this Ordinance and the Objectives and Intent of this Ordinance. These conditions may include, but are not limited to, regulations regarding landscaping, signage, adequate drainage of storm water, exterior lighting, fence height and the duration of the Special Use.

E. Effect of Denial of a Special Use - No application for a Special Use which has been denied wholly or in part by the Board of Trustees shall be re-submitted for a period of one (1) year from the date of the decision, except on the grounds of new evidence or proof of changed conditions found to be valid by the Plan Commission and the Board of Trustees.

F. Time Limits - A Special Use shall become null and void if not established or actively pursued within one (1) year of the date of approval except for a Planned Unit Development as provided in Section 7, Planned Unit Development.

2.10 PROCEDURE FOR VARIANCES, AMENDMENTS, REVERSION, AND SPECIAL USES.

A. Filing - Application shall be filed in writing with the Village Clerk and shall be accompanied by such documents and information as the Plan Commission requires. A specific list of direction or requirements are available from the Village Clerk.

B. Public Hearing

1. Timing - The Plan Commission shall hold a public hearing within sixty (60) days of approval of a completed application.
2. Public Notice - The petitioner shall provide a list to the Village Clerk of every owner of property within two hundred fifty feet (250'), exclusive of right-of-way, of the subject property. These owners shall be notified of the hearing by certified mail not more than thirty (30) days nor less than fifteen (15) days before the date of the hearings. A list of the owners shall be provided to the Village Clerk not less than thirty (30) days before the

SECTION 7 - PLANNED UNIT DEVELOPMENT REGULATIONS

7.01 Purpose

The purpose and intent of planned unit developments are to provide for certain exceptions to the use and bulk regulations of this code, where such exceptions will be utilized to provide greater flexibility and originality in the design of projects than might otherwise be possible under conventional zoning. A planned unit development is intended to permit and encourage such flexibility and to accomplish the following goals:

1. To stimulate unique and creative approaches to the development of land;
2. To provide for the more efficient use of land;
3. To promote flexibility in design and permit planned diversification in the location of structures;
4. To promote an efficient use of land to facilitate sustainability in the arrangement of buildings, circulation systems, utilities, open space and natural resources;
5. To preserve existing natural resources and landscape features and to utilize them in a manner harmonious with the development;
6. To provide for more usable and suitably located recreation facilities and other public facilities than would otherwise be provided under conventional development;
7. To provide for the aesthetic and functional harmony of various types of buildings, land uses, and landscape elements;
8. To develop new approaches to the living environment through variety in type, design and layout of residential structures, commercial and industrial buildings, transportation systems and public facilities;
9. To allow for the development of properties with unique constraints such as environmentally-sensitive areas or infill parcels which require a more flexible approach to land use control to make possible development that is sensitive to such constraints.
10. A land use which promotes the public health, safety, comfort, morals, and welfare.

The planned unit development is intended to provide for developments incorporating a single type or a variety of related uses which are planned and developed as a unit. The planned unit development may provide amenities not otherwise required by law and should establish facilities and open space greater than the minimums required by law. Such development may consist of conventional subdivided lots or provide for development by a planned unit development plat which establishes the location and extent of the features of the planned unit development in keeping with the purpose of the plan.

7.02 Standards and Regulations

A planned unit development shall be granted as a special use. Even though specified as a special use, a planned unit development is substantially different from other special uses. To reflect this difference, additional regulations and standards are hereby established. The planned unit development shall conform to the intent, purpose and character of the zoning district in which it is located.

7.03 Permitted Uses in a PUD

1. Residential PUDs are permitted under the provisions of this Ordinance in the Residential Districts and may include any uses permitted by right, special uses, or accessory uses in the underlying Residential district.
2. Commercial PUDs are permitted under the provisions of this Ordinance in the Business Districts and may include any uses permitted by right, special permitted uses, or accessory uses as provided in the underlying Business district.
3. Industrial PUDs are permitted under the provisions of this Ordinance in the Industrial Districts and may include any uses permitted by right, special permitted uses, or accessory uses as provided in the underlying Industrial district.
4. Mixed Use PUDs are permitted under the provisions of this Ordinance, provided that the underlying district boundaries conform with the uses being proposed.

The uses included in any proposed PUD are subject to the review and approval procedures specified herein, and shall not be deemed to be permitted by right.

7.04 Minimum Standards for a PUD

No development shall be filed as a Planned Unit Development unless it:

1. Is at least five (5) acres in size, and
2. Is initially under the same ownership or control.

7.05 Procedure: A planned unit development shall be granted a special use in accord with the following procedures and may depart from the normal procedure, standards, and other requirements of this ordinance. Applications shall be accompanied by the required plats and documents.

The process for a Planned Unit Development shall be as follows:

1. Pre-Application

Prior to filing a formal application, the applicant thereof shall meet with the Zoning, Planning and Engineering staff of the Village to discuss the proposed development. The applicant will provide a concept of the PUD at this time. Staff will advise the applicant at this time of all applicable officially adopted policies, standards, regulations and procedures.

A concept review before the Plan Commission may be directed at the discretion of Village staff or upon the request of the applicant. A concept review provides the Plan Commission an opportunity to determine what additional information will be necessary concerning the application.

2. Preliminary Plat of Planned Unit Development

Procedure for the submission of the Preliminary Plat for a Planned Unit Development shall be identical to the Preliminary Plat procedure described in the Village of Elwood Subdivision Regulations except that it shall be accompanied by an application for a special use permit for a Planned Unit Development in accordance with the procedures for special permitted uses established in Section 2.09 of this Ordinance.

3. Special Use for Planned Unit Development

Concurrent with the application for Preliminary Plat for a Planned Unit Development, the applicant shall submit an application for a special use for a Planned Unit Development. The Special Use Permit shall be approved contingent upon Final PUD approval.

4. *Final Plat of Planned Unit Development*

Procedure for submission of the Final Plat of Planned Unit Development shall be identical to the Final Plat procedure described in the Village of Elwood Subdivision Regulations.

7.06 Requirements for Submission

1. *Pre-Application:* The following items need to be provided by the applicant for a pre-application conference review to occur:
 - a. General Site Information - Data regarding site conditions, land characteristics, available community facilities and utilities, and other related information.
 - b. Concept Plan - A drawing in simple sketch form showing the proposed location, land uses, streets, buildings, and other related information.
2. *Preliminary Plat of Planned Unit Development:* In addition to the requirements for Preliminary Plat set forth in the Village of Elwood Subdivision Regulations, the following items and information are required for the submission of a Planned Unit Development:
 - a. Statement of Objectives - A statement of the objectives to be achieved by the PUD. This statement should provide the rationale behind the assumptions and choices of the developer/applicant. This statement should explain the benefits to the Village of Elwood that will result from the PUD.
 - b. Statement of Character - Explanation of the character of the PUD and the manner in which it has been planned to take advantage of the flexibility of these regulations.
 - c. List of Variances - a list of the variances from the zoning and subdivision ordinances that are being employed in the proposed PUD.
 - d. Design Schedule - A list of the area, lot width, yard, setback and bulk requirements applicable to the PUD.
 - e. Preliminary Landscape Plan - A landscape plan showing all landscape improvements (both plantings and hardscape) being proposed in the PUD. Details should be provided for landscape design elements intended for screening or buffering as well as for any unique landscape design features such as entry features, parks, etc.

In addition, the Plan Commission or Village Board may request at any time during the review process that the applicant provide any of the following additional items:

- a. Architectural Plans - If directed by the Plan Commission, the applicant shall submit Preliminary architectural plans for all primary buildings. The plans shall be submitted in sufficient detail to allow an understanding of the style of the development except for single-family detached structures proposed to be constructed on lots in compliance with all applicable zoning district requirements.
- b. School Impact Analysis - Provide information on the student count to be generated by the PUD and the financial impact on the local school districts.

2. *Varied Subdivision Requirements* - Dimensional and design standards for subdivisions and subdivision improvements such as streets, blocks, sidewalks, and parkways may vary from Village standards established or referenced in the Village Subdivision regulations provided that it can be demonstrated that the variations conform to all of the review criteria contained herein as well as those established for special uses and those established for subdivision plats. Required subdivision improvements may not vary from the required construction improvement specifications.
3. *Mixed Uses* - A PUD may include a variety of land uses designed and planned as part of a unified development provided that the underlying zoning conforms to the uses being proposed.
4. *On-Site Density Transfer* - The density permitted in a given portion of a total site may be transferred to another portion of site in order to preserve environmentally sensitive areas or to achieve excellence in design provided that the gross density does not exceed the maximum allowed herein for the underlying zoning district.
5. *Density Bonuses* - Design excellence in the provision of site amenities such as exceptional landscaping, recreational facilities, preservation of architectural and historic sites, and the preservation of environmentally sensitive areas may allow the granting of an increase in density of up to fifteen percent (15%).

The gross maximum density of a residential PUD shall not exceed the following standard for the district in which it is situated:

GR -	2 du/acre
R1 -	2.5 du/acre
R2 -	3.0 du/acre for single-family detached 6.0 du/acre for two-family
R2A -	3.0 du/acre
R3 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached 12 du/acre for multi-family
R4 -	3 du/acre for single-family detached 5 du/acre for two-family
R5 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached
R6 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached 12 du/acre for multi-family

Flexibility to suspend requirements imposed by the Village's zoning and subdivision regulations is not conferred upon the PUD applicant as a matter of right but in all cases subject to the finding by the Village that the objectives of these provisions are being served by the PUD and that all applicable review standards are being adhered to. Variations in a PUD from normally applicable standards shall not be considered as variances as defined in this Ordinance and shall not be required to conform to the approval criteria herein provided for variances.

7.09 Schedule: The President and Board of Trustees shall consider the planned unit development subject to revocation if construction falls more than two (2) years behind the schedule filed with the final plat. Extensions in the building schedule may be granted by the Plan Commission.

7.10 Location: The planned unit development is authorized as a special use in each of the zoning districts of this ordinance.

7.11 Standards: The planned unit development must meet the following standards:

- A. **Comprehensive Plan:** A planned unit development must conform with the intent and spirit of the proposals of the Comprehensive Plan.
- B. **Size:** The site of the planned unit development must be under single ownership and/or unified control and shall not be less than five (5) acres in area.
- C. **Compatibility:** The uses permitted in a planned unit development must be of a type and so located so as to exercise no undue detrimental influence upon surrounding properties.
- D. **Need:** A clear showing of need must be made.
- E. **Space Between Buildings:** The minimum horizontal distance between buildings shall be:
 - 1. Ten (10) feet between one story single-family dwellings.
 - 2. Fifteen feet (15') between two (2) story, two and one-half (2½) story buildings or combinations thereof.
 - 3. Equal to the height of the taller buildings in the case of freestanding unattached buildings other than one, two (2) or two and one-half (2½) story buildings.
- F. **Yards:** The required yards along the periphery of the planned unit development shall be at least equal in width or depth to that of the adjacent zoning district.
Buildings of more than twenty four feet (24') in height shall provide a setback from any property line of not less than equal to the height of such buildings.
- G. **Parking Requirements:** Adequate parking shall be provided and in no event shall the parking be less than that provided for in Section 8 of this ordinance.
- H. **Traffic:** Adequate provision shall be made to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- I. **Density:** The density of any planned unit development shall not exceed, by more than fifteen percent (15%), the density allowed in the district in which the planned unit development is located. Land within the planned unit development which is used for industrial purposes, commercial purposes, and open space may be included as gross area for calculations of density. (See densities in Section 7.08, Design Incentives)
- J. **Other Standards:** The planned unit development may depart from strict conformance with the required density, dimension, area, bulk, use, and other regulations for the standard zoning districts and other provisions of this ordinance to the extent specified in the preliminary land use and zoning plat and documents authorizing the planned unit development so long as the planned unit development will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

7.12 Findings: The Plan Commission shall provide findings of fact setting forth the reasons for the recommendation, and said findings shall set forth with particularity in what respects the proposal would serve the public interest including but not limited to findings of fact on the following:

- A. The extent to which the proposed plan is consistent with the stated purpose of the planned unit development regulations.
- B. The extent to which the proposed plan meets the requirements and standards of the planned unit development regulations.
- C. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to the density, dimension, area, bulk, and use, and the reasons why such departures are deemed to serve the public interest.
- D. The physical design of the proposed plan and the manner in which said design makes adequate provision for public services; provides adequate control over vehicular traffic; provides for and protects designated common open space; and furthers the amenities of light and air, recreation and visual enjoyment.
- E. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.
- F. The desirability of the proposed plan to physical development, tax base and economic well-being of the entire community.
- G. The conformity with the intent and spirit of the Comprehensive Plan.

7.13 Conditions and Guarantees: Prior to the granting of any planned unit development the Plan Commission may recommend, and the Village Board may stipulate, such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation and other elements of the planned unit development as deemed necessary for the protection of the public interest, improvement of the development, protection of the adjacent area, and to secure compliance with the standards specified. In all cases in which planned unit developments are granted, the Village Board shall require such evidence and guarantees to insure compliance with the conditions set forth in the approved planned unit development.

Julie Friebele

From: Thomas Nagel
Sent: Friday, January 26, 2018 11:24 AM
To: julie.friebele@villageofelwood.com
Subject: Fwd: OMA Requests for Review
Attachments: 50896 o 201 location proper mun.pdf; Untitled attachment 00220.htm

Sent from my iPhone

Begin forwarded message:

From: David Silverman <dsilverman@msclawfirm.com>
Date: January 23, 2018 at 5:03:54 PM CST
To: "doug.jenco@villageofelwood.com" <doug.jenco@villageofelwood.com>, "don.lapaglia@villageofelwood.com" <don.lapaglia@villageofelwood.com>, "Darryl Lab" <darryl.p.lab@gmail.com>, "dean.lowrance@villageofelwood.com" <dean.lowrance@villageofelwood.com>, "jasen.melahn@villageofelwood.com" <jasen.melahn@villageofelwood.com>, "mary.matichak@villageofelwood.com" <mary.matichak@villageofelwood.com>
Cc: Marian Gibson <marian.gibson@villageofelwood.com>, "Greg.hickey@villageofelwood.com" <Greg.hickey@villageofelwood.com>, "Julie Friebele" <julie.friebele@villageofelwood.com>, "Jake.fanning@villageofelwood.com" <Jake.fanning@villageofelwood.com>, "Doug.vaughn@villageofelwood.com" <Doug.vaughn@villageofelwood.com>, "Thomas.nagel@villageofelwood.com" <Thomas.nagel@villageofelwood.com>, "Jordan Kielian" <jkielian@msclawfirm.com>
Subject: FW: OMA Requests for Review

PLEASE DO NOT REPLY TO ALL TO AVOID OPEN MEETINGS ACT ISSUES

Mayor , Trustees and Plan Commission Members ,
Attached is a ruling from the Illinois Attorney General regarding the alleged violations of the open meetings act stemming from the first Plan Commission Public Hearing . The Attorney General has ruled that the Open Meetings Act was not violated and has closed its file on this complaint .

David J. Silverman
MAHONEY, SILVERMAN & CROSS, LLC
822 Infantry Drive, Suite 100, Joliet, Illinois 60435
Phone: (815) 730-9500 Facsimile: (815) 730-9598
dsilverman@msclawfirm.com | www.msclawfirm.com | Bio

"If you think it's expensive to hire a professional to do the job, wait until you hire an amateur."
Red Adair

KENDALL COUNTY OFFICE:
126 S. Main Street, Oswego, IL 60543 (630) 554-7800
COOK COUNTY OFFICE:
180 N. LaSalle Street, Suite 3700, Chicago, IL 60601 (312) 216-5101

-----Original Message-----

From: Carnes, Jodi [mailto:JCarnes@atg.state.il.us]

Sent: Tuesday, January 23, 2018 3:41 PM

To: 'jlmedvid23@gmail.com' <jlmedvid23@gmail.com>; 'ktmae11@yahoo.com' <ktmae11@yahoo.com>; 'perf56@aol.com' <perf56@aol.com>; 'morgenp317@live.com' <morgenp317@live.com>; 'krern84@gmail.com' <krern84@gmail.com>; 'emb0827@gmail.com' <emb0827@gmail.com>; 'zarkhvac@live.com' <zarkhvac@live.com>; 'blkze@sbcglobal.net' <blkze@sbcglobal.net>; 'jille1983@hotmail.com' <jille1983@hotmail.com>; 'jillyp1022@yahoo.com' <jillyp1022@yahoo.com>; 'stashprints@msn.com' <stashprints@msn.com>; 'triciamaas@yahoo.com' <triciamaas@yahoo.com>; David Silverman <dsilverman@msclawfirm.com>; Jordan Kielian <jkielian@msclawfirm.com>; 'mandas1610@sbcglobal.net' <mandas1610@sbcglobal.net>; 'crystalstale@msn.com' <crystalstale@msn.com>; 'ttmiedona@att.net' <ttmiedona@att.net>; 'legrett2007@gmail.com' <legrett2007@gmail.com>; 'nruettiger@gmail.com' <nruettiger@gmail.com>; 'cahyssatattroe@gmail.com' <cahyssatattroe@gmail.com>; 'stwy77@gmail.com' <stwy77@gmail.com>; 'wshawnamy@att.net' <wshawnamy@att.net>; 'kevin.whaley80@gmail.com' <kevin.whaley80@gmail.com>; 'jdeaville22@gmail.com' <jdeaville22@gmail.com>; 'katiedjacobs@gmail.com' <katiedjacobs@gmail.com>; 'plainoldspike@hotmail.com' <plainoldspike@hotmail.com>; 'mcclaren2137@gmail.com' <mcclaren2137@gmail.com>; 'danielle.meintanis@hotmail.com' <danielle.meintanis@hotmail.com>; 'sirvine84@gmail.com' <sirvine84@gmail.com>; 'chucks72cutlas@msn.com' <chucks72cutlas@msn.com>; 'katdug2@yahoo.com' <katdug2@yahoo.com>; 'rkemp24@hotmail.com' <rkemp24@hotmail.com>; 'drew.coldwater@icloud.com' <drew.coldwater@icloud.com>; 'iberscheid@hotmail.com' <iberscheid@hotmail.com>; 'brandy@brandywalshphotography.com' <brandy@brandywalshphotography.com>; 'revjulieb-c@sbcglobal.net' <revjulieb-c@sbcglobal.net>

Cc: Olson, Neil <NOLson@atg.state.il.us>

Subject: OMA Requests for Review

With regard to OMA Requests for Review 2017 PAC 50896, 50897, 50898, 50899, 50900, 50901, 50902, 50903, 50904, 50905, 50906, 50907, 50909, 50910, 50926, 50927, 50928, 50929, 50930, 50931, 50932, 50933, 50939, 50940, 50956, 50957, 50958, 50959, 50960, 50961, 50979, 51006, 51033; 2018 PAC 51046, 51116, please find the attached correspondence from Deputy Public Access Counselor Olson.

Please contact us if you have any questions. Thank you.

Jodi Carnes, Paralegal
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Public Access Bureau
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Springfield, Illinois 62706
(217) 558-1926
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OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 23, 2018

All via electronic mail:

Mr. Jayme Medvid	Ms. Amanda Wade	Mr. Joe Berscheid
Ms. Katie Hunt	Ms. Crystal Cichon	Mr. Daniel Herod
Ms. Lynn Delaney	Mr. Trent Miedona	Ms. Danielle Meintanis
Ms. Morgen Africa	Ms. Delilah Legrett	Ms. Stephanie Irvine
Ms. Kristine DiDomenico	Mr. Nicholas Ruettiger	Mr. Charles D. Williams
Ms. Eileen M. Bosi	Ms. Cahryssa Coldwater	Ms. Kathy Bernhard
Mr. Rob Bogda	Dr. Shawn Walsh	Ms. Rebecca Kemp Robbins
Ms. Nichelle Tomalewicz	Ms. Amy Walsh	Mr. Drew Coldwater
Ms. Jill Bishop	Mr. Kevin Whaley	Ms. Jill Berscheid
Ms. Jillian Shanahan	Ms. Lindsay Fredin	Ms. Brandy Walsh
Ms. Lynn Stasiak	Ms. Jillian Deaville	Ms. Julia Baum-Coldwater
Ms. Tricia Maas	Ms. Kaitlyn Smith	
Mr. David J. Silverman Mahoney, Silverman & Cross, LLC	Mr. Jordan Kielian Mahoney, Silverman & Cross, LLC	

RE: OMA Requests for Review – 2017 PAC 50896, 50897, 50898, 50899,
50900, 50901, 50902, 50903, 50904, 50905, 50906, 50907, 50909, 50910, 50926, 50927,
50928, 50929, 50930, 50931, 50932, 50933, 50939, 50940, 50956, 50957, 50958, 50959,
50960, 50961, 50979, 51006, 51033; 2018 PAC 51046, 51116

In re: Village of Elwood Planning and Zoning Commission

January 23, 2018

Page 2

To all concerned:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2016)). For the reasons that follow, the Public Access Bureau concludes that the Village of Elwood (Village) Planning and Zoning Commission (Commission) did not violate the requirements of OMA at its December 19, 2017, meeting.

Between the dates of December 19, 2017, and January 4, 2018, this office received a total of 37 Requests for Review alleging violations of OMA by the Commission at its the December 19, 2017, meeting, which was held at the Village Hall located at 401 East Mississippi Avenue in Elwood.¹ Although the Requests for Review provided various levels of detail, all the complaints alleged that the Village Hall had insufficient space to accommodate everyone who appeared to attend the meeting. According to requesters, approximately 50 to 100 people were prevented from entering the Village Hall because the building was at maximum capacity. Requesters alleged that the Village should have anticipated the large turnout because the Commission meeting concerned a controversial development project and they had questioned Village officials about the plan to accommodate attendees prior to the meeting. Requesters further alleged that the Village could have held the meeting at a local elementary school, which has a capacity of approximately 1,200. Several requesters also complained generally about the crowded conditions in the Village Hall, and, more specifically, that the television in one of the overflow rooms was small and not visible to many members of the public.

On December 28, 2017, this office sent counsel for the Village copies of the Requests for Reviews that had been received by that date and which complained exclusively about the December 19, 2017, Commission meeting. This office requested that the Village respond to the allegations in the Requests for Review and specifically address whether the December 19, 2017, Commission meeting complied with section 2.01 of OMA (5 ILCS 120/2.01 (West 2016), as amended by Public Act 100-477, effective September 8, 2017), which provides that all public meetings shall be held at places which are "convenient and open" to the public.

On January 4, 2018, counsel for the Village submitted a written answer to this office, which included an affidavit from the Village police chief concerning security and seating of attendees, and a description of the additional audio and visual equipment that was set up in each of the areas in the Village Hall. On January 5, 2018, this office forwarded copies of the Commission's answer to persons who had submitted a Request for Review; six requesters submitted replies to this office.

¹35 of the 37 Requests for Review contain the allegation that the meeting space was insufficient to accommodate persons who appeared for the meeting, and have been consolidated for determination in this letter. Two of the Requests for Review (2017 PAC 50967 and 2017 PAC 51034) made an additional allegation against the Village, which this office will address in a separate determination letter.

DETERMINATION

"It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business." 5 ILCS 120/1 (West 2016). "[C]itizens shall be given * * * the right to attend all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/1 (West 2016).

Section 2.01 of OMA provides that "[a]ll meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public." "By its plain terms, section 2.01 requires a venue that is not only 'open,' but 'convenient,' to the public." *Gerwin v. Livingston County Board*, 345 Ill. App. 3d 352, 359 (4th Dist. 2003). Thus, "an open meeting in an inconvenient place violates the Act." *Gerwin*, 345 Ill. App. 3d at 359.

In its answer, the Commission stated that for the December 19, 2017, meeting, it had created space for a total of 631 people in the Village Hall: 50 people in the board room; 96 people in the community room; 335 people in the basement; and standing room for 150 people in the administrative offices. The Commission also addressed the expected attendance for the meeting:

The Village did not have an exact estimate of how many people would attend the public hearing. Customarily, attendance at Zoning and Planning Commission meetings is extremely low and is not a predictive measure for the expected turnout for this particular hearing. As stated in many of the Requests for Reviews, the development proposal has been a contested issue in the Village this past year. Approximately 50 members of the public have been attending the Village's monthly board meetings in conjunction with discussions regarding this potential development. The Village did expect several hundred people, and did accommodate over 600 who attended the hearing. For reference, Elwood is a community with approximately 2,300 residents according to the 2010 United States Census. 435 Elwood citizens cast a vote in the most recent mayoral election held in April of 2017, according to records of the Will County Clerk. Thus, the Village had prepared to accommodate more than 25% of Elwood's entire population and a

January 23, 2018

Page 4

40% larger turnout than the most recent mayoral general election.^[2]

In replies to the Commission's answer, requesters alleged that it did not adequately consider various factors in connection with the location of the meeting. First, requesters alleged that prior Village meetings, although not Commission meetings, were attended by up to 400 people.³ Second, requesters alleged that greater public opposition to the development project was evident by media reporting, the number of people signing petitions, activity on social media, and lawn signs.⁴ Third, requesters alleged that the Commission should have anticipated the attendance of persons from neighboring communities affected by the project, such as Manhattan, Illinois.⁵ Lastly, as several of the Requests for Review had alleged, requesters alleged that members of the public had asked Village officials about the occupancy of the Village Hall prior to the meeting, thus placing them on notice that the space might be inadequate.

As referenced above, the leading Illinois case on meeting space accessibility is *Gerwin*. There, the plaintiffs appealed the dismissal of their lawsuit against a county board for allegedly violating section 2.01 of OMA by holding a meeting in an inconvenient place. *Gerwin*, 345 Ill. App. 3d at 353. In *Gerwin*, when a local landfill informed the county board that it wanted to expand, opponents collected 500 signatures on petitions and took out large advertisements in local and regional newspapers encouraging citizens to attend upcoming meetings. *Gerwin*, 345 Ill. App. 3d at 354. After an overflow crowd attended a meeting of a committee of the board, a board member asked whether the upcoming board meeting could be moved to a bigger room, but the meeting was not moved. *Gerwin*, 345 Ill. App. 3d at 355. The plaintiffs alleged that the landfill had asked supporters to arrive early for the board meeting to fill the meeting room, and they did so; only a few protesters were allowed entrance. *Gerwin*, 345 Ill. App. 3d at 356. About 100 members of the public were relegated to the area outside the meeting

²Letter from Jordan M. Kielian, Mahoney, Silverman & Cross, LLC, to Neil P. Olson, Deputy Public Access Counselor, Public Access Bureau (January 4, 2018), at 2.

³Requesters pointed to an "open house" about the development attended by approximately 400 people in June, 2017.

⁴See, e.g., E-mail from Julie Baum-Coldwater, to Neil Olson, [Deputy Public Access Counselor], [Public Access Bureau] (January 8, 2018) (alleging 1,375 people had signed petition against project by December 2, 2017 and 780 "Just Say No to Northpoint" yard signs had been distributed); E-mail from Tricia Maas to Neil Olson, [Deputy Public Access Counselor], [Public Access Bureau] (January 10, 2018) (alleging that Just Say No to Northpoint Facebook page has 1,277 likes and over 1,300 followers).

⁵7,051 people reside in Manhattan, Illinois, according to the 2010 United States Census. See United States Census Bureau, available at <https://www.census.gov/quickfacts/fact/table/manhattanillinois,US#viewtop>.

room, where no seating was available and it was uncomfortable, and the plaintiffs alleged that the Board "made no arrangements to accommodate them." *Gerwin*, 345 Ill. App. 3d at 356.

Addressing the meaning of "convenient," the court stated that "[a] meeting can be open in the sense that no one is prohibited from attending it, but it can be held in such an ill-suited, unaccommodating, unadvantageous place that members of the public, as a practical matter, would be deterred from attending it." *Gerwin*, 345 Ill. App. 3d at 361. Still, the court found that "[i]t would be unreasonable to suppose the legislature intended * * * that public bodies hold their meetings 'at such locations as are sufficient to accommodate *all* interested members of the public, such that they may see and hear all proceedings in reasonable comfort and safety.'" (Emphasis in original.) *Gerwin*, 345 Ill. App. 3d at 361. Accordingly, as quoted above, what section 2.01 requires instead is "reasonable accessibility." *Gerwin*, 345 Ill. App. 3d at 362 ("Renting a football stadium for public meetings might be inconvenient, or unadvantageous, to the public as a whole because of the cost. By the same token, holding public meetings in a small room might be inconvenient to the public because persons wanting to attend would have difficulty gaining admittance."). Because the reasonableness of the meeting space was a question of fact that needed to be explored, the court held that the trial court had improperly dismissed the plaintiffs' claims. *Gerwin*, 345 Ill. App. 3d at 362.

The parties agree that the subject matter to be discussed at the December 19, 2017, Commission meeting was contentious and numerous people were expected to attend the meeting. Where the parties disagree is whether the Commission should have anticipated that the Village Hall space would be insufficient to hold the attendees and explored alternative space, such as the local elementary school. Unlike in *Gerwin*, although prior meetings concerning the development project had been heavily attended, there was not a prior instance in which the full capacity of the Village Hall had been tested under similar circumstances. Although the Village Hall's stated capacity of 631 may not have provided optimum conditions for the number of attendees because it included standing room for 150, and because some persons allege that they had difficulty viewing the audiovisual broadcast of the meeting, it is nonetheless apparent that the Village made significant efforts to accommodate as many attendees as possible.

Here, the Commission set up speakers and monitors throughout the Village Hall to make sure that persons who wished to attend the hearing could be accommodated.⁶ The stated capacity of 631 equated to room for more than 200 persons in excess of the number of attendees at an open house concerning the development. Based on the information provided in this case, this office cannot conclude that holding the meeting at Village Hall did not provide reasonable

⁶In a previous Request for Review, this office concluded that a meeting was not reasonably accessible when the public body "did not explain why it did not attempt to use microphones or other technology so that those excluded from the meeting room could have at least heard the meeting, nor did it assert that such an option was unavailable." Ill. Att'y Gen. PAC Req. Rev. Ltr. 37216, 37291, 37970, issued February 23, 2016, at 7-8.

In re: Village of Elwood Planning and Zoning Commission
January 23, 2018
Page 6

accessibility, considering the size of the communities involved and the Village's efforts that resulted in accommodation for several hundred more attendees than usual. Accordingly, this office concludes that the Commission did not violate section 2.01 of OMA at its December 19, 2017, meeting.⁷

This office further notes that several requesters alleged violations of the fire code or other safety codes in connection with the December 19, 2017, meeting. The Public Access Counselor's authority is limited to resolving disputes concerning the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2016)) and OMA. 15 ILCS 205/7(c) (West 2016). Therefore, these allegations are not subject to review by this office.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any question, please contact me at (217) 782-9078.

Very truly yours,



NEIL P. OLSON
Deputy Public Access Counselor
Assistant Attorney General, Public Access Bureau

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⁷We have been advised that the Commission subsequently scheduled two continuations of the Commission hearing, on January 11, 2018, and January 17, 2018, at the larger meeting space at the local elementary school, as suggested by many requesters, and arranged to have broadcasts of the meetings streamed on the Village's website.

In re: Village of Elwood Planning and Zoning Commission

January 23, 2018

Page 7

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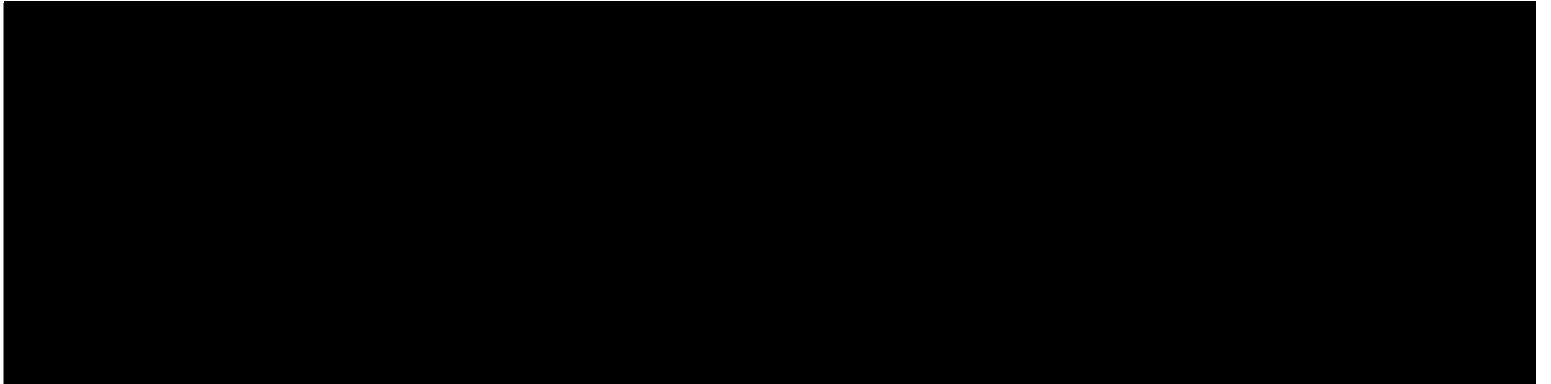
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Ms. Julia Baum-Coldwater
revjulieb-c@sbcglobal.net

Julie Friebele

From: Thomas Nagel <thomas.nagel@villageofelwood.com>
Sent: Sunday, January 21, 2018 10:54 AM
To: Dean Lowrance; Doug Jenco; Jasen Melahn; Marian Gibson; Mary Maticak; Don Lapaglia; Darryl Lab
Subject: Northpoint/ Boundry Lines

Village Trustees,



Sincerely,

Thomas Nagel

The Law Firm of
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R. PETER GROMETER
GRANT S. WEGNER

CONFIDENTIAL MEMORANDUM

TO: Members of the Plan Commission

cc: Marian T. Gibson

FROM: David J. Silverman

RE: Compass Business Park

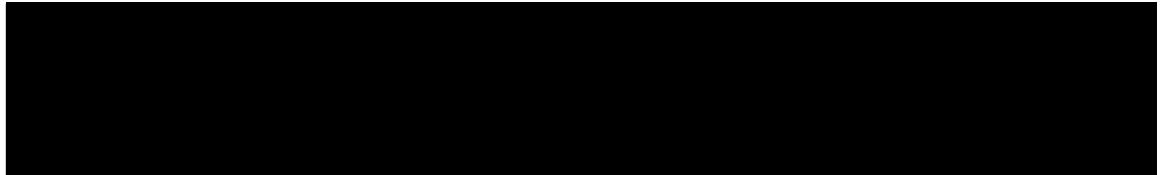
DATE: January 12, 2018

[REDACTED]

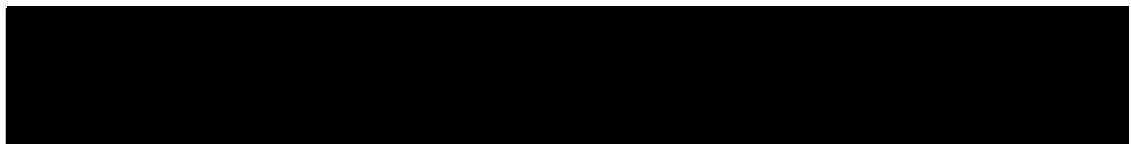
[REDACTED]

3. I have attached several excerpts from the Zoning Ordinance.

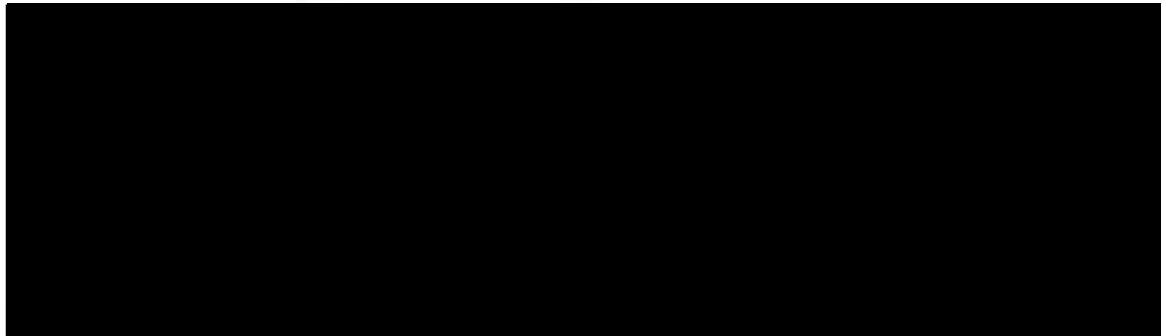
A. Map Amendment



B. Special Use



C. Planned Unit Development



Please contact Marian or me should you have any questions.

- B. Filing - An application for text amendment shall be filed with the office of the Village Clerk. Said application shall include at a minimum the relevant portion of the text for which the amendment is proposed and the exact wording of the proposed new text.
- C. Standards - Within thirty (30) days of the close of the public hearing the Plan Commission shall make a recommendation accompanied by such findings as supported by the evidence with respect to the following matters:
 - 1. That said amendment(s) is consistent with the purpose and intent of the Ordinance;
 - 2. That said amendment(s) is consistent with Village policy;
 - 3. That said amendment(s) does not unnecessarily create a hardship on property owners such as created by numerous non-conformities;
 - 4. That said amendment(s) are not in conflict with this Ordinance or other Village Ordinances.

(2) Map Amendments

- A. Standing - An application for an amendment to the official zoning map may be filed by the Board of Trustees, the Plan Commission, the owner of the subject property or anyone having a proprietary interest in the property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. Standards – The Plan Commission shall make recommendations based upon the evidence presented to it in each specific case with respect to the following matters:
 - 1. Existing uses of property within the general area of the property in question.
 - 2. The zoning classification of property within the general area of the property in question.
 - 3. The suitability of the property in question for the uses permitted under the existing zoning classification.
 - 4. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was placed in its present zoning classification.
 - 5. The length of time the property has been vacant as zoned considered in the context of land development in the area surrounding the subject property.
 - 6. The extent to which property values are diminished by particular zoning restrictions.
 - 7. The extent to which the proposed rezoning conforms with the comprehensive plan; or conditions or trends of development have

8. Adequate public facilities and services exist or can be provided.
- G. Effect of Denial of a Map Amendment – No application for an amendment which has been denied wholly or in part by the Board shall be re-submitted for a period of one (1) year from the date of said order of denial, except on grounds of new evidence or proof of changed conditions found to be valid by the Board.
- H. Reversion of Zoning – If a lot or parcel for which a map amendment has been issued has not been put to a bona fide use or uses permitted in the amended district within two (2) years after the ordinance or order making the amendment, the Village may revert the zoning classification of the property to the zoning district present before the amendment.

Initiation of Reversion – Reversions may be proposed by the Village Board, Plan Commission, or by any person aggrieved by the map amendment.

2.09 SPECIAL USES

Purpose – In order to accomplish the general purpose and intent of this Ordinance, certain uses in each zoning district are classified as Special Uses. Because of their unique characteristics, such uses often require larger land areas or need specific regulations to achieve compatibility with existing development. The effects of such uses cannot normally be foreseen until a specific site is proposed. These uses then must be given careful consideration relative to the existing and proposed development in the area.

- A. Standing – Application for a Special Use may be made by the Village, the owner of the subject property or anyone having proprietary interest in the subject property. All requests made by parties other than the property owner must be accompanied by written authorization from the property owner.
- B. Standards – A Special Use other than a Planned Unit Development shall be authorized only when the Plan Commission shall find all of the following:
 1. Compatible with Existing Development – The nature and intensity of the activities involved and the size and placement of any structures proposed will be so planned that the Special Use will be compatible with the existing development and will not impede the normal and orderly development and improvement of surrounding property.
 2. Lot of Sufficient Size – The size of the lot will be sufficient for the use proposed.
 3. Traffic – The location of the Special Use within the Village will be such that adverse effects on surrounding properties will be minimal, particularly regarding the traffic generated by the Special Use.
 4. Parking and Access – Parking areas will be of adequate size for the particular use and properly located, and the entrance and exit drives will be laid out so as to prevent traffic hazards and nuisances.

5. Effect on Neighborhood – In all respects, the special use will not be significantly or materially detrimental to the health, safety and welfare of the public or injurious to the other property or improvements in the neighborhood, nor will it diminish or impair property values in the surrounding area.
6. Adequate Facilities – That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided.
7. Adequate Buffering – Adequate fencing and/or screening shall be provided to ensure the enjoyment of surrounding properties, to provide for the public safety or to screen parking areas and other visually incompatible uses.

C. Standard – The Plan Commission recommendation shall be consistent with the Objectives and Intent of this Ordinance and shall refer to specific zoning district standards as a guide to the establishment of requirements for each special use.

D. Conditions – The Plan Commission shall recommend such conditions or restrictions upon the location, construction, design and operation of a Special Use as they shall find necessary and appropriate to assure compliance with the requirements set forth in this Ordinance and the Objectives and Intent of this Ordinance. These conditions may include, but are not limited to, regulations regarding landscaping, signage, adequate drainage of storm water, exterior lighting, fence height and the duration of the Special Use.

E. Effect of Denial of a Special Use - No application for a Special Use which has been denied wholly or in part by the Board of Trustees shall be re-submitted for a period of one (1) year from the date of the decision, except on the grounds of new evidence or proof of changed conditions found to be valid by the Plan Commission and the Board of Trustees.

F. Time Limits - A Special Use shall become null and void if not established or actively pursued within one (1) year of the date of approval except for a Planned Unit Development as provided in Section 7, Planned Unit Development.

2.10 PROCEDURE FOR VARIANCES, AMENDMENTS, REVERSION, AND SPECIAL USES.

A. Filing - Application shall be filed in writing with the Village Clerk and shall be accompanied by such documents and information as the Plan Commission requires. A specific list of direction or requirements are available from the Village Clerk.

B. Public Hearing

1. Timing - The Plan Commission shall hold a public hearing within sixty (60) days of approval of a completed application.
2. Public Notice - The petitioner shall provide a list to the Village Clerk of every owner of property within two hundred fifty feet (250'), exclusive of right-of-way, of the subject property. These owners shall be notified of the hearing by certified mail not more than thirty (30) days nor less than fifteen (15) days before the date of the hearings. A list of the owners shall be provided to the Village Clerk not less than thirty (30) days before the

7.01 Purpose

The purpose and intent of planned unit developments are to provide for certain exceptions to the use and bulk regulations of this code, where such exceptions will be utilized to provide greater flexibility and originality in the design of projects than might otherwise be possible under conventional zoning. A planned unit development is intended to permit and encourage such flexibility and to accomplish the following goals:

1. To stimulate unique and creative approaches to the development of land;
2. To provide for the more efficient use of land;
3. To promote flexibility in design and permit planned diversification in the location of structures;
4. To promote an efficient use of land to facilitate sustainability in the arrangement of buildings, circulation systems, utilities, open space and natural resources;
5. To preserve existing natural resources and landscape features and to utilize them in a manner harmonious with the development;
6. To provide for more usable and suitably located recreation facilities and other public facilities than would otherwise be provided under conventional development;
7. To provide for the aesthetic and functional harmony of various types of buildings, land uses, and landscape elements;
8. To develop new approaches to the living environment through variety in type, design and layout of residential structures, commercial and industrial buildings, transportation systems and public facilities;
9. To allow for the development of properties with unique constraints such as environmentally-sensitive areas or infill parcels which require a more flexible approach to land use control to make possible development that is sensitive to such constraints.
10. A land use which promotes the public health, safety, comfort, morals, and welfare.

The planned unit development is intended to provide for developments incorporating a single type or a variety of related uses which are planned and developed as a unit. The planned unit development may provide amenities not otherwise required by law and should establish facilities and open space greater than the minimums required by law. Such development may consist of conventional subdivided lots or provide for development by a planned unit development plat which establishes the location and extent of the features of the planned unit development in keeping with the purpose of the plan.

7.02 Standards and Regulations

A planned unit development shall be granted as a special use. Even though specified as a special use, a planned unit development is substantially different from other special uses. To reflect this difference, additional regulations and standards are hereby established. The planned unit development shall conform to the intent, purpose and character of the zoning district in which it is located.

7.03 Permitted Uses in a PUD

1. Residential PUDs are permitted under the provisions of this Ordinance in the Residential Districts and may include any uses permitted by right, special uses, or accessory uses in the underlying Residential district.
2. Commercial PUDs are permitted under the provisions of this Ordinance in the Business Districts and may include any uses permitted by right, special permitted uses, or accessory uses as provided in the underlying Business district.
3. Industrial PUDs are permitted under the provisions of this Ordinance in the Industrial Districts and may include any uses permitted by right, special permitted uses, or accessory uses as provided in the underlying Industrial district.
4. Mixed Use PUDs are permitted under the provisions of this Ordinance, provided that the underlying district boundaries conform with the uses being proposed.

The uses included in any proposed PUD are subject to the review and approval procedures specified herein, and shall not be deemed to be permitted by right.

7.04 Minimum Standards for a PUD

No development shall be filed as a Planned Unit Development unless it:

1. Is at least five (5) acres in size, and
2. Is initially under the same ownership or control.

7.05 Procedure: A planned unit development shall be granted a special use in accord with the following procedures and may depart from the normal procedure, standards, and other requirements of this ordinance. Applications shall be accompanied by the required plats and documents.

The process for a Planned Unit Development shall be as follows:

1. Pre-Application

Prior to filing a formal application, the applicant thereof shall meet with the Zoning, Planning and Engineering staff of the Village to discuss the proposed development. The applicant will provide a concept of the PUD at this time. Staff will advise the applicant at this time of all applicable officially adopted policies, standards, regulations and procedures.

A concept review before the Plan Commission may be directed at the discretion of Village staff or upon the request of the applicant. A concept review provides the Plan Commission an opportunity to determine what additional information will be necessary concerning the application.

2. Preliminary Plat of Planned Unit Development

Procedure for the submission of the Preliminary Plat for a Planned Unit Development shall be identical to the Preliminary Plat procedure described in the Village of Elwood Subdivision Regulations except that it shall be accompanied by an application for a special use permit for a Planned Unit Development in accordance with the procedures for special permitted uses established in Section 2.09 of this Ordinance.

3. Special Use for Planned Unit Development

Concurrent with the application for Preliminary Plat for a Planned Unit Development, the applicant shall submit an application for a special use for a Planned Unit Development. The Special Use Permit shall be approved contingent upon Final PUD approval.

4. *Final Plat of Planned Unit Development*

Procedure for submission of the Final Plat of Planned Unit Development shall be identical to the Final Plat procedure described in the Village of Elwood Subdivision Regulations.

7.06 Requirements for Submission

1. *Pre-Application:* The following items need to be provided by the applicant for a pre-application conference review to occur:
 - a. General Site Information - Data regarding site conditions, land characteristics, available community facilities and utilities, and other related information.
 - b. Concept Plan - A drawing in simple sketch form showing the proposed location, land uses, streets, buildings, and other related information.
2. *Preliminary Plat of Planned Unit Development:* In addition to the requirements for Preliminary Plat set forth in the Village of Elwood Subdivision Regulations, the following items and information are required for the submission of a Planned Unit Development:
 - a. Statement of Objectives - A statement of the objectives to be achieved by the PUD. This statement should provide the rationale behind the assumptions and choices of the developer/applicant. This statement should explain the benefits to the Village of Elwood that will result from the PUD.
 - b. Statement of Character - Explanation of the character of the PUD and the manner in which it has been planned to take advantage of the flexibility of these regulations.
 - c. List of Variances - a list of the variances from the zoning and subdivision ordinances that are being employed in the proposed PUD.
 - d. Design Schedule - A list of the area, lot width, yard, setback and bulk requirements applicable to the PUD.
 - e. Preliminary Landscape Plan - A landscape plan showing all landscape improvements (both plantings and hardscape) being proposed in the PUD. Details should be provided for landscape design elements intended for screening or buffering as well as for any unique landscape design features such as entry features, parks, etc.

In addition, the Plan Commission or Village Board may request at any time during the review process that the applicant provide any of the following additional items:

- a. Architectural Plans - If directed by the Plan Commission, the applicant shall submit Preliminary architectural plans for all primary buildings. The plans shall be submitted in sufficient detail to allow an understanding of the style of the development except for single-family detached structures proposed to be constructed on lots in compliance with all applicable zoning district requirements.
- b. School Impact Analysis - Provide information on the student count to be generated by the PUD and the financial impact on the local school districts.

2. *Varied Subdivision Requirements* - Dimensional and design standards for subdivisions and subdivision improvements such as streets, blocks, sidewalks, and parkways may vary from Village standards established or referenced in the Village Subdivision regulations provided that it can be demonstrated that the variations conform to all of the review criteria contained herein as well as those established for special uses and those established for subdivision plats. Required subdivision improvements may not vary from the required construction improvement specifications.
3. *Mixed Uses* - A PUD may include a variety of land uses designed and planned as part of a unified development provided that the underlying zoning conforms to the uses being proposed.
4. *On-Site Density Transfer* - The density permitted in a given portion of a total site may be transferred to another portion of site in order to preserve environmentally sensitive areas or to achieve excellence in design provided that the gross density does not exceed the maximum allowed herein for the underlying zoning district.
5. *Density Bonuses* - Design excellence in the provision of site amenities such as exceptional landscaping, recreational facilities, preservation of architectural and historic sites, and the preservation of environmentally sensitive areas may allow the granting of an increase in density of up to fifteen percent (15%).

The gross maximum density of a residential PUD shall not exceed the following standard for the district in which it is situated:

GR -	2 du/acre
R1 -	2.5 du/acre
R2 -	3.0 du/acre for single-family detached 6.0 du/acre for two-family
R2A -	3.0 du/acre
R3 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached 12 du/acre for multi-family
R4 -	3 du/acre for single-family detached 5 du/acre for two-family
R5 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached
R6 -	3 du/acre for single-family detached 5 du/acre for two-family 6 du/acre for single-family attached 12 du/acre for multi-family

Flexibility to suspend requirements imposed by the Village's zoning and subdivision regulations is not conferred upon the PUD applicant as a matter of right but in all cases subject to the finding by the Village that the objectives of these provisions are being served by the PUD and that all applicable review standards are being adhered to. Variations in a PUD from normally applicable standards shall not be considered as variances as defined in this Ordinance and shall not be required to conform to the approval criteria herein provided for variances.

7.09 Schedule: The President and Board of Trustees shall consider the planned unit development subject to revocation if construction falls more than two (2) years behind the schedule filed with the final plat. Extensions in the building schedule may be granted by the Plan Commission.

7.10 Location: The planned unit development is authorized as a special use in each of the zoning districts of this ordinance.

7.11 Standards: The planned unit development must meet the following standards:

- A. Comprehensive Plan: A planned unit development must conform with the intent and spirit of the proposals of the Comprehensive Plan.
- B. Size: The site of the planned unit development must be under single ownership and/or unified control and shall not be less than five (5) acres in area.
- C. Compatibility: The uses permitted in a planned unit development must be of a type and so located so as to exercise no undue detrimental influence upon surrounding properties.
- D. Need: A clear showing of need must be made.
- E. Space Between Buildings: The minimum horizontal distance between buildings shall be:
 - 1. Ten (10) feet between one story single-family dwellings.
 - 2. Fifteen feet (15') between two (2) story, two and one-half (2½) story buildings or combinations thereof.
 - 3. Equal to the height of the taller buildings in the case of freestanding unattached buildings other than one, two (2) or two and one-half (2½) story buildings.
- F. Yards: The required yards along the periphery of the planned unit development shall be at least equal in width or depth to that of the adjacent zoning district.

Buildings of more than twenty four feet (24') in height shall provide a setback from any property line of not less than equal to the height of such buildings.
- G. Parking Requirements: Adequate parking shall be provided and in no event shall the parking be less than that provided for in Section 8 of this ordinance.
- H. Traffic: Adequate provision shall be made to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- I. Density: The density of any planned unit development shall not exceed, by more than fifteen percent (15%), the density allowed in the district in which the planned unit development is located. Land within the planned unit development which is used for industrial purposes, commercial purposes, and open space may be included as gross area for calculations of density. (See densities in Section 7.08, Design Incentives)
- J. Other Standards: The planned unit development may depart from strict conformance with the required density, dimension, area, bulk, use, and other regulations for the standard zoning districts and other provisions of this ordinance to the extent specified in the preliminary land use and zoning plat and documents authorizing the planned unit development so long as the planned unit development will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

7.12 Findings: The Plan Commission shall provide findings of fact setting forth the reasons for the recommendation, and said findings shall set forth with particularity in what respects the proposal would serve the public interest including but not limited to findings of fact on the following:

- A. The extent to which the proposed plan is consistent with the stated purpose of the planned unit development regulations.
- B. The extent to which the proposed plan meets the requirements and standards of the planned unit development regulations.
- C. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to the density, dimension, area, bulk, and use, and the reasons why such departures are deemed to serve the public interest.
- D. The physical design of the proposed plan and the manner in which said design makes adequate provision for public services; provides adequate control over vehicular traffic; provides for and protects designated common open space; and furthers the amenities of light and air, recreation and visual enjoyment.
- E. The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.
- F. The desirability of the proposed plan to physical development, tax base and economic well-being of the entire community.
- G. The conformity with the intent and spirit of the Comprehensive Plan.

7.13 Conditions and Guarantees: Prior to the granting of any planned unit development the Plan Commission may recommend, and the Village Board may stipulate, such conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation and other elements of the planned unit development as deemed necessary for the protection of the public interest, improvement of the development, protection of the adjacent area, and to secure compliance with the standards specified. In all cases in which planned unit developments are granted, the Village Board shall require such evidence and guarantees to insure compliance with the conditions set forth in the approved planned unit development.

Marie Carlson

From: David Silverman
Sent: Tuesday, January 30, 2018 9:27 AM
To: Marie Carlson
Subject: FW: OMA Requests for Review
Attachments: 50896 o 201 location proper mun.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

David J. Silverman
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"If you think it's expensive to hire a professional to do the job, wait until you hire an amateur."

Red Adair

KENDALL COUNTY OFFICE:
126 S. Main Street, Oswego, IL 60543 (630) 554-7800 COOK COUNTY OFFICE:
180 N. LaSalle Street, Suite 3700, Chicago, IL 60601 (312) 216-5101

-----Original Message-----

From: David Silverman
Sent: Tuesday, January 23, 2018 5:04 PM
To: doug.jenco@villageofelwood.com; 'don.lapaglia@villageofelwood.com' <don.lapaglia@villageofelwood.com>; Darryl Lab <darryl.p.lab@gmail.com>; dean.lowrance@villageofelwood.com; jasen.melahn@villageofelwood.com; mary.matichak@villageofelwood.com
Cc: 'Marian Gibson' <marian.gibson@villageofelwood.com>; 'Greg.hickey@villageofelwood.com' <Greg.hickey@villageofelwood.com>; 'Julie Friebele' <julie.friebele@villageofelwood.com>; 'Jake.fanning@villageofelwood.com' <Jake.fanning@villageofelwood.com>; 'Doug.vaughn@villageofelwood.com' <Doug.vaughn@villageofelwood.com>; 'Thomas.nagel@villageofelwood.com' <Thomas.nagel@villageofelwood.com>; Jordan Kielian <jkielian@msclawfirm.com>
Subject: FW: OMA Requests for Review

PLEASE DO NOT REPLY TO ALL TO AVOID OPEN MEETINGS ACT ISSUES

Mayor , Trustees and Plan Commission Members , Attached is a ruling from the Illinois Attorney General regarding the alleged violations of the open meetings act stemming from the first Plan Commission Public Hearing . The Attorney General has ruled that the Open Meetings Act was not violated and has closed its file on this complaint .

David J. Silverman
MAHONEY, SILVERMAN & CROSS, LLC
822 Infantry Drive, Suite 100, Joliet, Illinois 60435
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"If you think it's expensive to hire a professional to do the job, wait until you hire an amateur."
Red Adair

KENDALL COUNTY OFFICE:

126 S. Main Street, Oswego, IL 60543 (630) 554-7800 **COOK COUNTY OFFICE:**
180 N. LaSalle Street, Suite 3700, Chicago, IL 60601 (312) 216-5101

-----Original Message-----

From: Carnes, Jodi [mailto:JCarnes@atg.state.il.us]

Sent: Tuesday, January 23, 2018 3:41 PM

To: 'jlmedvid23@gmail.com' <jlmedvid23@gmail.com>; 'ktmae11@yahoo.com' <ktmae11@yahoo.com>; 'perf56@aol.com' <perf56@aol.com>; 'morgenp317@live.com' <morgenp317@live.com>; 'krern84@gmail.com' <krern84@gmail.com>; 'emb0827@gmail.com' <emb0827@gmail.com>; 'zarkhvac@live.com' <zarkhvac@live.com>; 'blkze@sbcglobal.net' <blkze@sbcglobal.net>; 'jille1983@hotmail.com' <jille1983@hotmail.com>; 'jillyp1022@yahoo.com' <jillyp1022@yahoo.com>; 'stashprints@msn.com' <stashprints@msn.com>; 'triciamaas@yahoo.com' <triciamaas@yahoo.com>; David Silverman <dsilverman@msclawfirm.com>; Jordan Kielian <jkielian@msclawfirm.com>; 'mandas1610@sbcglobal.net' <mandas1610@sbcglobal.net>; 'crystalstale@msn.com' <crystalstale@msn.com>; 'ttmiedona@att.net' <ttmiedona@att.net>; 'legrett2007@gmail.com' <legrett2007@gmail.com>; 'nruettiger@gmail.com' <nruettiger@gmail.com>; 'cahyrssatatroe@gmail.com' <cahyrssatatroe@gmail.com>; 'stwy77@gmail.com' <stwy77@gmail.com>; 'wshawnamy@att.net' <wshawnamy@att.net>; 'kevin.whaley80@gmail.com' <kevin.whaley80@gmail.com>; 'lfredin184@gmail.com' <lfredin184@gmail.com>; 'jdeaville22@gmail.com' <jdeaville22@gmail.com>; 'katiedjacobs@gmail.com' <katiedjacobs@gmail.com>; 'plainoldspike@hotmail.com' <plainoldspike@hotmail.com>; 'mcclaren2137@gmail.com' <mcclaren2137@gmail.com>; 'danielle.meintanis@hotmail.com' <danielle.meintanis@hotmail.com>; 'sirvine84@gmail.com' <sirvine84@gmail.com>; 'chucks72cutlas@msn.com' <chucks72cutlas@msn.com>; 'katdug2@yahoo.com' <katdug2@yahoo.com>; 'rkemp24@hotmail.com' <rkemp24@hotmail.com>; 'drew.coldwater@icloud.com' <drew.coldwater@icloud.com>; 'jberscheid@hotmail.com' <jberscheid@hotmail.com>; 'brandy@brandywalshphotography.com' <brandy@brandywalshphotography.com>; 'revjulieb-c@sbcglobal.net' <revjulieb-c@sbcglobal.net>

Cc: Olson, Neil <NOlson@atg.state.il.us>

Subject: OMA Requests for Review

With regard to OMA Requests for Review 2017 PAC 50896, 50897, 50898, 50899, 50900, 50901, 50902, 50903, 50904, 50905, 50906, 50907, 50909, 50910, 50926, 50927, 50928, 50929, 50930, 50931, 50932, 50933, 50939, 50940, 50956, 50957, 50958, 50959, 50960, 50961, 50979, 51006, 51033; 2018 PAC 51046, 51116, please find the attached correspondence from Deputy Public Access Counselor Olson.

Please contact us if you have any questions. Thank you.

Jodi Carnes, Paralegal
Office of the Attorney General
Public Access Bureau
500 South Second Street
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OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 23, 2018

All via electronic mail:

Mr. Jayme Medvid	Ms. Amanda Wade	Mr. Joe Berscheid
Ms. Katie Hunt	Ms. Crystal Cichon	Mr. Daniel Herod
Ms. Lynn Delaney	Mr. Trent Miedona	Ms. Danielle Meintanis
Ms. Morgen Africa	Ms. Delilah Legrett	Ms. Stephanie Irvine
Ms. Kristine DiDomenico	Mr. Nicholas Ruettiger	Mr. Charles D. Williams
Ms. Eileen M. Bosi	Ms. Cahryssa Coldwater	Ms. Kathy Bernhard
Mr. Rob Bogda	Dr. Shawn Walsh	Ms. Rebecca Kemp Robbins
Ms. Nichelle Tomalewicz	Ms. Amy Walsh	Mr. Drew Coldwater
Ms. Jill Bishop	Mr. Kevin Whaley	Ms. Jill Berscheid
Ms. Jillian Shanahan	Ms. Lindsay Fredin	Ms. Brandy Walsh
Ms. Lynn Stasiak	Ms. Jillian Deaville	Ms. Julia Baum-Coldwater
Ms. Tricia Maas	Ms. Kaitlyn Smith	
Mr. David J. Silverman Mahoney, Silverman & Cross, LLC	Mr. Jordan Kielian Mahoney, Silverman & Cross, LLC	

RE: OMA Requests for Review – 2017 PAC 50896, 50897, 50898, 50899, 50900, 50901, 50902, 50903, 50904, 50905, 50906, 50907, 50909, 50910, 50926, 50927, 50928, 50929, 50930, 50931, 50932, 50933, 50939, 50940, 50956, 50957, 50958, 50959, 50960, 50961, 50979, 51006, 51033; 2018 PAC 51046, 51116

January 23, 2018

Page 2

To all concerned:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2016)). For the reasons that follow, the Public Access Bureau concludes that the Village of Elwood (Village) Planning and Zoning Commission (Commission) did not violate the requirements of OMA at its December 19, 2017, meeting.

Between the dates of December 19, 2017, and January 4, 2018, this office received a total of 37 Requests for Review alleging violations of OMA by the Commission at its the December 19, 2017, meeting, which was held at the Village Hall located at 401 East Mississippi Avenue in Elwood.¹ Although the Requests for Review provided various levels of detail, all the complaints alleged that the Village Hall had insufficient space to accommodate everyone who appeared to attend the meeting. According to requesters, approximately 50 to 100 people were prevented from entering the Village Hall because the building was at maximum capacity. Requesters alleged that the Village should have anticipated the large turnout because the Commission meeting concerned a controversial development project and they had questioned Village officials about the plan to accommodate attendees prior to the meeting. Requesters further alleged that the Village could have held the meeting at a local elementary school, which has a capacity of approximately 1,200. Several requesters also complained generally about the crowded conditions in the Village Hall, and, more specifically, that the television in one of the overflow rooms was small and not visible to many members of the public.

On December 28, 2017, this office sent counsel for the Village copies of the Requests for Reviews that had been received by that date and which complained exclusively about the December 19, 2017, Commission meeting. This office requested that the Village respond to the allegations in the Requests for Review and specifically address whether the December 19, 2017, Commission meeting complied with section 2.01 of OMA (5 ILCS 120/2.01 (West 2016), as amended by Public Act 100-477, effective September 8, 2017), which provides that all public meetings shall be held at places which are "convenient and open" to the public.

On January 4, 2018, counsel for the Village submitted a written answer to this office, which included an affidavit from the Village police chief concerning security and seating of attendees, and a description of the additional audio and visual equipment that was set up in each of the areas in the Village Hall. On January 5, 2018, this office forwarded copies of the Commission's answer to persons who had submitted a Request for Review; six requesters submitted replies to this office.

¹35 of the 37 Requests for Review contain the allegation that the meeting space was insufficient to accommodate persons who appeared for the meeting, and have been consolidated for determination in this letter. Two of the Requests for Review (2017 PAC 50967 and 2017 PAC 51034) made an additional allegation against the Village, which this office will address in a separate determination letter.

DETERMINATION

"It is the public policy of this State that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business." 5 ILCS 120/1 (West 2016). "[C]itizens shall be given * * * the right to attend all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/1 (West 2016).

Section 2.01 of OMA provides that "[a]ll meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public." "By its plain terms, section 2.01 requires a venue that is not only 'open,' but 'convenient,' to the public." *Gerwin v. Livingston County Board*, 345 Ill. App. 3d 352, 359 (4th Dist. 2003). Thus, "an open meeting in an inconvenient place violates the Act." *Gerwin*, 345 Ill. App. 3d at 359.

In its answer, the Commission stated that for the December 19, 2017, meeting, it had created space for a total of 631 people in the Village Hall: 50 people in the board room; 96 people in the community room; 335 people in the basement; and standing room for 150 people in the administrative offices. The Commission also addressed the expected attendance for the meeting:

The Village did not have an exact estimate of how many people would attend the public hearing. Customarily, attendance at Zoning and Planning Commission meetings is extremely low and is not a predictive measure for the expected turnout for this particular hearing. As stated in many of the Requests for Reviews, the development proposal has been a contested issue in the Village this past year. Approximately 50 members of the public have been attending the Village's monthly board meetings in conjunction with discussions regarding this potential development. The Village did expect several hundred people, and did accommodate over 600 who attended the hearing. For reference, Elwood is a community with approximately 2,300 residents according to the 2010 United States Census. 435 Elwood citizens cast a vote in the most recent mayoral election held in April of 2017, according to records of the Will County Clerk. Thus, the Village had prepared to accommodate more than 25% of Elwood's entire population and a

40% larger turnout than the most recent mayoral general election.^[2]

In replies to the Commission's answer, requesters alleged that it did not adequately consider various factors in connection with the location of the meeting. First, requesters alleged that prior Village meetings, although not Commission meetings, were attended by up to 400 people.³ Second, requesters alleged that greater public opposition to the development project was evident by media reporting, the number of people signing petitions, activity on social media, and lawn signs.⁴ Third, requesters alleged that the Commission should have anticipated the attendance of persons from neighboring communities affected by the project, such as Manhattan, Illinois.⁵ Lastly, as several of the Requests for Review had alleged, requesters alleged that members of the public had asked Village officials about the occupancy of the Village Hall prior to the meeting, thus placing them on notice that the space might be inadequate.

As referenced above, the leading Illinois case on meeting space accessibility is *Gerwin*. There, the plaintiffs appealed the dismissal of their lawsuit against a county board for allegedly violating section 2.01 of OMA by holding a meeting in an inconvenient place. *Gerwin*, 345 Ill. App. 3d at 353. In *Gerwin*, when a local landfill informed the county board that it wanted to expand, opponents collected 500 signatures on petitions and took out large advertisements in local and regional newspapers encouraging citizens to attend upcoming meetings. *Gerwin*, 345 Ill. App. 3d at 354. After an overflow crowd attended a meeting of a committee of the board, a board member asked whether the upcoming board meeting could be moved to a bigger room, but the meeting was not moved. *Gerwin*, 345 Ill. App. 3d at 355. The plaintiffs alleged that the landfill had asked supporters to arrive early for the board meeting to fill the meeting room, and they did so; only a few protesters were allowed entrance. *Gerwin*, 345 Ill. App. 3d at 356. About 100 members of the public were relegated to the area outside the meeting

²Letter from Jordan M. Kielian, Mahoney, Silverman & Cross, LLC, to Neil P. Olson, Deputy Public Access Counselor, Public Access Bureau (January 4, 2018), at 2.

³Requesters pointed to an "open house" about the development attended by approximately 400 people in June, 2017.

⁴See, e.g., E-mail from Julie Baum-Coldwater, to Neil Olson, [Deputy Public Access Counselor], [Public Access Bureau] (January 8, 2018) (alleging 1,375 people had signed petition against project by December 2, 2017 and 780 "Just Say No to Northpoint" yard signs had been distributed); E-mail from Tricia Maas to Neil Olson, [Deputy Public Access Counselor], [Public Access Bureau] (January 10, 2018) (alleging that Just Say No to Northpoint Facebook page has 1,277 likes and over 1,300 followers).

⁵7,051 people reside in Manhattan, Illinois, according to the 2010 United States Census. See United States Census Bureau, available at <https://www.census.gov/quickfacts/fact/table/manhattanillinois,US#viewtop>.

room, where no seating was available and it was uncomfortable, and the plaintiffs alleged that the Board "made no arrangements to accommodate them." *Gerwin*, 345 Ill. App. 3d at 356.

Addressing the meaning of "convenient," the court stated that "[a] meeting can be open in the sense that no one is prohibited from attending it, but it can be held in such an ill-suited, unaccommodating, unadvantageous place that members of the public, as a practical matter, would be deterred from attending it." *Gerwin*, 345 Ill. App. 3d at 361. Still, the court found that "[i]t would be unreasonable to suppose the legislature intended * * * that public bodies hold their meetings 'at such locations as are sufficient to accommodate *all* interested members of the public, such that they may see and hear all proceedings in reasonable comfort and safety.'" (Emphasis in original.) *Gerwin*, 345 Ill. App. 3d at 361. Accordingly, as quoted above, what section 2.01 requires instead is "reasonable accessibility." *Gerwin*, 345 Ill. App. 3d at 362 ("Renting a football stadium for public meetings might be inconvenient, or unadvantageous, to the public as a whole because of the cost. By the same token, holding public meetings in a small room might be inconvenient to the public because persons wanting to attend would have difficulty gaining admittance."). Because the reasonableness of the meeting space was a question of fact that needed to be explored, the court held that the trial court had improperly dismissed the plaintiffs' claims. *Gerwin*, 345 Ill. App. 3d at 362.

The parties agree that the subject matter to be discussed at the December 19, 2017, Commission meeting was contentious and numerous people were expected to attend the meeting. Where the parties disagree is whether the Commission should have anticipated that the Village Hall space would be insufficient to hold the attendees and explored alternative space, such as the local elementary school. Unlike in *Gerwin*, although prior meetings concerning the development project had been heavily attended, there was not a prior instance in which the full capacity of the Village Hall had been tested under similar circumstances. Although the Village Hall's stated capacity of 631 may not have provided optimum conditions for the number of attendees because it included standing room for 150, and because some persons allege that they had difficulty viewing the audiovisual broadcast of the meeting, it is nonetheless apparent that the Village made significant efforts to accommodate as many attendees as possible.

Here, the Commission set up speakers and monitors throughout the Village Hall to make sure that persons who wished to attend the hearing could be accommodated.⁶ The stated capacity of 631 equated to room for more than 200 persons in excess of the number of attendees at an open house concerning the development. Based on the information provided in this case, this office cannot conclude that holding the meeting at Village Hall did not provide reasonable

⁶In a previous Request for Review, this office concluded that a meeting was not reasonably accessible when the public body "did not explain why it did not attempt to use microphones or other technology so that those excluded from the meeting room could have at least heard the meeting, nor did it assert that such an option was unavailable." Ill. Att'y Gen. PAC Req. Rev. Ltr. 37216, 37291, 37970, issued February 23, 2016, at 7-8.

accessibility, considering the size of the communities involved and the Village's efforts that resulted in accommodation for several hundred more attendees than usual. Accordingly, this office concludes that the Commission did not violate section 2.01 of OMA at its December 19, 2017, meeting.⁷

This office further notes that several requesters alleged violations of the fire code or other safety codes in connection with the December 19, 2017, meeting. The Public Access Counselor's authority is limited to resolving disputes concerning the Freedom of Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2016)) and OMA. 15 ILCS 205/7(c) (West 2016). Therefore, these allegations are not subject to review by this office.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any question, please contact me at (217) 782-9078.

Very truly yours,



NEIL P. OLSON
Deputy Public Access Counselor
Assistant Attorney General, Public Access Bureau

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⁷We have been advised that the Commission subsequently scheduled two continuations of the Commission hearing, on January 11, 2018, and January 17, 2018, at the larger meeting space at the local elementary school, as suggested by many requesters, and arranged to have broadcasts of the meetings streamed on the Village's website.

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Julie Friebele

From: Marian Gibson <marian.gibson@villageofelwood.com>
Sent: Wednesday, January 10, 2018 12:04 PM
To: Tom Nagel; jake.fanning@villageofelwood.com; Doug Vaughn
Subject: FW: Northpoint Development Public Hearing

See below.

Marian T. Gibson, ICMA-CM

Village Administrator
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From: Pezanoski, Cathie [mailto:c.pezanoski@elwoodschool.com]
Sent: Wednesday, January 10, 2018 10:15 AM
To: Marian Gibson <marian.gibson@villageofelwood.com>
Subject: Northpoint Development Public Hearing

Good morning, Marian.

Per discussion with the Elwood School Board President and after consulting with our district attorney, I am letting you know in advance we will be closing our facility on Thursday, January 11th no later than 12:00, midnight. Our facility usage form states the latest for an outside organization to use our facility is 8:45 p.m. due to Elwood staff being able to secure the facility. So, we feel we are going above and beyond this final time of facility usage.

I felt it important to reach out to you today to ensure you were well aware of this in case you wished to make any announcements at the beginning of the public hearing.

Thank you for your cooperation.

Cathie Pezanoski

--
Cathie Pezanoski
Superintendent
Elwood CCSD #203

