

**THE VILLAGE OF HAWTHORN WOODS
VILLAGE BOARD MEETING
2 LAGOON DRIVE, HAWTHORN WOODS, ILLINOIS
MONDAY, SEPTEMBER 24, 2018
7:00 P.M.**

MINUTES

I. CALL TO ORDER AND ROLL CALL

Mayor Mancino called the meeting to order at 7:01 p.m. Roll call indicated the following members were present: Mayor Mancino, Trustees Kaiser, Kosik, Riess, Corrigan, DiMaggio and David.

Also present were Chief Operating Officer Pamela Newton, Chief Administrative Officer and Village Clerk Donna Lobaito, Chief Financial Officer Kristin Kazenas, Chief of Police Jennifer Paulus, Public Works Director and Village Engineer Erika Frable, PE, Director of Parks and Recreation Brian Sullivan, Community Development Director Michael Cassata, AICP, Village Engineer Darren Olson, PE, and Village Attorney Patrick Brankin.

II. PLEDGE OF ALLEGIANCE

III. OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Chuck Bartels – Lake County Board member, Chuck Bartels, addressed the Board regarding ethics laws and how the County spends tax dollars. Mr. Bartels distributed to the Board a handout from his newsletter.

IV. PUBLIC HEARINGS

- A. A Public Hearing for the Consideration and Authorization to Terminate the Special Use Permit, Ordinance No. 1382-11, Granted by the Village of Hawthorn Woods to Pugsley & LaHaie and Apex Landscaping, Inc.

This portion of the minutes were taken by Joan M. Holub of Q & A Reporting and are attached as Exhibit "A".

Motion by Corrigan, second by DiMaggio to open the public hearing.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David

Nays: None

Abstain: None

Absent: None

Motion carried.

Motion by Riess, second by Kosik to close the public hearing.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David

Nays: None

Abstain: None

Absent: None

Motion carried.

V. ITEMS FOR SEPARATE ACTION

- A. Approval of an Ordinance Terminating Ordinance No. 1382-11, Entitled, “An Ordinance Granting a Special Use Permit—Pugsley & LaHaie—Approximately 11 Acres Located on the Southeast Corner of Quentin and Old McHenry Roads” Thereby Revoking the Special Use Permit Granted Therein

Motion by Kaiser, second by Kosik to approve an Ordinance Terminating Ordinance No. 1382-11, Entitled, “An Ordinance Granting a Special Use Permit—Pugsley & LaHaie—Approximately 11 Acres Located on the Southeast Corner of Quentin and Old McHenry Roads” Thereby Revoking the Special Use Permit Granted Therein.

After further discussion, there was an amended motion by Kaiser, seconded by Kosik to approve an Ordinance Terminating Ordinance No. 1382-11, Entitled, “An Ordinance Granting a Special Use Permit—Pugsley & LaHaie—Approximately 11 Acres Located on the Southeast Corner of Quentin and Old McHenry Roads” Thereby Revoking the Special Use Permit Granted Therein, to go into effect at 10:00 p.m. on November 26, 2018, if after reporting to the Board that evening, the outstanding stormwater management items have not been completed in their entirety.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David

Nays: None

Abstain: None

Absent: None

Motion carried.

At the November 26, 2018 Board meeting, Apex Landscaping will report to the Board on the status of their outstanding stormwater management items.

- B. Pool Cover Appeal—61 Deer Point Drive

Lou Downes, President of Downes Pools, was present on behalf of the homeowner to appeal the Community Development’s denial to allow for a pool cover as opposed to fencing around a proposed pool. The homeowner’s father, Gary Morgan, was also present. Mr. Cassata reported that the 2015 Building Code with the Village’s local amendment requires fencing around swimming pools, but noted Long Grove does not have the same

requirement. Mundelein, Deer Park and Lake Zurich require fencing around swimming pools.

Mr. Downes commented about the safety of pool covers versus latches on fences. Mr. Morgan stated he believed the pool cover was safer than a pool fence. Mr. Downes also stated the key to activate the pool cover must be in sight of the pool for safety reasons.

Mayor Mancino stated that his concern with the request is that the applicant is asking the Village to repeal its ordinance regarding pool fences. After Board discussion, this issue was remanded back to staff to conduct more research on the use of pool covers versus fences.

Motion by Corrigan, second by Kaiser, to remand the use of pool covers to back to staff for further research.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David
Nays: None
Abstain: None
Absent: None
Motion carried.

C. Approval of an Ordinance Authorizing the Execution of an Indemnification Agreement—Taylor Morrison—High Pointe Estates

Motion by Riess, second by Kaiser to remand back to staff an Ordinance Authorizing the Execution of an Indemnification Agreement—Taylor Morrison—High Pointe Estates.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David
Nays: None
Abstain: None
Absent: None
Motion carried.

VI. MAYOR'S REPORT AND COMMITTEE REPORTS

A. Mayors Report -----Joseph Mancino, Mayor

Mayor Mancino reported that he met the Boy Scouts and Cub Scouts prior to tonight's meeting to answer questions and report on the business of the Village. He also reported that last week he, Ms. Newton and Ms. Lobaito had a very productive conference call with representatives of the Illinois Tollway about our concerns and future changes to the TCAP meetings.

B. Environmental Committee-----John Bickley, Chair
Steve Riess, Trustee Liaison

Trustee Riess reported that the Adopt-A-Highway event will take place in October.

- C. Zoning Board of Appeals-----John Kosik, Chair
Dominick DiMaggio, Trustee Liaison
No report this month.
- D. Planning, Building and Zoning Commission -----Jim Merkel, Chair
Dominick DiMaggio, Trustee Liaison
No report this month.

- E. Finance Committee-----Jayne Kosik, Chair
Kelly Corrigan, Trustee Liaison
Trustee Kosik reported that the budget presentation will take place at the October 22, 2018 Village Board meeting. Next month, there will be a report on the operations of the Aquatic Center. The Finance Committee needs more direction before going to the Village Board with the drainage report prepared by Christopher B. Burke Engineering. As a result, the Finance Committee is recommending a Committee of the Whole for direction.

1. Approval of the July 2018 Financial Statements

Motion by Corrigan, second by DiMaggio to approve the July 2018 Financial Statements.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David
Nays: None
Abstain: None
Absent: None

Motion carried.

2. Approval of Budget Transfers

Motion by Corrigan, second by Kaiser to approve the Budget Transfers.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David
Nays: None
Abstain: None
Absent: None

Motion carried.

3. Approval of an Ordinance Amending the Annual Budget for the Village of Hawthorn Woods, Lake County, Illinois for the Fiscal Year Commencing January 1, 2018 and Ending December 31, 2018

Motion by Corrigan, second by DiMaggio to approve an Ordinance Amending the Annual Budget for the Village of Hawthorn Woods, Lake County, Illinois for the Fiscal Year Commencing January 1, 2018 and Ending December 31, 2018.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David
Nays: None
Abstain: None
Absent: None
Motion carried.

VII. NEW BUSINESS

A. Consent Agenda

1. Approval of the August 20, 2018 Special Village Board Meeting Minutes
2. Approval of Bills List Dated September 2018
3. Approval of Paid Invoice List Dated September 2018
4. Approval of an Ordinance Ratifying and Confirming the Execution of a Previously Executed Agreement—Front Range Environmental—Brierwoods Preserve Wetland Maintenance
5. Approval of an Ordinance Authorizing the Execution of an Agreement with Christopher B. Burke Engineering, Ltd.—Updating Village Code and Engineering Details
6. Approval of an Ordinance Authorizing the Chief Operating Officer to Award and Execute the Contractual Building and Custodial Services to Perfect Cleaning Service Corp.

Item #1 was removed from the Consent Agenda.

Motion by DiMaggio, second by Corrigan to approve the Consent Agenda with the exception of agenda item #1.

Roll call vote.

Ayes: Kaiser, Kosik, Riess, Corrigan, DiMaggio, David
Nays: None
Abstain: None
Absent: None
Motion carried.

Motion by Riess, second by DiMaggio to approve Consent Agenda item #1, Approval of the August 20, 2018 Special Village Board Meeting Minutes.

Roll call vote.

Ayes: Kosik, Riess, Corrigan, DiMaggio
Nays: None

Abstain: Kaiser, David
Absent: None
Motion carried.

VIII. OLD BUSINESS

- A. None this month.

IX. ADMINISTRATION REPORTS

- A. Report from the Chief Operating Officer—Pamela O. Newton, MSOL
1. Monthly Update—Village Operations

Ms. Newton reported on the Brierwoods Preserve and the Fall Family Fun Fest. She also reported that the Village has a new intern, Max Gonzalez, who is working on his MPA at Northern Illinois University. Finally, Ms. Newton reported that she and Ms. Kazenas will be attending the America In Bloom awards ceremony this weekend.

The Board discussed the painting of the Aqua Illinois water tower. Ms. Newton will notify Aqua Illinois that the Board would like to deliberate on whether a logo should be painted on the tower. This item will be added to the October Village Board agenda.

- B. Report from the Village Attorney—Patrick Brankin

No report this month.

- C. Reports from Department Heads

1. Chief Administrative Officer—Donna Lobaito
a. Chief Administrative Officer Report

Ms. Lobaito reported that new Excellence pins were placed on the dais for the Board members.

- b. Village Clerk's Report

Ms. Lobaito reported that the two new committee members have successfully completed the required OMA training. She also reported that the nominating papers for the April election are now available in the Village Clerk's office during regular business hours.

2. Chief Financial Officer—Kristin Kazenas, CPA, MBA, CPFO
a. Finance Department Report

Ms. Kazenas reported that the October 22, 2018 meeting will commence at 6:00 p.m. for the review of the 2019 Operating Budget.

b. Human Resources Department Report

Ms. Kazenas' report is in the packet.

c. Risk Management Department Report

Ms. Kazenas' report is in the packet.

d. Business Continuity Work Group Report

Ms. Kazenas' report is in the packet.

3. Chief of Police—Jennifer R. Paulus

a. Police Department Report

Chief Paulus' report is in the packet. Chief Paulus also reported on the recent vehicle thefts in the Village. She will be attending an intelligence meeting in Kildeer tomorrow. She encouraged the public to lock their car doors when their cars are parked outside of the garage.

4. Director of Public Works/Village Engineer—Erika M. Frable, PE

a. Public Works Department Report

Ms. Frable reported that she will be attending an STP meeting.

5. Director of Parks and Recreation—Brian J. Sullivan, MPA, CPSI, CPRP

a. Parks and Recreation Report

Mr. Sullivan reported that the Tree Lighting Ceremony is being rebranded to the Hometown Holiday. It will be held on December 1, 2018. This date is different than what was advertised on the vehicle sticker applications; therefore, thorough communications will be needed. The vendor tables for the craft show are sold out. Mr. Sullivan thanked Michael Cassata for his vision with Meadowlark Park. He noted that we will proceed with applying for an OSLAD grant to develop the park.

6. Director of Community Development—Michael Cassata, AICP

a. Community Development Department Report

Mr. Cassata's report is in the packet.

The Board discussed the status of the construction at Quentin Road and Rt. 22.

X. EXECUTIVE SESSION

- A. Purchase of Property (5 ILCS 120/2(c) 1), Discussion of Probable or Pending Litigation (5 ILCS 120/2(c) 11), and Discussion of Executive Session Minutes (5 ILCS 120/2(c) 21)

Mayor Mancino announced there would be no need for Executive Session this evening.

XI. ADJOURNMENT

Motion by DiMaggio, second by Kaiser to adjourn the meeting. Upon a voice vote, the motion carried and the meeting adjourned at 9:00 p.m.

Respectfully submitted,



Donna Lobaito
Village Clerk

IN THE MATTER OF
THE CONSIDERATION AND AUTHORIZATION
TO TERMINATE THE SPECIAL USE PERMIT,
ORDINANCE NO. 1382-11, GRANTED BY THE
VILLAGE OF HAWTHORN WOODS TO
PUGSLEY & LAHAIE AND APEX LANDSCAPING,
INC.; AND A SEPARATE ACTION ITEM FOR
APPROVAL OF AN ORDINANCE TERMINATING
ORDINANCE NO. 1382-11 THEREBY
REVOKING THE SPECIAL USE PERMIT GRANTED
THEREIN

(Public hearing held before the
Board of Trustees on Monday,
September 24, 2018, at the hour
of 7:00 p.m.; held at 2 Lagoon
Drive, Hawthorn Woods, Illinois.

Q & A REPORTING, INC.
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Crystal Lake, IL 60014
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PRESENT:
JOSEPH MANCINO, MAYOR
KELLY CORRIGAN
MICHAEL DAVID
DOMINICK DI MAGGIO
JAMES KAISER
JAYNE KOSIK
STEVE RIESS

ALSO PRESENT:
MICHAEL CASSATA
LEE FELL
ERIKA FRABLE
KRISTIN KAZENAS
DONNA LOBAITO
PAMELA NEWTON
DARREN OLSON
JENNIFER PAULUS
BRIAN SULLIVAN

APPEARANCES:
SCHAIN, BANKS, KENNY & SCHWARTZ, LTD, by
PATRICK T. BRANKIN,
on behalf of the Village of Hawthorn Woods

WITNESS SPEAKERS:
ROBERT ATWATER
MATTHEW MALONEY

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1 (Other Village business conducted.)
2 MAYOR MANCINO: We have a public hearing scheduled for
3 this evening.

4 The Chair would seek a motion to open the
5 public hearing for the consideration and authorization to
6 terminate the Special Use Permit, Ordinance No. 1382-11,
7 granted by the Village of Hawthorn Woods to Pugsley & LaHaie
8 and Apex Landscaping, Inc.

9 Do we have a motion to open that hearing?

10 TRUSTEE CORRIGAN: So moved.

11 TRUSTEE DI MAGGIO: Second.

12 MAYOR MANCINO: And a second.

13 Do we need a roll call for that, Patrick?

14 MR. BRANKIN: Yes, please.

15 MAYOR MANCINO: Ms. Lobaito.

16 TRUSTEE KAISER: Aye.

17 TRUSTEE KOSIK: Yes.

18 TRUSTEE RIESS: Aye.

19 TRUSTEE CORRIGAN: Yes.

20 TRUSTEE DI MAGGIO: Yes.

21 TRUSTEE DAVID: Yes.

22 MAYOR MANCINO: Thank you.

23 I'm going to turn it over to Mr. Brankin to
24 just give us a quick briefing on the process of the hearing.

1 MR. BRANKIN: Thank you, Mayor.

2 Back in 2011 there was an ordinance that was
3 passed, 1382-11, that provided for a special use permit with
4 regard to the property that's before you this evening. As one
5 of the conditions of that ordinance, in section 4 there was a
6 timeline for compliance with certain matters related
7 specifically to the Stormwater Management Ordinance, and in the
8 event that that timeline was not met, there was a specific
9 remedy that was provided in the ordinance to conduct a hearing
10 such as is being conducted this evening, which is a show-cause
11 hearing, whereby the property owner would be given the
12 opportunity to, as the term implies, show cause why the special
13 use should not be terminated.

14 So what I would anticipate this evening is
15 that staff is going to make a presentation as it relates to the
16 ordinance and the matters that are alleged that are not in
17 compliance and then the property owner would have the
18 opportunity to rebut that argument or show cause as to why the
19 special use should not be revoked.

20 So unless there are any preliminary
21 questions, I would just ask that the clerk swear in anybody
22 who's going to testify and anybody else that wanting to testify
23 in this matter.

24 (Whereupon the witnesses/speakers were sworn.)

1 MAYOR MANCINO: Thank you. Page 5
2 I think -- is Erika is going to give our
3 presentation?
4 MS. FRABLE: Yes. I'm going to start out.
5 MAYOR MANCINO: Please do.
6 MS. FRABLE: Thank you.
7 So as Attorney Brankin had mentioned, in 2011
8 the Village started by annexing this property in an annexation
9 agreement. Through the years from 2011 to 2018 -- we're just
10 going to kind of highlight the things we worked through, the
11 details that we worked through with Apex over these years.
12 On January 26th, 2012 -- there's just --
13 there's many meetings, onsite meetings, that were held trying
14 to rectify some of these violations. In January 2012 the
15 Village and CBBEL met with Apex to discuss the current and
16 future improvements on the site and things that needed to be
17 addressed and remedied in the near future. In July 2012 Apex
18 submitted a concept plan and some other documents to support
19 what they wanted to do. In 2012 CBBEL acknowledged that there
20 was an increase in impervious surface on the site.
21 So I want to mention that I have a staff memo
22 in the packet, but I updated it based on some --
23 MAYOR MANCINO: Increase impervious surface, meaning
24 they laid down more asphalt than they were supposed to?

1 MS. FRABLE: I'm going to come back to that in a second. Page 6
2 I'm sorry, Mayor.
3 I wanted to mention that I updated and
4 revised the memo with some additional information that we got
5 from Christopher Burke and with some additional things that
6 have happened in the last week. So there is an updated memo in
7 front of all of you, and attached to it is an exhibit that
8 Christopher Burke prepared that shows this impervious surface
9 that we're talking about.
10 MAYOR MANCINO: Got it.
11 MS. FRABLE: It's noted, that parcel ID number, on the
12 front of it. And if you flip through, you can see that in
13 figure 1 there's an aerial map, and it depicts the area
14 developed in 1993 which was pre-Watershed Development Ordinance
15 with Lake County Stormwater Management Commission. And you can
16 see that at that time there was approximately 66,000 square
17 feet of impervious surface.
18 Impervious surface doesn't have to be a paved
19 surface. Gravel is also considered impervious because the
20 water can't penetrate through it. So most of this surface is
21 not paved. Most of it is stone and gravel.
22 But you can see in 1993 there's 66,000 square
23 feet. If you flip to figure number 2, you can see in 2005
24 there's approximately 74,000 square feet. Figure 4, you can

1 see that's 2012. So this is getting to shortly after it
2 annexed into the Village of Hawthorn Woods. Approximately
3 124,700 square feet.
4 MAYOR MANCINO: What did the permit allow for?
5 MS. FRABLE: So it's my understanding that if you
6 increase by more than one acre of impervious surface --
7 MR. OLSON: Just so any development over --
8 MR. BRANKIN: Could you please identify yourself for the
9 record.
10 MR. OLSON: Certainly. Darren Olson with Christopher
11 Burke Engineering. I'm the enforcement officer for the Village
12 with respect to Lake County Watershed Development Ordinance.
13 Any disturbance or development over 5,000
14 square feet would require a watershed development permit.
15 MS. FRABLE: The requirement for impervious.
16 MR. OLSON: For impervious anything over half an acre
17 would require stormwater detention.
18 MAYOR MANCINO: Okay. So you're bringing this part up
19 because there's more impervious surface than we thought there
20 was or that there should be and it doesn't have any WDO permit.
21 MS. FRABLE: Yes. Starting in 1993, if they increased by
22 a half-acre, which is like 21,500 square feet, then if they
23 increased by that much then you are required to have a
24 watershed development permit. So as you move through the

1 years, you can see even from 2012 when the Village started
2 speaking with Apex about the concerns that the Village had in
3 regards to the Watershed Development Ordinance you can see in
4 2015 it increased from 125,000-ish to 169,000 square feet, and
5 in 2017 it increased even more. You can see the footprint.
6 It's quite large. The developed area in 2017 is 199,900 square
7 feet, so it's more than double what it was originally and
8 certainly more than what is allowed per the ordinance.
9 So at some point this triggers detention,
10 which is what CBBEL and staff have been working with Apex to
11 try to achieve. And from the years through -- I want to go
12 back to this timeline, 2012 to 2018. CBBEL and staff had no
13 less than four meetings with Apex to try to work on the
14 compliance issues, and there were multiple inspections, onsite
15 inspections and soil-erosion sediment control inspections, that
16 were performed by either CBBEL or village staff to try to keep
17 up with what was going on out there and make sure it was in
18 compliance.
19 MAYOR MANCINO: Many of these violations are pursuant to
20 the original annexation agreement; am I correct?
21 MS. FRABLE: So the original --
22 MAYOR MANCINO: Am I correct?
23 MS. FRABLE: That is correct. The original annexation
24 agreement requires that they meet the Watershed Development

1 Ordinance.
2 MAYOR MANCINO: By specific dates that are indicated.
3 MS. FRABLE: Correct.
4 MAYOR MANCINO: Okay.
5 MS. FRABLE: And in addition to those original violations
6 that they had, there were additional violations that were added
7 through time which continued to increase the impervious surface
8 and, you know, building things that, you know, were not
9 permitted by the Village. So in 2012 they had submitted that
10 concept plan, and then it seemed that they had started to build
11 a lot of the things in the concept plan that had not been
12 approved by the Village yet. So although it was what their
13 ideas were and their thoughts were and they were trying to
14 portray that to the Village, they still had to meet all the
15 requirements, like the wetland requirements, SMC's
16 requirements, the Village's requirements.
17 So in November 2015 CBBEL issued a violation
18 letter to Apex telling them that they had to get their ducks in
19 a row and they had to get these plans submitted to the Village
20 with all the appropriate engineering submittals necessary. And
21 after that time, we did see an increase from 2016 to 2017.
22 Apex did make five engineering submittals to the Village, but
23 none of the met the requirements of the Watershed Development
24 Ordinance. They were making progress but not enough progress,

1 because this should have been done a long time ago.
2 And then in 2018 we have a whole -- a lot of
3 different things that have happened. So in May of 2018 the
4 Village was contacted by Lake County Stormwater Management
5 Commission regarding some concerns that the Forest Lake
6 residents had in regards to the Apex site, and they were --
7 MAYOR MANCINO: What type of concerns?
8 MS. FRABLE: You know, the primary concerns at that time
9 were like sediment leaving the site and making it into Forest
10 Lake. You know, this is Forest Lake downstream of Apex.
11 MAYOR MANCINO: Unincorporated Lake County.
12 MS. FRABLE: Unincorporated. It's not the village. It's
13 Forest Lake. It's unincorporated, and they maintain that lake,
14 and, you know, that's there. And they were concerned about
15 sediment making it into the site and that the requirements
16 weren't being met.
17 We had historically heard lots of concerns
18 about even screening, you know, landscape screening. As Apex
19 expanded throughout the years, they got closer to the property
20 lines, and then some trees died, and they got removed, and some
21 trees -- we're not a hundred percent certain of all -- there
22 were several things that were done on the site without permits,
23 including some tree removal that we're trying to rectify with
24 them at this time.

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1 So in May of '18 we met with Lake County SMC,
2 CBBEL, and the Village and did an inspection of the site. And,
3 you know, the primary violations we found were the ones we
4 already knew about, and so those were documented. This did
5 prompt -- Lake County DOT stepped in and reminded Apex that
6 there are still access issues. They still have not received a
7 major access permit from Lake County DOT for their site from
8 when they first -- from before they even annexed to the village
9 in 2011, they needed a major access permit. So that still
10 needs to be resolved.

11 June 2018, the Village issues an action
12 letter to Apex letting them know that they need to have their
13 engineering plans all finalized, approved, and they need to
14 start construction on them no later than July 16th, 2018. That
15 date came and went, and they were not starting construction of
16 those detention basins because their engineering plans were not
17 completed at that time yet. So June 7th, 2018, IEPA came out
18 and did an inspection. They didn't find much more than what we
19 already knew about, a couple of mostly erosion-control type,
20 sediment-possibly-leaving-the-site violations. June 14th,
21 2018, Apex received their Army Corps permit, which was
22 instrumental. It's really important they get the Army Corps
23 permit. That was something that, as we all know, always takes
24 a long time. So that was a big plus that the Army Corps permit

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1 had been received.

2 On June 29th, 2018, Lake County SMC, they do
3 a review of the plans for the Army Corps of Engineers, and they
4 provided comments that we had not yet seen before on the plans.
5 So Apex was wrapping up their engineering, and they had to
6 include some additional comments that needed to be addressed.
7 And at the same time they were switching engineers to a new
8 engineering firm, and that kind of through a wrench into things
9 as well.

10 July 18, 2018, the Village issues another
11 action letter. We had told them by July 16th they needed to be
12 starting construction, but with these things, with the
13 additional comments that came from SMC that weren't received
14 until the end of June, the Village felt it important to give
15 them some additional time because they needed to address those
16 comments, so we required them to have submitted their final
17 engineering plans no later than August 6th, 2018. That date
18 came and went, and the Village had not received another
19 submittal for the engineering plans. So on July 18th we sent a
20 letter indicating this, and also we notified Apex they had
21 removed trees from their site without a permit and that they
22 needed to rectify that with the Village.

23 August 24th, 2018, as Attorney Brankin
24 mentioned, the Village issued a Notice of Show Cause Hearing

1 prior to possible termination.

2 Since then -- this is all on your revised
3 memo, italics and underlined. September 12th Apex did make an
4 engineering submittal to the Village, and CBEBEL provided
5 comments today, and there's still comments that need to be
6 addressed. However, Lake County SMC did approve their plans
7 last week on September 20th, so that's good news that Lake
8 County SMC has provided approval. September 21st, Apex
9 submitted a landscape plan that addressed some of the concerns
10 that staff had for the landscape area that we're requesting
11 between Forest Lake to replace what was there earlier, to
12 provide some kind of buffer between Apex and the neighbors to
13 the south. September 24th, 2018, we also issued a violation
14 letter to Apex. Last week we identified a retaining wall that
15 had been installed. And Apex had done grading on their site
16 without a permit. They had added some drainage structures, and
17 they also increased their impervious surface some more three
18 weeks ago.

19 So that was the latest bit of information
20 that we have in regards to where we're at with Apex's review.
21 MAYOR MANCINO: So according to the ordinance that -- the
22 developer and the owner were supposed to bring the property
23 into stormwater management commission, into SMC compliance --
24 what was the date -- December 15th, 2011; is that correct?

1 Those are the records I have; according to
2 the ordinance, December 15th, 2011. That's an impressive list,
3 but to me it's not done, and it's been seven years. So the
4 list is impressive. It's a bit concerning, too.

5 Were you finished with that testimony?

6 MS. FRABLE: Yes. Thank you.

7 MAYOR MANCINO: Would you like this memo to be made part
8 of the record?

9 MS. FRABLE: Yes.

10 MAYOR MANCINO: You would. We should give of a copy to
11 Joan. Thanks, Joan. We will do that. The notice letter and
12 the memo from staff.

13 I'd like to ask if there's anybody in the
14 public that would like to offer any testimony regarding the
15 violations that are here or any rebuttal to Ms. Frable's
16 comments or questions from our board on Mr. Frable's comments.

17 I would like to hear from Apex.

18 MR. ATWATER: I didn't know if I had to get up now.

19 MAYOR MANCINO: Yeah. Let's do it now.

20 MR. ATWATER: Can Matt approach as well?

21 MAYOR MANCINO: Absolutely. Please introduce yourselves.
22 MR. ATWATER: My name is Robert Atwater, owner of Apex
23 Landscaping.

24 MR. MALONEY: I'm Matthew Maloney, employee of Apex

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1 Landscaping.

2 MR. ATWATER: So if I could just make some comments

3 regarding what Erika had mentioned.

4 Darren, in two-thousand --

5 MAYOR MANCINO: Mr. Atwater, I'd just like to say thank

6 you for being here tonight.

7 And the specifics here are that the property

8 was to be brought into compliance December 15th, 2011. So if

9 you can, that's what I'd like to hear about.

10 Why is it not brought into compliance in

11 seven years?

12 MR. ATWATER: From my understanding -- I've never been

13 through this process before. I hired a consultant who was

14 recommended through a various list from the County, assuming he

15 would direct me. And I've reached out to Army Corps, SMC or

16 SMMC, whichever the initials are, to Erika, to the Village,

17 consistently asking what do I do here, I need their help, I

18 need your guidance, your engineer knows what to do. I continue

19 to pass on every single e-mail that comes through. And

20 eventually he quit. And that was a month --

21 I don't know the exact dates, Erika. I think

22 you'd agree with me, a month before it was due.

23 MS. FRABLE: Yes. July-ish. July 12th and 18-ish.

24 MR. ATWATER: So I said that -- that's going back to

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1 2011. But I don't think the annexation is completely

2 understood because we are allowed from our concept plan I think

3 over an acre of new space that was approved. That concept plan

4 was handed in when we were annexed in, and that is in our

5 annexation agreement. So moving forward from that point, there

6 was confusion on where -- so between Darren, between the

7 Village, nobody knew where the salt pit went, but it was on the

8 plan that was approved. So from the --

9 MAYOR MANCINO: But how does this relate to the deadline

10 of December 15th, 2011 --

11 MR. ATWATER: It wasn't --

12 MAYOR MANCINO: -- that's when the SMC provisions were

13 supposed to be brought into compliance. It's a long time ago,

14 Bob.

15 MR. ATWATER: -- exceeded so much impervious and we did

16 it. And Erika is mentioning back to 1993 and 2005. We weren't

17 even on that property then.

18 MAYOR MANCINO: We all understood that. She was just

19 showing the process of the impervious space as it grew. We

20 understand you didn't have the property back then.

21 MR. ATWATER: Correct. So in 2011 we are allowed in our

22 annexation agreement an acre of new impervious added space,

23 which we argue the point because they kept bringing up on

24 satellite pictures, which I've looked again today, there are

1 dumpsters and bricks and pallets of brick all through this area
2 that they consider from the satellite pictures those are not
3 existing impervious spaces, and we are allowed an existing
4 acre, so that's been my argument since. So the space has
5 grown, yes, slightly to conduct what we had to do. And since
6 then, we have been relying on Tom Miles, who is our --
7 MAYOR MANCINO: But what you're saying is it's your
8 understanding that you were in compliance and that you fell out
9 of compliance because you got bigger than an acre; is that what
10 you just said?
11 MR. ATWATER: Correct.
12 MAYOR MANCINO: So the December 15th, 2011 date you're
13 saying you were in compliance.
14 Is that what staff thinks? You mean there
15 were no conditions when we annexed them?
16 MS. FRABLE: So the conditions when they were annexed
17 were that they meet the Watershed Development Ordinance, Lake
18 County's Watershed Development Ordinance. And the concept plan
19 that was submitted was a concept plan, and it didn't go through
20 all the engineering --
21 MAYOR MANCINO: I'm just asking, were there provisions
22 for them to meet under the SMC's WDO by -- when they annexed
23 into us, were there provisions?
24 Because Mr. Atwater is claiming that he

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1 actually was in compliance and that the annexation agreement
2 didn't require him to make any changes or come into compliance?
3 Did I understand that comment correctly?
4 MR. ATWATER: Correct. We were allowed in the site plan.
5 That's the reason under those items to do that additional
6 impervious space. Like I said, where our salt bin was located,
7 it was asked to be removed because the neighbor complained the
8 salt was too close to their property line and it was supposed
9 to be closer -- the recommendation was the salt was to be moved
10 closer to the street, which made no sense to me.
11 MAYOR MANCINO: Okay. I'm trying --
12 MR. ATWATER: There was a lot of confusion with this
13 whole site.
14 MAYOR MANCINO: We're confusing it more. I'm trying to
15 get -- your testimony is that you thought you were in
16 compliance on that date.
17 Did you find the answer to that?
18 MS. FRABLE: So we have this letter from Lake County
19 dated November 11th, 2011, that indicates that these items need
20 to be addressed: The wetland disturbance on the site,
21 insufficient site stabilization, and drainage nuisance. And
22 those things still have not been addressed to this date.
23 MR. MALONEY: Those items were addressed immediately
24 because I specifically recall putting in the timbers, the

1 buffer zones, and everything that we required with that along
2 with the silt fencing. And around that same time is when we
3 were discussing the placement of the salt bin, which we put
4 where we put it based on the expert opinion. Upon doing so, we
5 put it there, and when a neighbor, not even a resident of
6 Hawthorn Woods, complained about the location, it was requested
7 to us that we take our salt bin and relocate it. We had many
8 meetings out there, and I know we came into compliance with the
9 buffer zones, and that comes back to a comment that was made
10 earlier that we've continued to --

11 MAYOR MANCINO: You got this violation letter. Do you
12 have something from the County -- is that correct? Do you have
13 something that the County released you of that violation that
14 you can show us?

15 MR. ATWATER: I'd have to go back and look. Like I said,
16 I didn't even know what this entire meeting was about because
17 our engineer --

18 MAYOR MANCINO: Really?

19 MR. ATWATER: To a point. I didn't know what I was to
20 bring forth.

21 MAYOR MANCINO: So you lost your engineer, and that's why
22 you haven't done this work. And you don't know -- and you're
23 saying you don't know what this meeting is about either?

24 MR. ATWATER: I know what the meeting is about. I didn't

1 know who to bring to this meeting, if I should bring counsel or
2 if I should bring my engineer.

3 My engineer is brand new to this site. He
4 doesn't know.

5 But just on another side note, as we said, we
6 finally got Army Corps approved. I've been begging Army Corps
7 every two weeks since 2012 when we started with the
8 engineering. All of a sudden when I mention that my special
9 use permit is about to be terminated, that we have to move my
10 business and everything else, it was approved overnight. I've
11 been trying the best that I can to my knowledge. I had
12 professionals working on this. I leaned on them to know how
13 they would do as an engineer.

14 MAYOR MANCINO: You understand that this board really --
15 that doesn't carry weight here with this board.

16 MR. ATWATER: I understand. I'm just explaining. I was
17 doing the processes that I could and my due diligence to reach
18 out to every appropriate party to ask, I need help, I don't
19 know what direction to go to, where do I need to go.

20 MAYOR MANCINO: Okay. I think staff wanted to finish
21 that thought.

22 MS. FRABLE: So in response to Matt's comments, there
23 were three additional letters from Christopher Burke that noted
24 that the site was still improperly stabilized. Some of the

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1 issues were addressed, but not all of the issues were addressed
 2 through that year.

3 And in regards to having submitted to Army
 4 Corps, there were different steps that you need to take to
 5 submit all the information, and we do know that it takes a long
 6 time for the Army Corps to issue a permit.

7 But do we have any idea how long from the
 8 last submittal it took?

9 MR. OLSON: I do not. It was, I mean, months.
 10 MS. FRABLE: The typical. It could have been months or
 11 even up to a year, a year from when they submitted to Army
 12 Corps that they finally received Army Corps permit, so that is
 13 correct. It's just their other outstanding violations on the
 14 property.

15 TRUSTEE CORRIGAN: Mr. Mayor, I have a question.
 16 MAYOR MANCINO: Yes.

17 TRUSTEE CORRIGAN: I just want some clarification.
 18 You had stated that at the time of the
 19 annexation the existing property was in compliance and there
 20 was no need for the SMC ordinance or any of these kinds of
 21 things that I recall.

22 Is that what you had just said?
 23 MR. ATWATER: That's my understanding through meetings
 24 specifically with Donna, specifically with Pam, that by

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1 annexing into Hawthorn Woods --

2 MAYOR MANCINO: You understand your annexation agreement
 3 doesn't -- it says the exact opposite. There are issues there,
 4 and that you acknowledge them and you will have them fixed by
 5 December 11th -- or December 15th, 2011.

6 MR. ATWATER: Which is because --
 7 MAYOR MANCINO: What you're saying is different than what
 8 we agreed to.

9 TRUSTEE CORRIGAN: If I could just finish.
 10 So the annexation document that I'm looking
 11 at was signed July 6th, 2011. And on page 7 of the annexation
 12 agreement, item D, it clearly states existing code violations,
 13 the owner and developer agree to bring the subject realty into
 14 full compliance with the SMC ordinance and the applicable
 15 village ordinance provisions immediately weather-permitting.
 16 In the event that the code violations are not completely
 17 rectified to the Village satisfaction by February 1st, 2012,
 18 weather-permitting, owner and developer shall be deemed to be
 19 in violation of the zoning ordinance contemplated under this
 20 agreement for the subject realty, and the special use permit
 21 granted in the zoning ordinance shall be deemed null and void.
 22 And the Village is, in addition to all other remedies it may
 23 pursue, authorized to hold a show-cause public hearing.

24 So we are now at September 24th, 2018. Is it

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1 my understanding this is not yet done, and now we're doing the
2 show-cause hearing. So I'm kind of confused as to why you're
3 not sure what the problem is and why you're here and why -- I
4 mean, I know it takes a long time to get permits but certainly
5 not six and a half years.

6 MR. ATWATER: It's been an ongoing -- I've been going --
7 I can go back through all the details. I wasn't bringing the
8 whole stack. We've expedited with another engineer to get this
9 done. I asked for another extension. It wasn't granted; it
10 wasn't permitted. But I believe we're right there to get this
11 completed and approved. I want to say we probably have another
12 20 days depending on the replies from Burke. But SMC approved
13 us, Army Corps approved us. So we have like that little bit to
14 finish, and we are ready to -- I mean, we are ready to go.
15 We're ready to work. We'll expedite --

16 MAYOR MANCINO: The other issue that's a concern, it's my
17 understanding is there's other activities there that weren't
18 part of the special use permit that not only affect our special
19 use permit but affect access with the County; is that correct?
20 We don't like to hear from the County. You
21 shouldn't like to hear from the County --

22 MR. ATWATER: Of course --

23 MAYOR MANCINO: -- and what I'm getting at is we --
24 obviously this board is tasked with enforcing our laws and our

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1 ordinances. We always try and take a measure of the situation
2 and try to be compassionate and work with folks. Six and a
3 half years, you're doing things you're not supposed to be
4 doing, those are the kinds of things that are going to work
5 against you here.

6 Has staff identified the activities that are
7 going on that aren't part of the special use permit? Are they
8 nuisance activities or nit-picking?

9 MS. FRABLE: So at the last page of the memo under
10 specific request, the items include storage bins onsite
11 including both existing and future, OSHA containers, the
12 grinding and processing of leaves and branches, soil
13 processing, soil piles, parking area, yard lighting, signage,
14 trees, future buildings, temporary storage building, fencing,
15 and lot coverage calculations.

16 MAYOR MANCINO: So, Bob, Mr. Atwater, I can understand
17 not knowing maybe exactly how to go through some permitting
18 processes and stuff, but I'm trying to -- I'm trying to get
19 beyond that you're doing whatever you want out there. And we
20 don't want to hurt your business or anything, but that kind of
21 activity we just can't have. It causes so many problems. It
22 ripples within the community.

23 MR. ATWATER: Of course. And I understand that. The
24 processing is in our annexation agreement. And it's not

1 considered processing.

2 MR. MALONEY: That was -- we made sure it was

3 specifically covered that we were allowed to do that within the

4 annexation agreement.

5 MR. CASSATA: No, I don't believe that's correct. And I

6 think we went through this issue a couple years ago. You

7 provided us with an e-mail, but that is not provided in the

8 annexation agreement itself. So you may have thought that it

9 was included in the agreement that you signed, but it was not.

10 TRUSTEE DI MAGGIO: I have a question.

11 How since --

12 MAYOR MANCINO: Can you please use your microphone.

13 TRUSTEE DI MAGGIO: Yes. How since February of 2012 has

14 any work legally been done by the gentlemen over here?

15 Because by my reading of the annexation

16 agreement, if the work wasn't done by February 1st, 2012, the

17 zoning ordinance shall be deemed -- the special use permit

18 granted in the zoning ordinance shall be deemed null and void.

19 And then it says, and we have a right to hold a show-cause

20 hearing. It doesn't say that the special use permit is null

21 and void only if we hold a special show-cause hearing. It's

22 null and void now, the way I read it.

23 MAYOR MANCINO: I think we get into legalese that

24 Mr. Brankin may be able to get into or answer that

1 specifically.

2 But I agree with your observation, and it's

3 taking too long in general.

4 TRUSTEE CORRIGAN: So I'd like to refer to page 5 of the

5 zoning of the subject reality, just to reply to what Matt just

6 said.

7 It is expressly understood and agreed that no

8 log or branch chipping, grinding operation shall be permitted

9 on the subject realty and the property shall be operated in

10 conformance with the business plan submitted by Robert Atwater,

11 Apex Landscaping.

12 MAYOR MANCINO: How could we be that far apart, guys,

13 where we read it in the ordinance but you say that the

14 ordinance states it's allowed when she just read it?

15 How can we be that far apart?

16 MR. ATWATER: Listen --

17 MAYOR MANCINO: I'm trying to get some confidence from

18 you guys. He just said that the ordinance specifically allows

19 it, and she just read it, and it says it specifically doesn't

20 allow it. We are --

21 MR. MALONEY: Mr. Mayor, there is four different items

22 referenced in what Erika said, which was grinding, chipping,

23 making mulch. So there's a very broad definition there. But

24 according to what Ms. Corrigan just said, we can't bring a --

1 if a tree falls across our driveway we are not allowed to use a
2 chipper to grind up that tree to get it --

3 MAYOR MANCINO: That's not --

4 MR. MALONEY: -- off the property.

5 The way that was read we're not allowed to
6 even do that. So there is -- the items that Erika referenced,
7 grinding, chipping, logs, it was specifically -- as we
8 discussed with the Village previously was for making mulch that
9 it would become a processing center.

10 TRUSTEE CORRIGAN: Correct. So if a tree had fallen
11 across your driveway and it was one tree and you need to chip
12 it up or cut it up so that you could move it so that you could
13 drive through, that would be fine. This says branch, log or
14 branch chipping, grinding operations, meaning that what you're
15 just talking about, to grind it up and chip it up into mulch,
16 that's what's not the allowed.

17 MR. MALONEY: Correct.

18 TRUSTEE CORRIGAN: So manufacturing.

19 MAYOR MANCINO: Manufacturing. Are they manufacturing
20 mulch?

21 MR. CASSATA: So what you had told us two and a half
22 years ago -- because -- if I could just back up for a moment.
23 What we would like to do from a staff point-of-view, with all
24 the additional activities that are going on on the site we

1 asked you and spelled out all the things, and we talked to you
2 about what you're doing. We would like to update the special
3 use to accommodate all of the uses. So we ask you to tell us
4 what you're doing, and then let us go through and update the
5 special use. If you want to include grinding and processing,
6 be specific as to what you are requesting. And you told us
7 there was a total of four days within a two-month period a
8 year, so that's just not a tree falling across the driveway.
9 That's an ongoing operation for four days each year. And
10 that's fine. Tell us what you want, and then we will present
11 it to the board and try and get you guys what you're
12 requesting.

13 We cannot have you guys continuing to just
14 add additional uses and operations if it's not covered in the
15 special use. Because for the grinding and processing, two
16 years ago we received complaints from the folks in the
17 neighborhood behind you. So then how do we say to the folks,
18 well, we're just letting them do it. We can't do that. We
19 have to follow the code. We have to follow the special use
20 ordinance and the annexation agreement. It's not allowed, as
21 she just read.

22 MR. ATWATER: And if I may --

23 MAYOR MANCINO: Some of those things that you're doing
24 that he talked about, this board would consider and may say no,

1 by the way.

2 MR. ATWATER: Sure. My business plan I did hand -- it

3 was part of my business plan. It was part -- specifically

4 roughly one month --

5 MAYOR MANCINO: But the business plan is not controlling

6 here. It's the ordinance. Okay? You keep referring to what

7 you've said, but we're here because we're supposed to bring

8 this property in full compliance to the SMC and WDO ordinance

9 by December 15th, 2011, and you have not. That's why we're

10 here. The business plan is not controlling. This is what's

11 controlling. This tells us what you can do, what you can't do,

12 and what you should do --

13 MR. ATWATER: Of course.

14 MAYOR MANCINO: -- and the problem is you're doing things

15 you're not supposed to do, and you didn't do things you should

16 do. So what you've said is different than what's actually

17 going on. So I'm just trying to narrow this focus here and

18 help you here --

19 MR. ATWATER: Of course.

20 MAYOR MANCINO: -- and I'm trying to get some confidence

21 here on my behalf and on my board's behalf that maybe you can

22 handle this.

23 MR. ATWATER: Understood. From the second that we were

24 in violation, the note came up that we were going to modify the

1 annexation agreement. So from that point, I know that we

2 specifically said not necessarily milling but that was part of

3 our deal. I know it's not in the annexation agreement, and I

4 apologize for that.

5 Right now we have stepped up. We are pedal

6 to the metal to get this process done. We forecast we'll be

7 done by Thanksgiving, assuming the notes back and forth will be

8 done and we'll be in full compliance.

9 I did not know there was anything out there

10 with Lake County DOT. We did a traffic study. I thought it

11 came back fine, that we didn't need to put in streetlights or

12 anything else. I thought that was finished at that time.

13 TRUSTEE DI MAGGIO: I would still like an answer to my

14 question, because the way I read it we don't have any

15 discretion. It says the zoning ordinance shall be, not may be,

16 not could be. It's says shall be deemed null and void. So the

17 way I'm reading this, as we sit today they have no special use

18 permit.

19 MR. BRANKIN: You have to still go through the process.

20 TRUSTEE DI MAGGIO: It says shall be.

21 MR. BRANKIN: But to terminate the use and to terminate

22 the special use permit, you still have to go through the

23 show-cause. I understand what it says about the zoning, that

24 it's null and void, but the vehicle to terminate the special

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1 use permit is through this process so that they do have due
2 process.

3 TRUSTEE DAVID: So what happens to their business if we
4 pull the special use permit?

5 MR. BRANKIN: According to the ordinance, it says they
6 agree to immediately cease all uses on this subject property
7 until it's brought into full compliance.

8 TRUSTEE DAVID: And that can be done by Thanksgiving.
9 So they would have to come back then?

10 MAYOR MANCINO: That's too long. That's just too long.
11 TRUSTEE DAVID: So if we pulled their special use permit
12 today, they would have to come back when they were done and
13 apply for a new special use permit; is that the process?

14 MAYOR MANCINO: Yes. Or reinstate the existing one.
15 Although they're doing things out there that have to be
16 included.

17 MR. MALONEY: Mr. Mayor, as far as the timeline, the
18 project to complete is well over a quarter of a million
19 dollars. It's not just putting down a little bit of seed.
20 There is a very large timeline to complete, as I'm sure Darren
21 and Erika can attest to.

22 MAYOR MANCINO: We're really concerned about that because
23 it's painfully obvious you guys are having a hard time
24 completing even the original scope of the project, which is

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1 bring it into compliance seven years ago.

2 TRUSTEE DAVID: Bob and Matt, I have a question for you.
3 Did you receive a letter on June 1st from the
4 Village, an action letter, indicating that construction had to
5 begin and commence no later than July 16th?

6 MR. ATWATER: Yes.
7 TRUSTEE DAVID: And then as of July 16th, Apex had not
8 begun drainage and detention improvements by that date.

9 MR. ATWATER: Correct. Our engineer quit.
10 MR. MALONEY: We didn't have permitting.
11 MR. ATWATER: We didn't have permitting. I can't do
12 anything. I can't move trees. I can't do anything on the
13 site. So as of that --
14 TRUSTEE DAVID: Did you make any efforts to contact the
15 Village?

16 MR. ATWATER: Oh, gosh, yes. I was in touch with Erika.
17 MS. FRABLE: I'm sorry. Say it again, Bob.
18 MR. ATWATER: I was in touch. I was commenting. I said
19 my engineer just quit. I told you. I said I don't know what
20 to do. I said I'm asking for more of an extension.
21 MS. FRABLE: He was in communication the last four months
22 with pretty much everything.
23 MR. ATWATER: All the way through I've been in
24 communication with Erika. I wish it was that easy that I could

1 say here's where we left off. The engineer, they can't take it
2 based on their license. Darren, if you could confirm with
3 that. They have to go all the way back and redo all their
4 calcs. So they said you need at least 30 days. And this
5 economy is booming. They stepped on it. A week or two after I
6 had a 30-day permission-ish and they fell behind because --

7 TRUSTEE DI MAGGIO: Do you have a new engineer now?

8 MR. ATWATER: We do. And they submitted and there were
9 notes that just came back. Those plans were approved by SMC,
10 if I'm saying it right.

11 MS. FRABLE: Correct.

12 MR. ATWATER: Army Corps was approved, but it was under
13 construction or contractors, which I'm sure Chernik(phonetic
14 spelling) was her name, showed approved based off the new
15 engineering.

16 So there's some comments that have to get
17 done. I don't know the timeframe on that and how long that
18 will be. But if we were given permission in a week and
19 permitting, I'm most positive we will be in compliance by
20 almost Thanksgiving.

21 MR. MALONEY: You know, as Bob said, we've gone as
22 quickly as we can on it since all this has happened this year.
23 And a couple things we are unable to do is remove dead trees
24 because of this pending project, so we can't do anything.

1 What we have done as we're trying to move
2 things along and better the property and get ahead of things is
3 we have planted over a 125 evergreens along Old McHenry Road
4 because we're allowed to do that. We can't plant evergreens on
5 our south side of our property to provide zoning for those
6 neighbors because that would be disruptive to the grade.

7 So there's a lot of things we would like to
8 start doing, but until the full permit is in place we can't do
9 that. So it is pending engineering and so forth before we can
10 continue on with some of the items.

11 MAYOR MANCINO: Do the trustees have any other questions?

12 There's a couple of things that -- we can
13 revoke this permit right now. I hate the thought of shutting
14 down any business in town, but I have to tell you I'm really
15 concerned about how this whole thing has gone. And you guys
16 are taking your problems and you're making it our problem
17 because when you don't comply we get the complaints and we have
18 to deal with them. So that's just a real problem.

19 So we can revoke this right now. We can
20 continue this public hearing maybe to our next board meeting
21 and see how far they've gotten. Or we can revoke it now and
22 maybe make the effective date October or Thanksgiving and
23 really put some pressure on these guys.

24 Those are my thoughts on the issue. I'm not

1 confident with their presentation here.
2 TRUSTEE CORRIGAN: Mr. Mayor, what do you mean by the
3 effective date? Revoke it now --
4 MAYOR MANCINO: We revoke it now, but the effective date
5 of their revocation won't be until Thanksgiving.
6 TRUSTEE CORRIGAN: To give them time to remedy --
7 MAYOR MANCINO: My fear is that if we just continue it
8 and give them time we are going to get another list like the
9 one that staff generated that shows them doing something every
10 six months and they're going nowhere. But if we put the
11 revocation in place, then they've got a choice, either act or
12 the revocation takes effect and they're out of business.
13 MR. BRANKIN: Just so the board is with it, there's an
14 action item that is after the public hearing regarding the
15 ordinance terminating. So what I think the Mayor is alluding
16 to would be that the effective date of that ordinance would be
17 some date certain in the future, if that was something that the
18 board wanted to consider.
19 MR. ATWATER: I would ask the board if you consider just
20 a set deadline and possibly have all this ready to go. If we'd
21 but shut down, there's nowhere else to move to in such a short
22 notice. There's 200 employees as part of the community as a
23 partner with you.
24 MAYOR MANCINO: It's a horrible thing. That's why you

1 have to get on the ball. All those people are relying on you,
2 not us.
3 MR. ATWATER: Of course. And I understand that. I'm not
4 putting any burden on you, and I apologize for any additional
5 burden put on the Village.
6 We are streamlining this as fast as we can.
7 I forwarded it. I saw Darren's responses tonight. I already
8 forwarded them on to Todd, our engineer, and asked how soon he
9 can respond. I copy Erika on all those so she knows that I am
10 adamantly trying to get this completed. We have a contractor
11 set to go. We have equipment in place, ready to go. We have
12 already been working on some areas. They did check out some
13 soil samples. We're ready to go. So I don't know what to ask.
14 MAYOR MANCINO: Were there some thoughts?
15 TRUSTEE KOSIK: Yes.
16 Mr. Atwater, just listening to you tonight I
17 would strongly advise you to get some kind of legal counsel or
18 other counsel so that you understand this agreement and what
19 you can and cannot do, because you don't seem to understand
20 some of this, is the impression I'm getting. And so there's
21 conflict between what the Village is saying and what you're
22 saying, and so if you had some guidance and strong advice, I
23 think you might be in a better position.
24 MR. ATWATER: I appreciate that. And I had an attorney

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1 at the onset. I don't have that attorney at this time.

2 TRUSTEE RIESS: I happen to like the idea of creating the

3 revocation with an effective date of X and Y or whatever that

4 date might be. I have a real problem with suddenly putting 200

5 people out of work. I don't think that's an appropriate

6 action. But I'll leave it up to the board.

7 MAYOR MANCINO: Absolutely.

8 TRUSTEE RIESS: Let's say we do say it's a date certain,

9 November 1st or November 10th or whatever the date it is that

10 we choose, and they then do comply with everything that's on

11 the list that we've asked them to do, do we then revoke the

12 revocation? How do we put them back in business?

13 MR. BRANKIN: I would suggest whatever that date is that

14 correspond with the board meeting date.

15 MAYOR MANCINO: And I think we can take up some of those

16 details when we consider the actual revocation.

17 TRUSTEE RIESS: Understood.

18 MAYOR MANCINO: Are there any other questions for

19 Mr. Atwater?

20 TRUSTEE CORRIGAN: Mr. Atwater, I would just like to say

21 that I whole-heartedly agree with what Trustee Kosik said, is

22 for you to really read this annexation agreement and make sure

23 that you are in complete understanding as to what it says and

24 what the business is supposed to do.

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1 But I also want to acknowledge that you have

2 been a good -- Apex Landscaping has been a good business

3 community partner with the Village of Hawthorn Woods, and as

4 business owners, all of us, we don't want to see a company shut

5 down certainly because of noncompliance issues or hopefully not

6 anything that is negligent. But you have to understand, if we

7 go forward and we do this and we give you a date certain, the

8 next time here is probably gonna be that day where the door is

9 closed --

10 MR. ATWATER: I understand.

11 TRUSTEE CORRIGAN: -- because this track record of time

12 is really concerning to all of us.

13 MR. ATWATER: Of course. And I understand. Enough is

14 enough. I understand that point.

15 The concern that I have, as much as we can

16 set a date, is the revisions and how much we can do and the

17 questions and comments that have to go back and forth, and

18 that's my concern on the delay. And with the new engineer, I'm

19 hoping this will be done and not knocked out in his first term.

20 I'm hoping so because it seemed most of it was typical.

21 MR. OLSON: Yes. And have him call me if he has any

22 questions.

23 MR. ATWATER: Of course. He will understand the

24 importance of it.

1 MAYOR MANCINO: Mr. Atwater, I think we all echo
2 Trustee Corrigan's comments. You've been a great neighbor. We
3 don't want to see you put out. But we have to enforce this
4 stuff. We have gotten some complaints, and they have the same
5 rights that you do. We have to enforce this stuff.
6 If there's no other comments, there will be
7 additional discussion. I'd like -- the Chair will take a
8 motion to close the public hearing.
9 TRUSTEE RIESS: So moved.
10 TRUSTEE KAISER: Second.
11 MAYOR MANCINO: Ms. Lobaito, can you please take the
12 roll.
13 TRUSTEE KAISER: Aye.
14 TRUSTEE KOSIK: Yes.
15 TRUSTEE RIESS: Aye.
16 TRUSTEE CORRIGAN: Yes.
17 TRUSTEE DI MAGGIO: Yes.
18 TRUSTEE DAVID: Yes.
19 MAYOR MANCINO: Thank you. That public hearing is now
20 closed.
21 Moving to items for separate action, related,
22 the Chair seeks a motion for the approval of an ordinance
23 terminating Ordinance No. 1382-11, entitled An Ordinance
24 Granting a Special Use Permit, Pugsley & LaHaie, approximately

1 11 acres located on the southeast corner of Quentin and Old
2 McHenry Roads thereby revoking the special use permit granted
3 therein.
4 Do we have a motion?
5 TRUSTEE KAISER: So moved.
6 MAYOR MANCINO: And a second?
7 TRUSTEE KOSIK: Second.
8 MAYOR MANCINO: Okay. We have this motion on the table.
9 We can discuss how we can handle this.
10 TRUSTEE KAISER: I would suggest that we adopt what you
11 talked about. That occurred to me as well, that we make this
12 subject to the next board meeting. That revocation would take
13 place at that time. There will be another review.
14 MAYOR MANCINO: What date?
15 TRUSTEE KAISER: November the 22nd? Is that the next
16 board meeting?
17 MS. LOBAITO: October 22nd.
18 TRUSTEE KAISER: I was going to do the Thanksgiving date.
19 MAYOR MANCINO: Right. What's the October -- or the
20 November?
21 MS. LOBAITO: 26th.
22 TRUSTEE KAISER: 26th. So extend the time for the --
23 well, where the actual revocation would take place is on that
24 date. They can come that night with everything completed to

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1 the board meeting, and if it's completed, great. If there's a
2 couple minor things that we're willing to grant any kind of
3 extension, we can keep a really tight noose on this thing, and
4 that's what we need to do. I agree that we don't want to cut
5 off any business, but we have the rules that need to be
6 complied with. Six years drives me nuts on something like
7 this. And so I would like to see this come to an end, a
8 successful end for everyone. So deadlines are important, and
9 that's what we're going to do.

10 MR. BRANKIN: Just so I'm clear, you're amending your
11 motion --

12 TRUSTEE KAISER: Yes.

13 MR. BRANKIN: -- to include that that ordinance would
14 have an effective date of November 26th and a further request
15 that the item be a report item or status item on that night's
16 agenda.

17 TRUSTEE KAISER: Absolutely. So amended.

18 MAYOR MANCINO: Technically, do we want to make it the
19 day after?

20 TRUSTEE RIESS: 27th?

21 MAYOR MANCINO: What does that mean technically?

22 We all come to the board meeting that day --
23 MR. BRANKIN: You could make it effective at the board

24 meeting. I understand what you're saying, that it's not

1 effective at midnight --

2 MAYOR MANCINO: Correct. These guys are out of business.
3 TRUSTEE KAISER: We don't want to do that. We're looking
4 for compliance.

5 TRUSTEE CORRIGAN: You're going to get it done.

6 MR. BRANKIN: We can say effective as of 10:00 p.m. on
7 the 26th.

8 MAYOR MANCINO: Did we get that in the modified motion,
9 Ms. Lobaito?

10 MS. LOBAITO: Yes.

11 MAYOR MANCINO: Are there any questions or comments on
12 the amended motion or discussion?

13 MR. BRANKIN: There would need to be a second on the
14 amended motion.

15 MAYOR MANCINO: Thank you for that reminder.

16 TRUSTEE KOSIK: Second.

17 MAYOR MANCINO: We need a second.

18 Did we get a second?

19 Any questions or comments on that amended
20 motion?

21 TRUSTEE KOSIK: I think it's fair.

22 MR. ATWATER: Can I make a question or comment?

23 MAYOR MANCINO: I'm asking my board.

24 TRUSTEE DAVID: If everything's not done -- I don't think

1 everything is going to be done. Inevitably there's things that
2 come up. Is that going to hurt them staying in business, or is
3 that -- or do we need to --

4 MAYOR MANCINO: Depending what it is.

5 MR. BRANKIN: Right. Part of the motion is that it would
6 be an item on that agenda, so they would have an opportunity to
7 be heard in the event that they have made diligent progress and
8 if there's something that is precluding them, would they like
9 to bring it to your attention. So they would have that
10 opportunity.

11 MAYOR MANCINO: But if not, it would take effect. And I
12 think the 60 days shows us if they want to and --

13 TRUSTEE DAVID: We'll know in 60 days what's going on.

14 MAYOR MANCINO: -- what kind of effort they put into it.

15 TRUSTEE KAISER: Do we need any finding that they need to
16 show cause or we show cause, whatever. It's authorized to show
17 cause. Do we need to make any finding?

18 MR. BRANKIN: It's already set forth in the ordinance.

19 TRUSTEE CORRIGAN: I'd like to ask Erika and Darren, the
20 60-day timetable for what needs to be accomplished and the
21 permits that they have received this week, do you think that
22 that's a realistic date?

23 MS. FRABLE: Well, I wanted to suggest substantial
24 completion, so that way -- Darren had suggested that that way

1 the system is functioning in the way it's intended to and maybe
2 they still need to restore it with seed or something like that
3 or some minor things need to be done, but substantial
4 completion by that day.

5 MAYOR MANCINO: Well, let's be clear. The motion on the
6 table is completion.

7 TRUSTEE CORRIGAN: Right.

8 TRUSTEE RIESS: Right.

9 MAYOR MANCINO: If we're going to talk about oh, they may
10 be substantially or not substantially, then why are we
11 bothering putting a date it. The motion on the table is by
12 that date done. If they have something that is beyond their
13 control, they can bring it to us then. Now is not the time.

14 You guys need to get this done by

15 November 26th. You need to get this done.

16 MR. ATWATER: Can I request fast track, assuming
17 everything is approved?

18 MAYOR MANCINO: You can deal with staff. I think they're
19 prepared to work as fast as you guys can.

20 MR. ATWATER: Perfect.

21 TRUSTEE CORRIGAN: I don't think these delays are a
22 result of the village staff.

23 MR. ATWATER: No. I understand.

24 MAYOR MANCINO: There wouldn't be any sitting on hands.

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1 It just needs to get done, and we need to quit this. This is
 2 everybody's time, yours, ours, you know. Yeah.
 3 Any other comments or questions on that
 4 motion?
 5 (No response.)
 6 Ms. Lobaito, can you please take the roll.
 7 TRUSTEE KAISER: Aye.
 8 TRUSTEE KOSIK: Yes.
 9 TRUSTEE RIESS: Aye.
 10 TRUSTEE CORRIGAN: Yes.
 11 TRUSTEE DI MAGGIO: Yes.
 12 TRUSTEE DAVID: Yes.
 13 MAYOR MANCINO: Thank you. That motion carries.
 14 Thanks, guys.
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STATE OF ILLINOIS)
)
 COUNTY OF MCHENRY)

I hereby certify that I reported in
 shorthand the proceedings at the above-entitled public
 hearing and that the foregoing reported proceedings,
 consisting of pages 3 through 45, inclusive, is a true,
 correct, and complete transcript of my shorthand notes
 so taken at the time and place aforesaid.



Joan M. Holub

JOAN M. HOLUB
 Certified Shorthand Reporter
 CSR License No. 084-004283

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MEMORANDUM

May 21, 2018

TO: Donna Lobaito – Village of Hawthorn Woods
Erika Frable, PE – Village of Hawthorn Woods
Pam Newton – Village of Hawthorn Woods

CC: Lee Fell, PE – CBBEL
Bob Jungwirth, PE - CBBEL

FROM: Darren Olson, PE

SUBJECT: Apex Landscaping, Hawthorn Woods, IL
Notice of Potential Additional Watershed Development Ordinance Violations
(CBBEL Project 02-65H149)

The purpose of this memorandum is to summarize the ongoing and additional violations of the Lake County Watershed Development Ordinance (WDO) that may be occurring at the Apex Landscaping (24414 N. Old McHenry Road) in Hawthorn Woods, IL. In November 2015, Christopher B. Burke Engineering, Ltd. (CBBEL) prepared a memo outlining 1.30 acres of new impervious area that had been placed at the property without a permit. The installation of this acreage of gravel is considered "regulated development" under the WDO and Village Code, which would require a Watershed Development Permit (WDP). Stormwater management controls such as stormwater detention and water quality treatment are required when the new impervious area exceeds 1.0 acre and 0.5 acres, respectively. Other stormwater and wetland permits such as a National Pollution Discharge Elimination System (NPDES) construction permit from the Illinois Environmental Protection Agency (IEPA) and a U.S. Army Corps of Engineers permit may also be required under the WDO and Village Code.

In July of 2016, the Village submitted a letter to Apex outlining the violations and requested that the required stormwater improvements be constructed by October 1, 2016. Apex submitted plans to the Village in support of a WDP to construct these stormwater improvements that would resolve the violation. However, they are still waiting on a wetland permit from the U.S. Army Corps of Engineers (USACE), which also requires Lake County Stormwater Management Commission (SMC) signoff on the Soil Erosion and Sediment Control (SE/SC) plan. The USACE permit application was not made until June 2017.

Upon receipt of recent complaints by SMC, CBBEL completed a review of aerial photography to review the site conditions. Based on this review, it appears that additional parking and storage areas have been created since 2015 as shown in the attached aerial photographs. This additional work would likely be considered "regulated development", and appears to have been done without a permit. The completion of "regulated development" without a WDP issued by the Village constitutes a violation of the WDO and Title 10-4-2 of the Village Code.

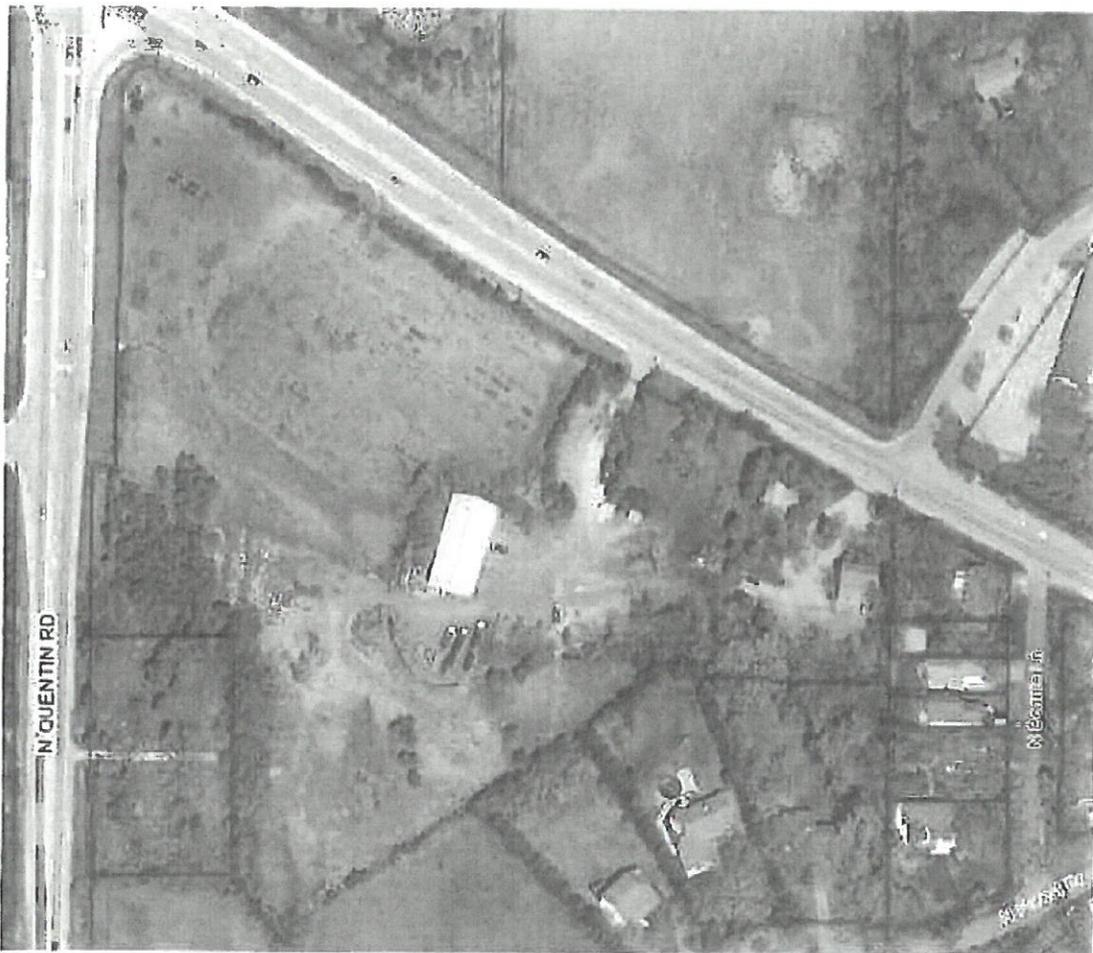


CHRISTOPHER B. BURKE ENGINEERING, LTD.

9575 W Higgins Road, Suite 600 Rosemont, Illinois 60018-4920 Tel (847) 823-0500 Fax (847) 823-0520

MEMORANDUM

While progress seems to have stalled on rectifying the violations, the existing violations have not been corrected and additional violations are occurring on this site. It is not certain that the plan to permit and install the stormwater management system will proceed forward in a timely fashion. It is our recommendation that the property owner be required to submit a plan to remove all impervious areas and restore them to the 2010 condition. The plan should be submitted to the Village by June 15, 2018 and work should be scheduled to begin by July 16, 2018, unless the stormwater management system currently under review can be permitted and construction commenced by July 16, 2018.



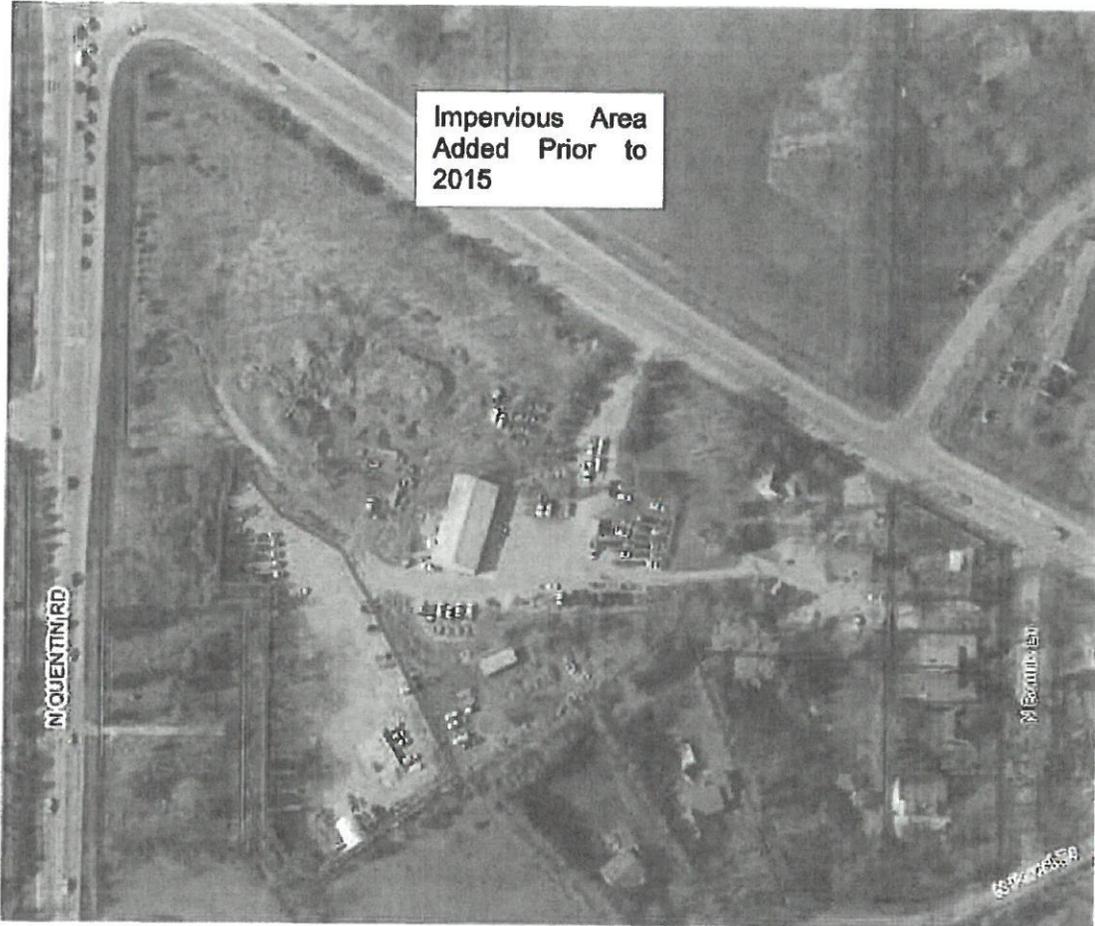
2010 Aerial Photograph



CHRISTOPHER B. BURKE ENGINEERING, LTD.

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MEMORANDUM

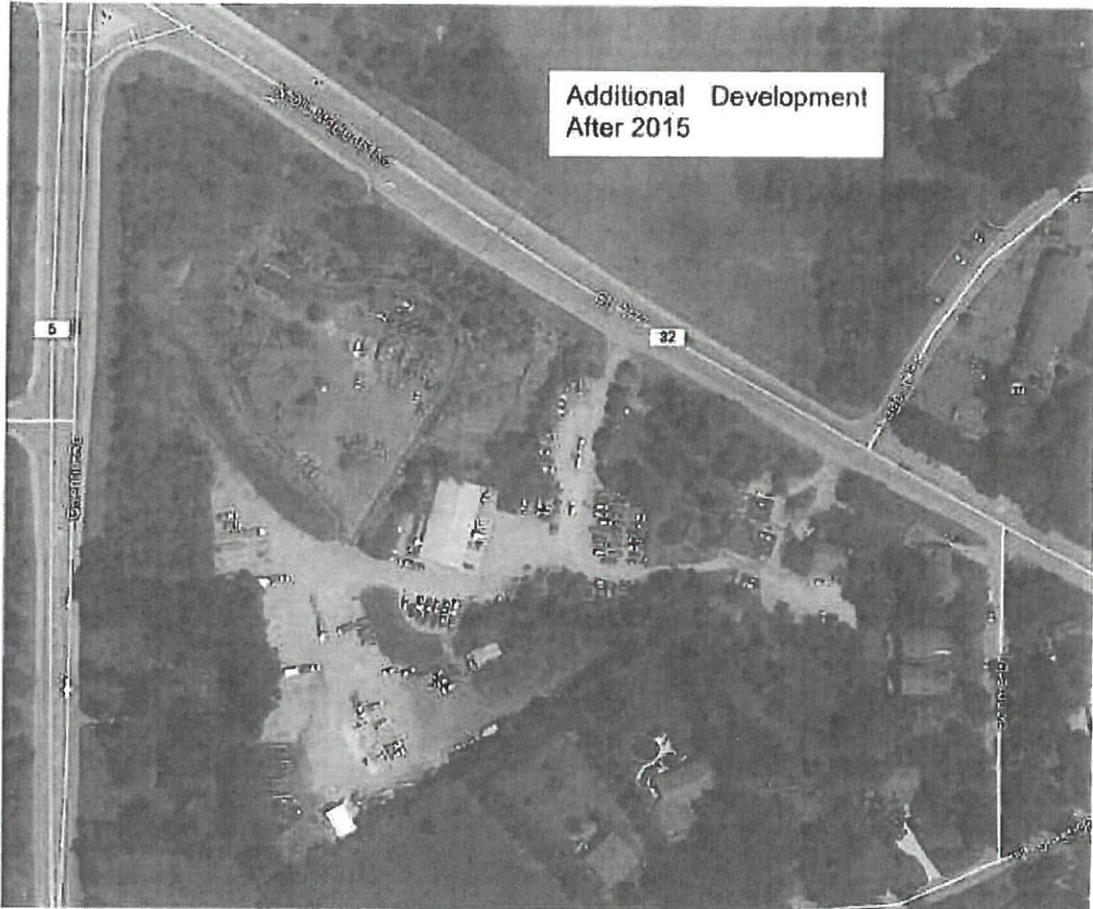


2015 Aerial Photograph



CHRISTOPHER B. BURKE ENGINEERING, LTD.
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MEMORANDUM



2016 Aerial Photograph

DTO

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CHRISTOPHER B. BURKE ENGINEERING, LTD.

9575 W Higgins Road, Suite 600 Rosemont, Illinois 60018-4920 Tel (847) 823-0500 Fax (847) 823-0520



2 LAGOON DRIVE - HAWTHORN WOODS, ILLINOIS 60047 - (847) 438-5500 FAX 847-438-1459

August 24, 2018

Via Certified Mail Return Receipt Requested
and Standard U.S. Mail

Apex Landscaping Inc.
24414 Old McHenry Road
Hawthorn Woods, IL 60047

A.L.I. Holdings, LLC
3145 Landwehr Road
Northbrook, IL 60062-7403

Re: Notice of Show Cause Hearing regarding Possible Termination of
Ordinance No. 1382-11

To Whom It May Concern:

The Village has been working diligently with Apex Landscaping to resolve outstanding stormwater management issues on the property located at 24414 Old McHenry Road in Hawthorn Woods. This letter is in follow up to the letters that the Village sent you on July 13, 2016, June 1, 2018 and July 18, 2018 regarding the stormwater management system for your property.

Apex has not met the timelines in the referenced Ordinance and several of the deadlines that the Village set for Apex over the last few months. Accordingly, the property is in violation of the referenced Ordinance and its continued operation is adversely affecting the public health, safety and welfare of the residents of Hawthorn Woods.

Based upon the foregoing, the Village will conduct a public hearing before the Village Board on September 24, 2018 at 7:00 p.m., or as soon thereafter as it may be called, to consider the termination of the Special Use granted by Ordinance No. 1382-11. You have the opportunity to appear at said public hearing and present testimony or witnesses to attempt to show cause why the Special Use should not be terminated. The Village will be present and prepared to present witnesses in support of the termination of the Special Use.

If you have any questions, please do not hesitate to call.

Pamela O. Newton

Handwritten signature of Pamela O. Newton in black ink.

Chief Operating Officer
Village of Hawthorn Woods

Erika Frable, PE

Handwritten signature of Erika Frable in black ink.

Public Works Director/Village Engineer
Village of Hawthorn Woods

Cc: Susan L. Dawson, Waltz, Palmer & Dawson, LLC
Michael Cassata, AICP, Director of Community Development
Darren Olson, PE, CBBEL



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July 13, 2016

Robert Atwater
Apex Landscaping Inc.
24414 Old McHenry Road
Hawthorn Woods, Illinois 60047

Bob:

According to Apex's Special Use Permit, Ordinance 1382-11, and Annexation Agreement, Resolution 11-21-11-3, Apex was required to resolve the Lake County Stormwater Management Ordinance violations on its property by December 15, 2011 and February 1, 2012, respectively. These issues have yet to be completed and require immediate attention. Below is a timeline for addressing critical milestones to achieving compliance with the annexation agreement, Village and Lake County Stormwater Management Commission requirements.

Per this letter, we require the following:

- Apex must resubmit engineering plans and necessary documents to the Village for the detention and drainage improvements that are required by the Lake County Stormwater Ordinance.
- A site plan/landscape plan must be submitted that includes existing and proposed uses and locations per the email from the Village dated February 24, 2016. This site plan/landscape plan must include all of the items that were discussed with staff as outlined in the above email.
- The drainage/detention improvements must be complete by October 1, 2016.
- Amendments to the Annexation Agreement and Special Use Permit reflecting the above improvements and plan modifications must be approved by the Village Board in October of 2016.

The Special Use Permit and Annexation Agreement indicate that if the LCSMC Ordinance violations are not resolved by December 15, 2011 and February 1, 2012, respectively, Apex's special use permit will be null and void.



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MEMORANDUM

To: Joseph Mancino, Mayor
Village Board of Trustees

From: Erika M. Frable, P.E.
Director of Public Works/Village Engineer

Date: September 19, 2018
REVISED: September 24, 2018

Subject: Apex Landscaping – Special Use Permit Termination Consideration

Zoning: AB Agricultural Business District

BACKGROUND INFORMATION

In 2011, the Village entered into an Annexation Agreement with Apex Landscaping, which also granted a Special Use Permit with the condition that Apex was required to resolve Lake County Stormwater Management Ordinance violations on its property by February 1, 2012.

To date, these issues have yet to be completed and require immediate attention. Accordingly, the property is in violation of the referenced Annexation Agreement and Special Use Permit and its continued operation is adversely affecting the public health, safety and welfare of the residents of Hawthorn Woods and neighboring Forest Lake.

Both the Annexation Agreement and Special Use Permit include provisions authorizing the Village to hold a “show cause” public hearing as to whether or not the Special Use Permit shall be terminated should the stormwater violations not be resolved by the date identified above.

TIMELINE

November 21, 2011 – Village enters into Annexation Agreement and grants Special Use Permit, including the condition that Apex resolve Lake County Stormwater Management Ordinance

violations on their property by February 1, 2012. **Apex did not perform the required work to address the violations.**

January 26, 2012 – Village and CBBEL meet with Apex to discuss current and future improvements on the site, including required Soil Erosion and Sediment Control (SE/SC) necessary to be compliant with Lake County Stormwater Management Commission's Watershed Development Ordinance (WDO).

February 7, 2012 – Soil Erosion and Sediment Control (SE/SC) site visit performed by CBBEL. **Outstanding issues remain.**

May 3, 2012 – SE/SC site visit performed by CBBEL. CBBEL identifies that additional parking areas and gravel areas (impervious surface) have been added and Apex must submit a plan to Village. **Outstanding issues remain.**

July 2012 – Apex submits a concept plan and other documents to Village for review. **CBBEL reviews submittal, provides comments and engineering plans are not approved.**

May 21, 2014 – Village and CBBEL meet with Apex to discuss violations.

December 23, 2014 – SESC site visit performed by CBBEL. **SESC violations violated outstanding and also noted that previous review letter had not yet been addressed.**

February 13, 2015 – CBBEL sends email indicating that Apex must submit to Village by April 1, 2015. CBBEL sends multiple follow up emails through Summer of 2015 requesting an update on submittal. **Submittal not received.**

September 4, 2015 – Village and CBBEL meet with Apex to discuss outstanding violations.

November 3, 2015 – CBBEL sends WDO violation letter to Apex including a deadline of December 2015 to address violations.

January 2016 through December 2017 – Apex makes five engineering submittals over this time period. **However, none of the submittals addressed all comments. Subsequently, the engineering plans were not approved.**

July 13, 2016 – Village issues action letter regarding outstanding items and establishes a required date of October 1, 2016 for the construction of drainage/detention basin improvements required by Lake County Stormwater Management Commission (LCSMC) Watershed Development Ordinance. **Apex did not perform the required work to address the violations.**

May 25, 2018 – Village, CBBEL and Lake County Stormwater Management Commission perform a site inspection due to complaints to LCSMC from Forest Lake residents. Primary violations noted are violations of LCSMC's WDO, as were previously identified.

May 29, 2018 – Lake County Division of Transportation sent letter to Apex indicating that Apex's use has changed substantially since Apex's original request for a Major Access permit and that Apex must complete the Major Access permit process to receive a permit to continue to access their property.

June 1, 2018 – Village issues action letter indicating that the construction of the required drainage/detention basin must commence no later July 16, 2018. **Apex did not begin drainage/detention basin improvements by this date.**

June 7, 2018 – The Illinois Environmental Protection Agency (IEPA) performs a site inspection as a result of LCSMC's inspection. IEPA's inspection report noted soil erosion and sedimentation on site.

June 14, 2018 – Apex receives permit from Army Corps for work within Waters of the US for the construction of the detention basin/drainage improvements.

June 29, 2018 – LCSMC provided review letter on bringing Apex site back into compliance per the LCSMC WDO. This letter required Apex to perform additional modifications than were previously identified to the engineering plans for the detention/drainage improvements.

July 18, 2018 – Village issues action letter providing a required timeline for completion of the required drainage/detention basin improvements and addressing LCSMC's comments from June 29, 2018. The timeline included that Apex must provide engineering submittal required to address outstanding items in review letter from LCSMC, dated June 29, 2018 and CBBEL review letter dated January 15, 2018, no later than August 6, 2018. This timeline was created due to Apex having to address review comments from LCSMC from letter dated June 29, 2018. **Apex did not submit plans by August 6, 2018.** This letter also notified Apex that they removed trees from their site without obtaining a tree removal permit from the Village.

August 24, 2018 – Village issues Notice of Show Cause Hearing regarding Possible Termination of Ordinance N. 1382-11, due to the outstanding stormwater management issues not yet being resolved.

September 12, 2018 – Apex makes engineering submittal to address LCSMC and CBBEL comments. CBBEL issues review letter on September 24, 2018 with outstanding items to be addressed.

September 20, 2018 – LCSMC approves engineering plans.

September 21, 2018 – Apex submits landscape plan to address staff comments.

September 24, 2018 – Village issues violation letter regarding grading and drainage work performed and additional impervious surface added to site without a permit.

SPECIFIC REQUEST

Staff recommends the Village Board terminate, in its entirety, Ordinance 1382-11 until the Subject Property is brought into full compliance with the conditions of said ordinance, specifically the applicable provisions of the LCSMC Watershed Development Ordinance and Village Municipal Code, as determined by Staff.

In addition, there are uses on the property that do not correspond with Apex's existing Special Use and the Special Use must be updated to incorporate these additional uses. These items include the following: storage bins, including both existing and future; ocean containers; grinding and processing of leaves and branches; soil processing; soil piles; parking area; yard lighting; signage; trees; future buildings; temporary storage building; fencing and lot coverage calculations.

Staff recommends that the Special Use granted by Ordinance 1382-11 not be reinstated until the Subject Property is brought into full compliance with required provisions of LCSMC Watershed Development Ordinance and the uses indicated above are considered by the Village Board as to whether they should be incorporated into the Subject Property's Special Use.

ATTACHMENTS

Please find enclosed the following items:

1. Site location map (Attachment A)
2. Resolution No. 11-21-11-3 authorizing annexation agreement (Attachment B)
3. Ordinance Number 1382-11 granting a special use permit (Attachment C)
4. July 13, 2016 Action Letter (Attachment D)
5. Notice of Show Cause Hearing sent to Apex Landscaping, Inc. (Attachment E)

PARCEL ID 1410300020

24414 N OLD MCHENRY RD

HARTHORN WOODS, IL

SITE DEVELOPMENT 1993-2017



FIGURE 1: 1993 DEVELOPED AREA (APPROX. 66,000 FT²)

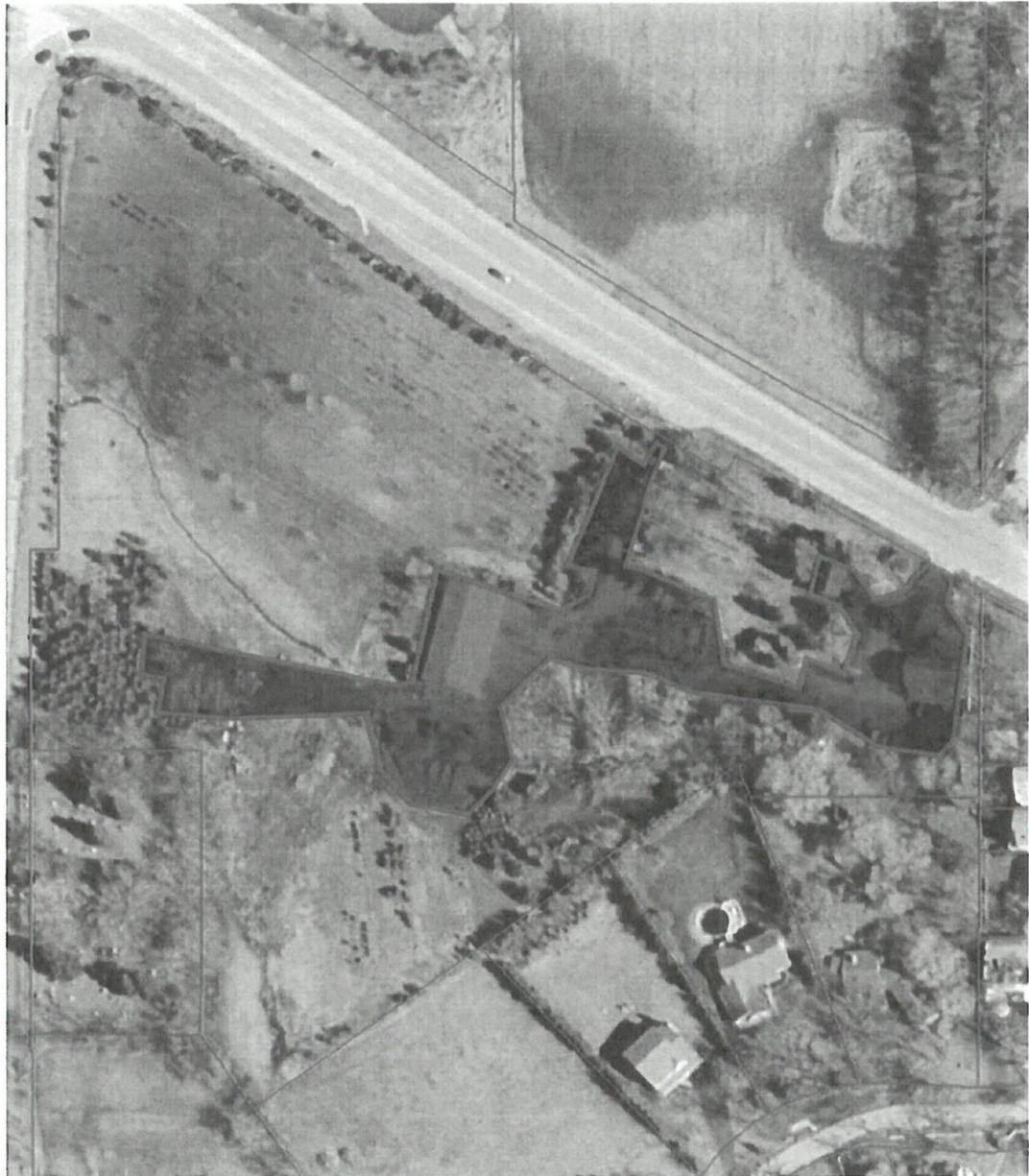


FIGURE 2: 2005 DEVELOPED AREA (APPROX. 74,000 FT²)



FIGURE 3: 2012 DEVELOPED AREA (124,700 FT²)



FIGURE 4: 2015 DEVELOPED AREA (169,100 FT²)



FIGURE 5: 2017 DEVELOPED AREA (199,900 FT²)

PARCEL ID 1410300020

24414 N OLD MCHENRY RD
HARTHORN WOODS, IL

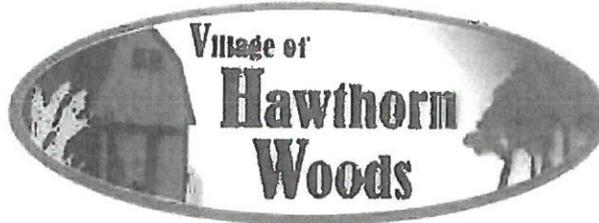
SITE DEVELOPMENT 1993-2017



FIGURE 2: 2005 DEVELOPED AREA (APPROX. 74,000 FT²)



FIGURE 4: 2015 DEVELOPED AREA (169,100 FT²)



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June 1, 2018

Robert Atwater
Apex Landscaping Inc.
24414 Old McHenry Road
Hawthorn Woods, IL 60047

Bob:

This letter is written to communicate to Apex that the Village supports the memorandum from Christopher B. Burke Engineering, Ltd., dated May 21, 2018. Please find attached.

It is the Village's opinion that the construction of the stormwater management system must be expedited; or the impervious surface added since 2010 must be removed. This issue requires immediate attention.

Apex's Special Use Permit and Annexation Agreement indicate that if the LCSMC Ordinance violations are not resolved, Apex's special use permit will be null and void.

If these issues are not addressed in the timeframe stated above, Apex's special use permit will be null and void and the Village may hold a public hearing to determine whether or not the Special Use Permit shall be terminated.

We look forward to a swift resolution of the remaining issues.

If you have any questions, please do not hesitate to call.

Pamela O. Newton

A handwritten signature in black ink that reads "Pamela O. Newton". The signature is written in a cursive, flowing style.

Chief Operating Officer
Village of Hawthorn Woods