

**MINUTES OF THE SPECIAL MEETING OF THE ZONING PLANNING & APPEALS COMMISSION OF THE VILLAGE OF METTAWA, LAKE COUNTY, ILLINOIS, HELD AT THE HOUR OF 7:00 P.M. ON TUESDAY FEBRUARY 11, 2019 IN THE COTTONWOOD ROOM OF THE HILTON GARDEN INN, 26225 N. RIVERWOODS BOULEVARD, METTAWA, ILLINOIS**

**I. CALL TO ORDER**

Village Attorney Rhodes called the meeting to order at 7:00 PM.

**II. ROLL CALL**

Upon a Call of the Roll, the following persons were:

Present: Commissioners Clark, Leonard, Meluso and Murphy

Absent: Commissioners Hirsch, Pickell and Chairman Krusinski

Village Attorney Rhodes declared a quorum present.

Also present: Village Attorney, James Rhodes of Klein, Thorpe & Jenkins, Ltd;  
Village Administrator, Bob Irvin; Village Clerk, Sandy Gallo

**III. SELECTION OF CHAIRMAN PRO TEM**

Village Attorney Rhodes stated the Chairman was unable to attend today's meeting. As a result, a Chairman Pro Tem must be selected for tonight's meeting and public hearing.

A motion was made to select Commissioner Leonard as the Chairman Pro Tem for today's ZPA meeting. The motion was moved by Commissioner Meluso and seconded by Commissioner Clark.

No other nominations were made for Chairman Pro Tem.

Upon a Call of the Roll, the following persons were:

Aye: Commissioners Clark, Leonard, Meluso and Murphy

Nay: None

Absent: Commissioners Hirsch, Pickell and Chairman Krusinski

Village Attorney Rhodes stated Commissioner Leonard will be the Chairman Pro Tem for today's ZPA meeting.

**IV. APPROVAL OF MINUTES:**

The ZPA meeting minutes for January 8, 2019 were reviewed. It was moved by Commissioner Murphy and seconded by Commissioner Clark that the meeting minutes of the January 8, 2019 be approved and be placed on file.

Upon a Call of the Roll, the following persons were:

Aye: Commissioners Clark, Meluso, Murphy and Chairman Pro Tem Leonard

Nay: None

Absent: Commissioners Hirsch, Pickell and Chairman Krusinski

Chairman Pro Tem Leonard declared the motion carried and that the meeting minutes will be placed on file.

V. **CALL OF CASES:**

Chairman Pro Tem Leonard added tonight's agenda includes an application for certain zoning approvals for W.W. Grainger, Inc., with respect to the property located at 100 Grainger Parkway.

Chairman Pro Tem Leonard opened the public hearing for Case Number 18-SU-PUD-1 from an application filed by W.W. Grainger, Inc.

Upon a Call of the Roll, the following persons were:

Present: Commissioners Clark, Meluso, Murphy and Chairman Pro Tem Leonard

Absent: Commissioners Hirsch, Pickell and Chairman Krusinski

Chairman Pro Tem Leonard declared a quorum present.

On January 8, 2019, a public hearing was held to hear the application filed by W.W. Grainger. At the public hearing, the Zoning Planning and Appeals Commission voted to recommend to the Village Board to approve the following requests:

1. A Zoning Map Amendment changing the zoning of the Property commonly known 100 Grainger Parkway, Lake Forest, Illinois 60045 (the "Subject Property") from the R-1 Zoning District in Mettawa to the O-H Zoning District in Mettawa;
2. Approval of a Special Use-Planned Unit Development Final Development Plan approval pursuant to Chapter 15, Article XVI of the Mettawa Zoning Code to allow the currently existing Grainger Corporate Headquarters to operate as a Special Use-Planned Unit Development on the Subject Property under the Mettawa Zoning Code, including the right to further develop the Subject Property in accordance with Development Approvals approved by Lake County, Illinois, including the development of up to a total of one million five hundred thousand (1,500,000) gross square feet of office space ;
3. A variation from the forty-five foot (45') maximum building height requirement required in Section 15.1506(A) of the Village of Mettawa Zoning Ordinance to allow for the eighty foot (80') existing buildings and up to ninety feet (90') for additional buildings, ~~exclusive~~ inclusive of building appurtenances not exceeding five feet (5') in height;

4. A variation from the requirement that off-street parking spaces be at least nine (9) feet in width under Section 15.1703(D) of the Mettawa Zoning Ordinance to allow for parking spaces to be 8.6 feet in width; and a variation from the requirement that off-street parking spaces be located within two hundred (200) feet of the use served under Section 15.1704 of the Mettawa Zoning Code;
5. A variation from the requirement that five (5) parking spaces be provided for each one thousand (1,000) square feet of floor area under Section 15.1705 (B) to allow for 2.5 parking spaces per one thousand (1,000) square feet of floor area; and,
6. A variation from the requirement of one (1) loading berth for each forty thousand (40,000) square feet of floor area under Section 15.1705 (B) of the Mettawa Zoning Code to remove the restriction entirely as it relates to the Subject Property.

Chairman Pro Tem Leonard said upon submittal recommendation to the Village Board it was determined that certain property owners had not received notice of the January 8, 2019 public hearing. Therefore, the Village Board referred this matter back to the Zoning, Planning, and Appeals Commission to allow an additional notice to be sent to take any testimony from any property owners were not previously notified.

Chairman Pro Tem Leonard stated the role of the Zoning, Planning and Appeals Commission consists of reviewing matters brought before them that affect zoning and planning in the Village. The Commission is a fact-finding body and has no final authority. As a result, it makes no final decisions regarding any matter, but only make recommendations to the President and Board of Trustees of the Village of Mettawa

Chairman Pro Tem Leonard asked if anyone who is present that did not receive the initial notice of the last public hearing and now wishes to file as an objector or provide their testimony. Resident, Thomas Lys (25300 N Nektosha Way) said he received a second notice at 602 Riverwoods Road and the notification was received last week. Mr. Lys stated he would like to make an additional statement at this public hearing.

John Julian, Attorney for W.W. Grainger, Inc., was present as the applicant for this public hearing. Mr. Julian presented the evidence that letters have been sent as required notices of this hearing to all owners of real property lying within 2,000 feet of the property. Mr. Julian provided three exhibits. **Exhibit Number 5:** Listing of all the property owners that were sent a second notice; **Exhibit Number 6:** received Green Cards; **Exhibit Number 7:** White Letter Envelopes that were unclaimed.

Village Attorney Rhodes asked the resident that entered the public hearing late, if she had received the first public hearing notice from Grainger. The resident confirmed she had received the first notification. Chairman Pro Tem Leonard validated to Mr. Julian, all of the residents have now received one or two notifications of the Grainger's rezoning public hearing. Village Attorney Rhodes indicated the Grainger presentation is not needed at this meeting.

Resident, Mr. Lys said after the 1996 settlement, covenants were recorded against the property. One of the covenants states, the office building on the property should not be visible from the boundary line. Mr. Lys indicated at the January public hearing, he submitted a picture of Grainger's office building from his boundary line. The data center was very visible. Various witnesses also testified at the January meeting that Grainger's office was very visible from their property. Mr. Lys said he cannot testify to the witnesses' view, he was only reiterating their comments. Mr. Lys said given the picture he presented, Grainger has violated the recorded covenant from the settlement agreement. Mr. Lys added he urges the Commission to refrain from making a decision until Grainger is in full compliance to the existing covenants.

Village Attorney Rhodes said there are covenants that were recorded and required as part of the zoning process for the development on the property. The covenants however, have no recorded date but a document number of 3612460. Village Attorney Rhodes questioned Mr. Julian if he was in agreement that the covenants are still in effect. Mr. Julian confirmed the covenants are still effective. Village Attorney Rhodes said he would like to enter the covenant document as an exhibit to this hearing. **Exhibit Number 8**

Mr. Julian stated the covenants were part of the zoning resolution submitted by Lake County Board when Grainger was rezoned after having been disconnected from Mettawa in 1994. The rezoning covenants were then reduced to covenants which were restrictions against the property. The covenants were first identified in the resolution and then placed on the property against the covenant which run with the land. Mr. Julian said he would like to address Mr. Lys statement. Mr. Julian remarked Mr. Lys indicated Grainger has violated the covenant, this is not an accurate statement. The covenant Mr. Lys stated is relating to the properties screening at ground level along the borders. Mr. Julian added this matter is not related to the rezoning of Grainger's property and it can be subject to self-interpretation the meaning of ground level screening.

Village Attorney Rhodes read the section of *Covenant of Development and Uses* listing found in the covenant document, pages 2-4.

Commissioner Meluso asked what constitutes ground level screening. Village Attorney Rhodes stated the definition for ground level means, you are standing at the ground level looking straight ahead and you cannot see the building. Commissioner Meluso stated the truth of the matter is, you shouldn't be able to see the first floor.

Commissioner Meluso asked Mr. Lys to confirm the aerial photo which was included in the packet and indicate whose trees were along Mr. Lys' property line. Mr. Lys confirmed his trees were captured in the picture. Mr. Lys added Grainger has not planted the number of trees required, nor have they maintained their trees.

Mr. Julian added the maintenance of the exact trees that surrounding the property were planted 20 years ago; however, the covenant does state the trees should be maintained in open space for perpetuity. Mr. Julian indicated he wanted to ensure the accuracy of what is being stated and the self-interpretations being made by Mr. Lys.

Mr. Julian said he had a conversation with Andy Stewart, Grainger's Faculty Manager regarding Mr. Lys concerns. Mr. Julian added Mr. Stewart indicated he has indeed returned all but one of Mr. Lys calls due to related phone issues. Mr. Stewart met twice with Mr. Lys and one visit included being in Mr. Lys' home. Mr. Lys proclaimed Mr. Stewart did not return all of his calls.

Mr. Lys stated the pictures provided at the January public hearing were taken at ground level. Mr. Carr asked the Village Attorney Rhodes to clarify the buffer square feet.

Village Attorney Rhodes clarified the size of the buffer square feet on the north are not indicated in the covenant. The buffer square feet measurements can be viewed in the January public hearing submitted exhibits plans. The buffer square feet is 50 in some areas and 150 on the north side along Route 60.

No further objectors or testimony was taken.

Chairman Pro Tem Leonard asked Village Attorney Rhodes if there were any other matters with respect to the public hearing.

Village Attorney Rhodes said he recommends to modify the recommendation to the Village Board. The conditions should be part of Number 2 listed as the Special Use Planned Unit Final Development Plan approval. One condition is to modify the plan unit development in which the applicant would be bound to the current covenants. The applicant has acknowledged these covenants are in effect. Another modification would be to include within the annexation agreement a provision that any future development plans for the subject property should be held accountable to the full code of the rules and regulations for zoning. The agreement would include the right to further develop the subject property to a maximum of 1,500,000 gross square feet in total including the existing development. The applicant has requested with the existing development, Grainger receive the final plan approval. The ZPA will need to decide if they would like to waive the preliminary final review of the plan development.

Chairman Pro Tem Leonard said Grainger currently has no plans in the works to

develop their facility. Chairman Pro Tem Leonard said the ZPA is not waving any rights; the statement only restates Grainger will need to submit their application when they have a development plan. Mr. Julian confirmed Grainger has no development plans at this time. Mr. Julian confirmed when Grainger is ready to develop, they will need to come before the Zoning, Planning and Appeals Commission to present their application and plans.

Commissioner Murphy commented within Commissioner Pickell's signed Findings and Facts Report it indicated Grainger will be held accountable to the Village's zoning codes rules and regulations.

A modification and a second recommendation is needed for the special use plan unit development to allow the existing corporate headquarters to operate as special plan unit development on the property. Subject to the following the conditions; limitation on the total square footage of 1,500,000, future development plans subject to the applicable rules as part of ZPA's first recommendation, and the applicant should be bound to the covenants listed in document 3610240. A motion was made to modify the current Findings and Facts Report to include the conditions. The motion was moved by Commissioner Meluso and seconded by Commissioner Clark.

Upon a Call of the Roll, the following persons were:

Aye: Commissioners Clark, Meluso, Murphy and Chairman Pro Tem Leonard

Nay: None

Absent: Commissioners Hirsch, Pickell and Chairman Krusinski

Chairman Pro Tem Leonard declared the motion carried.

Village Attorney Rhodes stated the ZPA's 6 items included in the January 8<sup>th</sup> Findings and Facts Report will remain and the discussed conditions will be incorporated as the new recommendation. Chairman Pro Tem Leonard said the #3 statement will include the correction of *inclusive* of the building appurtenances not to exceed five feet height. A motion was made to accept the change to current Findings and Fact Report and include tonight's indicated conditions. The motion was moved by Commissioner Clark and seconded by Commissioner Murphy.

Upon a Call of the Roll, the following persons were:

Aye: Commissioners Clark, Meluso, Murphy and Chairman Pro Tem Leonard

Nay: None

Absent: Commissioners Hirsch, Pickell and Chairman Krusinski

Chairman Pro Tem Leonard declared the motion carried.

Chairman Pro Tem Leonard declared the public hearing closed at 7:35 pm.

The Chair asked to be authorized to draft, sign, and forward to the President and

Board of Trustees a Report of the Zoning, Planning and Appeals Commission containing Findings of Fact and Recommendation regarding this case. The motion was moved by Chairman Pro Tem Leonard and seconded by Commissioner Meluso.

Upon a Call of the Roll, the following persons were:

Aye: Commissioners Clark, Meluso, Murphy and Chairman Pro Tem Leonard

Nay: None

Absent: Commissioners Hirsch, Pickell and Chairman Krusinski

Chairman Pro Tem Leonard declared the motion carried.

Commissioner Meluso said he understands Mr. Lys issue regarding the Data Center parking lots lights brightness. Commissioner Meluso asked Mr. Julian if they would consider placing shields on the light fixtures to reduce the light exposure. Mr. Julian replied he spoke to the Facility Manager regarding the parking lots lights and within reason they are willing to work with Mr. Lys.

Mr. Lys said the Village should withhold any recommendation until Grainger has fully complied to the existing covenants. Village Attorney Rhodes said Grainger is aware that the covenants are a condition of the approval process. Grainger is willing to work with Mr. Lys to address your concern. Appropriate actions can be taken if Grainger does not comply to their covenants.

Village Administrator Irvin said the March ZPA meeting will be cancelled.

Commissioner Clark inquired about the feeding and raising of poultry recommendation. Village Administrator Irvin said the ZPA's moratorium period recommendation indicated 120 days or the length of time the Board chooses. The Board can amend the period without holding a public hearing. The moratorium extension will be discussed at the Board's March meeting.

Village Attorney Rhodes said the recommendation was left open-ended to allow enough time for Camiros to complete their study on this matter.

Mr. Carr inquired at what meeting will the Board discuss the Grainger's recommendation. Village Administrator Irvin said an updated report will be provided at the March meeting.

Commissioner Clark said she would like to add a comment regarding those residents that indicated Grainger violated the covenants. The residents need to recall they built after Grainger.

Village Attorney Rhodes asked Mr. Julian who at Grainger will follow-up with Mr. Lys concerns. Mr. Julian said he will ask Andy Stewart to address the screening and lighting matters with Mr. Lys. Mr. Julian added Mr. Stewart had not received any

direct feedback from Mr. Lys on what he was seeking from his initial communications. Village Attorney Rhodes suggested a meeting to be set-up with both parties to get some resolution in these matters.

**VI. COMMUNICATIONS:**

**VII. REVIEW OF REPORTS OF COMMISSION COMMITTEES:**

**VIII. OLD BUSINESS:**

**IX. NEW BUSINESS:**

**X. ADJOURNMENT:**

With no further business to discuss, it was moved by Commissioner Murphy seconded by Commissioner Meluso that the meeting be adjourned.

With unanimous consent, Chairman Pro Tem Leonard declared the motion carried and the meeting adjourned at 7:49 pm.

Sandy Gallo, Village Clerk