

## **Statement in opposition to the request for rezoning of the DiMucci property in unincorporated Lake County, on behalf of the Village of North Barrington, IL**

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I am Lee M. Brown, President of Teska Associates, Inc., a planning consulting firm in Evanston, IL, retained by the Village of North Barrington as their municipal planners and to speak on their behalf. I have been a professional planner for 35 years, I am a Fellow of the American Institute of Certified Planners.

It is my professional opinion that the Lake County Regional Planning Commission should oppose the rezoning of the subject property, and find that it is inconsistent with the Regional Framework Plan for several reasons:

- The rezoning on its face, is inconsistent with the Regional Framework Plan, as well as being inconsistent with the comprehensive plans of the adjacent municipalities.
- The petitioner has not made a satisfactory case that the rezoning is necessary to allow for the reasonable use of the property.
- A finding that “the land use as proposed would be consistent” with the adopted Framework Plan would set a poor precedent for planning and zoning in Lake County, and would undermine the value of the Regional Framework Plan and the Regional Planning Commission’s authority.

Unfortunately, the petition and much of the testimony you may hear on this matter will confuse zoning and planning. There is a fundamental and important distinction: A petition for rezoning is a quasi-judicial decision making process which focuses on the rights of a property owner to develop or build what they want. That is the role of the Zoning Board. Where zoning is a tool for implementation of policy, planning is about the establishment of public policy, about the needs of a community or region, the needs of the public to set its vision of the future, and the strategy for implementing the plan. Zoning should follow adopted policy, not revise it, and not ignore it. The Regional Planning Commission’s role is to determine whether the rezoning is consistent with the adopted policy, not whether the site plans work or whether the parking will be adequate.

## **Inconsistency with the Plan**

The Lake County Regional Framework Plan advocates strongly for intergovernmental cooperation and interjurisdictional collaboration on issues of land use and development. The implementation strategy for the Regional Framework Plan is built around intergovernmental cooperation. Chapter 11, of the Regional Framework Plan, where the plan describes how the County will implement its goals, objectives, and land use strategy is titled “Intergovernmental Coordination and Implementation”:

“The chapter includes recommendations for actions that can be undertaken cooperatively by the County, municipalities, townships, and other governmental agencies to implement the policies and strategies identified in the Plan.”

“A major goal of the Plan is to create a “common vision” for Lake County that will be supported by all jurisdictions and implemented through their own comprehensive plans and regulations. Consistency among the local government comprehensive plans will allow a holistic approach throughout the County, linking land use, the protection of environmental and cultural resources, economic development, transportation, housing, and infrastructure and services.”

The Regional Framework Plan includes a map underscoring the importance of intergovernmental agreements, and specifically references the intergovernmental agreement between Hawthorn Woods and North Barrington which involves the subject property. Both the Hawthorn Woods and North Barrington Comprehensive plans directly address the future land use of this site, calling for a mixed use development.

The single message and strategy of the implementation plan is cooperation between municipalities and cooperation between the County and the municipalities.

The existing County Future Land Use Map and the Existing County Zoning of the property identifies the site for residential land use. Rezoning the property for commercial use is not consistent with residential designation in the plan. Nor is it consistent with support for a cooperative effort between the municipalities and the county.

Chapter 11 of the Regional Framework Plan states: This Plan supports development of intergovernmental relationships between municipalities and between municipalities and the County that further the public interest by coordinating annexation boundaries; land use; the protection and enhancement of natural resources; the acquisition of public open space areas and corridors; economic development; and the provision of transportation, sewers, and other infrastructure and services.

The petitioner has characterized a rezoning of the property to be consistent with the Framework Plan because it follows a trend of development, a zoning term, not a planning term. The Framework Plan stands in stark contrast with the trend of development, adopted as a policy to directly influence how development should be encouraged through intergovernmental cooperation to assure the reasonable, rational, deliberate support of the public interest in a high quality environment with balanced economic development. A planning scenario which results from the trend of development would encourage each community to compete with each other and with the County to annex and zone property for commercial development. The trend of development scenario will result in uncontrolled development, leap frog growth and the abandonment of existing commercial properties and stores for the newest commercial center down the road. The net result of this trend of development is inefficient utility extensions, an imbalance between the cost and revenues to support the public services, partially or fully vacant stores and centers in older communities, and generally, the pattern of development pejoratively labeled sprawl.

The petitioner has also characterized a rezoning of the property to be consistent with the Framework Plan because it is consistent with the designation of land use found in the Village of North Barrington and BACOG plans. This is a mischaracterization, in part, because the petitioner has not referenced the current 2004 Update to the Village of North Barrington Plan, and in part because the BACOG plan does not speak to the proportion of the subject site that should be developed for commercial uses. The correct and current Village of North Barrington Comprehensive plan calls for site to be developed within the Village of Hawthorn Woods, consistent with the intergovernmental agreement, and calls for a predominately residential mix of uses of the property with up to 16.8 acres of the site for commercial land use. BACOG's land use map, which though advisory, largely represents the land uses shown by one or more of the adjoining municipality's comprehensive plans, does not have a mixed use category, does not indicate maximum intensities or proportions of a site planned as commercial. By suggesting that the entire site is planned for commercial development in the North Barrington and BACOG plans, the petition has misled the Regional Plan Commission.

### **Rezoning is not necessary**

The Petitioner has not adequately documented the need for the rezoning or a need for a deviation from the Regional Framework Plan. The heart of the petitioner's argument/response to the County's application questions is: "the property is not suitable for residential development"...but no real evidence of the inability to develop it for residential development, or a mixed commercial and residential development as shown in the Intergovernmental Agreement is provided, only that "the cost of development would consume the value of the property"...and "the property is also unsuitable for development

under the existing zoning simply because it is far more suitable for more appropriate zoning..." (which could be translated to read "that because the property owner wants to do something else with the property that is not permitted under the current zoning, the zoning must be wrong")

There is a huge assumption, without support or evidence, that the proposal provides greater net benefit to taxing jurisdictions than residential development. "the County and local taxing districts cannot support themselves on residential development" I believe that there are many Lake County communities that are very successfully supporting themselves on residential development. But the question is not whether there should be non-residential uses in the County...the question must be what is in the best interest from a County-wide perspective for the future use of this site, and whether the existing designation of residential uses in the Framework Plan or mixed uses in the adopted intergovernmental agreement should be completely eliminated in favor of a single use type for the entire property.

The petitioner indicates that "the petitioner's proposal will provide commercial development in an area that is under-served" yet, no evidence of that underserved market is provided. The application is not supported by a market analysis that demonstrates that there will be a net gain in sales or sales tax revenue in the county. Current retail sales within a 5 mile radius of the subject site exceed locally generated anticipated consumer expenditures by more than \$388 Million, according to 2012 Nielsen Company data. That is not an underserved market...in fact that is precisely the opposite of an underserved market, and it suggests that at least in the foreseeable future, new retail uses will not create a net gain in County Sales Tax revenues, it will simply move sales tax revenues away from existing businesses.

The petition indicates that "the property, when developed will produce tax dollars for law enforcement and patrol" yet, no evidence is provided that those tax dollars will adequately compensate the expenses of providing law enforcement and patrol, or that those tax dollars will go to the agency that will do the law enforcement and patrol. And there is no mention of the capacity to provide or pay for fire fighting and emergency services.

As "characterized", this development would accommodate 800,000 square feet of commercial uses. Given a conservative figure of 3.5 cars per / 1000 square feet of commercial use, that will require a minimum of 2800 parking stalls...and obviously, peak hour traffic generation that is associated with access to the site for those vehicles. Most commercial retail developers will actually seek to establish parking closer to 4.5 cars per

/1000 square feet, given the opportunity, making for an even greater proportion of the site impervious expanses of asphalt. Where is the traffic analysis that accompanies such a project of regional impact? Keep in mind that the stormwater that come off this site will flow into Flint Creek through the Village of North Barrington.

## **Bad Planning Precedent**

Approval of the rezoning, the issuance of a Conditional Use Permit, and an extension of the time period of the preliminary plan, all of which are contradictory to the Regional Framework Plan and the Intergovernmental Agreements of the adjacent municipalities would set a bad precedent for the county.

If the IGA between these communities is ignored by the County, why would any two municipalities bother to go through the very, very extensive planning and negotiating process to reach an IGA if the County will ignore it?

If the county ignores this IGA, why would it not ignore the other IGA's, in Deerfield, Kildeer/Lake Zurich, Lake Forest/Mettawa/Lincolnshire, or elsewhere?

By ignoring the existing FLU, and by ignoring the adopted intergovernmental agreement, the county will have undermined the legitimacy of its own planning program and documents, and will be encouraging local municipalities to act in ways that are competitive, counterproductive to the County's goals and objectives, and inconsistent with best practices for planning and governance.

The petitioner has endeavored to present their proposal as the result of having exhausted their reasonable efforts to seek approval of development of the site over a very long period of time, and that the municipalities have unreasonably withheld their approval so as to deny the owner reasonable use of the property. Though it is true that the property owner did, more than 10 years ago, seek to develop the property, and had ultimately failed to receive the necessary approvals before the withdrawal of the request by the developer Taubman Companies, the current proposal was never brought before the municipalities. There could be no review of this development; no refinement or approval of this proposal by the municipalities because it was never submitted. Any characterization that the municipalities are not willing participants or have denied the petitioner either reasonable due process or respectful consideration is simply incorrect.

If the County sees the need for retail development as a priority over support for good planning, and approves the requested rezoning on property that could be served by adjacent municipalities, how will this be viewed by other municipalities and other property

owners in the county? It would be easy to anticipate that every property owner on the edge of a community who wishes to avoid the development standards set by those communities will either use the precedent set here as leverage against the municipality in order to seek approval of uses or development which would otherwise be opposed by the municipality; or, the property owner will seek to avoid local planning and municipal interests entirely and seek to develop in the county. The property owner could show “a trend of development” elsewhere, and argue that despite what it says in the Framework Plan, the property should be approved in the county.

The Village of North Barrington does not oppose the reasonable development of the subject property. It supports the development of the property in a manner consistent with the existing IGA, or in a manner which is consistent with the results of a planning process that engages the Villages of North Barrington and Hawthorn Woods in the appropriate reconsideration of the IGA.

## **Conclusion**

It is my professional opinion that this application is inconsistent with the Regional Framework Plan, in both intent and as mapped; and, this application, which lacks documentation of the need for the use as proposed, lacks documentation on why the use of the property requires rezoning in the county for development inconsistent with the existing IGA's, lacks documentation on the impact of the development on the region, is both premature and inconsistent with the goals, intent and good planning practice embodied in the Framework Plan.