VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
TUESDAY, JUNE 13, 2017

A meeting of the Fox Point Village Board was held on Tuesday, June 13, 2017 in Schwemer Hall, 7200 N. Santa Monica Boulevard. President Frazer called the meeting to order at 7:00 p.m. and asked the Village Clerk to take roll call. Roll Call of the Village Board present included:

Village President Douglas H. Frazer
Trustee Eric Fonstad
Trustee Christine Symchych
Trustee Marty Tirado
Trustee Liz Sumner
Trustee Bill Kravit
Trustee Greg Ollman

President Frazer noted there is a quorum present.

Also present are Village Attorney Eric Larson, Village Manager Scott Botcher, Assistant Village Manager Michael Pedersen, Public Works Director Scott Brandmeier, Finance Manager Mary Carthell, Administrative Intern Mohammad Easa and Village Clerk Kelly Meyer.

Notice of the meeting was provided to the North Shore Now and to all others as required by State open meetings laws and posted on the official bulletin board at 7200 N Santa Monica Boulevard, as well as the village website at www.villageoffoxpoint.com, as per 2015 Wisconsin Act 79 and as described in Village Ordinance Chapter 116-2, 116-2(C).

Presentation of FY 2016 Audit by Village Auditor to the Village Board

Wendi Unger, Baker Tilley Virchow Krause and Company, presented the 2016 Village Audit and answered questions. Ms. Wendi Unger noted a 2016 Financial Highlights Presentation was distributed to the Village Trustees. In addition, the Communication to Those Charged with Governance and Management and the Financial Statements were distributed prior to the meeting.

President Frazer noted the village board has received the 2016 Village Audit; President Frazer and Trustee Symchych noted their gratitude for Ms. Unger, her team's work and the village staff's work and presentation on the 2016 Village Audit.

Persons Desiring to be heard

President Frazer noted he has given the "Persons Desiring to be Heard" a lot of thought over the last month. He has a slightly more flexible approach then the prior announcement in May, by attempting to accommodate everyone's wishes. People may speak whenever they want on a matter; everyone gets 3 minutes to speak, either up front or under an agenda item or by splitting the 3 minutes of time under several agenda items. He did note that if someone cannot get their thoughts out in 3 minutes time, the individual can always ask the Chair for more time and the Chair will consider that request. President Frazer also noted this is on the agenda later on tonight.

President Frazer opened Persons Desiring to be Heard; he noted there will be a public hearing on 2 items on the agenda coming up and if you want to speak on either of the 2 items, you may wait until that comes up, as it is near the top.

Bob Cory, 7740 N Santa Monica Blvd

Mr. Cory commented on the 3.7 million dollars that will be revenue from the sale of the school property (Dunwood property). Mr. Cory expected information on what the school would use the revenue for and inquired on who is responsible for the revenue.

Elizabeth Aelion, 210 W Bergen Ct

Ms. Aelion thanked President Frazer for increasing the opportunities for comments. Ms. Aelion commented her concerns on Village Board room expenditures and on finance fees in regard to debt. Ms. Aelion suggested financing fees be paid out of the current budget.

Jan Singer, 8426 N Regent Rd

Ms. Singer noted concerns about all of the talk on the project with homes for the aging population and suggested a gender-neutral and user-friendly bathroom at the Doctors Park.

Marilyn Franklin, 7870 N Regent Road

Ms. Franklin commented in regard to the public comment agenda item and noted her happiness that it has been recognized the need for further clarification during the comment time. In the event this procedure does not work, it was suggested to hold Public Comment at the beginning and end of the meeting agenda.

[Public comments received under persons desiring to be heard in connection with the Proposed Petition for Planned Development Overlay District Rezoning, 217 West Dunwood Road (a/k/a, Dunwood School Property) regarding 5b, as recommended by Village Attorney Eric Larson and as Village Board by unanimous consent were incorporated into the public hearing comment period specific to the rezoning.]

Hearing no other public comments, President Frazer closed public comment period.

Committee Reports

Joint Building Board and Plan Commission Report

1. Village Manager Scott Botcher gave a brief report in regard to Joint Building Board and Plan Commission review of village hall entrance doors.

2. President Frazer gave a brief report of the Plan Commission consideration of the Petition for Planned Development Overlay District Rezoning at 217 West Dunwood Road (a.k.a. a portion of the Dunwood School property), including the Application, Plan Commission Resolution 2017-1 adopted by the Plan Commission and as exhibits A and B, containing many conditions and the Ordinance before the Village Board tonight.

There were no questions or comments; therefore, hearing no comment, President Frazer closed comment period.

Public Hearing for Village Hall Entrance Doors (5a)

On motion by Trustee Symchych, seconded by Trustee Tirado, and carried unanimously to open the public hearing at 7:55 p.m.

With no public comments, President Frazer closed public comment period at 7:55 p.m.

On motion by Trustee Symchych, seconded by Trustee Kravit and carried unanimously to close public hearing at 7:55 p.m.

On motion by Trustee Fonstad, seconded by Trustee Kravit, and carried unanimously to approve the proposed Village Hall Entrance Doors, as set forth in the attached memorandum dated June 5, 2017.

Public Hearing for Proposed Petition for Planned Development Overlay District Rezoning, 217 West Dunwood Road (a/k/a, Dunwood School Property)(5b)

President Frazer explained procedures for the Public Hearing, starting with the procedural background from the Village Attorney, Open Public Hearing, Presentation by the Mandel Group, Village Board will ask questions of the Applicant, Public Comment, and Village Board will consider the application.

Background from Village Attorney Eric Larson

Village Attorney Eric Larson noted this is a rezoning petition upon receipt of a prepetition application from Mandel Group; he proceeded to outline the prior process of the public hearing.

Village Attorney Eric Larson gave a background, noting this is a rezoning petition and specifics to the matter, the process consideration and the current status. Now in the current status the Village Board is directed to hold a public hearing; we are properly noticed.

Attorney Larson's recommendation is that the Village Board open the public hearing, receive the comments from the developer, incorporate comments made during the public comment section of the meeting, the Board could just incorporate those comments into the Public Hearing comments. Ultimately the Board needs to consider the ordinance to pass the ordinance or reject the ordinance. A draft ordinance was prepared and is in the packet with a number of conditions. The conditions come from the recommendation of the Plan Commission. This board has the authority, based on what you've heard and what you will hear, to modify those conditions as you deem appropriate. Once a determination is made, if the determination is made to adopt the ordinance, the process is not over. There are a number of additional steps; there is a land division that is required for this part to be able to proceed. If the ordinance is adopted, that process will need to take place to consider that land division that includes a recommendation from the Plan Commission and the decision of this Board. A developer's agreement will need to be drafted; that process will need to continue and this Board will have to consider the conditions that are shown in the developer's agreement. Depending on how the developer's agreement is structured, there may be a separate covenants document, restrictions that would be prepared or those may be contained directly in the developer's agreement and be recorded. One way or the other, there will be recorded restrictions either directly in the developer's agreement or separate.

Attorney Larson explained what is currently before the Board with regard to Lot 1 and Lot 2. He noted this is a rezoning petition concerning Lot 1, which has been referred to as the multi-family portion of the project and comments of a potential senior living care refers to Lot 2 (as referenced as the Senior Care) is not incorporated in the rezoning. It is tendentially related. If you look at the ordinance that he has presented, there are some restrictions shown in the ordinance that would be imposed on Lot 2. The reason for that in part is that the developer has made certain assurances to the village regarding Lot 2 and how it would proceed to be developed. The ordinance would capture those assurances and incorporate that into the village's requirements.

Public Hearing for Proposed Petition for Planned Development Overlay District Rezoning Open Public Hearing

On motion by Trustee Fonstad, seconded by Trustee Kravit and carried unanimously, to open the public hearing at 8:03 p.m.

Public Hearing for Proposed Petition for Planned Development Overlay District Rezoning Presentation by Mandel Group

Mandel Group, Inc., representatives were in attendance to give a presentation and answer questions; those present included, Mandel Group, Inc. Vice President of Development Ian Martin, Project Architect Jim Shields of HGA and Mandel Group, Inc. Development Coordinator Emily Pier.

Mandel Group Ian Martin gave a presentation in regard to the Petition for Planned Development Overlay District Rezoning, 217 West Dunwood Road (A.K.A. Dunwood School Property). Mr. Martin gave a brief of the history and issues raised by the Building Board and the Plan Commission in prior meetings.

Mr. Martin noted this is a rezoning request submittal for the multi-family portion of the project. There was no submittal for the proposed senior living portion of this project. It is a use by right under the current zoning code. There are some restrictions they have agreed to place on that property even though there is not a formal request on that property before the Board. There is no building permit application on file. He noted the concerns that were raised and accommodations that have been made.

1. Retail Concerns - Mandel agreed to remove it from the plan.
2. Concerns there were too many apartments and the senior piece was too big. Mandel eliminated the original town homes and reduced the unit count to 105, and the 2 large buildings were broken down into 4 smaller scaled ones. They also reduced the amount of land specific to the potential senior facility.
3. St. Eugene's asked for a little more green space between the school and the classrooms. They were able to do that. Mandel reshaped the buildings to create more green space.
4. Concerns were raised there was a need for community space, Mandel created a community room in the clubhouse (800-1000 square feet), free of charge to non-profit groups.

5. Building height was a concern, Mandel reduced building height to two stories in height.
6. Comments for more green space and a community park. They were able to fill the request. They were able to create almost as much green space as is currently available on this site. The majority of it is on Dunwood. The community park installation will be paid for by Mandel; it will have walking trails and Mandel will be responsible for the ongoing maintenance and Mr. Martin noted will most likely go in the development agreement.
7. Landscaping and stormwater was another issue. The concern was with the original stormwater solution had wet ponds; concerns were of mosquitos and a general safety concern about the amount of water in them. The solution was to create rain gardens, reducing the standing water issue and helps on the mosquito issue.
8. Berms – There is a berm planned 3 feet in height and covered with evergreens and other kinds of similar landscaping material.
9. Local wildlife – the rain gardens will bring in butterflies, the tree species are native species that would attract birds.
10. Setbacks – Mandel proposes to place the setbacks 100 feet from the property line along the multi-family units, 75 feet from the property line for the potential senior piece; this has been agreed to go into writing and be placed against the property in the development agreement.
11. There will be no access on Dunwood. Several residents are concerned about the traffic that might come off of this site onto Dunwood. All access from the Mandel property was eliminated from the site access onto Dunwood.
12. Cars and parking were concerns the Mandel proposed parking is much further from Dunwood and almost 2 ½ times the current distance.

Ian noted, Mandel made the attempt to incorporate as many of the comments/concerns as possible. He noted the demographics for the luxury rental apartments, also commenting on the views from 3 different places on Dunwood Road current condition and when the project is complete.

Project Architect Jim Shields of HGA presented the architectural renderings; Mr. Shields briefly summarized the design of the buildings. Mr. Shields included the visual renderings size and quality of the project, including the building materials, roof material (as commonly used in the village), green space, ample setbacks, community center, parking areas, and residential buildings.

Public Hearing for Proposed Petition for Planned Development Overlay District Rezoning Village Board Comments/Questions

Trustee Sumner concerns were Port Road traffic and the availability of a turn lane. Mr. Martin responded that a preliminary submittal has been made to Milwaukee County which has been approved with a widened driveway. As requested by Village staff, future traffic studies will be done and submitted to the village for review and changes according to staff. Typically a school or hospital would generate more traffic than an apartment/senior care facility. Trustee Sumner also had concerns in regard to Lot 2's visual condition prior to development. Mr. Martin agreed in the event a senior group is not picked out to go on that portion of the property, it would have to be seeded with grass and maintained and could also be included in the development agreement. Ms. Sumner inquired on residents generally using the outdoor parking in lieu of the underground parking. Mr. Martin noted the underground parking is

temperature controlled and much more convenient for residents with easier access to the elevators. Additional surface parking is for visitors and for the additional non-profit guests. Trustee Sumner inquired on limitation for the zoning and if the zoning is permanent once it has changed. Village Attorney Eric Larson commented Mandel must develop the property as they described; if they do not do that, then this zoning change will terminate. It currently says they have 3 years to satisfy these conditions that are shown in the rezoning or it will lapse. There are 15 restrictions in the zoning ordinance.

Trustee Kravit commented on the reported high demand for apartments and if the demand is high, were more apartments considered. Mr. Martin noted they have considered it, but the current zoning code does not permit enough density for apartments. Under current village code you get roughly just under 10 apartments per acre. The village code would have to be amended to permit more apartments, which is a huge process. Therefore, given further information the senior use is appropriate in this situation. Trustee Kravit inquired on the community room use for non-profits and who determines if the group qualifies. Mr. Martin noted Mandel will manage the whole property; therefore it would be Mandel to determine the non-profits and qualification. Trustee Kravit also commented on the traffic on Port Washington Road and inquired on what the studies include. Mr. Martin stated the staff also asked Mandel to analyze the existing condition on Port Washington Road and also what it might look like in the future, based on some projections of development. If you track the long term traffic developments on Port Washington Road over the last ten years, the traffic count has actually declined according to the WDOT. The burden would be on Mandel if a turn lane was needed for accommodation.

Trustee Ollman inquired on the traffic study, commenting I-43 will be expanding to 3 lanes of traffic from Bender Road to Highway 60 in Grafton. There is discussion they will be doing some work on Port Washington Road to just South of Good Hope. While I-43 is under construction, his concern is the traffic would increase and the potential overweight trucks using Port Washington Road in lieu of I-43. He suggested Mandel check with Milwaukee County on the construction details. Trustee Ollman also inquired on the community room use, the hours and days permitted for use by non-profit groups. Mr. Martin commented there are currently no set days; it would be figured out, but it will most likely be a first come first serve basis. In terms of hours, Mandel will close the clubhouse at a certain time every evening. Then at that point, the fitness facility would only be available to residents. Trustee Ollman inquired on availability for public restroom use. Mr. Martin noted there would not be an available public restroom on site. Trustee Ollman commented on St. Eugene's in regard to a fence and inquired on the type of fence and the building arrangements on the Dunwood property for minimal viewing exposure. Mr. Martin noted it would be a wrought iron type, black painted aluminum style fence that is supplemented with landscaping. The fence would be a more durable style. Mr. Martin commented on the minimal window exposure, noting Mandel did angle the building at the southwest side and the drainage ditch separates the 2 properties on the west side where the classrooms are located, there is pretty heavy existing large mature trees barrier currently. Trustee Ollman inquired on the height intentions of the potential senior facility. Mr. Martin noted Mandel does not know the height yet and the existing village code limits it to 35 feet or less or no more than 3 stories. Trustee Ollman inquired whether a height restriction could be placed in the agreement for the proposed senior facility. Village Attorney Eric Larson noted they will get to what the Village Board sees as reasonable and the Board will have to decide why they think that is a reasonable component. They would certainly have to comply with the village code. Restrictions can be considered when the Board gets to the ordinance. Trustee

Ollman inquired on possible underground parking for the senior facility. Mr. Martin stated it was possible, but as it relates to the height of the building and underground parking, they do not know who the group is going to be yet and stated he is not an expert on the best way to design those buildings. That group will have their own process they will have to go through with the village.

Trustee Symchych inquired on the community room, the overall footprint of the building, the small pool structure, what will be done in the community room, and the times of use. Mr. Martin noted the overall building would be 3,700 to 4,000 square feet under roof. The community room will be 700 to 1000 square feet (about ¼ of the size of the building). The pool is more of a splash pad or plunge pool; this would be a smaller water feature. In terms of hours of operation for the community room, he is open to picking a time to close things down and working on it. Mr. Martin noted, in terms of the demand to build a community room, this was not Mandel's idea. This would not have been proposed if we did not think there were groups that wanted to use it. That is why it was included in the project. This is only available for non-profit groups, such as the Garden Club or Fox Point Foundation and residents of the onsite buildings. They would be willing to place in the agreement some language that says that it can only be used by local non-profit groups; it cannot be used by just anybody. Facing the community building, at the main entrance on the left side holds the leasing office and full-time maintenance (including a greeting desk, lounge and coffee/drink area), a utility room and fitness room, restrooms, and the community room. Outside will be a grilling station, tables and chairs, some landscaping and the small water feature. Trustee Symchych asked for an explanation of the design through the 2 story apartment building. Mr. Shields explained the two-story apartment building, units on the second floor having cathedral ceilings. He noted the residential character of the roofs in the homes in Village of Fox Point are pitched similar.

Trustee Fonstad noted the Plan Commission put some conditions on the senior housing units as part of its recommendation to approve the zoning change of the development. At Plan Commission during the discussion were some other prominent items discussed, as the following: 80 units, private pay, and the berm, walking path and landscaping along Dunwood. Mr. Martin noted they could cap it at 100 beds, the reason that it would be too restrictive to find a high quality senior housing. Trustee Fonstad indicated that on the Draft Ordinance, states that Mandel must comply with the Building and Fire Inspectors. He would like to propose that the Board require that Mandel Group provide access to those inspectors upon reasonable notice so that they can inspect the building when they want, as long as they give that notice. He noted there has been an issue with one other apartment building. Trustee Fonstad asked that it be explicit in the agreement.

Trustee Ollman inquired on whether Mandel would have an issue noting in the agreement that a cell tower would not go up on the property. Mr. Martin stated they would agree there would never be a cell tower placed on the proposed property. Mr. Ollman inquired on the electric and cable being underground. Mr. Martin stated it would be underground.

Trustee Symchych inquired on the second lot – Lot 2, although not up for consideration tonight. She noted it is exceptionally important parking is a real big issue and on-site surface parking is not aesthetically appealing. She suggested they consider substantial underground opportunities.

Trustee Kravit further commented on the project with Mr. Martin responding. Mr. Martin did note that it is a risk for Mandel if they cannot find a senior group interested in the development.

Trustee Ollman inquired on garbage pick-up and potential restrictions. Mr. Martin noted they would agree to some reasonable refuse pick-up times that would encumber the senior property.

Trustee Fonstad reminded the Village Board that the public comments on Dunwood under "Persons Desiring to be Heard", be incorporated into the Dunwood Public Hearing Public Comment section of the minutes.

President Frazer asked for unanimous consent to incorporate the public comment on Dunwood under "Persons Desiring to be Heard" into the Dunwood Public Hearing public comment section of the minutes for record. No objections were made.

Public Hearing for Proposed Petition for Planned Development Overlay District Rezoning Public Comment Incorporated from Persons Desiring To Be Heard

[Public Hearing comment for Proposed Petition for Planned Development Overlay District Rezoning, 217 West Dunwood Road (a/k/a, Dunwood School Property) regarding 5b, as recommended by Village Attorney Eric Larson and as Village Board by unanimous consent were incorporated into the public hearing comment period specific to the rezoning.]

Michelle Rifken, 7821 N Mohawk Rd

Mrs. Rifken asked for up to a $10,000 credit for landscaping of a berm in her property and noted concerns with the length of time for construction and potential unsuccessfulness.

Larry Cohn, 200 W Dunwood Rd

Mr. Cohn noted he is representing his Mother and Father who live at 200 W Dunwood Rd.

Village Attorney Eric Larson intervened, noting the comments should be heard during the Public Hearing, which is one of the next items. Mr. Larson noted the point of the public hearing is to receive public comment on that item. It is a separately noticed issue and is required by law. The Village Board is going to hold a public hearing and that is when the Village Board should hear the comments on Dunwood.

President Frazer noted the process for the public hearing with Mandel Group, Inc., making a comprehensive presentation and then ask for public comment. So he noted, if you are in a big rush, now is the time to comment. If you have a little time to wait, then you might be more satisfied waiting.

Mr. Cohn noted his definite opposition for the Mandel Project and asked what the 3.7 million dollar purchase price would equate for the village. Asked what the 3.7 million the school is selling the property for would be used for and what the cost of the maintenance for Dunwood School property currently is. Mr. Cohn suggested razing the school and noted concerns of future sale of the property.

Public Hearing for Proposed Petition for Planned Development Overlay District Rezoning Public Comment

Kathy Carroll, 300 W Dunwood Rd

Ms. Carroll noted her exhaustion in regard to communication on the Mandel Group project. She noted her concerns with the potential change in the neighborhood and potential impact on property values. She requested a berm at the project site and a credit towards a berm on her property. Ms. Carroll noted her opposition to this project.

Lorry Rifken, 7821 W Mohawk Rd

Mr. Rifken stated he will be filing a formal ethics complaint against Village Manager Mr. Botcher and Village Attorney Eric Larson, stating documents were withheld and were not posted on the website. Mr. Rifken has concerns there was not full transparency.

Patricia Mousseau, 180 Dunwood Rd

Ms. Mousseau read her, "Take Paradise and Put up a Parking Lot". Ms. Mousseau' s concerns were the ambiguous development plan, the increased rental units, more traffic, the profits and gain for the parties involved, who actually benefits from the project, isolated group of wealthy people and continuance of the ambiance in the existing neighborhood.

Robert Beck, 7871 N Mohawk Rd

Mr. Beck offered several thoughts on the proposed Dunwood rezoning and the associated project. First he noted there is a lot of passion from the Dunwood residents and this will bring a big change for the residents. He doesn't consider this a done deal and is confident the Village Board will act thoughtfully and in good faith. He asked the Board to consider if this is the best outcome that can be achieved at this time for the village. His concerns and reservations were as follows: Viewing this project as the entrance to the Village of Fox Point, the increased traffic, the 100 bed memory care unit that is being proposed, the effects on the neighborhood, and the lack of confidence in the future trajectory of the Dunwood Neighborhood housing values. Mr. Beck noted his understanding of the challenging deliberations.

Paul Schwartz, 7861 N Mohawk Rd

Mr. Schwartz noted he lives 4 doors down from the proposed project. He noted his concerns as follows: there is no fundamental knowledge of who this partner is for the senior portion of the project, potential conflict with the non-profit groups with permitted use of the community room, community room's potential for difficulty in the village, concerns of project accountability, and the timeline of this development's construction.

Marilyn Franklin, 7870 N Regent Rd

Mrs. Franklin's concerns of the impact on the Police, Fire and Snowplowing in the village, potential similarities to Porticos of Fox Point, comfort of walking in the closed area, and the need for green spaces.

Jess Langerman 7275 N Beach Rd

Mr. Langerman' s concerns were the unknown with the senior memory care living space, lack of information on the development, concerns on attracting people to Fox Point.

Elizabeth Aelion, 210 W Bergen Ct

Ms. Aelion agrees some of this block is undefined and supports building everything at once. She noted her support for the project, noting as far as the character of the village, there are apartments in Fox Point and the apartments are fine. Ms. Aelion lives directly behind the Fox Croft Apartments; there are never issues.

Nancy Ellis, 8655 N Regent Rd

Ms. Ellis inquired if there will be a public hearing on this matter, separate from tonight. She inquired if the Fox Point public has an opportunity to respond to this and hear about it as a public hearing. She noted her neighboring friends prefer to stay in their homes as long as they can. Ms. Ellis noted she would like to hear their voices heard, along with all the other residents in Fox Point.

Lorry Rifken, 7821 W Mohawk Rd

Mr. Rifken noted his concerns with accountability of Village Attorney Larson and Village Manager Botcher, as the documents on the website were not posted as it was indicated they would be under the Dunwood project. He stated the Building Board approved the whole project, not just the rezoning portion of the project.

Public Hearing for Proposed Petition for Planned Development Overlay District Rezoning
Close Public Hearing

Motion by Trustee Tirado, seconded by Trustee Ollman to close the public hearing at 9:50 p.m.

Trustee Kravit stated everybody deserves to be heard until they feel they've been heard.

Motion Passed; 6-1 (Nay-Trustee Kravit)

President Frazer noted there would be further board questions on the application.

Trustee Tirado asked Mandel for the timeline of the project construction and asked for clarity on the density.

Mr. Martin noted the construction timeline is 12 to 15 months from the time they break ground until completion of the project. The balance of the project, the potential senior care would be shortly behind that. Construction traffic will all be on Port Washington Road; there will be no construction traffic on Dunwood Road. In terms of density with the unit count, Mandel Group's portfolio is a little less than 2 people per unit; therefore, with 105 units, figure on about 200 people.

Trustee Kravit inquired on the potential to sync up the construction times between the senior care and apartments and why after over a year of work on this project, Mandel does not yet have a developer for the senior portion.

Mr. Martin, there would be some lapse in time because it is virtually impossible to build at exactly the same time as the apartments. It is virtually impossible to say it will follow the exact timeline. But they could say within a certain period of time, if it is not built within that

time, the group would have to come back before the board. Mandel's hope is to sell the senior property to an identified high quality group as soon as we can. Mandel has a lot of interest in it. But it is incredibly difficult to say today that the senior deal has to follow the exact schedule of the apartments. What we could agree to is if the senior care is not complete within a certain amount of time, for instance 4-5 years from today, then there may be some mechanism where that group may have to come back before the Village Board. Mr. Martin answered the second question on a developer for the senior portion and he noted that is frankly because he doesn't know what he has to work with yet.

Mr. Ian Martin expanded on what Mandel has to offer the Village, including restrictions, with the proposed development.

Trustee Fonstad acknowledged that the community group, open green space, the walking trails were all done by Mandel as enhancements and based on the meetings they had in the village trying to address the desire of everybody and they worked very hard. Some of the questions that were raised at the Public Hearing, also were raised at the Plan Commission meeting. He noted these apartments could be used by people relocating to the area and who want to live in Fox Point for a while until they look for a permanent home here. That is something currently unavailable right now. Trustee Fonstad made several other points, summing it up by noting this is fundamentally changing the property from institutional zoning to residential and that is something that is consistent with the Village's mission and it should be recognized.

On motion by President Frazer, seconded by Trustee Fonstad, to adopt the Resolution drafted by the Village Attorney and found on page 28 of our agenda packet to add the planned development overlay district zoning designation a planned development overlay district classification of the portion of the Dunwood property that we have characterized as Lot 1.

President Frazer modified the motion, seconded by Trustee Fonstad, to reflect that it would be the adoption of Ordinance No. 2017-02.

Trustee Symchych asked Attorney Larson for clarification and the process if they were to speak in favor of this, how the village would solidify all of the things that have been discussed, as in the set-backs, the traffic plan, etc. as they have been clarified tonight.

Village Attorney Eric Larson noted they can be addressed through the developer's agreement. It will come back to the Village Board for approval. Ultimately, if there were particular things that came up today that you want to be sure are addressed, hopefully staff will pick them up. If staff does not, you will have a chance to look at it in the developer's agreement. The other method would be to make these conditions of the rezoning. Mr. Larson noted he has some notes on changes that the village could incorporate based on some of the statements made if you wanted to go that way.

Trustee Kravit inquired on the process and process following if this is voted on favorably.

Village Attorney Eric Larson stated if this ordinance is approved, they still need to proceed with a division of the land through a certified survey map. That would proceed to the

Plan Commission. The Plan Commission would make the recommendation to the Village Board. The Village Board would see the land division document. The developer's agreement would be negotiated between staff and Mandel and that would come forward to the Village Board for consideration and action. There could be associated documents depending on how the development agreement is negotiated and what seems to make sense. There might be a separate protective covenants, a deed restriction kind of document. Once they have those approvals, then they need to apply for permits. There is a Building Board procedure that follows with those permits.

Trustee Fonstad inquired if a protest petition was filed.

Village Attorney Eric Larson noted he is not aware of one being filed.

Trustee Kravit spoke in favor of the Ordinance.

Trustee Tirado briefly commented on a demographic study by the school.

President Frazer spoke in favor of the motion, with the project being a well thought out, well designed project and well presented. The project has been improved significantly by the participation of citizens and residents surrounding the property, the Building Board, Plan Commission and Village Board. Fox Point is lucky to have a developer as qualified with the reputation and integrity of Mandel to do this project.

Trustee Fonstad anticipated that the Board may want to make some additions to the ordinance as drafted by the Village Attorney and in the interest of streamlining the process, he suggested going through the additions/changes to see if anybody has anything else to add. Said suggested changes are as follows:

1. There are a couple of PDQ's instead of PDO's that got into the ordinance.
2. On page 29 of the packet, Section 2, Paragraph 1, titled presentation compliance, insert a narrative (including and without limitations the June 8, 2017 letter from petitioner to the Village Board of Fox Point together with its enclosures, provided however that no approval of the pool is to be inferred by this action)
3. Also in this paragraph as stated above, the property must develop in substantial conformity with the controls on senior living as presented by the petitioner at the Plan Commission meeting on June 5, 2017, more particularly with the PowerPoint that is attached (add more particularly no more than 100 units, all private pay, with berm, path and opaque landscaping along West Dunwood Road as depicted in the plans and narrative).
4. Financial Guarantee and Agreement on page 30 of the packet -There will be a developer's agreement and a financial guarantee. Add language to that paragraph that makes it clear that the restrictive covenants needs Village Attorney approval and that both the developer's agreement and the restrictive covenants would cover both lots, Lot 1 and Lot 2.
5. On page 30, there is a list of plans that need to get approved by the village staff. One is paragraph d, which is the pedestrian plan which he suggest the Village Board add a paragraph that says this shall include both lots, Lot 1 and Lot 2 and provide for access to the pedestrian path from West Dunwood Road.
6. Paragraph 11, Police and Fire Inspection, add language at the end (upon reasonable notice petitioner is required to grant the Building Inspector for the Village of Fox Point

and Fire Inspectors for the North Shore Fire Department access to the subject property for the purpose of inspection).

Trustee Fonstad noted a copy of the changes have also been given to Village Attorney Eric Larson.

Trustee Fonstad asked the Village Board to move to amend the draft ordinance to make these changes.

President Frazer, agrees to modify the main motion to incorporate the changes that Mr. Fonstad just indicated. Mr. Fonstad seconds the modified motion.

Trustee Kravit asked to hear Mandel Group's comments on the modification made to the draft ordinance to be certain everyone is on the same page.

President Frazer asked to suspend the rules to allow the applicant to respond to President Frazer and Trustee Fonstad's modifications to the draft ordinance. By unanimous consent the rules were suspended and the applicant came forward.

Mr. Martin came forward to respond, noting the recommendations are acceptable to Mandel Group.

Trustee Tirado noted his disagreement with the requirement on private pay and with the required plans on the parenthesis on section d of the pedestrian plan. He noted his reasons.

Discussion ensued at length.

President Frazer asked to suspend the rules to hear the applicant in regard to private pay. The rules were suspended by unanimous consent.

Mr. Martin explained private pay, or a group that is not private pay, would enter into a payment in lieu of taxes agreement is what Mandel had proposed. There are some non-private pay groups that are very high-end, for example St. Johns on the Lake. They are not technically a private pay group, but they do enter into a pilot agreement so that they pay real estate taxes despite that status.

President Frazer called the question.

By a show of hands, motion carried unanimously, 7—0.

Consent Agenda

a. Approve the Minutes of the May 9, 2017 Village Board Meeting.

b. Grant the 3 "Class A" Beer and Intoxicating Liquor and 6 "Class B" Beer and Intoxicating Liquor licenses and approve the appointment of the 2 new agents, per the Village Clerk/Treasurer's memo dated May 26, 2017, subject to any conditions as noted.

c. Grant the Cigarette and Tobacco Product Retail license to the establishment Walgreen Co, d/b/a, Walgreens #03125 per the Village Clerk/Treasurer's memo dated May 26, 2017.

d. Accept the proposal of Auto Service Aids LLC of Oconomowoc, WI in the amount of $13,794.88 for replacement of the existing vehicle lift in the public works repair shop per the Assistant Director of Public Works memorandum dated June 1, 2017.

e. Schedule a Public Hearing for the July 11, 2017 regular Board meeting to receive comments and input on the proposed 2018 Community Development Block Grant (CDBG) program project list immediately following "Persons desiring to be heard" per the Director of Public Works' memorandum dated June 5, 2017.

f. Adopt a Resolution Approving of and Authorizing Submittal of the CMAR Report for the Sanitary Sewer Activities of 2016 drafted June 7, 2017.

g. Confirm President Frazer's appointment of Trustee Eric Fonstad to Library Board.

h. Approve Payment of the Bills in the amount of $439,276.45 for the period May 1, 2017 through May 31, 2017 per the report submitted by the Village Manager.

Trustee Fonstad requested item 6a be removed from the consent agenda.

On motion of Trustee Kravit, seconded by Trustee Tirado, and carried unanimously, the Village Board approved the consent agenda, as amended (items b-h).

Minutes of the May 9, 2017 Village Board Meeting (6a)

Trustee Fonstad noted on page 50 of the Village Board packet, under the announcement section line 28, Trustee Ollman stated he had reported he spoke to Scott Brandmeier, President Frazer and Trustee Fonstad about the opportunity for citizen comment at Village Board meetings. Mr. Fonstad noted he does not recall Trustee Ollman talking to him.

Attorney Larson noted the minutes are a record of what happened at the meeting.

On motion of Trustee Sumner, seconded by Trustee Ollman, and carried unanimously the Village Board accepts the May 9, 2017 Village Board meeting minutes as set forth in agenda item 6a from the consent agenda.

Village Board Room Improvements

On motion of Trustee Kravit, seconded by Trustee Symchych, the Village Board postponed the Village Board improvements item until the July Village Board meeting. Passed, 5-2 (Nay-Trustee Tirado and Trustee Ollman).

Policies and Procedures for Receiving Public Comment on Village Board Agenda Items

A brief discussion on the structure of receiving public comment on the Village Board agenda items took place. Agenda order, regularity, systems, certainty, predictability, workable solution for addressing concerns, high value of citizen comment, encouragement of participation and engagement were all briefly discussed on the matter.

Elizabeth Aelion, 210 W Bergen Ct

Ms. Aelion thanked the Village Board for the public comment period change and stated the conduct of the meeting today indicates the need for a time limit.

No action was taken.

Request for Proposal of Consultant to Conduct Update on the Village Comprehensive Plan

It was consensus of the Village Board to take no action today and to revisit the Comprehensive Plan in connection with the 2018 budget.

Future Agenda Items

None

Announcements

Village President Frazer congratulated the village staff and thanked them for a very successful 2017 Open House last Saturday. He commented on his attendance, noting the resident participation was high, as was the level of engagement and fun. He noted the free day at the swimming pool and that attendance was very high. President Frazer announced that volunteering for the dunk tank was a lot of fun. He thanked Manager Botcher, the Department for Public Works, Police Department, Fire and Rescue, the Village Forrester, and community members populating the various booths for their participation.

Trustee Fonstad reminded everyone the North Shore Library building presentation is at 7:30 a.m. Thursday morning in the Community Room.

Trustee Symchych noted her appreciation to Mr. Fonstad for taking over the Library responsibilities; she is in the process of arranging to meet with Mr. Fonstad so she can transfer everything she learned and hopefully they will have a seamless transition.

Trustee Sumner thanked the village staff for the awesome job they did at the 2017 Community Open House, reporting is was very fun; her kids had a great time.

Trustee Tirado thanked the village staff for the 2017 Open House. He reported he had really good feedback, especially from families with kids that had a really nice time. Trustee Tirado noted the Farmers Market opens this weekend on Saturday.

Trustee Ollman thanked the village staff for 2017 Open House.

Village Manager Scott Botcher reported the Moody's Bond rating call yesterday; it went extremely well and they were very impressed with our audit. Our audit was very strong. OS reflects increasing fund balances through 2017 as well. The Manager's meeting is Thursday at noon; they will be talking about Assembly Bill 348 (siting of the small cell towers on poles and

right-of-ways). Total maximum daily loads (TMDL's) are waiting to be blessed, besides Village of Fox Point. We waited a year and the Storm Water fund balance declined slightly; staff may do a rate case study on that and come back with recommendations. Mr. Botcher reported John Mayer has left the village. Staff has had discussion with others to fill his role because the village does need to maintain adequate levels of funding on both water and sewer.

Adjourn

On motion of Trustee Kravit, seconded by Trustee Symchych and carried unanimously, the Village Board adjourned the Village Board meeting at 11:13 p.m.

Respectfully submitted,

Kelly A. Meyer
Village Clerk/Treasurer